



COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

## SENATE

STANDING COMMITTEE ON EDUCATION, EMPLOYMENT AND  
WORKPLACE RELATIONS

ESTIMATES

**(Budget Estimates)**

MONDAY, 2 JUNE 2008

CANBERRA

BY AUTHORITY OF THE SENATE



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**SENATE STANDING COMMITTEE ON  
EDUCATION, EMPLOYMENT AND WORKPLACE RELATIONS**

**Monday, 2 June 2008**

**Members:** Senator Marshall (*Chair*), Senator Watson (*Deputy Chair*), Senators Boyce, Crossin, Fisher, Sterle, Stott Despoja and Wortley

**Participating members:** Senators Abetz, Adams, Allison, Barnett, Bartlett, Bernardi, Birmingham, Mark Bishop, Boswell, Brandis, Bob Brown, George Campbell, Carol Brown, Bushby, Chapman, Colbeck, Jacinta Collins, Coonan, Cormann, Eggleston, Ellison, Fielding, Fierravanti-Wells, Fifield, Forshaw, Heffernan, Hogg, Humphries, Hurley, Hutchins, Johnston, Joyce, Kemp, Kirk, Lightfoot, Lundy, Ian Macdonald, Sandy Macdonald, McEwen, McGauran, McLucas, Mason, Milne, Minchin, Moore, Murray, Nash, Nettle, O'Brien, Parry, Patterson, Payne, Polley, Ronaldson, Scullion, Siewert, Stephens, Troeth, Trood and Webber

**Senators in attendance:** Senators Abetz, Boyce, Fierravanti-Wells, Fisher, Hutchins, Marshall, Mason, Siewert, Sterle, Watson and Wortley

**Committee met at 9.02 am**

**EDUCATION, EMPLOYMENT AND WORKPLACE RELATIONS PORTFOLIO**

**In Attendance**

Senator Wong, Minister for Climate Change and Water

**Department of Education, Employment and Workplace Relations**

**Portfolio overview and major corporate issues**

**Cross Portfolio**

Ms Lisa Paul, Secretary

Mr Finn Pratt, Acting Associate Secretary

Dr Wendy Jarvie, Deputy Secretary

Mr Grahame Cook, Deputy Secretary

Mr Bill Burmester, Deputy Secretary

Mr Jim Davidson, Deputy Secretary

Ms Malisa Golightly, Deputy Secretary

Mr Graham Carters, Deputy Secretary

Mr John Kovacic, Acting Deputy Secretary

Mr Craig Storen, Chief Finance Officer and Group Manager, Finance Group

Mr George Kriz, Chief Lawyer and Group Manager Procurement, Legal, Investigations and Procurement Group

Mr Jeremy O'Sullivan, General Counsel and Group Manager Investigations, Legal, Investigations and Procurement Group

Mr Brien Armstrong, Branch Manager, Internal Audit Group

Ms Margaret Pearce, Group Manager, People, Parliamentary and Communications Group

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Mr Brian Quade, Branch Manager, Parliamentary Branch, People, Parliamentary and Communications Group  
Ms Kristina Hopkins, Branch Manager, People Team, People, Parliamentary and Communications Group  
Mr Bob Bennett, Branch Manager, Remuneration Taskforce, People, Parliamentary and Communications Group  
Ms Chris Silk, Branch Manager, Remuneration Taskforce, People, Parliamentary and Communications Group  
Ms Mary Balzary, Branch Manager, Communications Branch, People, Parliamentary and Communications Group  
Ms Robyn Kingston, Group Manager, Network Operations and Delivery Services Group

**Employment**

Ms Lisa Paul, Secretary  
Ms Malisa Golightly, Deputy Secretary  
Ms Margaret Kidd, Group Manager, Employment Business Services Group  
Mr Stephen Moore, Group Manager, Employment Systems Group  
Ms Marsha Milliken, Group Manager, Income Support Payments Group  
Ms Jo Caldwell, Group Manager, Intensive Support Group  
Dr Alison Morehead, Group Manager, Job Search Support Group  
Mr Tony Waslin, Group Manager, Specialist Services Group  
Ms Sharon Stuart, Branch Manager, Disability Employment Services Branch, Specialist Services Group  
Mr Ali Jalayer, Branch Manager, Employment Pathways Branch, Specialist Services Group  
Mr Michael Hynes, Acting Branch Manager, Vocational Rehabilitation Taskforce, Specialist Services Group

**Workplace Relations**

Ms Lisa Paul, Secretary  
Mr Finn Pratt, Acting Associate Secretary  
Mr John Kovacic, Acting Deputy Secretary  
Ms Sandra Parker, Group Manager, Workplace Relations Policy Group  
Ms Natalie James, Chief Counsel, Workplace Relations Legal Group  
Mr David De Silva, Branch Manager, Coordination Branch, Workplace Relations Legal Group  
Mr David Bohn, Branch Manager, Safety Net Branch, Workplace Relations Legal Group  
Mr Peter Cully, Branch Manager, Termination, Building, Organisations and Dispute Settlement Branch, Workplace Relations Legal Group  
Ms Elen Perdikogiannis, Branch Manager, Bargaining and Coverage Branch, Workplace Relations Legal Group  
Mr Michael Maynard, Group Manager, Workplace Relations Implementation Group  
Mr Tom Fisher, Group Manager, Office of the Australian Safety and Compensation Council; and Federal Safety Commissioner, Office of the Federal Safety Commissioner

**Workforce Participation**

Ms Lisa Paul, Secretary  
Mr Graham Carters, Deputy Secretary  
Mr Barry Sandison, Group Manager, Working Age Policy Group  
Ms Sharon Rose, Assistant Secretary, Disability and Mature Age Policy Branch, Working Age Policy Group  
Ms Robyn Shannon, Assistant Secretary, Parent and Youth Policy Branch, Working Age Policy Group  
Ms Stephanie Bennett, Assistant Secretary, Employment Policy Branch, Working Age Policy Group  
Mr Bob Harvey, Group Manager, Indigenous Employment and Business Group  
Ms Mary-Anne Sakkara, Branch Manager, Future Directions Branch, Indigenous Employment and Business Group  
Mr Michael Manthorpe, Group Manager, Labour Market Strategies Group  
Mr Ivan Neville, Branch Manager, Labour Supply and Skills, Labour Market Strategies Group  
Dr Paul Volker, Assistant Secretary, Evaluation and Programme Performance Branch, Research and Evaluation Group  
Mr Scott Matheson, Assistant Secretary, Research and Data Analysis Branch, Research and Evaluation Group

**Comcare**

Mr Martin Dolan, Acting Chief Executive Officer  
Mr Steve Kibble, Acting Deputy Chief Executive Officer

**Workplace Authority**

Ms Barbara Bennett, Director  
Ms Penny Weir, Head of Corporate  
Ms Jo Major, General Manager, Fairness Test, Assessment and Strategy  
Ms Helen Bull, General Manager, Fairness Test, Policy and Assessment  
Ms Lily Viertmann, Chief Financial Officer  
Mr Graham Tanton, General Manager, Business Services

**Workplace Ombudsman**

Mr Nicholas Wilson, Workplace Ombudsman  
Mr Alfred Bongi, Deputy Workplace Ombudsman  
Mr Michael Campbell, Executive Director, External Affairs Branch  
Mr Leigh Johns, Chief Counsel  
Ms Sue Kearns, Executive Director, People Development  
Mr Mark Scully, Chief Financial Officer  
Mr Bill Loizides, Executive Director, Field Operations

**Australian Building and Construction Commission**

The Hon John Lloyd, Australian Building and Construction Commissioner  
Mr Nigel Hadgkiss, Deputy Commissioner, Operations  
Mr Ross Dagleish, Deputy Commissioner, Legal  
Ms Heather Hausler, Assistant Commissioner Corporate  
Mr John Casey, Chief Financial Officer

**Australian Industrial Registry**

Mr Doug Williams, Industrial Registrar and Chief Executive

Mr Terry Nassios, General Manager, Statutory Services

Mr Dennis Mihelyi, Chief Financial Officer

**Australian Fair Pay Commission**

Ms Jennifer Taylor, Director, Australian Fair Pay Commission Secretariat

**CHAIR (Senator Marshall)**—I declare open this public hearing of the Senate Standing Committee on Education, Employment and Workplace Relations. The Senate has referred to the committee the particulars of the proposed expenditure for 2008-09 and related documents for the Education, Employment and Workplace Relations portfolio. The committee may also examine the annual reports of the departments and the agencies appearing before it. The committee will begin today's proceedings with outcomes 7 and 8 and, as far as possible, will follow the order set out in the agenda. The committee will turn to cross portfolio at 3 pm and will adjourn at the completion of the examination of this program item. The committee has resolved that answers to questions on notice are to be lodged by Friday, 1 August 2008, and the committee will report to the Senate on 24 June 2008.

Under standing order 26, the committee must take all evidence in public session. I remind officers that they are protected by parliamentary privilege. I also remind officers that in its orders of continuing effect, the Senate has resolved that there are no areas of connection with expenditure of public funds where any person has a discretion to withhold details or explanations from the parliament or its committees unless the parliament has expressly provided for otherwise.

The Senate has resolved that officers shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer such questions to superior officers or to the minister. The resolution, however, does not preclude questions asking for explanations of policies or factual questions about when and how policies were adopted. Where an officer declines to answer a question, the grounds for this should be stated so the committee may consider the matter. The giving of false or misleading evidence to the committee may constitute a contempt of the Senate. In addition, especially in reference to concerns previously raised in this committee, it is noted that the government has expressly advised that it is appropriate for an official to disclose whether legal advice has been sought and obtained and who provided that advice. Unless there are compelling reasons to keep such information confidential, such reasons should be explained to the committee.

I now welcome the minister representing the Minister for Education, Employment and Workplace Relations, Senator Penny Wong, the secretary of the Department of Education, Employment and Workplace Relations, Ms Lisa Paul, and other departmental officers as well as observers to this public hearing. Minister, would you like to make an opening statement?

**Senator Wong**—No, thank you.

**CHAIR**—Ms Paul?

**Ms Paul**—No, thank you, Senator.

[9.06 am]

**CHAIR**—We will move to questions on outcome 7, Labour market assistance.



**Senator WATSON**—Having pioneered a lot of work in regard to the working age policy through the Senate Select Committee on Superannuation and Financial Services and the previous government having picked up on some of those proposals, can you articulate your policy in relation to the working age?

**Senator Wong**—Obviously this department has responsibility for a range of working age payments, employment services and so forth. If your question goes more broadly to tax issues, I am not sure whether this is the department that can assist you. But perhaps either Ms Paul or Mr Carters could give you an indication of what is happening in this portfolio and we can take it from there.

**Ms Paul**—I think we might have discussed some of this last time. This portfolio remains responsible for most payments for people of working age, except for disability support pension and the CDEP. I think we may have discussed last time whether there were major reviews and we discussed the range of reviews which were underway, some of which have now come to fruition. Of course there was a major review of employment services and the results of that have been known through the budget and so on. My understanding is that the tax review announced at the budget will—

**Senator WATSON**—It is wider than just tax—working age policy.

**Ms Paul**—I am sorry?

**Senator WATSON**—The heading is ‘Working age policy’.

**Ms Paul**—There is nothing I can really hang under ‘working age policy’ specifically, but there are a large number of reviews, as we have discussed. The tax review encompasses the tax transfer system which goes to income support payments as the Treasurer and the Prime Minister said at the time of the budget. That is in the Treasury portfolio. I am happy to talk about the particular reviews and that probably covers off the activity.

**Senator WATSON**—What specifically do you have in relation to working age?

**Ms Paul**—What do we handle?

**Senator WATSON**—You have a series of tax policies. I am not really interested so much in the details of the tax applicable to each particular group. I am interested in your philosophy about people when they come to retirement—are they working past retirement, in part-time work and so on? I would have thought that came within the purview of a working age policy.

**Ms Paul**—Yes, I think that is right. There were quite a lot of initiatives announced in the budget which were election commitments which go to encouraging people into participation. The whole point of the employment services review is to encourage people into work, as well as the variety of other reviews—for example, the changes to the compliance regime and so on. There are quite a few we could name which go to trying to encourage people to get back into the workforce, work for longer or upskill themselves. There are quite a few initiatives in the skills area to try to get people to have higher qualifications, which are good for them over life.

**Senator WATSON**—But that has been going on for years and years. What has been the outcome of all your inquiries in this area?

**Ms Paul**—I was just talking about a range of the election commitments so, no, these ones have not been going on for years. The ones that I am mentioning are new—and I am sure we will go to some of them throughout the day. They really represent new policies: for example, the new vocational education training places and so on encourage people to work more and at a higher level, which is more productive for them and for the economy.

**Senator WATSON**—Obviously, we are not getting to the specifics that I was expecting. Can you give us some papers in relation to working age policy?

**Ms Paul**—We certainly could, but—

**Senator WATSON**—The outcomes of all these inquiries that you have been having, in terms of how you have delivered on your budget commitments, can you give us a paper on this? We are really skating around the central issue.

**Ms Paul**—I am sorry if you think it is skating, but we are certainly happy to give you some summaries of these things and how they link together.

**Senator WATSON**—That is all we want. Minister, can you help us?

**Senator Wong**—The only comment I would make—and obviously Ms Paul has indicated a willingness to respond—it is a very broad question to respond to within this portfolio.

**Senator WATSON**—Yes, it is No. 1 on our ticket.

**Senator Wong**—That is the name of the outcome. I have explained to you—and I think Ms Paul has explained and Mr Carters can explain in more detail—aspects of that fall within this portfolio. We can answer in respect of this portfolio, but some of the issues you raised would fall within Treasury.

**Ms Paul**—The No. 1 thing at the moment, which I am sure we will discuss, is the review of employment services. And if I look at the program for today and I see ‘Working age policy’, that is probably our No. 1. We are happy to give you a summary of each of those and provide that to the committee.

**Senator WATSON**—So you will take that on notice and provide a summary?

**Ms Paul**—Yes.

**Senator WATSON**—We now come to labour market strategies. According to portfolio budget statement, at page 116, ‘The government is reviewing the labour market programs.’ When is this review set to be completed? When is the review set to be complete?

**Ms Paul**—This is actually the review which has been completed and has been announced in the budget context.

**Mr Carters**—The employment services review—that component is looking at blending a whole range of different labour market programs into a single contracted service. The government have undertaken a significant review of the current services. They have received 260 submissions and, as a result of that and other information and broader consultations, they released a discussion paper on 16 May. Consultations have been undertaken. The discussion paper *The future of employment services in Australia* is available.

**Senator WATSON**—Could we table that?

**Mr Carters**—Yes, we can certainly give you a copy of the discussion paper. The department and Minister O'Connor have undertaken discussions across Australia, setting out the details of the discussion paper and also getting feedback from people attending those public sessions on their views about what is contained in the discussion paper. I can go to the detail of the discussion paper if and when you like but, on the broad approach after those consultations are complete, people have been asked to provide further submissions on the basis of the discussion paper, and those submissions are due to be received by Thursday, 12 June. The next stage will be that the government will review those submissions and the content of the discussion paper. In July it will produce an exposure draft of the request for tender and the draft contract for the next employment services.

The new employment services tender is due to start from 1 July 2009 but, working backwards, there is a very tight time frame, so this is why this work is being done now. A substantial number of changes need to be made. The whole tender process has to be completed, systems have to be developed, legislation has to be changed et cetera. The detail is in the discussion paper, and I am happy to talk through any of that that you would like.

**Senator WATSON**—What was the budget costs for this review process? Maybe at the same time, how many departmental staff will be involved?

**Mr Carters**—Regarding the departmental funding for the review process, we have been allocated funds going forward in terms of being able to conduct the tender and so on. The review that has been completed has been absorbed within departmental funds up until now, because that is the normal work of the department.

**Senator WATSON**—So, going forward, how much has been budgeted?

**Mr Manthorpe**—Detail on the budgeted amounts in relation to this measure are on page 388 of Budget Paper No. 2.

**Senator WATSON**—For the record, how much is it?

**Mr Manthorpe**—In relation to the departmental amount, at the bottom of page 388 there is reference to the key numbers. The measure includes \$8.2 million over two years for the tender—the purchasing process that Mr Carters has just referred to. A further \$83 million will be provided over five years including \$5.1 million in capital to cover the costs of transition—that is, transitioning job seekers from one system to the next system—legislative change, IT systems changes and a longitudinal study to evaluate the experiences of job seekers in the model. Of those moneys, \$30.2 million will be provided to Centrelink in 2008-09, \$11.8 million in 2009-10, \$9.7 million in 2010-11 and \$3.4 million in 2011-12.

**Senator WATSON**—Thank you. Are any of these reviews to be outsourced or is any of this work to be outsourced at all or is it all going to be done within the department?

**Mr Carters**—The employment services are outsourced. That is part of the tender arrangements, so \$3.7 billion is allocated over three years for the new employment services system. The tender process will outsource those services.

**Senator WATSON**—How many outsourced services are currently within your oversight?

**Ms Golightly**—There are around 500 providers. All of our employment programs are outsourced. There are currently nine of those programs.

**Senator WATSON**—About 500 participants?

**Ms Golightly**—No; providers.

**Senator WATSON**—Is it planned to increase that number or reduce it? What is your budget? Are you planning to have a greater number or putting more of a focus on a selected few?

**Ms Paul**—We now go through a tender process, so this is the Job Network and a range of other programs which are tendered for. A new employment services major contract is to start from 1 July 2009.

**Senator WATSON**—With that framework, is it your policy to have a greater number than 500 or are you trying to get larger and more specialised groups within that tender process? What is your philosophy in handling this outsourcing?

**Ms Paul**—There is not a policy on an aspiration for particular numbers. The policy is to get the absolute best service delivery possible for the job seeker and value for money for the Commonwealth. Our tender will be broadly based on those criteria.

**Senator FISHER**—I would like to ask about Job Network. What economic modelling has been provided to the government in respect of its proposals regarding Job Network?

**Mr Carters**—The modelling that has been done to cost the proposed new employment services system extends to the range of employment services which will be provided under the new model. It is not just in respect of Job Network. It does include Job Network; Personal Support Program; JPET, Job Placement, Employment and Training for young people; National Harvest Labour Information Service; New Enterprise Incentives Scheme; and the remote service bundling service, excluding the Disability Employment Network component of that. There are seven of them, though I am not sure I have mentioned seven. We can give you the list.

**Senator FISHER**—Can you, please.

**Mr Carters**—The two that are excluded from that are the Vocational Rehabilitation Services and the Disability Employment Network. Those two have had their contracts extended for eight months, until the end of February 2010. The reason for that is that there is a national mental health disability employment strategy being developed and consultations have been undertaken on that. So those two services are being kept separate. The other seven will be rolled into a single contract from 1 July 2009. The modelling that has been done has come up with the estimated \$3.7 billion, which will be required over three years to undertake that.

The sort of information which is provided in the model and which is in this discussion paper which has been released provides information on the flow of job seekers into each of the streams in the new employment system. There are four streams, plus there is a work experience component. That indicates what percentage of job seekers is likely to flow into each of those streams. For example, stream 1, for the most job-ready job seekers, indicates that 52 per cent of people are likely to flow into that stream. For stream 2, for the slightly more disadvantaged, 25 per cent would flow into that stream in the discussion paper. Eight per cent would flow into the third stream, the even more disadvantaged. Twenty-five per cent of people are anticipated to flow into stream 4, which is for very disadvantaged people with

both vocational and non-vocational barriers—in particular including people who would have been in the old Personal Support Program and JPET.

As well as giving those ratios, it also gives the indicative service fees which will apply for each stream. As each person enters each of those streams or work experience, there will be a fee that will be paid. There are also outcome fees which vary depending on which stream a job seeker flows into. There is also an Employment Pathway Fund, which has replaced the Job Seeker Account, which is in the current Job Network. Again, the discussion paper provides information on how much Employment Pathway funding will be allocated to each individual as they flow into those respective streams and into work experience.

The other important thing is transitioning from one system to the other on 1 July 2009. There are many people already in the current system that will need to be transitioned into the new model. We have in the discussion paper the proposed transition arrangements for different groups of clients. That sets out, in an appendix to the discussion paper, the category of job seeker, what sort of service they are in now and what they are likely to transition to. It is all those components, many of which are in the discussion paper, which are part of the modelling to determine the cost of the new service.

**Senator FISHER**—Who is conducting that modelling?

**Mr Carters**—We are doing that within the department.

**Senator FISHER**—What is the time frame on it? When was it asked for? When did you start it?

**Mr Carters**—That is a very difficult question to answer, because it is a bit like: how long is a piece of string? We have always had a model for Job Network, which predicts the flows into the system and the number of people and so on. We adapted that to create this broader one, but it started a long time ago and we have added to it as we have developed the service. It is not a discrete point in time. It is a difficult question to answer.

**Senator FISHER**—What are the time frames around your economic modelling since 24 November last year that you have been talking about?

**Mr Carters**—I cannot give you discrete dates now. I can take it on notice to help with what you are asking.

**Senator FISHER**—You have indicated that your modelling goes to seven aspects. Presumably your modelling must be doing a cost benefit analysis of each of those aspects?

**Mr Carters**—The model does not do a cost benefit analysis, the model analyses the cost, taking into account various assumptions. It does not specifically do a cost benefit analysis.

**Senator FISHER**—What would inform a policy decision on: this one of the seven is good versus this one of the seven is not so good and needs improvement?

**Mr Carters**—An important point to note is that all seven have been rolled into the new system; they have not been cut as such. The programs, as a separate entity and as a separate contractual arrangement will cease, but the services and activities which link to those current programs have been rolled into the new model. They are certainly expected to be delivered through the new employment services system.

So, in that that context, it was not necessary to do that analysis. The important component is that the government's parameters for designing the new model included a number of factors. One was that there was a requirement to predominantly service the more needy and more disadvantaged people. This new model does that. In terms of the funding that is available for the more disadvantaged job seekers, the overall ratio moves about 50 per cent of that funding to the more disadvantaged, whereas in the current model it is more like a third. A second key component was to increase the availability of training available to individuals to ensure more sustainable employment and to help address the labour and skills shortages in the economy. With the very strong labour market there was a move to provide fewer services to the job-ready people on the basis that in a strong labour market they need minimal service to be able to obtain employment. That helped move more funds to service the more disadvantaged. It is those sorts of key principles which we looked at in that context in designing the new model.

The other really important one was the efficiency of the service. As I said earlier, 260 submissions were received, many of those from providers of services. One of their biggest issues was that the current model has become quite inefficient, with a lot of red tape in the system. A lot of time and effort of their employment consultants are spent just meeting the requirements and the process within the system rather than actually spending time with the job seeker. A key component of the new model was to free up a lot of that inefficiency in the system to allow the employment consultants to spend more time working with the job seeker.

**Senator FISHER**—You said earlier that it was not necessary to do that modelling in a cost benefit sense. Could you explain more what you mean by that comment?

**Mr Carters**—What I mean by that is that, in developing the new system and in doing the modelling, because the existing programs were rolled into the new model, we did not need a cost benefit analysis per se. We applied the principles that the government committed to, which were the ones that I have outlined. It basically just flowed into place in the context that we were reducing servicing to the more easy to place job seekers and increasing servicing for the most disadvantaged.

In the current system a lot of employment outcomes are achieved for job-ready job seekers, the easy to place job seekers. That is a natural thing in a strong labour market; you would expect that. The government have said that they do not want to continue to unnecessarily pay for servicing job seekers who are perfectly able to obtain employment in their own right. They want to fund the servicing for the hardest to place, so that really focuses significantly on, for example, stream 4 in the new model, which is currently the Personal Support Program and JPET programs.

Significant amounts of additional funding were placed into stream 4 and some very big changes were made—for example, the job seeker account does not currently exist for those services. With the new concept, which is the Employment Pathway Fund, significant amounts of funding will be placed in that to help service those stream 4 job seekers, the ones with both vocational and non-vocational barriers. The intention is that that will enable the providers to spend the money that they need to assist those people with both those vocational and non-vocational barriers and to help them into training and ultimately into employment or a combination of both.

**Senator FISHER**—I am still struggling to see why a cost benefit analysis would not be necessary. Correct me if I am wrong, but you seem to be suggesting that, because these programs are consistent with various government goals, there was no need to do a cost benefit analysis of them?

**Ms Paul**—Senator, the services are still there and the impact of them is well known. One of the major areas, as Mr Carters has pointed out, where there will be real benefits is from the streamlining that he is describing. This responded to probably the vast majority of the 260 submissions, as Mr Carters said, where there were so many complaints about the amount of red tape and so on. There will be very clear benefits for providers in terms of streamlining their access to the support that they get from government, without having to go through the hoops they do now.

**Senator FISHER**—The benefits may well be apparent, but obviously there is a cost of providing those benefits. There may be others who may consider they are equally entitled to those benefits. I am struggling to see how, without an analysis of the distributive effects of a particular aspect of the program, for example, you can reassure a government that the direction is appropriate.

**Senator Wong**—Can I ask what you mean by ‘distributive effects’?

**Senator FISHER**—In terms of its impact on participants or nonparticipants or would-be participants in the labour market.

**Senator Wong**—I am sure Mr Carters can add to this in more detail, but the government, in opposition and since coming to government, was very aware of the importance of considering the state of the labour market when developing the next employment services model to be contracted. That is an appropriate and prudent approach to government policy. The figures I have in front of me, for example, in that regard show that, in 1999, about one in 10 unemployment benefit recipients were in receipt of benefits for four or five more years. By March 2008, this had increased to almost one in four. So that goes to the issue Mr Carters talked about where the government is very cognisant of who we want to assist in terms of the best value for money for taxpayers. For example, just under 20 per cent of the Job Network case load was classified as highly disadvantaged in July 2003, compared to 29 per cent in March 2008. That suggests that the proportion of those who would be assisted who are more highly disadvantaged is increasing. Obviously governments have to make a decision in the light of those sorts of labour force statistics, such as the characteristics of those available for employment, on what is the best value for money for taxpayers? The work that Mr Carters’ team is doing is directed to that end.

**Mr Manthorpe**—Indeed. I might just add something to that. The figures that the minister just mentioned which go to the Job Network case load do not even include the PSP, JPET case load, where a waiting list for PSP of 27,000 has grown up over the last several years, highlighting at the most severely disadvantaged end of the labour market that, in the government’s view, a further investment needs to be made.

**Mr Carters**—That is very important because, basically, what Mr Manthorpe is saying is that the new service will be demand driven. There will be a service for everybody whose needs flow into those streams, and that in itself reduces the need to have any waiting lists.

**Senator FISHER**—Minister, in terms of the government being cognisant of assisting people so as to deliver the best value for taxpayers—I think you used that phrase—on what basis is the government able to assess what is and what is not the best value for taxpayers in respect of these services?

**Ms Paul**—I think there is quite a bit of analysis and we did have regard to this in terms of the best return for investment in the job seeker. We know that there is a better return, obviously, to society, the economy and the individual if we can get the job seekers who are the most disadvantaged, who have been unemployed for the longest period of time and who may have a range of other issues into work, instead of focusing on those who will find themselves a job anyway. That sort of return on investment analysis does inform this work as well.

**Senator FISHER**—To what extent has the government consulted with experts in progressing these reforms and who might you classify as experts?

**Mr Manthorpe**—The government has invited and received submissions from a wide range of stakeholders. That is the first point. We have received over 260 submissions from providers, from employers, from employer groups, from welfare groups and so on and indeed from a number of MPs. In addition, during the review activity, the Minister for Employment Participation conducted a number of—I would not call them focus groups—advisory group sorts of meetings, where a number of notable academics and other participants in the field provided advice.

**Senator FISHER**—What has been the timeline for that consultation?

**Mr Manthorpe**—The consultation process commenced with the minister's request or invitation for submissions back in, from memory, late January—I could be corrected on the date—and then there was an intense period of consultation and activity in the period then leading up to the budget.

**Senator FISHER**—What commitments has the government made to time lines from here on in terms of progressing these reforms?

**Mr Manthorpe**—I think, as I think Mr Carters mentioned a few minutes ago, further submissions are invited on the discussion paper—which is out for consultation now—by 12 June. In July, we anticipate that an exposure draft of a request for tender for the new services would go out. Again, comments could be made on the exposure draft in advance of the final RFT being issued later in the year.

**Senator FISHER**—Is there a clear view as to an end-point date in any way? It does not sound like it.

**Mr Manthorpe**—Yes, there is. The end point really is when the contracts come into play on 1 July next year. But, as Mr Carters indicated before, working back from there there is a series of steps—particularly around procurement, systems development and so on—that have to be undertaken.

**Senator FISHER**—As I read the budget papers, there is an increase of \$800 million in the budgeted amount for Newstart this year. Is that right?

**Ms Golightly**—On page 113 of the PBS are the figures for Newstart. Yes, there is an increase.



**Senator FISHER**—Can you explain the reasoning behind the increase?

**Ms Golightly**—The future forecasts are based on a number of parameters, including Treasury parameters, which are not public. I can take that question on notice and see what I can provide, but I do know that it includes things that are not public.

**Senator FISHER**—Do you know the answer to the question?

**Ms Paul**—Not altogether, because we actually receive the Treasury parameters. So we receive some of these estimates. Of course, if they are in our portfolio, they are shown in our PBS because we transfer the funding to Centrelink to pay the allowance. But the estimate itself is actually based on a series of parameters which we do not have access to either.

**Mr Carters**—Certainly one component of that would be the fact that the Welfare to Work changes have meant that, certainly from 1 July 2007, all parents who are in receipt of parenting payment and who have a school-age child as their youngest child will be required to look for work and that new entrants will be required to go onto Newstart allowance at various stages—basically when the youngest child enters school as a proxy to that. So there will be, by virtue of that, an increase in the numbers who will go onto Newstart allowance. You will note that there is a reduction in the numbers on parenting payment partnered and parenting payment single as well, for similar reasons. So that is one key contributor to that. But, as has been mentioned, it is Treasury parameters which dictate the size of the Newstart allowance.

**Senator FISHER**—What is the extent of the reduction of the parenting payment, though?

**Mr Carters**—The figures which set out the estimated reduced numbers in parenting payment partnered and single are here.

**Senator FISHER**—But it is not a significant component of \$800 million, for argument's sake?

**Mr Carters**—It is probably \$300 million. Certainly I am saying that it is just a contributor to it.

**Senator FISHER**—It is a contributing factor. I want to go back to Ms Golightly's indication that there are parameters but you are not privy to those parameters. When would you expect to be privy to those parameters?

**Ms Golightly**—As Ms Paul explained, these parameters are done by Treasury and the department of finance. Those parameters are their parameters. We of course see the figures and they are in our PBS. That is the way that it has operated for quite a long time. While we might see the figures, it is simply the case that those parameters are not public parameters and I cannot release them here today.

**Senator FISHER**—Will they be made public in the future?

**Ms Golightly**—Not traditionally. These parameters are not public, no.

**Ms Paul**—This has been the case for a long time.

**Senator Wong**—I am afraid I asked the same questions for a very long time in that position and I got the same answer.

**Senator FISHER**—None the less, DEEWR is administering a program for which payments have been budgeted to be significantly increased. You, as the administrative arm, or the service delivery arm, can only speculate—perhaps including along the lines Mr Carters has—about the reasons behind that.

**Ms Golightly**—I am not entirely sure that that is what we said, so I am sorry if that is how it has come across. We do see the figures, but I am not able to release some of those. I think I did say I would take on notice as to what we could provide to you.

**Senator FISHER**—So you do know the answer to the question, then.

**Ms Paul**—Not in its entirety, no. We do not know the basis for the Treasury parameters, which would really be the answer to your question. We do know the policy change impacts, which are significant and were a result of Welfare to Work, as Mr Carters has outlined. We can go into that in more detail.

**Mr Carters**—What has been released in the budget is that Treasury have indicated that they project that the unemployment rate will increase to 4¾ per cent in the four quarters to June 2009. That in itself will assist them in terms of the parameters that they put into our income support to demonstrate that there may be an increase in Newstart allowance as a result of that.

**Senator FISHER**—I think that is the point, Mr Carters, isn't it? We can only conclude at this stage that there is an extra \$800 million budgeted because more Australians are expected by the government to be out of work—in line with Treasury forecasts, indeed.

**Senator Wong**—The Treasury forecasts for employment, GDP, inflation and so forth are set out in the budget papers. They have been quite clear about that and the reasons for that. I am not sure what point you are trying to make.

**Ms Paul**—The numbers that Mr Carters talks about are all in the public gaze.

**Senator FISHER**—Yes, they are, but the reasoning behind them is not on the public record.

**Senator Wong**—I can give you some of that. I refer you to Budget Paper No. 1, which is *Budget strategy and outlook*:

Consumer price inflation has intensified over recent years, reaching 4.2 per cent through the year to March 2008.

I interpolate here that this is notwithstanding the shadow Treasurer believing that it is a fairytale.

Powerful countervailing forces are confronting the Australian economy. As a result of slower growth in advanced economies and tighter credit conditions, economic growth is forecast to moderate to 2¾ per cent in 2008-09. This, combined with higher interest rates, is expected to lead to a moderation in employment growth and gradually ease price pressures.

Counteracting this, robust growth in emerging economies is expected to lead to further large rises in Australia's terms of trade ...

Et cetera, et cetera. If you really want these issues, the Treasury outlook is published in the budget papers and explains the reasons. This macroeconomic outlook is the basis of the

budget papers. Any further details about how those figures translate really should be addressed to Treasury. But I would indicate again that your questions go to issues where your government also did not disclose the detailed workings-out of the Treasury modelling.

**Senator FISHER**—We are headed into a scenario where we have projected increased unemployment, and we have a projected additional budgeted amount of \$800 million for Newstart. I am trying to understand why.

**Ms Paul**—I think we have now given you the basis for that. It would be policy change, and there would be an estimate of that—and Mr Carters has gone to that—it would be Treasury projections, which the minister has outlined, and probably a range of other policy effects and other things which we have not included here. If you like, we can take on notice the componentry that goes into such an estimate, without of course going into the parameters, which we are not allowed to do. We are happy to give you the elements, if you would like us to.

**Senator FISHER**—That may be helpful. Perhaps you can take that on notice. But to say, ‘Here’s an explanation for part of the increased expenditure; there are these other factors that are making it difficult and they are publicly identified,’ is not an entire answer to why we are budgeting to spend an extra \$800 million on Newstart.

**Ms Paul**—I think it is, actually. I have not been able here to break down precisely all of those components. Basically, you know that it is going to be a combination of policy effect and economic projection, which is what the minister went to through the budget paper. Those things are all in the public arena. Basically, you have to combine them together to get this result. We have given you some indications of some of the major movements, for example, in the parenting area and so on. There is probably nothing much further. I am happy to take on notice to offer more details.

**Senator FISHER**—Thank you. To the extent that that is an answer to the question, it means that there is an acceptance by the government of increased job losses and, surely, it means there is an acceptance of increased job losses and an acceptance that therefore more money will be needed to be expended on programs such as Newstart?

**Senator Wong**—I can tell you what the government does accept, Senator Fisher, and that is the advice of the Reserve Bank and the Treasury outlook, which is that we face a number of risks to the macroeconomic outlook. One of those is heightened risk of inflation, as has been demonstrated by the various CPI figures which have been released over the last two quarters. We in this government understand the importance therefore of exercising fiscal responsibility in order to place downward pressure on inflation and therefore downward pressure on interest rates. Unlike you in opposition who have effectively engaged in a raid on the surplus without any costings associated with it we have delivered, in accordance with our election commitments, a responsible budget with a substantial surplus which is in line with our priority to keep downward pressures on inflation and therefore downward pressure on interest rates, with the consequent economic benefits which we hope will flow from that. That is the responsible fiscal position that the government has taken. So you can try to make a whole range of points in here about that, but the broader context is that we are delivering a surplus; you have raided the surplus in your budget reply.

**Senator FISHER**—I still do not see what the government is going to do to address, in a responsible way, what you appear to be accepting as a looming increase in unemployment.

**Senator Wong**—Deliver a fiscally responsible budget, Senator Fisher, and, in this context also, provide the best employment service and the most effective employment services that we are able.

**Senator FISHER**—In respect of the 134,000 Australian workers forecast to become unemployed under this government, has the department done any analysis of what are likely to be the needs of those 134,000 Australians?

**Mr Carters**—The new employment services system is designed to assist unemployed Australians. It will be designed to do that on the basis that it will be a very efficient service which focuses on the most disadvantaged. It is designed to meet the skills shortages and labour shortages in the current environment through substantial investment in new vocational education and training places. In particular, 238,000 places over five years will be available for job seekers who are returning to the workforce. That really is the clientele that the employment services assist. That is a significant resource that is also available for the new employment services providers in the new model to prepare people for the workforce of the future.

**Senator FISHER**—From what you have said, as part of this there will be a clear focus on the long-term unemployed?

**Mr Carters**—Absolutely. Yes, there will.

**Senator FISHER**—What about job seekers who are job ready?

**Mr Carters**—Again, there are services available for job-ready job seekers, but they are limited because there is a lot of capacity for those people to assist themselves. They will receive resumes which are placed on to our system and will be advised about the local labour market opportunities. If they are still unemployed after three months, they will undertake a skills assessment and there will be the ability to place those people where needed into some of those 238,000 new VET places, which I mentioned. As well as that, after three months there will be job placement services paid to providers as an incentive for them to help place those job-ready people. Work experience opportunities will also be available to them at various stages. So it is not as though they are not being assisted. There is still some substantial assistance there; it is just that the vast amount of intense servicing will be provided at the harder end of the market for people who are most in need.

**Senator FISHER**—Does that mean that the projected 52 per cent of job seekers who are job ready will receive less assistance under the government's new model? You have just said they are still being helped, but does that mean they are going to receive less help?

**Senator Wong**—Is that figure Mr Carters' figure, or your figure or is that in the budget papers? I am not sure where you got that 52 per cent from.

**Senator FISHER**—Let me ask the department what percentage—

**Senator Wong**—Where are you quoting from; where is that figure from?

**Senator FISHER**—I will withdraw that question. What percentage of job seekers are predicted to be job ready in terms of the analysis that you must have been doing?

**Mr Carters**—In the estimates discussion paper for the new employment services system, stream 1 is deemed to be job ready. In that context, yes, the estimate is that 52 per cent will flow into that stream.

**Senator FISHER**—In respect of that estimated 52 per cent of job seekers who are job ready, will they therefore receive less assistance under the new model? They must, consistent with what you have said, Mr Carters?

**Mr Carters**—It will be the providers, I think, who will receive less funding because there will be no outcome payment paid for people in stream 1 in the first 12 months, and there will be no job placement fee paid for the first three months of those 12 months. That is largely where the difference is in servicing that stream.

**Mr Manthorpe**—The other point to make in this area is that it is not easy to compare one system with another—it is not an apples and apples comparison. One of the ways in which it is not an apples and apples comparison is that currently in terms of referrals to Job Network, only around 10 per cent of people get into the highly disadvantaged stream of Job Network on day 1. Under this new system, about 48 per cent of the flow of job seekers will get into the more disadvantaged spectrum of the new system. I am not suggesting that is a direct comparison, but the 52 per cent can be compared more readily to the 90 per cent who currently go into the job search support part of their Job Network system.

**Mr Carters**—And just reiterating an earlier point that I made: they will have a skills assessment after three months. We would expect reasonable numbers of people to take up the 238,000 VET places which are available if they need them.

**Senator FISHER**—Nonetheless, you have said that those who provide assistance—the providers—to this 52 per cent will be receiving less in order to provide their services?

**Ms Paul**—You have just hit on a major difference. Whereas currently, the providers are all very separated and quite fragmented in a way and some of the most disadvantaged job seekers are supported through PSP, which has a long wait list, and JPET and so on, that is not the case under the new system. Perhaps Mr Carters and Mr Manthorpe can explain that aspect. It is quite different.

**Senator FISHER**—Go ahead, Mr Carters, then I will return to my question.

**Mr Carters**—There is much more flexibility in the new system, so it really does not matter which stream an individual is in. It is up to the provider to decide what the best service is for that individual. For example, under the Employment Pathway Fund, which will be established, a notional amount goes into that fund as each person enters a particular stream. But it is up to the provider to negotiate whatever servicing they think is required for an individual on the basis of that fund being available for what they see as being the best use of those dollars.

In that context, I think Mr Manthorpe's point is important that, under the new model, 48 per cent of people will have an Employment Pathway Fund allocation from day one and only 10 per cent who are in the highly disadvantaged stream get that now. It gives the providers

that extra money in that fund, up-front from day one, to choose what servicing is needed. The flexibility is there to help people straightaway if they need it.

**Senator FISHER**—But potentially assisting those who are long-term needy more than those who are job-ready needy?

**Mr Carters**—Yes, definitely you would expect that the providers would provide more assistance to those who need more assistance.

**Ms Paul**—And they will get considerably more money for that than they do now.

**Senator FISHER**—In respect of long-term unemployment?

**Ms Paul**—The highly disadvantaged.

**Senator FISHER**—Highly disadvantaged.

**Mr Carters**—An equivalent to the Employment Pathway Fund does not exist now for the most disadvantaged job seeker—those who have both vocational and non-vocational barriers.

**Senator FISHER**—What sorts of resources does the department have to deliver what it needs to do in respect of stream 1 job seekers?

**Mr Carters**—I am not sure what that question means, because the department is there to run the tender, to contract providers to deliver these services and to contract manage the providers to ensure that they are delivering the services that are expected of them. There will be a new charter of contract management which will apply to the department.

**Senator FISHER**—So, you case load manage? Or is that done elsewhere?

**Mr Carters**—It is done by the providers.

**Mr Manthorpe**—That is not done by the department at all.

**Senator FISHER**—Okay.

**Ms Paul**—So our role in contract management stays pretty well the same.

**Senator Wong**—You outsourced the provision of the services in government—that was former Senator Vanstone, I think.

**Senator FISHER**—A good woman. Can I turn to mutual obligation.

**CHAIR**—We might go to other senators on the same area first.

**Senator WATSON**—If we refer to table 2.7B on page 119 of the portfolio budget statement, we notice there is an average duration on income support, such as current income support payments, in weeks. It is estimated to rise for Newstart, and also for the parenting payment single. Can you explain reasons behind the expected increase?

**Ms Milliken**—In respect of Newstart recipients—and I think this links to the earlier discussion about the services to disadvantaged job seekers and the reference in the employment services review to the number of job seekers or proportion of job seekers who are very long-term unemployed—the average duration is increasing because the proportion of job seekers who are very long-term unemployed is increasing. So mathematically, while the more job-ready job seekers find employment more quickly and the long-term unemployed remain on unemployment benefits longer, the average duration is extended.

**Ms Paul**—In other words, in a robust economy there are more disadvantaged job seekers—

**Senator WATSON**—Mostly due to the numbers of disadvantaged job seekers increasing proportionately?

**Ms Paul**—Correct.

**Ms Milliken**—In respect of the parenting payment, you could say it is also a mathematical impact of the change through Welfare to Work, where there are people who have been on parenting payment for an extended period. They can remain on that payment and do not have to transfer to another payment until their youngest child turns 16, and there is a group that have younger children and they move off that payment when the youngest child goes to school. So there will be a period of time when it extends.

**Senator WATSON**—Table 2.7B on page 120 of the same portfolio budget statement indicates that the 2007-08 estimate actual total job placements achieved under the Job Network is 600,000. But for the following year, 2008-09, the estimate has decreased to 550,000. Can you explain that, please? That is 50,000 fewer people.

**Ms Golightly**—My colleague Ms Caldwell will be able to give you the detail on this, but I think perhaps one of the reasons is that we are coming up to a bit of a milestone in terms of our contract. But I will hand over to Ms Caldwell to give you a detailed answer.

**Ms Caldwell**—Through the chair, as Ms Golightly indicated, we have two main factors impacting in 2008-09, which may reduce slightly the actual job placements anticipated. The first is the continuing shrinkage in the Job Network case load which was remarked on before—that is, the smaller number of people who will be serviced by Job Network in the 2008-09 period. Also, as Ms Golightly mentioned, as we approach the end of the contract and we have some providers wrapping up their services, historically there has been some fall off towards the very end of the financial year as those new arrangements are put in place and existing providers exit.

**Senator WATSON**—Turning to the next page, page 121, again in table 2.7B, the actual estimate for the Work for the Dole activities that address one or more skills and demands is 90 per cent but for the next year the figure drops to 75 per cent. Why is that?

**Ms Golightly**—At a high level, the utilisation of Work for the Dole this year is reflecting fewer people available to do Work for the Dole, but that is increasing next year. In terms of the second indicator, I did not quite hear you, but I think you were talking about the percentage of Work for the Dole activities addressing one or more skills?

**Senator WATSON**—Yes, that is right.

**Ms Golightly**—The contract states that every activity has to address at least one skill in demand in the ESA. The 75 per cent is the number of activities that are expected to address skills in demand. But of course providers are able to address more skills over and above that contracted requirement if they so choose.

**Senator SIEWERT**—I have a series of general questions and then more specific questions around the new system for PSP. Earlier on, we were talking about the Welfare to Work model, the issue of people moving from parenting payment single to Newstart and the interaction of

that system with child support. The assessments have started going out and the feedback we are getting—and I am going to be asking some more questions about this in another committee—is that there are more people having a bigger reduction than expected. Have you been working with the Child Support Agency to look at modelling and how it interacts with Welfare to Work?

**Mr Sandison**—We have not done specific work on the child support reforms right now. We are participants in the working group led by that agency and through FaHCSIA and Human Services. We take on board the issues that are happening with the child support reforms and how they link into the participation requirements and the rules governing the activation of principal carers.

**Senator SIEWERT**—Could you repeat that last bit again? How does it interact with principal carers?

**Mr Sandison**—Our responsibility of participating in that working group with the other agencies is to contribute the working age policy to what would happen with principal carers and parents generally.

**Senator SIEWERT**—That is what I presumed. I will come back to principal carers at some other stage. We could not possibly have estimates without asking about that.

**Mr Sandison**—I am ready.

**Senator SIEWERT**—I am interested in the extra money that has gone into Newstart. Has there been any consideration of a top-up for single mothers who are now suffering a significant decrease in income because it is not being made up with FTB? Who is responsible for looking at how Welfare to Work, FTB and child support are all working together? Is that the job of the working group?

**Mr Sandison**—No, the issue of the crossover of the tax incentives and so on is included in a broad review that was announced.

**Senator SIEWERT**—Yes, I am aware of the review. But I am also aware that the commitment made when the new equation for child support came in was that, if income dropped under child support, FTB was supposed to be filling that up. You would be aware that we have had this discussion about how Welfare to Work, FTB and child support mix in together to ensure that women's—85 or 86 per cent of the people we are talking about are women—incomes do not drop. There were discussions at the time about how that was going to be fixed. So what I am asking is: is that being considered by the working group and are there provisions in Newstart now, with the extra money that is there, to look at using that to top payments up where there has been a significant drop in income for single mothers?

**Ms Paul**—Mr Sandison is absolutely right. The tax review which was announced at budget will go exclusively to FTB. My hunch is that the working group that Mr Sandison or one of his people sits on will inform the work of that tax review. That is probably as far as we can go here because those things have just been announced and are just starting to get underway.

**Senator SIEWERT**—I do not think you are answering my question. There were changes made to FTB for single mothers that related directly to the equation and how much care the principal carer gave. Those changes are already in place. The point is the tax review will not



be reporting for a significant period of time. In the meantime, mothers' incomes will be dropping from 1 July—in some cases, I have been told, by up to 500 bucks. That is a significant amount of money. I want to know what is happening with the interaction of Welfare to Work and child support and if that is going to be modelled or looked at. Is there money available to top them up now rather than in 18 months time?

**Ms Paul**—There has not been any policy decision to top them up from Newstart, and FTB, of course, is not the responsibility of this portfolio.

**Senator SIEWERT**—I appreciate that.

**Ms Paul**—So probably I am struggling a bit with your question because we do not administer FTB. That is probably as far as we can take it. There has not been a decision to change the approach to Newstart.

**Senator SIEWERT**—That is what I want to know.

**Ms Paul**—I am sure that several of these issues will be the subject of this working group, and perhaps we can come back to you with a bit more detail on that, but that is about as far as we can go now, I think.

**Senator SIEWERT**—Who is providing the secretariat and support for the working group?

**Mr Sandison**—It is through FaHCSIA. All the childcare side of things and the link to FTB is FaHCSIA.

**Senator SIEWERT**—I will check with them. But from this portfolio agency there is no policy decision at this stage—

**Ms Paul**—That is correct.

**Senator SIEWERT**—to top it up.

**Ms Paul**—To alter. That is right. FTB is also the responsibility of FaHCSIA still, I think.

**Senator SIEWERT**—Yes. I appreciate that it is not here, but the point here is the Newstart issue because, as you know, people are being put onto Newstart and their income is dropping as well. From parenting payment single they drop onto Newstart, and then they are copping the cut from child support as well. Could you please clarify the issue that, when people are referred under Newstart and offered a job, the policy has been that you have to take any job you are offered as long as it meets the criteria—as long as you have a net benefit, you can get child care and those sorts of things. It does not matter what qualifications you have—you have to take any job. Is that still the case? I have now heard two conflicting pieces of advice. If, for example, you are a single mum and you are offered any job, no matter what your qualifications are—for example, I know of a midwife who has been offered a job in a retailing outlet—do you have to take that job?

**Ms Paul**—We might discuss here the training elements and the shifts in focus under the proposed new employment model.

**Mr Carters**—There is no explicit change of policy in terms of what sort of job needs to be taken up. However, again, a really important component here is that the training is, I guess, being improved and that more opportunities are available to provide training to assist people into employment. So there is certainly that option for sole parents to consider ahead of taking

employment but, otherwise, no. But there are a lot of safety net components in the Welfare to Work that would assist parents. You have mentioned some of them briefly, but in particular there has to be a \$50 a fortnight gain, it has to be a reasonable distance away and child care has to be available as a precondition.

**Senator SIEWERT**—I will come to that in two secs. If you are talking to somebody who is already trained as a nurse and is a midwife and they are being told to take any job as long as they are getting \$75, \$25 or whatever it is—I cannot remember off the top of my head—the issue around training does not cut it, because they would argue that they are already trained and that they would rather be able to get a job in their field rather than having to take any job. So I am sorry—it does not cut it.

**Ms Paul**—Actually, no. I think we are even possibly understating this. As the discussion paper points out, a bonus of 20 per cent will be paid to a provider for an employment outcome where the job seeker has completed appropriate, accredited training. It was actually quite a shift. Not only is there more provision by way of the 630,000 training places—238,000 of which are for job seekers—but there is also a shift inside the incentive structure for providers. Ultimately the outcome you want is a job, obviously, but it is quite a shift in philosophy and it has been backed up through the proposed model.

**Senator SIEWERT**—Could I just clarify that. Where somebody already has higher qualifications and they are looking for a job—

**Mr Carters**—This point came up in our consultations and it reminds me that Minister O'Connor has, in the discussion paper, set out that a participation task force will be set up. That will happen very shortly. One of the key reasons for setting up that participation task force is to look at the circumstances whereby parents currently are expected to operate under the Welfare to Work changes and mature age people and any other groups that are relevant are in that as well, but it is particularly focusing on parents and mature age people. The clear indication of the task force is to look at those sorts of matters.

**Senator SIEWERT**—Okay, so they are looking at that, but at the moment they are still subject to—

**Mr Carters**—The task force is about to be created.

**Senator SIEWERT**—But at the moment they are still subject to the requirement that they basically have to take any job, and I am qualifying that with a qualification?

**Mr Carters**—Yes, any reasonable job. Any 'suitable job' I think is the term.

**Senator SIEWERT**—Any suitable job? I can imagine that a midwife does not find working at the local fast food outlet a suitable job. That was the point that was made very strongly to me by a range of people.

**Ms Paul**—It is always important to keep in mind that it is incredibly important, both for the person and for the taxpayer, for someone to achieve employment as soon as possible and get off income support. Often, as we know, one thing can lead to another. That is our continuing philosophy. I think it is hard to get away from that.

**Senator SIEWERT**—We could be debating that for hours. Turning to child care: you cannot get child care after the child has turned 12. What are the new guidelines for what you do with a 12-year-old child? Do you leave them at home alone?

**Mr Carters**—The guidelines have not changed. From memory, where you have, say, teenage children and where there may not be formal child care available for that age group, the guidelines state that, if the parent is not satisfied with the child care that is available for that teenage child, they do not have to accept the job. So they have to be satisfied, if there is no formal child care, that they are happy with those informal arrangements. If they are not happy with those, they do not have to accept the job. That has been the case—

**Senator SIEWERT**—That is not being enforced. I can tell you that definitely: that is not being enforced. I have spoken to plenty of single mums that are having to leave their 12-year-old children at home alone.

**Mr Carters**—We can reinforce that guideline to make it clear, but that is the rule.

**Senator SIEWERT**—If you could. I will let a whole lot of worried mums know about that one. I want to ask about PPS, but maybe, while Mr Sandison is here, we should do principal carers. On the issue of principal carers, as I understood we left it last time, there was going to be a review of the discrepancy between family law and the Social Security Act. Has that review been completed?

**Mr Sandison**—There is no formal review. It is a part of all advice to government on looking at how to support the participation in the workforce of parents and is one of the issues that would be taken forward to government for consideration. We are well aware, as are the ministers, of the issues raised both by yourself and by other stakeholders. They are some of the things that will come forward with the participation task force.

**Senator SIEWERT**—So that is now being rolled into the participation task force review?

**Mr Sandison**—Once the terms of reference and the task force are established, it will then be up to the people on the task force to take that forward.

**Senator SIEWERT**—Okay. The terms of reference for the task force, by the sounds of it, are not finished yet?

**Mr Sandison**—No. They are at advice to the minister now.

**Senator SIEWERT**—Will they be publicly available?

**Mr Sandison**—That would be a decision for the minister.

**Senator SIEWERT**—The members of the task force?

**Mr Sandison**—Again, that is a part of the decision-making process for the minister just now.

**Senator SIEWERT**—Have you done any data collection around the number of people you expect to be affected by the issues around principal carers?

**Mr Sandison**—You mean the crossover of the shared care part of principal carers?

**Senator SIEWERT**—Yes.

**Mr Sandison**—We know that it is in the thousands where they have that dual care or approximately 50 per cent shared care arrangements.

**Senator SIEWERT**—In the thousands of people who are also receiving income support?

**Mr Sandison**—That is correct.

**Senator SIEWERT**—But there is no detailed work there?

**Mr Sandison**—No. Once the task force is set up we will follow through with the minister's requirements.

**Senator SIEWERT**—What is the timeline for the reporting of the participation task force?

**CHAIR**—That has not been set in the terms of reference.

**Senator SIEWERT**—All the issues that are around participation and mutual obligation are being reviewed by the participation task force. Is that correct?

**Mr Sandison**—It depends on how the minister finalises the terms of reference, Senator.

**Senator SIEWERT**—Did you say that it looks like it will be released soon?

**Senator Wong**—No, he said that is a decision for government.

**Mr Sandison**—The minister will make the decision.

**Senator SIEWERT**—I am sorry, I did not mean to say 'released'; I meant 'started soon'. It is expected that the participation task force will be underway soon.

**Mr Sandison**—We would expect that, but again that will be a decision of the minister.

**Senator SIEWERT**—Is the kinship carers issue rolled into that as well?

**Mr Sandison**—I am sure it all appears somewhere in there.

**Senator SIEWERT**—I have one more general question before I get into the PPS. The JET scheme has now gone from 12 months to two years. Was there modelling done around how many people that would assist?

**Mr Sandison**—I think that is next door, Senator. JET is a FaHCSIA program.

**Senator SIEWERT**—I am running between two committees. I have some specific questions on the PSP, which I understand is now stream four.

**Mr Carters**—Yes, more or less. There is not a direct crossover, but the types of clients who would have been eligible for PPS now are likely to be those who would be eligible for stream four.

**Senator SIEWERT**—We prepared these questions before we had the previous discussion with Senator Fisher, so I will try not to duplicate the questions. The discussion paper talks about partnerships between providers—I think it is on page 21. Is it going to be an absolute requirement that providers have to enter into partnerships?

**Mr Carters**—It is unlikely to be an absolute requirement. What is really important is that in the tender process it will be made very clear to providers that they will need to be able to demonstrate to the department that they can deliver all four streams plus work experience. If there is a provider who may currently not have experience or has questionable ability to

deliver on stream four, it will absolutely be in their interests to perhaps subcontract that service from an existing proven provider.

**Senator SIEWERT**—That goes to my next question. As I understand it, some smaller providers have developed specialties around PSP and working with those who have multiple disadvantages. Is it envisaged that, rather than specifically providing those services, those smaller providers would combine with bigger providers to tender?

**Mr Carters**—It will not be possible to tender just for one stream. You will have to tender for all four streams plus work experience. Specialist providers can tender for their specialist group across all four streams and work experience. Where there are specialist providers who want to deliver all of that, they can. Otherwise, it would be a matter of subcontracting or joining a consortium somehow.

**Senator SIEWERT**—Is it the idea that they will do that in the transition period to next year?

**Mr Carters**—They have to do it as part of the tender process, in responding to the request for tender. That will be later this year.

**CHAIR**—Senator Siewert, we are about to go to the break. If you have a couple more questions to finish off with I will delay the break.

**Senator SIEWERT**—I have more than a couple, but once I have asked them I am done.

**CHAIR**—We will now suspend for 15 minutes.

#### **Proceedings suspended from 10.29 am to 10.45 am**

**Senator SIEWERT**—We were talking before about the contracts and service providers tendering for various contracts. What I am beginning to hear already from some service providers is that there is already a degree of competitiveness starting over certain streams which they think they are going to make more money out of. How do you intend dealing with this to make sure that you are getting the best quality services across the streams? Have you heard the similar sorts of rumours that are going around already?

**Mr Carters**—We do not listen to rumours.

**Senator SIEWERT**—You find lots of useful information, let me tell you.

**Mr Carters**—We certainly do not respond to rumours.

**Senator Wong**—That is probably more accurate, isn't it?

**Mr Carters**—As to how we would ensure quality, that is to be worked out in terms of our development of the request for tender document itself, and then how we assess the tenders. It is certainly at the forefront of our mind that we need to ensure that people can absolutely demonstrate that they are going to provide the assistance that is required in each and every one of the streams plus work experience.

**Senator SIEWERT**—Okay. It suggests to me that there will be a multidisciplinary approach taken to the way that contracts are developed and the way that you are expecting service providers to provide resources. Would that be a fair assessment?

**Ms Golightly**—Yes. As Mr Carter has mentioned, providers will need to be able to deliver all streams as well as work experience activities. A really big point of this new model is that the service is tailored to each individual from day one and that that individual gets whatever assistance they need to address their barriers. That inherently means multidisciplinary approaches. When we are assessing tender bids, the best value for money and the best service to the job seeker across all streams will be the principles on which the tender is assessed.

**Senator SIEWERT**—Those that are the most disadvantaged often have multiple disadvantages that need to be dealt with. Are you expecting all service providers to be able to deal with those areas, or are you still going to look at services that can provide specialist approaches?

**Ms Golightly**—Yes. To be able to deliver the best services in a tender sense, you are going to have to be able to convince the assessors of the tender that that is what you are doing. That is why we see a very strong role, as I think Mr Carters mentioned earlier, for specialists in the new model.

There are a number of ways they can be involved. The two main ones are as Mr Carters mentioned: they can tender for all those services for a specialised group—young people or Indigenous people—or they can tender to provide all of the services to all the groups in their own right or they can form some sort of alliance with other providers. There is any number of different forms that that alliance could take. There are a number of ways into the new model for the specialist providers.

**Mr Carters**—I just add to that that it will not be sufficient for a provider who is bidding for the service to say in the tender, for example, ‘In terms of stream 4, we will align with somebody who is a specialist in that field.’ They will have to actually convince us and tell us up-front which specialist they are going to align with.

**Senator SIEWERT**—I am a bit confused about the employment pathway planning and the comment you made to Senator Fisher about the three months—I think it is for the job ready people.

**Mr Carters**—A skills assessment.

**Senator SIEWERT**—Can you explain when the three-month review comes in when someone has gone on an employment pathway straightaway? I might have misheard.

**Mr Carters**—Every job seeker will have an employment pathway plan—is that what you are referring to?

**Senator SIEWERT**—Yes, sorry.

**Mr Carters**—That plan sets out the expectations of that job seeker for, say, the coming year. In the case of stream 1 job seekers, a key part of that plan will be that they will have a skills assessment after three months. In terms of the other three streams, there will not be an outright statement that an individual will have a skills assessment after three months—it will vary in terms of the needs of that individual. Many people will need that skills assessment straightaway.

**Senator SIEWERT**—How do you assess whether someone is in stream 1?

**Mr Carters**—We will do that on the basis of a new version of our job seeker classification instrument. That instrument is being reviewed as we speak. It will be somewhat different to the current one, but how it is different is still to be determined.

**Senator SIEWERT**—So a person in stream 1 is handled differently from those people in the other streams; they are reviewed after three months. I imagine that your employment pathway plan would then be reassessed.

**Mr Carters**—That is correct, yes. On day one a person would have their resume developed and placed on the system. They would be advised about local labour market circumstances, conditions and so on at that interview on day one. After three months they would have their plan reassessed.

**Senator SIEWERT**—When the new process starts how is that transition period going to work for people who are already in the system?

**Mr Carters**—Some of that detail is still to be worked out. There is an appendix at the back of the discussion paper which sets out the proposals for people who are in particular services now, including PSP, and where it is proposed they will transition into. If that is what you are referring to, there are issues about when referrals to particular services stop, when we are starting with the new model, whether people complete the services which are being provided now beyond 1 July 2009 and those sorts of things. That is all still to be worked through in detail. One of the key questions in the discussion paper and in the consultations is, ‘Providers, please tell us your views on that’—particularly providers who have been through previous transitions, because it is a very complex process and we want to get it right. That is absolutely open for discussion.

**Senator SIEWERT**—When do you expect to see that finalised?

**Mr Carters**—That will really have to be decided when the exposure draft is released in July. We will have submissions on that which will be due by 12 June and they will cover that transition.

**Ms Golightly**—I should also add that some of the current contracts have some transition arrangements in them already and of course we would honour those commitments.

**Senator SIEWERT**—Yes, but those transition arrangements would not deal with the degree of complexity that is required.

**Ms Golightly**—No, but they do deal with what payments would be owed to the providers. I am making sure they understand that we would of course honour that.

**Senator SIEWERT**—Thanks. That is important to the providers, I know. I was chasing what happens to people, particularly the PSP clients.

**Ms Golightly**—Yes.

**Senator SIEWERT**—We touched very briefly on the JPET issues. Regarding the provision of services of young people, you could have specialist services that are just focused on providing services to young people. Is that what you were saying?

**Mr Carters**—That is true, yes.

**Senator SIEWERT**—And that, again, will be up to what service providers tender for?

**Mr Carters**—That is correct.

**Senator SIEWERT**—I have one other question on the employment pathway plans. This may be covered in the work that you are doing in the transition approach, but will existing clients be required to do an EPP if they are still in your system?

**Mr Carters**—When they move into the new system they will be required to do an employment pathway plan, yes.

**Senator SIEWERT**—But for the time being they maintain the current program?

**Mr Carters**—Yes.

**Senator WATSON**—How many people and on which payment type will lose the employment entry payment?

**Mr Carters**—The employment entry payment, under certain eligibility conditions, is paid to people when they enter employment and satisfy those circumstances. It is not something that you lose. It is a one-off payment, so you either have been paid it or you have not. I am not sure what you are after in terms of how you have phrased that question. The employment entry payment will cease and what will happen is that people will be assisted into employment through a range of other assistance that is already available.

A key one is the employment services job seeker account, which is available to help people who are linked with a provider enter employment. A key part of that is providing some sort of up-front assistance. It might be assistance with something to wear to go to an interview, work tools or gear, brushing up on skills, providing some sort of transport in the initial stages and those sorts of things. That is already available through the employment services job seeker account. There is also a working credit, which has been around for a few years now as well. What that does for people on income support, if they are not earning money on a fortnightly basis, for each fortnight they do not earn money—

**Senator WATSON**—But that is going to continue, isn't it?

**Mr Carters**—The working credit is continuing. That already basically says that, when somebody goes into a job and goes off income support, they will still get paid because they have worked up that working credit.

**Senator WATSON**—But what we are losing is the employment entry payment. That is going.

**Mr Carters**—That is correct.

**Senator WATSON**—Of the things you have given me, is the first one a new initiative or an ongoing one?

**Mr Carters**—Employment services is ongoing.

**Senator WATSON**—The second one was an ongoing.

**Mr Carters**—Yes.

**Senator WATSON**—What is going to replace employment entry? Is there anything that is going to replace it or are we just going to beef others up?



**Mr Carters**—The logic is that it duplicates what is already there. It is not necessary any more. It is a another, separate program, which is doing something that the other services already provide.

**Senator WATSON**—It is something that people are going to lose, though, if you are going to cease it.

**Mr Carters**—They can access similar assistance through other services. That is the key point.

**Senator WATSON**—Are you going to incorporate the payment for employment entry into the existing services? The way I read it at the moment, it is just going to cease.

**Ms Paul**—That is the case. Mr Carters is trying to say that, because there is duplication now, other things which he mentioned will take up the same need that was under EEP. There will not be a loss to service, because there was already duplication.

**Senator WATSON**—What was it worth, and to how many people, in the past?

**Ms Golightly**—The basic rate is \$104. There are other rates depending on the circumstances of the job seeker.

**Senator WATSON**—Is that \$104 a lump sum?

**Ms Golightly**—As Mr Carters mentioned, it is a one-off.

**Senator WATSON**—Is that taxable?

**Ms Golightly**—I do not have that information here. I will take that on notice.

**Senator WATSON**—And you cannot tell me how many people will be affected as a result of that cessation?

**Ms Golightly**—As Mr Carters mentioned, they still receive this sort of assistance under different methods.

**Senator WATSON**—But they receive that under existing programs.

**Ms Golightly**—In the new employment services model there is the Employment Pathway Fund, which builds on the current Jobseeker Account.

**Senator WATSON**—But that is not new. It is a continuing program, isn't it?

**Ms Golightly**—The Jobseeker Account is there at the moment, which is one of the reasons this payment is duplicated.

**Senator WATSON**—So, really, this is a cost-saving measure, is it?

**Senator Wong**—Perhaps Ms Golightly could finish her answer, and then we can go to your question. That would be appreciated.

**Ms Golightly**—That ability to assist job seekers, as well as the arrangements that are there now through the Jobseeker Account, will be incorporated in the new model.

**Senator FISHER**—Can I ask a question in the middle of your question, Senator Watson?

**Senator WATSON**—Yes.

**Senator FISHER**—Will the Jobseeker Account be available to people in the disability network?

**Ms Golightly**—The disability network and VRS contracts are being extended by eight months. They are not part of this review but they are being reviewed in conjunction with the development of the National Mental Health and Disability Employment Strategy. Whether we have something like the Jobseeker Account or some other option will be considered in that review.

**Senator FISHER**—So, depending on the review, the answer is that it may or may not be available.

**Ms Golightly**—It would be pre-empting the review to give an answer.

**Senator WATSON**—How many people are going to be affected? Or are you going to take that on notice?

**Ms Paul**—We might take that on notice. You cannot predict it, because you do not know exactly what the demand would have been. But we will do our best with a question on notice.

**Senator WATSON**—I refer to the discussion paper that your minister has foreworded. It is in the portfolio budget statement on page 111. That commits \$3.7 billion over three years to a new generation of employment services. However, the portfolio budget statements do not provide estimates for the breakdown of this funding. It is an awful lot of money, so I ask for departmental forward estimates on how this money will be spent and a breakdown of the expected expenditure by financial year as well as by program.

**Senator Wong**—Senator, I will refer you to whomever is going to answer this. So you are aware of the history around the provision of a response, I want to make the point that I asked the same questions of your government and I was told that that sort of funding parameter is not disaggregated to program level.

**Senator WATSON**—So even with your new level of transparency, Minister, we are not getting it.

**Senator Wong**—We are very happy to be transparent, but I want to make the point that you never provide a program level funding. Frankly, to be fair to you, there is probably a good reason for that being the case. I will refer to one of the officers at the table on this.

**Ms Golightly**—The information that is available on the \$3.7 billion is on page 388.

**Senator WATSON**—Sorry—could you speak up? You are not speaking clearly.

**Ms Golightly**—The information that is available about the \$3.7 billion is contained on page 388 of Budget Paper No.2. That gives you the forward estimates for that measure, but it is not at program level.

**Senator Wong**—Forward estimates for that portfolio.

**Senator WATSON**—Not by portfolio?

**Senator Wong**—By portfolio, but not by program.

**Senator WATSON**—But not by program?

**Senator Wong**—No.

**Senator WATSON**—Right, well done. The budget papers refer to a saving of \$370 million in employment services over the term of the next contract, ESC4. However, the figure of \$350 million is given in the discussion paper. Can you explain the \$20 million discrepancy?

**Mr Carters**—The \$20 million is departmental funds—\$20 million will be saved within the department from contract management because the new contracts will be much more streamlined and there will be less need for as many resources to monitor the contracts. So the \$350 million is the funds for the services and the extra \$20 million is departmental funds.

**Senator WATSON**—So with the axing of the job placement license-only organisations and the abolition of the Green Corps allowance there will be some savings. Can the department provide further details about where all the savings of \$350 million over three years will be from? I refer to Brendan O'Connor's media release, as well as Julia Gillard's media release of 13 May. I want to know where those savings will occur.

**Mr Carters**—It is not that straightforward because, essentially, a new system has been developed. The previous forward estimates funding is not necessarily money that would actually have been spent. That forward estimates funding has been rolled into the development of a new employment services system which is very different: it is four streams, it is work experience and it does not separately retain these programs. So the new system has been built up with the focus on those key principles of government, which are to move services to the more disadvantaged and have fewer services for the job ready.

It is really important to note that there is also, on top of that, the 238,000 VET places, which are worth an extra \$880 million over five years. That means those sorts of places do not have to be funded out of the employment services. Providers can access those places for free. Many of the providers are registered training organisations, so they can actually deliver those services themselves. Again, it is not an apples with apples comparison. Essentially, though, we can reiterate that the difference in the funding, in terms of the savings, is predominately occurring because there will be less servicing of the job ready job seekers.

**Senator WATSON**—Just to bring ourselves up to date: how many people have been placed in permanent employment as a result of the Job Network since 1 January this year?

**Ms Golightly**—I am not sure if I have figures from 1 January. I think we probably have figures for the whole financial year, if you just bear with me for a second.

**Ms Caldwell**—I have a table for the 12 months to the end of March. We could take on notice the calendar year equivalent of those. In the 12 months to the end of March of this year—so from 1 April 2007 to the end of March 2008—there were 595,400 job placements by Job Network members and job placement organisations. We also, of course, count the number of 13-week outcomes, and during that period there were 186,600.

**Senator WATSON**—How many of those people, those that went into permanent employment, retained their jobs for three months or longer?

**Ms Golightly**—The second figure that Ms Caldwell gave, the 186,600 people figure, was the people who had the jobs for three months or longer.

**Senator WATSON**—Good. Is it the intention the name 'Job Network' will be retained under employment services contract No. 4?

**Mr Carters**—No, it isn't.

**Senator WATSON**—You are going to change it?

**Mr Carters**—That is correct.

**Senator WATSON**—What will the new name be?

**Mr Carters**—That is to be decided by government. However, Job Network currently relates to a component of the new service. The new service will incorporate those other separate programs now, so, in that context, the current intention is not to continue to call it Job Network.

**Senator WATSON**—There will be a lot of stationery changes, won't there? There will be the cost of stationery. I am always sceptical when companies start changing names.

**Mr Carters**—With an entirely new system, there will be significant changes. So it would have happened anyway, because services such as stream 4 in the new system, which will provide assistance to people who are currently might be provided services under the Personal Support Program and JPET, will be rolled into the new services. So there will be all sorts of changes needed anyway.

**CHAIR**—You are not going to call it the Commonwealth Employment Service, are you?

**Senator WATSON**—Why would you?

**Mr Carters**—I suspect not.

**Senator WATSON**—What assurances can you give us that some job seekers will not end up on a training treadmill—that the focus of work will be such as to direct them into available jobs as early as possible under this new program?

**Mr Carters**—The new system is designed to operate in an environment where there is a low unemployment rate, there are labour shortages and skill shortages. It is also an environment where there will continue to be substantial outcome fees paid to the future providers for placing people into employment. So the intention of the new system is that, yes, many more people will be trained but the ultimate aim is to get people into employment. That is where the outcomes will be provided to the providers. The more disadvantaged the job seeker, the higher the outcome fee will tend to be. There will be a bonus for placing people in employment after having them in training in skill shortage areas. However, the bottom line is that there are substantial incentives for providers to still deliver on the employment outcomes.

**Senator WATSON**—How much is that bonus?

**Mr Carters**—It will be a 20 per cent bonus over what the outcome fee would otherwise have been.

**Senator WATSON**—What is that worth normally?

**Mr Carters**—It depends on the level of disadvantage to the job seeker and what stream they are flowing through. For example, at the top end, for a job seeker in stream 4—that is, someone who would have had vocational and non-vocational barriers—the outcome fee for a 13-week placement would be \$3,696. If that job seeker goes on to stay in that employment for

26 weeks, it would be another \$3,696. So it is very big dollars for helping those very disadvantaged job seekers.

**Senator WATSON**—Could you just go through a couple of the others. That is stream 4.

**Mr Carters**—Yes. Stream 3 is the same. These are for provider brokered outcomes, so again they are outcomes that the provider has worked with an employer to locate and provide. In stream 2, the outcome fees could be up to \$1,848 for a 13-week outcome and another \$1,848 for a 26-week outcome. These are the maximum levels. For stream 1, there are not any outcome fees—again, on the basis that the government wants to have the substantial servicing and focus on the more disadvantaged. There are job placement fees after three months for stream 1. For people in stream 1, if they are still unemployed after 12 months and then go into work experience, there will be outcome fees provided.

**Senator WATSON**—You do not think the training groups will skew in favour of the stream 3 and 4 type activities?

**Mr Carters**—As I said, the training could lead to a 20 per cent bonus in terms of getting an outcome. That is certainly deemed to be a very strong incentive for people to undertake training ahead of getting employment, but that is on the basis that people who have been trained are more likely to stay in employment and to have more substantive employment outcomes.

**Senator WATSON**—Could you give some idea of the average duration before a person on the Job Network case load gains employment?

**Mr Carters**—We would have to take that on notice. It is not a figure that we would have.

**Senator WATSON**—Again on notice, how many people benefit from the supply of clothing and equipment?

**Mr Carters**—We will take that on notice.

**Senator WATSON**—And how many people benefit—

**Mr Carters**—We can actually give you that one, Senator.

**Senator WATSON**—Can you?

**Mr Carters**—Yes.

**Ms Golightly**—We will look it up and come back to you.

**Senator WATSON**—How many people benefit from wage subsidies?

**Mr Carters**—We can give you that.

**Senator WATSON**—How many people benefit from the intensive support for more disadvantaged job seekers? That is the one you are focusing on.

**Mr Carters**—That is correct, yes. These are figures for Job Network, though, whereas in the new system it will include stream 4 as well.

**Senator WATSON**—Thank you.

**Ms Golightly**—Senator, we have the figures for the first two.

**Ms Caldwell**—The number of job seekers assisted this financial year to 31 March under the Jobseeker Account for clothing and equipment is 92,037. The number of job seekers assisted through the Jobseeker Account in terms of wage subsidy is 17,950.

**Senator WATSON**—Thank you. And?

**Ms Golightly**—I think your third question was about the number of people in the intensive support phase. We will look that up and come back to you on that one.

**Senator FISHER**—Mr Carters, I just want to return to earlier questioning about job-ready job seekers who find themselves in the unemployment queue, your estimation that they will form 52 per cent of the unemployment queue and your earlier answers to questions I asked about assistance being given to job seekers in the broad but, in particular, to those who are part of the 52 per cent and able to be categorised as job ready. You made comments about payments being made to providers. What incentive will providers be provided with to cater for the 52 per cent of job-ready job seekers?

**Mr Carters**—There are a number of incentives which are available. The first one is a service fee that will actually be provided to enable providers to assist the stream 1 job seekers. That service fee will include significant regular meetings with job seekers after they have passed the three months unemployment duration. As well as that, they will be funded, as part of that service fee, to conduct the skills assessment. The other thing which will be required is 60 hours of assistance over two fortnights after the skills assessment. It is what the job seekers need. It could be the traditional Job Search training, which does tend to work very well at that stage. It could be some work experience. It could be other forms of training, but it will be an intensive 60 hours over two weeks. Providers are being funded for those components plus the front-end, the day 1 resume and discussions on the local labour market. The service fees that would be provided will cater for that. As to other incentives, they will then receive a job placement fee for placing job seekers after they have had their skills assessment, and those job placement fees will be available until the job seeker is unemployed for 12 months, when they utilise work experience, and outcome fees will be provided beyond that.

**Senator FISHER**—How do those incentives, if you want to call them that, stack up against the incentives that providers will be provided with in respect of the disadvantaged pool?

**Mr Carters**—Clearly, as people are more disadvantaged—in other words, if we move from stream 1 to stream 2 to stream 3 to stream 4—the amount available to service those individuals increases in terms of service fees, outcomes fees and in terms of the Employment Pathway Fund.

**Senator FISHER**—So, in terms of a pure dollar value and heads that might give rise to a dollar value, which providers can access, you would agree that there is greater incentive provided to disadvantaged employees than to job-ready employees?

**Mr Carters**—Definitely, yes. That is the intention.

**Senator FISHER**—That may well be the intention, but it is the intention in the face of a prediction that there will be an additional 134,000 Australian workers on the dole queues and an additional 134,000 Australian workers who are currently in jobs. It is entirely

understandable to have a focus on what you characterise as 'the disadvantaged' in this context. However, given the absence of economic modelling on the individual streams and programs and given the absence of what I would call a cost benefit analysis in respect of each aspect, I am struggling to see how the department can advise the government to implement a program when we are in the face of 134,000 additional Australians, who currently have jobs, heading up the unemployment queues. If you have done the modelling, I cannot seem to find out about it. I would have thought it might make more sense—I do not know—to focus on those who are currently in jobs but about to lose them, according to Treasury forecasts, and prioritise on getting those workers back in jobs.

**Senator Wong**—That is an interesting contribution but, with respect to Senator Fisher, I cannot discern what the question is which she has addressed to the department.

**Senator FISHER**—On what basis is the department able to advise the government that it is properly allocating the incentive payments and the budgeted payments?

**Ms Paul**—The fundamental answer to what you ask is that this is a demand-driven program and we can do our best estimates but, at the end of the day, the expenditure in the program will be driven by the needs of the job seekers themselves. So if there are a number of job seekers who come into stream 1, they will be dealt with. If an increased number come into stream 4, they will also be dealt with. That is the nature of the program, unlike now, when it is kind of sequential—you have to wait before you get more in assistance and so on. There is a sense of waiting or time passing before other assistance is provided to the job seeker. That is not the case now. You will be objectively assessed, and if you come into stream 1, that is fine. However many people come in they will be dealt with in that way. If you come in as stream 4, you will come in potentially from day one. However many people are assessed in that way will be supported by stream 4.

**Senator FISHER**—But Ms Paul, the government already knows because Treasury has forecast it that there will be 134,000 additional Australian workers who currently have jobs out of jobs. On what basis is the department advising the government whereby you can sit and wait to see who comes in the door, when Treasury has already said, 'This is who's going to come in the door'? Mr Carters essentially says that providers have greater incentive to look after those who stream down, to put it another way. On what basis has the government been advised, if it has been, that this delivers value to taxpayers that the minister tried to suggest the government was intent on doing?

**Ms Paul**—There are several aspects to what you are asking there, and Mr Carters can go into more detail. We dealt with the issue of estimates first-up in the hearing today. The estimates that Mr Carters has put forward are based on our best estimates. I am not sure where the 134,000 figure comes from and what it contains. What I am saying is, if you are any job seeker coming into the system after the new system starts—which it does not until 1 July next year—you will be supported against whatever your needs are. We have tried to estimate what proportions might be in each of those streams and Mr Carter has gone through that. But, at the end of the day, the system is driven by the needs of the job seekers themselves.

**Senator FISHER**—You said you are not sure about the 134,000 people and how they are made up.

**Ms Paul**—I am not sure where your figure—

**Senator FISHER**—It is a Treasury figure. I hope you are going to reassure me that your department is aware and has indeed informed itself so that it can competently advise the government in taking the programs forward. Given that Treasury has predicted X, I would have thought that, whilst you may not personally know, the department is more than fully versed in it.

**Ms Paul**—Absolutely. And we discussed those estimates at the front end.

**Mr Carters**—The logic is that they are estimated percentages of people that will go into each of the streams so it is irrelevant what the total number of the population is. It is that sort of ratio which is our estimate of how people will fit into the streams. They will all still be serviced, as Ms Paul said. It is a demand driven system, so people will get serviced at the appropriate level that they require, based on the new model.

**Senator FISHER**—Yet the service providers arguably have less incentive to service stream 1 than streams down the stream.

**Mr Carters**—They will need to place significant focus on assisting the most disadvantaged job seekers.

**Mr Manthorpe**—Not only that, it has always been a feature of the Job Network. Certainly in last six years of the APM there has been more focus on the relatively highly disadvantaged who, as I mentioned before, make up about 10 per cent of the flow. Here we have about half the flow coming in to some form of highly disadvantaged assistance.

**Senator FISHER**—Yes, Mr Manthorpe, and we are talking about the rump. But we are now facing for the first time predicted increases. Your comment applies to an environment where unemployment has been trending down. We are now headed into an environment where it is about to trend up, according to Treasury forecasts, so the equation becomes rather different. I am looking for some reassurance that there has been some cost-benefit analysis of where to focus the effort so that taxpayers get the best value for their money and so that we focus on keeping Australians in work. I am not getting that reassurance.

**Mr Carters**—The assurance is that the job seeker classification instrument is a scientifically derived tool which is extremely accurate in predicting the propensity of an individual to become long-term unemployed. We are refining and reviewing that JSCI, as we do most years, but particularly this year because we are ready for a new service. That has been an extremely accurate predictor of the propensity of someone to become long-term unemployed. In that context, we expect it will serve a similar purpose here and will stream people into the right stream.

**Senator FISHER**—In terms of the discussion paper that we have had a fair bit of discussion about this morning, who drafted it?

**Mr Carters**—The department drafted the discussion paper.

**Senator FISHER**—Was there government sign-off or sign-off from the minister's office? Tell me the process, if you will.

**Mr Carters**—Yes, there was absolutely sign-off by the minister's office.



**Senator FISHER**—There is indeed a foreword by the minister.

**Ms Paul**—Indeed by the minister himself, because he has his foreword.

**Mr Carters**—And in turn he would have consulted his colleagues as well.

**Senator FISHER**—Were there changes made to the draft discussion paper as a result of discussions between the department and the minister's office?

**Mr Carters**—With any substantial new direction and a discussion paper to work that through, the drafting is a very long process of iterative thinking and development, so there were many, many changes. It has taken a lot of work and a lot of iterations to prepare this final document.

**Senator FISHER**—Were changes made to the draft discussion paper at the request of the minister's office?

**Mr Carters**—There would definitely have been changes made through the minister's office, yes.

**Senator FISHER**—Perhaps if I can take you to page 4 of the discussion paper under the heading 'Widespread skill shortages'. There is a comment about the new labour market environment:

... 17 years of continuous economic growth ... Boosting workforce participation is also necessary to maintain our global competitiveness, and to help reduce the inflationary burden left by the previous Government.

What would have been the authorship of that comment: the department, the minister's office or a combination of the two?

**Ms Paul**—It is hard to tell here. It is more likely to be a comment made perhaps by the minister's office, as you might imagine. There was nothing unusual about this process compared to what we have done in the past over many years.

**Senator FISHER**—So do you regard the back end of this document as a DEEWR production and the front as a minister's foreword? What is the department's ownership of the back end, if I can put it that way?

**Ms Paul**—It is obviously a discussion paper put out by government. It has had the government imprimatur. I think that probably answers your question.

**Senator FISHER**—I guess it is to state the obvious, but I think it is a reasonably political insert in a document that is attempting to present itself as a discussion paper—and I find that a little curious.

**Ms Paul**—We are very, very careful with the way we work. As I said, this is the way we have worked for many years now.

**Senator FISHER**—Nonetheless, you do have the APS values to uphold.

**Ms Paul**—Of course.

**Senator FISHER**—Do they say anything about political comment from public servants?

**Senator Wong**—What is the assertion there? Seriously, what is the assertion—that somehow Ms Paul has breached the APS values?

**Senator FISHER**—You can make assertions. At this stage I am asking questions. Ms Paul?

**Ms Paul**—Of course we have not breached them. We have described the process. The process was exactly as we described and here is the result. There is probably nowhere else I can go with that.

**Senator FISHER**—Thank you. I would like to turn to mutual obligation in the same discussion paper, which is dealt with in several places—I probably do not need to actually take you to a particular place in the discussion paper at this stage. The discussion paper indicates that there will be significant changes to the mutual obligation requirements for job seekers. It talks, in part, on page 25 of changes in respect of job seekers who do not attend their appointments and fail to provide a valid excuse. There is some reference to ‘three strikes and you’re out’, but it notes the need to define ‘persistent noncompliance’ and establish a level of noncompliance. I understand that this is a discussion paper, but what is contemplated for job seekers who do not attend their appointments and fail to provide a valid excuse? How many chances will they have before they are subject to a non-payment period? I see criticism of ‘three strikes and you’re out’, yet we see nominated:

It is proposed that three failures to attend an appointment with a provider or a job interview should trigger a comprehensive compliance assessment, while a consistent record of ‘No show, No pay’—

**Mr Carters**—As you have described, this is a discussion paper. That is an issue which people are due to report to us on by 12 June. But it does notionally suggest that three failures may be a trigger point for a comprehensive compliance assessment. Where that differs from the current approach is that, under the current approach, if there were three failures then there would automatically be an eight-week non-payment period imposed, and that would last for the duration of the eight weeks.

The new model is proposing that, yes, we would probably still have a trigger at three but then go into a comprehensive compliance assessment, which would be conducted by Centrelink. That would look at the whole circumstances of individual—to look at their vulnerabilities and their barriers, to look at the reasons that they have had the three strikes and then to decide whether they really need some form of different assistance or whether they basically willingly and persistently failed to comply. In that case, that individual would go into an eight-week non-payment period. But if there were other factors involved it would be less likely that they would have an eight-week non-payment period. So the new model will absolutely retain the eight-week non-payment period, but there will be that step in between.

The other one—the ‘no show, no pay’ one—is a slightly different approach. If people are undertaking activities where they are expected to turn up on a regular basis—for example, for training, work experience or placements—the intention is to develop more of a work culture so that, if people do not show for a day without a reasonable excuse, they do not get paid for the day. If they turn up the next day, that is okay; if they don’t, again, they do not get paid for the day.

That is a different approach. That is actually then saying, ‘People who do not have a reasonable excuse will get penalised a small amount on the way through the process.’ That in itself will be a deterrent to encourage people to participate in activities—particularly, for

example, training and work experience—which is likely to lead to an employment outcome. In that case, because they are being penalised along the way, it would not make sense to have the trigger point for that as three strikes. What is being suggested here is to maybe look at them after six months and see if there is some sort of wilful and persistent approach by the job seeker or whether they have legitimate reasons for not attending.

**Senator FISHER**—If you take an automatic aspect, what will be done to ensure consistency.

**CHAIR**—Senator Fisher, it is a draft and I think Mr Carters has gone through some of the thinking that is going through the process. I am not sure that you should really be asking the officers to be speculating about a decision that is yet to be made by government.

**Senator FISHER**—Okay. Thank you. In the last six months, how many job seekers have had a non-payment period applied?

**Mr Carters**—I have the figures for the last nine months, if that will suffice. The answer is 33,905.

**Ms Golightly**—That is the number of eight-week non-payment periods, not the number of job seekers.

**Senator FISHER**—Can you provide on notice the number of job seekers in the last six months?

**Mr Carters**—Yes, we can do that.

**Senator FISHER**—And of those job seekers who did experience an eight-week non-payment period, how many of them sought financial case management? Can you take that on notice?.

**Ms Golightly**—Is that for the same period?

**Mr Carters**—For six months?

**Senator FISHER**—Yes, thank you. I will put the rest of those questions on notice. I do have one further set of questions for this area, which is about the government's announcement that it will provide \$12 million over three years to support small business to implement family friendly working arrangements.

**Ms Paul**—That is actually for outcome 9.

**Senator FISHER**—That comes later. Okay.

**CHAIR**—Not too much later. I have a couple of questions. Does the employment services system actually streamline the process and remove red tape? If it does, can you point out some of the streamlining to me?

**Mr Carters**—Certainly the intention is that it will streamline the red tape. For example, at the moment we have seven contractual arrangements for the different programs and services that are being provided. The intention is to roll those in to one contract. That contract will also have fairly consistently defined outcome fees, outcome durations, trigger points for service fees and those sorts of things, not the different ones that exist for each of the services now. As well as that, contract management will be more efficient in the sense that it will be easier to

do because there will be one contract. But as well as that there will be more of a partnership role between the department and the providers in terms of the contract management role. In addition, at the moment one of the key concerns of providers of job seeker accounts is that there is a lot of paperwork and process involved in claiming against the Jobseeker Account. They argue that that makes them less inclined to actually utilise the Jobseeker Account. The Employment Pathway Fund in the new model is aimed to be more flexible in how it is used, what sort of services it is used for and the need to be overly prescriptive in recording that.

So they are some of the few ways in which the efficiency is supposed to overcome the red tape that is currently in the system. Certainly providers have indicated that up to 60 per cent of the time that they take in servicing job seekers is through undertaking those processes rather than actually focusing more of their resources on the job seeker.

**CHAIR**—Thank you. Can someone tell me about the \$41 million innovation fund?

**Mr Carters**—Yes, Senator. The \$41 million innovation fund is a fund which is part of the new employment services system. The intention is that providers will bid for funding out of that fund to deliver innovative projects around the country. The intention is that the sorts of projects that will be delivered will be those that may be a place based arrangement. They will have a social inclusion element to them whereby the providers may work in partnership with employers, with local community groups and so on—in particular in locations of high disadvantage. The intention is also to have projects which work across a whole-of-government approach, including state government. They might link into other important services for job seekers, which could include broader family support or health and housing issues. They will link into that as part of that innovation fund to look at ways in which we can more innovatively assist job seekers into employment, get them out of poverty and overcome their barriers.

**Senator WATSON**—I noticed that only \$11 is going to be set aside in the Employment Pathway Fund for these job seekers, according to the discussion paper funding arrangements. If job seekers have not found employment within three months, they are set to undertake an approved intensive activity. Will these activities be funded separately by the department or will the provider be required to fund these from service fees?

**Mr Carters**—The intention is that service fees will be provided to cover the cost of providing that 60-hour intensive activity. You also mentioned the Employment Pathway Fund—the \$11. That is the equivalent which is in the Jobseeker Account now to service the job-ready job seekers just with basic things. For example, they might need some fares assistance, basic transport costs and those sorts of things to get them to jobs and interviews.

**Senator WATSON**—Under what heading will this come?

**Mr Carters**—Sorry?

**Senator WATSON**—What heading will this intensive activity be provided through? You said it will be funded by the agency.

**Mr Carters**—It will be funded through service fees to the provider to deliver those services.

**Senator WATSON**—So this intensive activity will have to come out of their service fees allocation.

**Mr Carters**—That is correct, yes.

**Senator WATSON**—There is no additional source of funding.

**Mr Carters**—The service fee is an additional source of funds in terms of the new model.

**Senator WATSON**—Yes, but this is a new sort of intensive activity that is being planned, isn't it?

**Mr Carters**—It is, but in many cases it is similar to, for example, the Job Search training which is provided at the moment under Job Network.

**Senator WATSON**—I now come to the issue of mutual obligation, again coming back to the discussion paper. The discussion paper indicates that there will be significant changes to the mutual obligation requirements for job seekers. How many chances will job seekers who do not attend their appointment and fail to provide a valid excuse have before they are subject to a non-payment period?

**Senator Wong**—Chair, we are happy if the committee wants us to do it again, but these appear to be the questions that Senator Fisher asked.

**Senator WATSON**—She covered that? I missed that.

**CHAIR**—Yes.

**Senator Wong**—So we can reiterate our answers.

**CHAIR**—I think that is—

**Senator WATSON**—Fair enough.

**Senator Wong**—You want us to reiterate?

**Senator WATSON**—No; if you were asked that under that heading, thank you very much. Senator Fisher did ask a couple of questions on NEIS, I noticed. This is going to be scrapped, isn't it, as from 1 July 2009?

**Mr Carters**—I am not sure that 'scrapped' is the right term.

**Senator WATSON**—I am pleased to hear that, because it has been very successful since 1985.

**Mr Carters**—The funding for the provision of NEIS services will be rolled into the new model and there will be opportunities in the new system for the development of small business and self-employment opportunities. That will continue to be available through providers under the new system. The NEIS allowance, which is currently paid, will no longer be paid, but participants under the new system will be eligible for income support. The NEIS allowance is the equivalent of income support, so it is the same amount.

[11.50 am]

**CHAIR**—There being no further questions on outcomes 7 and 8, we will move to outcome 9.

**Senator WATSON**—My focus initially is on the home workers, particularly the code of practice. The subject area is Textile, clothing and footwear outworkers and the home workers code. Budget Paper No. 2, page 154, gives some indication of the \$4 million that is going to be given to develop and promote the Homeworkers Code of Practice and the No Sweat Shop label, which is good news for such people. Is that \$4 million the entire amount of money that will be provided to the home workers committee? How is that \$4 million split up?

**Mr Maynard**—The \$4 million is provided over four years to the home workers committee. It is provided in amounts of \$1 million for each financial year. The first, for this financial year, has been paid. The money is provided to ensure the promotion of the Homeworkers Code of Practice so that the industry may self-regulate to ensure that the home workers are receiving the appropriate level of wages and entitlements.

**Senator WATSON**—I was surprised that it was not going to the Ombudsman. Why was that particular choice made for the administration of this program?

**Mr Maynard**—It was an election commitment made during the election campaign. I note that the committee is made up of representatives from all stakeholder groups relating to this particular industry sector.

**Senator WATSON**—What groups does that include?

**Mr Maynard**—It includes the Textile, Clothing and Footwear Union of Australia, the Council of Textiles and Fashion Industries of Australia, the Brotherhood of St Laurence, Australian Business Limited, the Australian Industry Group, Pacific Brands and Poppets Schoolwear.

**Senator WATSON**—It is a fairly small committee—in terms of \$1 million per year. How many people work full time for this committee?

**Mr Maynard**—The committee was originally established in 1998, and has been promoting the code of practice for many years. This is supplementation to enhance their capacity to do this, to further promote the existing code of practice so that the industry might better self-regulate.

**Senator WATSON**—You have not told me how many full-time people.

**Mr Maynard**—I do not have that information, but I will take that on notice.

**Senator WATSON**—Okay. How many employees are directly paid by the home workers' committee?

**Mr Maynard**—How many employees are there?

**Ms Paul**—Isn't that the same question you just asked—how many work for it—which I think we have just taken on notice?

**Senator WATSON**—In other words, it is not a redirection; it is just an oversighting committee to make sure that the code of practice is followed et cetera?

**Ms Paul**—That is right; that is my understanding.

**Senator WATSON**—Ms Gillard's press release refers to 330,000 home workers in the textile, clothing and footwear industry. That is a lot of people. How did we get to that figure?

**Ms Paul**—That would be the industry figure from our normal statistical sources.

**Mr Maynard**—Correct.

**Senator WATSON**—From the ABS?

**Ms Paul**—I am not sure—quite possibly, but I could confirm that.

**Senator WATSON**—Can you confirm where we got that figure from?

**Mr Maynard**—Yes.

**Senator WATSON**—Is any of the \$4 million allocated to a campaign or to advertising, or was that just a supplement to the committee to carry on the good work that they are doing?

**Mr Maynard**—It is the amount that is provided to the committee so that they may promote the practice.

**Senator WATSON**—Do you know how much they set aside for advertising, to ensure good practices and that sort of thing?

**Mr Maynard**—No. I do not have that information with me, but I could take that on notice.

**Ms Paul**—One of the activities that this committee does, of course, is to promote the No Sweat Shop label, which is what this whole approach is about—making sure there is not exploitation in the sector. Presumably they have to do some promotional work, but that is a matter for them.

**CHAIR**—Do they have any formal reporting responsibilities back to the department?

**Mr Maynard**—Yes, they do.

**CHAIR**—What nature do they take? Do they have to give an annual report, or is it simply a statement?

**Mr Maynard**—There is an annual report that they need to provide to us to outline how they have used the money and the success factors in terms of the additional number of employers that they have signed up through the code of practice. As it is a voluntary scheme, they currently have a number of employers who have previously signed up. We are expecting that this additional funding will lead to a greater level of manufacturers who are prepared to sign and therefore self-regulate the appropriate payment of entitlements to their employees in their supply chain.

**CHAIR**—Is that the sort of report that will be tabled in the parliament, or is it simply a report to the department?

**Mr Maynard**—It is a report to the department to ensure the appropriate expenditure of the funds.

**CHAIR**—How do we get copies? How does the committee receive copies?

**Ms Paul**—We can provide it if you wish to have it.

**CHAIR**—I think we would, as it becomes available.

**Senator WATSON**—So you pay \$4 million to help subsidise the work of this home workers' committee. Is there a contract that is given or is it just a budgeted figure each month?

**Mr Maynard**—There is a contract.

**Senator WATSON**—Can we have a copy of that contract, or is that confidential?

**Mr Maynard**—I would have to take that on notice. I am not aware of that.

**Senator WATSON**—How many meetings does the committee have a year, in terms of all the different groups that you mentioned earlier that participate on the committee? You would have formal meetings—how often are they, once a month? Quarterly? Half yearly?

**Ms Paul**—Ultimately that is a matter for them. I am not sure we would know. This committee is not a creature of government.

**Senator WATSON**—No, I know.

**Ms Paul**—We could certainly ask them.

**Senator WATSON**—But they get a lot of subsidy.

**Ms Paul**—I do not know that we know that here.

**Senator WATSON**—You would obviously require a fair degree of oversighting—so hopefully it meets more than once a year.

**Ms Paul**—I am sure.

**Senator WATSON**—So my question is how often?

**Ms Paul**—We would have to take that on notice.

**Senator WATSON**—Could you find out? They keep minutes of their meetings, I presume, and all that sort of thing?

**Mr Maynard**—As an incorporated body, they would be obliged to meet their obligations to do just that.

**Senator WATSON**—How many clothing suppliers are actually signed up to the voluntary code?

**Mr Maynard**—I think, at this point in time, there is in the order of 120.

**Senator WATSON**—As many as that?

**Mr Maynard**—Yes.

**Senator WATSON**—That is very significant. That is the number of suppliers; what about the number of retailers, or is that the global figure that you have just told me?

**Mr Maynard**—My understanding is that that is the number who have signed up. My apologies; there are 121 retailers and 32 manufacturers. I had the numbers mixed up in my head.

**Senator WATSON**—That is a better figure. What is the fee structure?

**Mr Maynard**—The fee structure in what regard?

**Senator WATSON**—Isn't a fee required?

**Mr Maynard**—Do you mean for organisations to become associated with the Homeworkers Code of Practice?



**Senator WATSON**—Yes.

**Mr Maynard**—Yes. They pay the committee an annual fee of \$2,200.

**Senator WATSON**—What is the total income received by the committee from the employers for 2006-07, the last financial year?

**Mr Maynard**—I do not have that figure here, but I could take that on notice.

**Senator WATSON**—Thank you. How does the homeworkers voluntary code compare or differ from the New South Wales mandatory code?

**Mr Maynard**—I do not know. I will take that on notice.

**Senator WATSON**—I understand that in 2006 the Department of Employment and Workplace Relations wrote to the TCFUA to raise concerns about attempts by the TCFUA to extract cash settlements from employers in the textile, clothing and footwear industries, where they had allegedly breached the clothing award. Are you aware of that letter? Were you there then?

**Mr Maynard**—I am vaguely aware of that. They were functions that were being performed by the area of the department which has subsequently been transferred to the Workplace Ombudsman.

**Senator WATSON**—Can table 2.7 on page 113 of the portfolio budget statements be provided to the committee with the figures for each of the three forward estimates for the program? Is that possible?

**Ms Paul**—Are you back on outcome 7?

**Senator WATSON**—Sorry; I probably am. That is the widows allowance, which is outcome 7; isn't it?

**Ms Paul**—Yes.

**Senator WATSON**—I will put that one on notice. Again, I am not sure whether this is outcome 7—the percentage of people in the workforce over the age 65. What is the last available data?

**Ms Paul**—It would have been outcome 8, probably, and we can take it on notice.

**Senator WATSON**—Also on notice, what sector of the labour market is currently experiencing the largest skills shortage? And how many people with a disability have moved into employment as a result of departmental initiatives? Will you take those on notice?

**Ms Paul**—Yes.

**CHAIR**—Take them on notice. Senator Fisher has some questions.

**Senator FISHER**—There is a far smaller cast of onlookers behind you.

**Senator Wong**—Don't take it personally, Senator.

**Senator FISHER**—I definitely will not, and certainly not in terms of the importance of the issues in outcome 9. I would firstly like to go to a series of questions I asked the department at the last estimates. I want to do this, if I may, before I ask some questions about administered items. The questions were about whether advice had been provided to the government on,

amongst other things, the inflationary impact of the workplace relations transition bill—if we can call it that in general terms. I asked you a series of questions, which were answered in part, during the proceedings. I then asked a question which was taken on notice by Minister Wong. In the ensuing weeks, an answer was provided to the question on notice. The question that was taken on notice was:

Has the government sought any advice about the economic impact of Forward with Fairness and the economic impact of the transition to Forward with Fairness bill in particular?

On what empirical basis is the Deputy Prime Minister able to say that the bill before the House will not jeopardise employment?

**Ms Paul**—What was the number of that question? I am sorry to interrupt you.

**Senator FISHER**—I do not actually have my copy with me. I think it was—

**Ms Paul**—117, by the look of it.

**Senator FISHER**—That's it. I was going to say 113, but 117 sounds like it. The answer that was provided had several paragraphs. The first paragraph included:

The Australian Government has not sought advice on the economic impact of Forward with Fairness, and the *Workplace Relations Amendment (Forward with Fairness) Bill 2008* ... in particular, for several reasons.

The answer then goes on to describe some of the reasons to support the claim in the first paragraph, that the Australian government has not sought advice on the economic impact of Forward with Fairness and of the Forward with Fairness bill in particular. Following the provision of this answer by the department, and I think it was provided during April—I may stand corrected, but I think it was provided during April—I was somewhat taken aback to read an article in the *Australian* written by Sid Marris and dated 2 May referring to actions by Treasury to white out, if you like, the bulk of some 38 pages of advice that had been provided to the government on the inflationary impact of, in particular, the Forward with Fairness bill. My question is this: why did the department say that the Australian government had not sought advice when, quite clearly, Treasury had completed 38 pages of advice? Of course, we are still not privy to it, but obviously it exists.

**Mr Pratt**—Firstly, the department cannot comment on anything that relates to what Treasury has done. That is obviously a question for Treasury, and our answer stands. The department has not provided advice of that sort. We were not consulted on advice being provided by Treasury if it was provided. I understood that, in fact, a lot of the advice which was the subject of those press reports related to advice provided to the previous government.

**Senator FISHER**—Let's go to your final point first, Mr Pratt. I have handy the response to the FOI request, which makes it apparent that the advice by Treasury was provided on 13 December last year. I recall we had a new government by that stage. You indicated in your answer that the department had not provided the government with this advice. My question asked whether or not the Australian government had sought the advice, and your answer was that the Australian government has not sought the advice. I have some difficulty with your reference to Treasury's involvement as distinct from DEEWR's. Does DEEWR involve itself as a matter of course in coordination comments of matters which go to the Australian government and in particular to cabinet?

**Mr Pratt**—It does on some matters, Senator. But my answer remains that we were not aware of that advice.

**Senator FISHER**—Are you and Ms Paul aware of it now?

**Ms Paul**—We are aware of the reports of it. Because of that I could not even begin to say whether that advice touches on the nature of our answer. My suspicion is that our answer still stands and is correct. Treasury's advice is fundamentally a matter for Treasury.

**Mr Pratt**—Treasury, no doubt with good reason, does not consult with DEEWR on many matters, nor should it.

**Senator FISHER**—Nonetheless, as part of the FOI request, I can see that there is exchange of email between departmental officers. For example, Mark Roddam in DEEWR emailed Jason Lange in Treasury: 'As discussed on the phone, here is a broad outline of the proposed submission to the Senate inquiry into the Transition to Forward with Fairness Bill. This will be a departmental, not a government, submission. The terms of reference are below. I would appreciate any thoughts you have, and I will send you a draft of the submission late Monday.' I do appreciate that this email was about a submission to be made to a Senate inquiry, but I would have thought there is clearly a level of communication, cooperation and consultation between departmental officers that would extend beyond Senate submissions to cabinet documents.

**Ms Paul**—That document—and of course we covered this both in the Senate inquiry and at the last estimates—

**Senator FISHER**—Covered what, Mr Pratt?

**Ms Paul**—We covered the preparation of our response to the Senate inquiry. That is a very different matter to advice that the Department of Treasury might provide to the Treasurer. Of course we consult with them, and they consult with us on some matters, but not on all.

**Senator FISHER**—Being aware now that advice exists, what discussions have you had with the minister's office about providing the Australian government with advice on the economic impact of—

**Ms Paul**—We cannot answer the question. You are requesting us to talk about our advice.

**Senator FISHER**—Now that you are aware of the provision of advice from Treasury in one form or another, has the department discussed with the minister's office advising the minister's office as to the inflationary impact of the government's workplace relations reforms?

**Mr Pratt**—Without going to what we may or may not discuss with the minister or the minister's office, because that goes to the nature and content of policy advice—

**Senator FISHER**—Has the department discussed it?

**Ms Paul**—I think you can ask: have we offered advice?

**Mr Pratt**—I can answer the question by saying that we have not done any modelling of those economic impacts for the government.

**Senator FISHER**—In respect of the answer to question on notice 117, did Minister Gillard's office see the answer prior to the department providing it?

**Mr Pratt**—Yes.

**Senator FISHER**—What is the process there?

**Mr Pratt**—The standard process is that the department drafts a response and it is forwarded to the relevant minister for clearance before it is tabled. The minister's office—in this case, the Deputy Prime Minister's office—has a look at it and, if they are comfortable with it, the answer is then tabled. This is the practice that has applied for as long as I can remember.

**Senator FISHER**—Were any amendments made to the answer by the minister's office?

**Ms Paul**—I do not think we are well placed to answer that question.

**Senator FISHER**—Notwithstanding what you said, Mr Pratt, I am struggling with how the department can answer that the Australian government has not sought advice on the issues that I have raised when, clearly, the Australian government has sought advice.

**Mr Pratt**—Ultimately, the answer to that question is of course the Deputy Prime Minister's answer.

**CHAIR**—Senator Fisher, it is quite proper for you to question the veracity of the answer, but you have in fact asked the question again and the department has indicated that they stand by their answer. It was a question to this department through the relevant minister.

**Senator FISHER**—Minister, perhaps you can help me as to whether the Australian government had sought advice on the inflationary impact of the government's workplace relations reforms.

**Senator Wong**—I do not have anything to add to the answer that has been provided by the Deputy Prime Minister, to which you have referred. Certainly in relation to your suggestion about the Treasury advice, you will have to put those question to the relevant committee.

**Senator FISHER**—Are you suggesting that the answer to the question on notice was an answer from the Deputy Prime Minister?

**Senator Wong**—I do not have anything to add to the answer—that has been provided.

**Senator FISHER**—And by whom has that answer been provided? I am a bit confused now. Is it a departmental answer or is it an answer by the minister?

**Ms Paul**—It is a departmental answer. The question was: 'Has the government sought advice?' We answered it in that regard. We went through the same process we have been through for many years in terms of these questions. The point here—which I think is what Mr Pratt started with—is that we believe this answer is correct. The implication of your question is that whatever Treasury was advising on was precisely the same as what you asked in this question. We cannot say that, and I think Mr Pratt made that connection early on. We cannot necessarily match up entirely what Treasury's advice might have been on and what your question was. There is nowhere else we can go. Our answer stands, and we are happy with our answer. The only place we could go now would be to retake on notice whether there has been further advice. But I think our earlier answer stands.

**Senator FISHER**—You can do that. In any event, without being pedantic, my question was about whether or not the Australian government had sought advice, and your answer was about whether the Australian government had sought advice. You are talking, Ms Paul, in terms of what Treasury may have provided, but one would have thought that the advice provided would be in response to a request seeking it.

**Ms Paul**—I am not trying to split hairs on ‘sought’ or ‘provide’. We would simply not be able to say to you that whatever Treasury did goes precisely to this issue. There is really nowhere else we can go with it. The difference between ‘sought’ and ‘provide’ is important, but that is not really where I was going.

**Senator FISHER**—Mr Pratt, a short while ago you referred to advice being provided to the previous government. During the last estimates you essentially indicated that the department, as we have discussed, had not provided advice to the government on the economic impact or indeed the employment impact of its policies or the bill over the three months preceding the change of government. In the transcript I think you said, ‘Over the last three months.’ In light of that answer, did the department provide advice to the previous government on the economic impact of Labor’s policies in respect of workplace relations?

**Mr Pratt**—No.

**Senator FISHER**—Are you aware of a report in the *Financial Review* on 8 May which suggested that former minister Hockey had said advice to that end had been provided to him?

**Mr Pratt**—I do recall that report.

**Senator FISHER**—What do you say of that report?

**Mr Kovacic**—At the request of the former government the department commissioned some modelling relating to workplace relations reform. In essence, there were two modelling projects that were commissioned. The first modelling project sought to model the potential economic impacts of further deregulation of the workplace relations system, including a reduction in award coverage to only 10 per cent of the workforce and an increase in AWA coverage from five per cent to 20 per cent of the workforce. The second modelling project modelled the potential economic impacts of a more heavily regulated labour market. However, the issues that were modelled in that second project bear no resemblance to the government’s workplace relations policies as detailed in *Forward with Fairness*.

**Senator FISHER**—Can you take me over the last couple of bits of that again please?

**Mr Kovacic**—There were two modelling projects commissioned last year. One modelled the potential economic impact of further deregulation of the then current workplace relations system. It included modelling a reduction in award coverage to only 10 per cent of the workforce—it is currently around 19 per cent—and an increase in AWA coverage from five to 20 per cent of the workforce. The second modelling project modelled the potential economic impacts of a more heavily regulated labour market. However, that second modelling project did not model the current government’s workplace relations policies as detailed in *Forward with Fairness*. Neither of those modelling projects were released by the previous government. In terms of the more heavily regulated labour market project, the tender documents for that consultancy were issued before the then opposition released its *Forward with Fairness* policy.

**Senator FISHER**—What do you mean by ‘more heavily regulated’ in the context of the modelling done?

**Mr Kovacic**—In respect of the coverage of industrial instruments, the more heavily regulated labour market project modelled an increase in award coverage from 19 per cent of all employees to 30 per cent of all employees. It modelled an increase in the number of working days lost due to industrial action from the early 1990s to last year. Particular mention was made of the December quarter of 1992. It also modelled removing the exemption for unfair dismissal laws for businesses with fewer than 100 employees and returning to the former unfair dismissal system with no exemptions. In respect of individual agreements, it modelled removing access to AWAs and the loss of flexibility that was sought to go with that. It modelled reintroducing a formal approval certification process for all workplace agreements. It modelled reintroducing scope for patent bargaining or industry wide bargaining, as opposed to having collective or individual agreements that are able to take account of firm-specific initiatives—and the labour force participation was reduced from last year’s level to the level recorded in the mid 1990s, which was a reduction of around about two per cent. It also modelled the impact of re-regulating the labour market on the employment of vulnerable groups of employees with a marginal attachment to the labour market.

**Proceedings suspended from 12.32 pm to 1.32 pm**

**CHAIR**—We will now resume with questions on outcome 9. I call Senator Fisher.

**Senator FISHER**—Mr Kovacic, I think you were going over the elements of the more heavily regulated—in your words—system that were the subject of this advice to the previous government.

**Mr Kovacic**—That is correct. I outlined the particular issues that were modelled as part of the Econtech modelling project, and I made mention of the fact that what was modelled did not reflect the current government’s workplace relations as outlined in Forward with Fairness. For instance, in respect of unfair dismissal, what was modelled was returning to the former system with no exemptions, whereas Forward with Fairness clearly envisages qualifying periods of six months for employees of businesses with 15 or more employees and 12 months for employees of businesses with fewer than 15 employees. Similarly, Forward with Fairness provides for a small business fair dismissal code, which, if complied with by small business, would ensure that the dismissal is considered fair.

In respect of coverage of industrial instruments, I mentioned that the modelling was based on an increase in award coverage from 19 per cent of all employees, as at May 2006, to 30 per cent of all employees. To that end, it differs from Forward with Fairness, which clearly indicates that the creation of modern awards is not intended to extend award coverage to classes of employees such as managerial employees, who have been traditionally award free, and that modern awards are not intended to cover high-income employees earning more than \$100,000 per annum. Forward with Fairness similarly provides for flexibility clauses being included in modern awards.

In respect of industrial action, I mentioned that the modelling modelled a return to the levels of industrial disputation recorded in the early 1990s. To that end, it differs from

Forward with Fairness, which makes it very explicit that the government will maintain tough rules for industrial action. For instance, the requirement that protected industrial action be authorised by a majority of employees in a mandatory secret ballot is retained, as is the capacity for parties to go straight to a court to seek orders and have access for breaches of the common law in respect of industrial action. Similarly, prohibitions on strike pay will continue to remain. They are some of the differences.

In respect of labour force participation, I mentioned that what was modelled was a change in the level of participation from around 76 per cent to the level recorded in the mid-nineties, which was around 74 per cent. To that end it overlooks the government's policies which are very much directed at improving the level of workforce participation. A number of initiatives in the recent budget, for instance child care rebate changes and also taxation changes, are designed to promote workforce participation.

**Senator FISHER**—Thank you for the recap. To what extent are the series of elements that you have highlighted nonetheless reflected in the government's policy of Forward with Fairness and reflected in particular in the amendments made to the Workplace Relations Act by the transitional bill and the policies designed to be implemented by the next stage of the government's workplace relations reforms?

**Mr Kovacic**—As I said before lunch, what was modelled does not reflect what is in the government's workplace relations policies as set out in Forward with Fairness.

**Senator FISHER**—In the unfair dismissal scenario that you painted you talked about removal of an unfair dismissal exemption. Was the modelling based on the removal of an unfair dismissal exemption?

**Mr Kovacic**—It is based on removing the exemption from unfair dismissal laws for businesses with fewer than 100 employees and returning to the former unfair dismissal system with no exemptions. As I mentioned a moment ago, that is where it really differs significantly from the policy outlined in Forward with Fairness.

**Senator FISHER**—In that Forward with Fairness contemplates a 12-month period for businesses with fewer than 15 employees?

**Mr Kovacic**—The qualifying period is six months for employees of business with 15 or more employees. The qualifying period is 12 month for employees of businesses with fewer than 15 employees. It also contemplates a small business fair dismissal code which, if complied with by a small business, ensures that a dismissal would be considered fair.

**Senator FISHER**—Nonetheless, the modelling is done on a system which largely does away with the small business exemption which, I would argue, Labor's Forward with Fairness does achieve. Maybe that is my view as opposed to the view of others. On the coverage of industrial instruments, you have talked about increased award coverage being a basis of the model.

**Mr Kovacic**—That is correct.

**Senator FISHER**—What are the government's goals with Forward with Fairness in respect of award coverage?

**Mr Kovacic**—In terms of the creation of modern awards, the government's intention as set out in Forward with Fairness is to ensure that modern awards, together with the National Employment Standards, form a component of a safety net which will be a fair and flexible safety net available to employees.

**Senator FISHER**—Do the National Employment Standards not refer to an all-up award concept?

**Mr Kovacic**—No, Senator.

**Senator FISHER**—They do not? It must be somewhere else.

**Mr Kovacic**—That was in a discussion paper that was released. That was an issue that was raised in terms of how the National Employment Standards might apply to employees who are currently award free.

**Senator FISHER**—Okay.

**Mr Kovacic**—I might just add there that, in terms of how the National Employment Standards interact with awards, the intention is that the actual entitlement would be set out in legislation, but machinery provisions would be set out in modern awards. It is really about how those machinery provisions might be dealt with for award-free employees.

**Senator FISHER**—Sorry? What is really about that?

**Mr Kovacic**—The National Employment Standards will apply to all employees in the federal workplace relations system. In terms of how it interacts with modern awards, the question as it relates to award-free employees is how the machinery provisions relating to the operation of the NES would be dealt with for those employees.

**Senator FISHER**—Nonetheless, you are talking about advice given to the previous government based on a more heavily regulated system. By more heavily regulated, where does less flexible fit into that?

**Mr Kovacic**—I mentioned before the various criteria that were modelled. They ranged across a number of areas. One of the areas that was modelled was in respect of agreement-making. The criterion there was removing access to AWAs which account for about five per cent of employees. It was argued that the cost there would involve a loss of flexibility and the ability to negotiate mutually beneficial outcomes.

**Senator FISHER**—Indeed. That is a change not a reform in my view, but a change with which the government has proceeded and upon which this modelling for the previous government was done.

**Mr Kovacic**—But the point I would make is that again the modelling differs from the government's policy in respect to Forward with Fairness in the sense that it does not take into account the transitional period, which provides for the limited availability of a new form of individual statutory instrument, individual ITEAs or individual transitional employment agreements, which are available in limited circumstances during the transitional period. It also does not—

**Senator FISHER**—Which the government is minded to bring to an end, one would believe.



**Mr Kovacic**—They continue to be available until 31 December 2009 in terms of when they can be made in limited circumstances.

**Senator FISHER**—Indeed thereafter, depending on the circumstances, they can continue with their life but let us not—

**Mr Kovacic**—The point I was going to make is that the modelling does not contemplate the availability of ITEAs.

**Senator FISHER**—When was this advice done for the previous government?

**Mr Kovacic**—It was concluded in the middle of last year. As I mentioned before, the tender documents were released in late April 2007 and the final reports were delivered to the former minister in late September 2007.

**Senator FISHER**—Forward with Fairness was released by the government in April 2007. Interestingly this occurred the same month, Mr Kovacic.

**Mr Kovacic**—The point I would make is that the tender documents for these consultancies were issued on 27 April, the day before the then opposition released its Forward with Fairness policy.

**Senator FISHER**—Are you suggesting there was no attempt in the provision of this report—

**Ms Paul**—Once you are in a tender situation you go with that.

**Senator FISHER**—We can dance around this. Clearly, Forward with Fairness is a more heavily regulated environment and clearly the report that was done for the previous government was not on identical terms but on substantially similar terms to the changes which the government is now proceeding with.

**Ms Paul**—No, we would not agree with that. I think as either Mr Pratt or Mr Kovacic said at the beginning, it is actually substantially different. Mr Kovacic went through in quite some detail on the number of ways in which it is quite substantially different.

**Senator FISHER**—Has the minister's office sought a copy of that report that was done for the previous government?

**Ms Paul**—That would form the nature of advice to a previous government, which, of course, convention would not allow us—

**Senator FISHER**—Has the minister's office sought a copy of it?

**Ms Paul**—No.

**Senator FISHER**—They did not even ask for it?

**Ms Paul**—Not that I am aware of. At any rate the previous government did not publish it, so it is not available.

**Senator FISHER**—If this advice was produced for the previous minister, was DEEWR asked to update that advice in light of what was subsequently announced as the new government's policies?

**Mr Pratt**—Senator, are you asking whether the previous government asked us to update the advice from the tender? Is your question whether we were asked to change the tender documentation or the parameters under it?

**Senator FISHER**—That is a fair clarification, Mr Pratt. My question is: given what was in the ether or subsequent to the speculation about the existence of that report, has today's government sought advice following the announcement of its policies?

**Mr Pratt**—I am on the record as saying that the government has not sought that sort of advice, and we have not provided it to them. That was the position at the last estimates and it is still the position.

**Senator FISHER**—I am still on the same issue, your answer to my question on notice. From what was said to me before the break, it seems that the answer to the question on notice was drafted by the department. It was sent to the Deputy Prime Minister's office, possibly amended in that office and then placed on notice—I had thought by the department, although for a fleeting instant I thought Minister Wong was suggesting by the Deputy Prime Minister.

**Mr Pratt**—No, Senator. I think I may have suggested that, and we have clarified it. This is the department's response.

**Senator FISHER**—As did Minister Wong. Nonetheless, I accept that clarification. You have effectively said that DEEWR did not know that that Treasury advice existed, which I have no reason not to disbelieve. I am still trying to work out how you can answer a question on notice by saying that the Australian government has not sought advice as to the economic impact of its workplace relations reforms. How could you possibly know what the Australian government has sought or not sought if, as you say and by your own indications, you did not know that this Treasury advice existed?

**Mr Pratt**—The question is in relation to something that was asked of this department. We answer on behalf of this department.

**Ms Paul**—Not only that, but I think we visited this quite extensively before the lunch break. I think I said at some length that this was our answer and we stood by it. In particular, we have answered the question, which was: has the government sought any advice about the economic impact et cetera? We stand by our answer.

**CHAIR**—It is well-ploughed ground, I think, Senator Fisher. Unless you have something new I think we should move on.

**Senator FISHER**—Like plenty of oxygen in my dirt, it makes it more fertile, Chair. Ms Paul, in the answer to the question on notice, I think you indicated before the break that you could not answer as to whether the Deputy Prime Minister's office had amended the draft answer in any way. Is that because you do not know?

**Ms Paul**—Yes. I certainly do not know.

**Senator FISHER**—I am wondering why you cannot answer.

**Ms Paul**—I certainly do not know the answer.

**Senator FISHER**—Then perhaps you can answer this for me: is the answer to the question on notice which was actually provided identical to that which was submitted to the Deputy Prime Minister's office in draft form?

**Ms Paul**—I do not know. I think I said before the break that basically we have been following the same process for quite some time. In answer to your specific—

**Senator FISHER**—Who does know?

**Ms Paul**—We would have to take it on notice.

**Senator FISHER**—Have you got someone here today?

**Ms Paul**—No, we would not have.

**Senator FISHER**—We have you before us effectively for the rest of the day. I would have thought that the department could get back to me on that issue, perhaps before the dinner break.

**Mr Pratt**—Can we take that on notice. There are two aspects to this which we have to take on notice. The first aspect is whether or not there were any changes to the answer. Having had a look at it, it looks very similar to the answer that I think we provided. That is my first contribution on that. The second thing we have to take on notice is whether or not we would actually provide advice to you either way, because, simply, it does go to the nature of the interchange between the department and the minister on these things. So I would appreciate it if we could take it on notice.

**CHAIR**—We really are at the point where a question was asked and the answer was provided. That is the relevant point—the answer that was actually provided.

**Ms Paul**—And it is the department's answer, and we stand by it.

**CHAIR**—And the department stands by it.

**Ms Paul**—We do.

**Senator FISHER**—Has the department seen the FOI response given to the media outlets that requested it?

**Mr Pratt**—No. Let me qualify that; I have not.

**Ms Paul**—It is a Treasury matter. I would not expect us to see it. I do not think that they would see ours, either.

**Senator FISHER**—One of the documents blanked out is headed, *Treasury Executive Minute*, and deals with the heading, 'Transitional arrangements for workplace relations'. In that context, I return to your earlier answer.

**Senator Wong**—With respect, Senator Fisher, you cannot get an answer saying that we are not aware of it and then proceed with a question that then questions officers about the answer that they say they are not aware of. It is a complete non sequitur.

**Senator FISHER**—Shall I provide the—

**Senator Wong**—No. This is Treasury's response. You are quite entitled, as a member of the opposition, to push on that issue, but these questions should go to the department who made the determination under the legislation.

**CHAIR**—I have not seen the documentation that Senator Fisher is relying on, either.

**Senator FISHER**—I am happy to share it with you, Chair.

**CHAIR**—I think you need to and, if it is then a question for this department, you are quite within your rights to pursue that questioning. But if it is a question for another department, there is no point in proceeding, based on what the department said.

**Senator FISHER**—It is a fair point, Chair. Much of this does lie with Treasury, but I do have one question of the department, about this document, arising from one of their answers to me before the break.

**CHAIR**—We will get a couple of copies made. Senator Watson indicated he has a relevant question. We will come back to your question, Senator.

**Senator FISHER**—Sure.

**Senator WATSON**—I am going on to a new area with the Workplace Authority and the no-disadvantage test. Are you happy with that?

**CHAIR**—The Workplace Authority is tomorrow.

**Senator WATSON**—That is outcome 9, is it not?

**CHAIR**—It depends on the question and we have not heard the question yet.

**Ms Paul**—Exactly. Senator Watson may well have questions about the no-disadvantage test that are properly asked of DEEWR.

**CHAIR**—Senator Watson, please proceed with your question. If it is appropriate for this area, we will deal with it now; if it is for someone else, we will deal with it when they are here.

**Senator WATSON**—The question refers to the policy guide of the no-disadvantage test, just to give some background information for people who might be interested in answering. I understand it is to develop the no-disadvantage test policy guide. I still believe that that confirms the benefits, including penalty rates overtime payments, leave loadings, redundancy and other entitlements, can be modified and or traded away. My first question refers to clause 2.1.1 on page 13 of the no-disadvantage test policy guide. There is a suggestion that the terms and conditions, such as penalty rates for work such as shiftwork, night work and work on weekends, can be removed or traded away. Is that correct?

**Mr Pratt**—This is a matter for the Workplace Authority tomorrow morning.

**Senator Wong**—As I understand it, that is a policy document published by the authority, so the question should go to them.

**Senator WATSON**—Most of my questions are on the Workplace Authority, so we will have to go back to Senator Fisher.

**Senator FISHER**—I am happy to.

**CHAIR**—The appropriate officers should now have a copy of the Treasury executive minute. Senator Fisher, could you take us to the part you think is relevant to this department?

**Senator FISHER**—This is one of the documents provided in response to the freedom of information request. Almost all of it is blanked out on the basis, as I understand it, of exemption from FOI—in the view of the department providing the documents, which, as I understand it, is Treasury. I want to ask DEEWR about the heading of the document, ‘Treasury Executive Minute’, and the title, which is ‘Transitional Arrangements for Workplace Relations’. In one of your answers around this issue before the break—correct me if I am wrong—you essentially indicated that, given that DEEWR was not aware of the existence of this advice, you essentially were not able to comment on its nature.

**Mr Pratt**—That is correct.

**Senator FISHER**—You now have before you copy of a largely blanked out—all but one paragraph—Treasury minute that is about, if the title reflects the contents, which one would presume it does, transitional arrangements for workplace relations. What is the date at the top right hand corner? We note the date in the top right-hand corner is 13 December 2007. So this is a Treasury minute post election of the current government on the subject of transitional arrangements for workplace relations. Do you think that Treasury might have been advising the current government about the economic impact of the government’s workplace relations—

**CHAIR**—We have covered this ground, and that is a question that must be directed to Treasury. Asking this department’s opinion on what other departments may or may not have done is not somewhere we are going to go.

**Mr Pratt**—Chair, there is one point of clarification I would like to make on this, with your indulgence. Senator Fisher, when you asked that question much earlier, you asked about media reports. The media report I was referring to was the one about the leaked Treasury document which was prepared much earlier last year about—well, I do not know what it was about, but that was the subject of the media report I was referring to. Clearly, this FOI material relates to something which Treasury prepared late last year. But my answer still remains the same: I have never seen this, I do not believe any of my colleagues have seen this and we are unable to comment on the contents of it.

**Ms Paul**—We could not possibly comment on a document from another agency which is blank. There is nothing we can say or answer.

**CHAIR**—Before we go on, Mr Pratt has actually highlighted a procedural problem with the conduct of the committee.

**Senator FISHER**—Sorry, I could not hear that.

**CHAIR**—Mr Pratt has highlighted a difficulty. When senators refer to press articles that are not then presented to everybody, we find ourselves at cross-purposes—that we may be talking about different press articles. So I will ask in future that, if Senators are asking questions and want to refer and rely on a press article, they should be in a position to provide that particular article to the witnesses and to the chair of the committee so there is no misunderstanding on what we are actually talking about.

**Senator FISHER**—I now provide that press article, which was by Mr Marris, then with the *Australian*. Actually, the story was broken by Chris Uhlmann on the ABC, but that is the article to which I was referring. So my question is: given that, through the committee, DEEWR has now been given access to this document—although you, not inappropriately, suggest this is just a document that has been presented to you—will the department have a discussion with the minister's office about the advice that the Australian government may wish to seek in respect of the economic and employment aspects of its transitional arrangements for workplace relations? I would have thought that DEEWR would want to have a view on this if another part of the government is providing advice on it.

**Ms Paul**—Sorry, Senator. I do not think that there is any basis, from what I have in front of me, to prompt me to undertake such an action. This is an extraordinarily broad heading. It could go to any sort of briefing. We have answered the question. We have talked about it at length. Seeing this document does not change that, and if you have—

**Senator FISHER**—If it is a document from Treasury—

**CHAIR**—Senator Fisher, please let Ms Paul answer. However, I am concerned that we are just repeating the same question, which the department has answered. So, Ms Paul, you finish that response. I really want to question whether there is any point going further on this.

**Ms Paul**—No, that is fine. I will leave it there.

**CHAIR**—All right, then.

**Senator FISHER**—If this document does what, on the face of it, it suggests it does, it offers advice to the government in DEEWR's back yard. The budget papers talk about DEEWR's role in implementing the government's workplace reform policies. How can DEEWR do that without advising the government as to the economic and employment impacts of its workplace relations reform? How can you sit back and let another agency do it for you—

**CHAIR**—Okay, we are really—

**Senator FISHER**—without, if I believe you—sorry, I retract that thing about belief.

**CHAIR**—Yes. You might want to ask whether any modelling was ever done on WorkChoices.

**Senator FISHER**—How can you sit back and let another agency do it for you, if I am to understand you correctly, without Treasury having consulted with you?

**Mr Pratt**—Since Noah sailed, the central agencies have provided advice to governments on things relating to what line departments do without consulting us. The government gets advice from lots of different sources.

**Ms Paul**—There is nothing from a heading which says Transitional Arrangements for Workplace Relations which in any way implies that this advice or any other advice went to the matters of modelling and so on that you contend.

**CHAIR**—Senator Fisher, can we move on?

**Senator FISHER**—On advice from Treasury, you do confound me, but I am ready to move on, Chair.

**CHAIR**—All right.

**Senator WATSON**—What subscription do we pay to the International Labour Organisation each year?

**Mr Kovacic**—If you go to page 136 of the portfolio budget statement, in administered items, you will see that the estimated actual for this financial year is \$7,072,000 and for 2008-09 the estimate of available resources is \$7,068,000.

**Senator WATSON**—Are there any unfilled positions that Australia is entitled to in that organisation?

**Mr Kovacic**—The Australian government is seeking re-election to the governing body of the ILO. Apart from that, that is the only position that I am aware of that the government is seeking a nomination to.

**Senator WATSON**—Who is our nominee?

**Mr Kovacic**—The department has a representative in Geneva and that person is currently Australia's representative on the governing body. Should Australia be re-elected, he would continue for the duration of his posting.

**Senator WATSON**—And who is that?

**Mr Kovacic**—Mr James Smythe.

**Senator WATSON**—Thank you.

**CHAIR**—Is he joining us for these estimates?

**Mr Kovacic**—He will not be here.

**CHAIR**—We miss him so.

**Mr Kovacic**—At the moment, he is extremely busy because the International Labour Conference is occurring as we speak. It is the most intense period of activity on, and I suppose is the highlight of, the ILO's annual calendar.

**Senator WATSON**—The recent Australian National Audit Office report addressed the difficulty the Public Service is having in recruiting and retaining staff. We are now in that situation of moving to new collective agreements with staff—where is the department at in its negotiating of this new collective agreement with the staff? They are replacing AWAs, are they not?

**Ms Paul**—Yes, the general approach to striking a bargain is a collective one between the employer and the employees and their representatives. And so, yes, the department is moving to develop a collective agreement, which we need to do anyway because of our machinery of government changes. We could go into more detail on DEEWR's approach under cross-portfolio if you wish, but that is basically where we are, yes.

**Senator WATSON**—Do you expect that collective agreement will raise wages at all?

**Ms Paul**—There is always a wage component. Of course, there are existing collective agreements inside the department—there are three extant collective agreements that arise from the previous departments. Of course, you would expect to sit down—as has always been

the case with previous collective agreements—and bargain productivity in return for potential wage increase.

**Senator WATSON**—What rate of increase did you build into your budgeted figures, if any?

**Ms Paul**—We would have to give you that on notice from the previous collective agreements, which were struck between two and four years ago inside the department. The department is a complex and new entity, and arises from several previous departments, and so there are three main collective agreements we would have to address.

**Senator WATSON**—Do you have a worry about a wages breakout as a result of bringing all staff salaries into line? Or is that not a worry?

**Ms Paul**—The nature of bargaining is that it is a bargain for productivity. The thing which we will be paying close attention to is what productivities we can deliver inside the department. And that has been the case every time we have negotiated one of these certified or collective agreements.

**Senator WATSON**—How many employees on an AWA currently receive a bonus in excess of five per cent of their salary?

**Ms Paul**—I think you would have to ask that under cross-portfolio, which is coming on after three o'clock. Even then, I am not sure if we would have the answer to hand. We may need to take it on notice, but it would be better placed with the officers who are coming then.

**Senator WATSON**—And are staff cuts cross-portfolio budget, or now?

**Ms Paul**—Are you talking about funding inside the department?

**Senator WATSON**—Yes.

**Ms Paul**—That would be for three o'clock.

**CHAIR**—How much did the modelling that Senator Fisher was talking about cost?

**Mr Kovacic**—The modelling project which was about further deregulation cost \$58,905. The cost of the other modelling project, which was about re-regulation, cost \$58,135.

**CHAIR**—Thank you.

**Senator FISHER**—This morning we talked about a Treasury prediction that 134,000 jobs overall would be lost in the next financial year. In a moment I will take you to the General Employee Entitlements and Redundancy Scheme and ask some questions about the government's predictions in respect of businesses expected to go out of business. Before we get to that, this morning I asked questions about the increased budget for Newstart payments, which are payments that essentially point to there being higher unemployment. Given that 134,000 jobs will be lost in the next financial year and, arguably, more businesses may be predicted to go broke, and, due to more Australians being out of work, there will be higher Newstart allowances, how can the government claim that their new workplace relations system will increase employment? But that is not my question at this stage. My question of DEWR is: how can the budget papers also make this claim:

The government has begun the process of developing a new workplace relations system with the introduction into parliament on 13 February 2008 of the Workplace Relations Amendment (Transition



to Forward with Fairness) Bill 2008. The new workplace relations system will encourage employers and employees to adopt flexible and modern workplace arrangements which enable workplaces to be productive and competitive, leading to greater employment opportunities and strong and sustainable growth.

That sounds pretty good. Given that Treasury estimates there will be 134,000 less jobs this time next year and the budget papers show that the government has budgeted to spend more on unemployment benefits, how do you justify that statement? In particular, how do you justify the comment that these reforms will lead to greater employment opportunities and strong and sustainable growth?

**Mr Kovacic**—I make two comments in respect of that. Firstly, in respect of the budget papers themselves, as you indicate, they forecast that the unemployment rate will increase. In that regard, they also state:

This reflects an easing in non-farm GDP growth due to slower global growth, tighter credit conditions and higher interest rates.

That was also reflected in the Reserve Bank's latest statement on monetary policy, which was issued in May this year:

The forecast slowing in GDP growth implies an easing of growth in labour demand from the considerable strength seen in recent years. Reflecting this, annual growth in employment is forecast to slow and the unemployment rate to increase somewhat, having fallen over the past several years.

In terms of how the workplace relations reforms will contribute to employment growth, clearly the new workplace relations system, which will be fully operational by January 2010, will be focused on enterprise bargaining, with the emphasis on collective bargaining at the enterprise level and a focus on productivity improvements through collective bargaining, together with a couple of components that are not only reflected in collective agreements but also in modern awards. The requirement for modern awards and collective agreements to include flexibility agreements, which will provide the capacity for employers and employees to develop genuinely flexible agreements that suit the needs of the individuals, is an additional agreement which will drive improvements in productivity and avoid the need for statutory individual agreements. Again, the system will provide for common-law agreements. Collective bargaining, together with common-law agreements, will be underpinned by a strong, flexible and stable safety net comprised of modern awards in the National Employment Standards.

**Senator FISHER**—Mr Kovacic, that is good, but you used the word 'clearly'. Unfortunately, to me, it is not clear at all. You referred to factors that you might want to say are exerting upward pressure on inflation independent of workplace relations reforms and you referred to factors which are exerting downward pressure on employment independent of workplace relations reforms. Despite that, and alongside that, the budget papers lay claim to the fact that the government's workplace relations system et cetera is 'leading to greater employment opportunities'. How do you justify that statement?

**Mr Kovacic**—The point I make is that the budget papers draw no clear link between the increase in unemployment and the government's workplace relations changes.

**Senator FISHER**— In the budget papers, how does the department suggest there is a clear link?

**Senator Wong**—Could you take us to the page you are quoting from, Senator? That might be of assistance. Is it Budget Paper No. 2, or the PBS?

**Senator FISHER**—It is page 4, portfolio budget statements 2008-09, budget related paper 1.5. Page 4 is the generic statement.

**Senator Wong**—That is the statement of outcomes.

**Senator FISHER**—Yes, that is the generic statement of outcomes. I have found it. It is the same comprehensive document, but on page 134, at the end of the second last paragraph.

**Mr Kovacic**—The point I made before is that the government's workplace relations reforms are very much directed at improving the productive capacity of Australia. As is stated on page 134 in the fourth paragraph under the heading Outcome 9 strategy:

There is considerable body of research which shows that collective enterprise agreements contribute to productivity improvement.

It is through the improvement in productivity that the government's proposed workplace relations system will lead to what is stated in terms of the outcome: greater employment for Australians.

**Senator FISHER**—Even in the face of a predicted 134,000 Australians extra on the dole queues in the face of increased Newstart allowances?

**Senator Wong**—Through you, Chair: Senator Fisher, I understand you are seeking to make a political point, and you are entitled to do that—

**Senator FISHER**—It is a point of concern to working Australians, Minister.

**Senator Wong**—Can I say this: it is unfair to the department for you to continue to conflate those two things when the department's evidence is very clearly two points. Firstly, in relation to workplace relations, the government's position is that productivity gains should be the incentive for wage increases under the system that we are committed to as a result of Forward with Fairness—and as a result of that there are some consequent economic arguments, which Mr Kovacic has outlined. Secondly, and importantly, we refer you to Budget Paper No. 1, from which Mr Kovacic read. I think he quoted 2.3, which is the economic outlook, Treasury's description of the macroeconomic outlook for the Australia economy given the global economic challenges which we face.

It is clear from the budget papers what Treasury's—and also the Reserve Bank's, I interpolate; Mr Kovacic gave you the reference to that—statement is about the reasons for employment growth moderating over the forward estimates period. I refer you again to the items which were identified by Mr Kovacic—slow down in global growth, tighter credit conditions and significantly higher interest rates—which are expected to slow growth in the Australian economy. As I said to you when we had this discussion at the outset, our approach to combating inflation is one of the key strategies the government has for dealing with this. Again, I remind you of your party's position, which seems to suggest that inflation is a fairytale. We do not take that view on this side. We believe it is a challenge which needs to be

tackled by government. It is a threat to the economic outlook, and we have put in place policies to address that.

**CHAIR**—Have you any further questions, Senator Fisher?

**Senator FISHER**—Yes, I have, on a related issue. The General Employee Entitlements and Redundancy Scheme, GEERS, protects workers' entitlements in the event of a business becoming insolvent: I want to ask about what appears to me to be a significant increase in the funding for GEERS this year. I have the table in front of me but I am trying to find the page in the budget papers.

**Mr Maynard**—It is on page 136, Senator.

**Senator FISHER**—Thank you. Mr Maynard, how would describe that increase in funding of some 20 per cent?

**Mr Pratt**—It should not be interpreted as an increase in funding available for GEERS. What that \$67.9 million shows is the estimated spend for this financial year and the money available for the GEERS program in 2008-09. For many years now we have had funding for the program which is in excess of the amount spent. It is not based on a projection.

**Senator FISHER**—So 2007-08 is actual and 2008-09 is estimated?

**Mr Pratt**—Yes.

**Senator FISHER**—However, there is a basis upon which you must have estimated an additional 20 per cent requirement.

**Mr Pratt**—That would be a return to the forward estimate which was made some years ago.

**Mr Maynard**—If I could refer you to page 54 of last year's PBS, the initial estimate for this financial year was \$86.487 million.

**Senator FISHER**—So you would say there is an underspend.

**Mr Maynard**—There is an underspend which has been handed back as part of the PAES process and, therefore, we anticipate that this financial year we will spend \$67.979 million, returning then to the forward estimates for next financial year, as Mr Pratt has said, of \$82.8 million.

**Senator FISHER**—What is your estimate of the number of businesses that it is anticipated will have employees eligible for the scheme?

**Mr Pratt**—We do not have an estimate. This is essentially a demand driven scheme.

**Senator FISHER**—For which you have made provision. Referring to the performance indicators on page 139, table 2.9C, please take me through whether the department has met the performance indicators, Mr Maynard.

**Mr Maynard**—Thank you for the opportunity. My staff have exceeded all performance indicators set for them and they are doing a fantastic job.

**Senator FISHER**—They are not soft indicators, are they?

**Mr Maynard**—No, not at all.

**Ms Paul**—You could hardly call 98 per cent soft.

**Senator FISHER**—No. I have a further item on outcome 9.

**CHAIR**—We are doing outcome 9 as a block, so I am not at all uncomfortable with moving through it as we go.

**Senator FISHER**—Very generous, Chair. Thank you. We have already talked about the budget papers, which make a range of claims about the impact on the economy of the government's workplace relations policies. We referred perhaps five minutes ago to the objectives of outcome 9, workplace relations, on page 4 of the aforesaid document, which the budget papers describe as 'more productive and safer workplaces—improved productivity through the development of safer, fairer and more flexible workplaces leading to greater employment for Australians and strong and sustainable economic growth'. I think elsewhere in the budget papers it is essentially indicated that a major job—correct me if I am wrong—of DEEWR and in particular the DEEWR policy group is to draft the government's workplace relations legislation for later in the year, presumably consistent with that outcome 9 objective.

**Mr Pratt**—That is correct.

**Senator FISHER**—What is DEEWR doing to achieve this objective? Before we go to the mechanics of drafting legislation, what in particular do you see DEEWR doing towards these objectives and, specifically, how have the recent changes made to the Workplace Relations Act made workplaces more flexible? Mr Kovacic made a comment before the early break, but let us have it specifically in answering this question. What is your view as to what DEEWR is doing, consistent with this objective, and how have the recent changes to the Workplace Relations Act made workplaces more flexible?

**Ms Paul**—In terms of what the department might be doing to achieve outcome 9, it is, of course, everything in outcome 9. In the portfolio budget statement, outcome 9 has a range of initiatives, measures and so on. The legislation is clearly a large part of that, but there are many others, including occupational health and safety, and a range of programs—one of which is GEERS. This outcome basically encapsulates in words the whole activity.

In terms of productivity through a new workplace relations system, I think Mr Kovacic pointed it out well and there is probably nothing more we can say. There is evidence which connects a collective approach to productivity. The words we had before about improving productive capacity are relevant to that—they are not quite the exact words. Mr Kovacic put that quite well, and there is probably nowhere further we can go on that.

**Senator FISHER**—All right. Let us leave that there for the moment. During February estimates, the department indicated the intention, as I understand it, to have the substantive forward with fairness bill, as the government calls it, ready for parliament this year. How is that progressing?

**Mr Pratt**—Work on that is progressing well.

**Senator FISHER**—Where is it at, Mr Pratt?

**Mr Pratt**—We are currently still providing policy and legal advice to government on the detail of the substantive bill. We are underpinning the government on its consultations with stakeholders in finalising that detail. We are on track.

**Senator FISHER**—What is that track?

**Mr Pratt**—The government has indicated that it intends to introduce the substantive bill later this year.

**Senator FISHER**—So you are on track with later this year? That is a pretty nebulous track, if I might say so. Can you be more specific?

**Mr Pratt**—Actually, Senator, the end of this year looks pretty close to us.

**Senator FISHER**—Yes, there is not a lot of time. So by ‘the end of this year’ you mean the final parliamentary sitting week in December, presumably.

**Mr Pratt**—That is ultimately a matter for the government, but the government has indicated that it intends to introduce the legislation later this year.

**Senator FISHER**—Is it the intent to have the legislation passed by the end of this year?

**CHAIR**—That is a matter for the parliament

**Mr Pratt**—I would hate to pre-empt the parliamentary process.

**Senator FISHER**—Yes, a good question. How many staff have you got working on the draft bill?

**Mr Pratt**—This would be a rough estimate. We would have, I estimate, 70 to 80 staff directly working on this.

**Senator FISHER**—Can you provide me with a list?

**Ms Paul**—Of staff?

**Mr Pratt**—No, Senator.

**Senator FISHER**—Of the positions; I am not talking about names.

**Ms Paul**—We can get for the names of branches and so on for you.

**Senator FISHER**—Not so much position descriptions but the classifications of the 70 to 80 staff working on the drafting of the bill.

**Mr Pratt**—We will attempt to do that. We will take that on notice. Obviously, we cannot give you the names of people who are working on these things. We never release names.

**Senator FISHER**—I am not asking that.

**Mr Pratt**—We will attempt to categorise it, but a large number of people will be working exclusively on the bill, other staff will work some of the time on aspects to do with preparations for the bill and others will do limited but occasional work on it.

**Senator FISHER**—In the information that you provide on notice you might delineate accordingly.

**Mr Pratt**—Yes, to the extent we can. It will be impossible to do it definitively. That is my point. We will try and give you as much information as we can.

**Senator FISHER**—You can develop the categories as you see fit, but you must know what they are because they are in the department.

**Ms Paul**—We can give that to you, Senator.

**Senator FISHER**—Can you step me through the process of decision making relating to the bill from a DEEWR perspective?

**Mr Pratt**—Yes. The department does a lot of work through what is known as the workplace relations reform steering committee. That committee considers the range of things which I talked about before in terms of policy, legal work and consultation. From that the department provides briefs to the Deputy Prime Minister. The Deputy Prime Minister takes decisions as she sees fit. Some decisions will be taken by cabinet. That is the process—it is pretty standard.

**Ms Paul**—There is a range of consultation feeding in of course.

**Senator FISHER**—So with whom does DEEWR consult interdepartmentally in this process and on what aspects?

**Mr Pratt**—We consult very widely. We consult with other Commonwealth agencies. We consult with our colleagues in the state and territory governments. We consult with business, the unions and essentially anybody who has an interest in workplace relations and who chooses to deal with us or whom we seek advice from.

**Mr Pratt**—Who is that within government?

**Mr Pratt**—It will vary—PM&C certainly, Finance and Treasury.

**Senator FISHER**—So will you consult with your interdepartmental colleagues as a matter of course?

**Mr Pratt**—When the occasion arises, yes.

**Senator FISHER**—And what are the criteria for that occasion arising?

**Mr Pratt**—Where we think that they have an interest in it or some insights which we would like to consider in providing our advice to government.

**Senator FISHER**—Minister Gillard would want to know that those other agencies had been consulted, would she not?

**CHAIR**—That is really a matter for the minister to comment on. It is not for the department to comment on what the minister might want.

**Senator FISHER**—Did she ask you whether those other agencies have been consulted?

**Mr Pratt**—As I have mentioned before, I am not going to go into what we actually tell the Deputy Prime Minister.

**Senator FISHER**—I am not asking whether you say yes or no, but does she or her office ask you whether those other agencies have been consulted by you in the preparation of your advice about the government's implementation of their workplace relations reforms?

**Ms Paul**—I think our intragovernmental processes are quite clear. So we are able to draw on others' views when we need to, including of course those of many stakeholders outside the department. That is particularly important.

**Mr Pratt**—I will confess, Senator, that we do not always consult Treasury on some things when we provide advice to the Deputy Prime Minister.

**CHAIR**—I am not sure that helps, Mr Pratt!

**Mr Pratt**—My apologies, Chair.

**Senator FISHER**—What is the procedure for decision making on the bill by the Deputy Prime Minister and cabinet as far as it impacts DEEWR?

**Senator Wong**—I know that you want to get out early when decisions might be made, but, seriously, you are asking the department to disclose what may or may not go to cabinet and when. That is essentially what you are asking. You can ask them in 150 different ways and they, quite rightly, will not provide the answer and nor will I.

**Senator FISHER**—That is your characterisation of my question, but my question is: what is the procedure from DEEWR's perspective?

**Senator Wong**—And cabinet.

**Senator FISHER**—What is DEEWR's involvement? Step me through it a bit more.

**Senator Wong**—DEEWR is the department responsible for drafting the legislation. I understood from Ms Paul's answer—please correct me if I am wrong, Ms Paul—that they will consult intragovernmentally as they consider appropriate.

**Ms Paul**—In addition, I think Mr Pratt laid out very clearly the process from here.

**Senator FISHER**—Can you remind me of which agencies you will consult in respect of taking the bill forward?

**Mr Pratt**—I can anticipate that we will consult with the Department of the Prime Minister and Cabinet, Treasury, Finance, Attorney-General's and the Industry portfolio. But I am not committing that we will not consult someone else, if we find that we have a need to.

**Senator FISHER**—You mentioned before the workplace relations committee in terms of decision making in relation to the bill. I only wrote down half of the name of the committee. What is it called? There is a committee.

**Mr Pratt**—The workplace relations reform steering committee.

**Senator FISHER**—Who is on that committee, Mr Pratt?

**Mr Pratt**—I chair the committee and it is made up of a senior executive of outcome 9.

**Senator FISHER**—So it is just of wonderful bureaucrats, is it? It is not a committee that—

**Mr Pratt**—That is how I would characterise it.

**Senator Wong**—I cannot believe you said that.

**CHAIR**—Stop leading the witness, Senator Fisher!

**Senator FISHER**—How many DEEWR people does that mean are on the committee, Mr Pratt?

**Mr Pratt**—The committee has a membership of probably half a dozen and it is supported by a secretariat. As necessary, the topic experts from the various areas working on the different aspects of the future bill will come and engage with the committee on the advice we will ultimately provide to government.

**Senator FISHER**—What consultative committees exist that will provide advice to the government or to the government through DEEWR as you progress reforms?

**Mr Pratt**—Starting with the Workplace Relations Ministerial Council, which is that of the Commonwealth, state and territory ministers, we have the National Workplace Relations Consultative Council, which is of peak stakeholder representatives: ACTU, ACCI, AiG, ECA, AMMA, MBA and NFF.

**Senator FISHER**—Membership of that committee is publicly available—

**Senator Wong**—It is not a state secret.

**Mr Pratt**—That is correct, Senator Fisher. We have a subcommittee of that committee which is called COIL, the Committee on Industrial Legislation, which on occasion meets to look at the detail of legislation. We have the Business Advisory Group, the Small Business Working Group, the Workers Advisory Group—

**Senator FISHER**—The Business Advisory Group and the Small Business Working Group are two separate ones, are they?

**Mr Pratt**—Correct.

**Senator FISHER**—There have been press reports about the membership of both those groups and again I think the information about who are members of them is publicly accessible, is it not?

**Mr Kovacic**—It was announced by way of a media release by the Deputy Prime Minister.

**Senator FISHER**—What happens if membership of one or the other changes?

**Mr Kovacic**—It has not occurred to date.

**Mr Pratt**—It would be open to the government to replace a member.

**Senator FISHER**—Yes. But in terms of becoming informed as to who is in and who is out.

**Mr Kovacic**—We can provide the membership now if you wish.

**Senator Wong**—Yes, just go through it.

**Mr Kovacic**—In terms of the Business Advisory Group, it is chaired by Mr John Denton, who is the managing partner of Corrs Chambers Westgarth; Ms Heather Ridout, Chief Executive of the Australian Industry Group, is the National Workplace Relations Consultative Council representative on the group. Its members are Mr Bill Healey from the Australian Hotels Association; Ms Margy Osmond from the Australian National Retailers Association; Dr Ron Silberberg from the Housing Industry Association; Mr Greg Paramour from Mirvac; Mr John Hartigan from News Limited; Ms Julie Mills from the Recruitment and Consulting Services Association; Mr Stephen Crease from Rio Tinto Australia; Mr Ron Finemore from Ron Finemore Transport; Mr Paul Fegan from St George Bank; and Mr Don Voelte from Woodside.

In terms of the Small Business Working Group, that group is chaired by the Hon. Dr Craig Emerson, Minister for Small Business, Independent Contractors and the Service Economy, and the members are: Mr Tony Steven from the Council of Small Business of Australia; Mr



Greg Holmes from the Hotel, Motel and Accommodation Association; Mr Andrew Arkell from the Institute of Chartered Accountants; Mr Peter Bush from McDonald's; Mr Gary Black from the National Retailers Association; Mr Kieran Schneemann from the Pharmacy Guild; Mr Bryan Stevens from the Real Estate Institute of Australia; Mr John Hart from Restaurant and Catering Australia; Mr Pearce Makin from the Victorian Automobile Chamber of Commerce; and Mr Simon Ramsay from the Victorian Farmers Federation.

**Senator FISHER**—I refer to the Workplace Relations Ministers Council, NWRCC, COIL and the two business advisory groups. Are there any other consultative groups or committees?

**Mr Pratt**—Yes, Senator. We have the Workers Advisory Group, the Union Advisory Group, the Senior Officials Group—

**Senator FISHER**—You have the Workers Advisory Group and you have the Union—

**Mr Kovacic**—The Union Working Group, which is focusing on the fair dismissal code—

**Senator FISHER**—Sorry, is it the Union Advisory Group or the Union Working Group? I would have thought that the unions would want to say they represent the workers, but you have got a workers advisory group and a union advisory group—

**Mr Pratt**—They have different purposes. We have the Workers Advisory Group—which is the ACTU—and we have a separate ACTU union working group, which is consulting on the fair dismissal code.

**Senator FISHER**—That is the code which the small business minister, Dr Craig Emerson, announced some time ago, is it?

**Mr Pratt**—That is correct.

**Mr Kovacic**—It is equivalent to the Small Business Working Group, which is chaired by Minister Emerson, from a worker perspective.

**Senator FISHER**—Is it on the public record who is on the Workers Advisory Group? If so, who?

**Mr Kovacic**—The membership is a little bit fluid, but it involves the President of the ACTU, the Secretary of the ACTU and senior officials from a number of national industrial organisations. For instance, the CPSU is represented, as are the National Union of Workers, the Australian Metalworkers Union—

**Senator FISHER**—You are doing well to remember them all. You must see them a lot.

**Mr Kovacic**—It has met on three occasions, I think, thus far. So the CFMEU is represented—

**Senator FISHER**—Three occasions since when?

**Mr Kovacic**—It has met three times this year.

**Senator FISHER**—Okay. Keep going.

**Mr Kovacic**—We have Cath Bowtell, who is the industrial officer with the ACTU; the Australian Education Union; the Australian Nursing Federation—

**Senator FISHER**—To save you reading out an obviously extensive list, perhaps you might provide that list to the committee, and also the membership of the Union Working Group. I will ask you to give me a flavour of those in a minute nonetheless, but you indicated the membership of those groups is somewhat fluid. Can you explain what that means?

**Mr Kovacic**—In the sense of people's availability. There may be others that are coming along, and not all unions have attended all of the meetings, but—

**Senator FISHER**—What is the membership criteria? Is it 'turn up if you want'?

**Mr Kovacic**—No, the membership is coordinated by the ACTU.

**Senator FISHER**—Is this a committee administered by the department?

**Mr Kovacic**—We provide secretariat support to the committee.

**Senator FISHER**—What determines the membership of that group and how regularly do they meet?

**Mr Kovacic**—I may have been misleading in the sense of suggesting that the membership was fluid. As I mentioned a moment ago, the membership or the composition of that group has been largely agreed with the ACTU in terms of the unions that it wishes to have represented. In terms of when it meets, it is a combination of availability of the Deputy Prime Minister and members of the group as well as determining the sorts of issues that are on the agenda to be discussed or the issues to be discussed at meetings.

**Senator FISHER**—Is there a maximum number of people that are to be members of this committee? There must be some criteria.

**Mr Kovacic**—No.

**Ms Paul**—It is just a reflection of the Business Advisory Group. So you have the Business Advisory Group, which has 10 or so members, and then you have the workers advisory group. Both of them are taking a focus on a similar issue, which of course is the policy behind the bill.

**Senator FISHER**—Are there any other consultative committees or groups?

**Mr Kovacic**—Yes, there are two others that I can think of: the senior officials group, which supports the Workplace Relations Ministerial Council, which is the heads of the state and territory workplace relations areas and us, and the group which is known as the high-level officials group, which has subject matter experts from state, territory and Commonwealth departments on workplace relations.

**Senator FISHER**—So you have the Small Business Advisory Group, which you say is reflective of employers; you have a unions working group; and you have a workers advisory group, which—

**Mr Kovacic**—It is the equivalent of the Business Advisory Group.

**Senator FISHER**—It sounds like the ACTU writ large to me.

**Mr Kovacic**—The small business working group and the union working—

**Senator FISHER**—So who is the BAG, the Business Advisory Group?

**Senator Wong**—That was the list that was read out to you of who was on the business—

**Senator FISHER**—Yes—sorry, that is a rhetorical question.

**Senator Wong**—Yes, it is.

**Mr Kovacic**—The Small Business Working Group and the union working group are both working on the fair dismissal code. The Business Advisory Group and the workers advisory group are being consulted on the government's substantive workplace relations reforms—so it is much wider than the fair dismissal code.

**Senator FISHER**—In terms of the 70 to 80 staff—and I know you have undertaken to provide answers to questions on notice in terms of classifications of DEEWR staff involved, the extent to which they are involved in working on the bill and how they are doing so—are there any staff that have been seconded from other places to work on the government's workplace relations legislation?

**Mr Kovacic**—Yes. We have some officials who are seconded to work on the legal side of developing the bill.

**Senator FISHER**—Did they come from private sector law firms or the A-G's department? Where have they come from?

**Mr Kovacic**—Both the Australian Government Solicitor and private sector law firms.

**Senator FISHER**—Which private sector law firms? You might include the actual details in your written answer on notice as well.

**CHAIR**—It is either being taken on notice or you are asking the question now. What is answered today does not need to be included in the on-notice question.

**Senator FISHER**—I am happy to hear from Ms James which law firms. The question on notice is to particularise how many personnel have been seconded—for how long, to do what and from where, be it from other departments or from law firms.

**Ms James**—I think your question was about secondees from private sector firms.

**Senator FISHER**—Yes.

**CHAIR**—It was about which firms.

**Ms James**—We have a secondee from Corrs Chambers Westgarth, a secondee from DLA Phillips Fox and a secondee from Freehills working in the Workplace Relations Legal Group under the direction of the executive.

**Senator FISHER**—Maybe this is a question for Ms James. Have drafting instructions been submitted to the parliamentary drafts people for the bill?

**Ms James**—We have had a number of discussions with the Office of Parliamentary Counsel in preparation for drafting the bill and we have provided some written material.

**Senator FISHER**—So what is the proposed process and time line in respect of your exchange with the Office of Parliamentary Counsel and delivering drafting instructions?

**Mr Pratt**—That will be an iterative process across the course of this calendar year, so there is no hard and fast timetable.

**Senator FISHER**—Other than staying on track—

**Mr Pratt**—That is the most important part, yes.

**Senator FISHER**—to introduce by the end of the year.

**Ms Paul**—That is right.

**Senator FISHER**—Are there any other third parties beyond those that you have mentioned who are being consulted about the bill?

**CHAIR**—We have just gone through all that.

**Ms Paul**—I think we have been quite comprehensive.

**Senator FISHER**—I am simply asking: are there any other third parties? It has been very comprehensive, Chair. I am just checking it has been sufficiently so.

**CHAIR**—I will be annoyed if there is, given what we have just gone through.

**Mr Pratt**—In terms of formal consultative fora, I cannot think of any. Naturally, in our day-to-day dealings with industry we may get feedback from some companies.

**Ms Paul**—We have run through all the fora for you comprehensively, Senator.

**Mr Pratt**—I will just check with my colleagues but I cannot think of anything else. That has covered nearly everyone.

**Senator FISHER**—Any ACTU staff?

**Mr Pratt**—In what sense?

**Senator FISHER**—Separate from the semiformal fora that you have outlined previously.

**Mr Kovacic**—No, the discussions have all been under the auspices of the worker advisory group and officials there, or the union working group in respect of the fair dismissal code.

**Senator FISHER**—Have any ACTU staff been seconded to the department to assist with drafting the legislation?

**Mr Pratt**—No.

**Senator FISHER**—Is the Prime Minister's office being consulted in respect of the bill?

**Ms Paul**—That would be a matter for the Deputy Prime Minister.

**Senator FISHER**—So from DEEWR's perspective?

**Mr Pratt**—We consult with Prime Minister and Cabinet.

**Senator FISHER**—Thank you. Now I want to look at the budget statements in the context of drafting and departmental resources directed thereto. Table 2.9 on page 136 shows the total resources for outcome 9. Let's start with policy services. Last year, 2007-08, this section had a budget of about \$10.7 million, but this year it is estimated to be cut back to some \$9.3 million. The budget paper describes this area's major priority to be drafting the government's legislative agenda on workplace relations and the development of a national occupational health and safety system.

**Mr Pratt**—In the first instance, our chief financial officer would like to comment on a couple of aspects of this.

**Mr Storen**—What we have detected in the last couple of days is that we have got the two titles ‘Policy Services’ and ‘Program Management’ the wrong way around, so the \$10 million relates to program management and the \$54 million relates to policy services.

**Mr Pratt**—I understand that in relation to the 2007-08 figures—

**Senator FISHER**—Sorry, Mr Pratt. Mr Storen, is it only those two figures that have been transposed?

**Ms Paul**—No, it is the headings.

**Mr Storen**—The headings have been transposed.

**Ms Paul**—In other words, program management is showing a slight decline, not policy services.

**Mr Pratt**—I was going to say that I understand that, in relation to the 2007-08 figures, those figures should be very similar to the 2008-09 figures. There is not a significant variation between them except in the area of revenue from other sources—the \$46.399 million dropping to \$26.958 million—and the reason for that significant move is that we got a lot of revenue from the Workplace Authority during this financial year to do work for them.

**Senator FISHER**—There is a reduction of some \$20 million in revenue from the Workplace Authority, given you will no longer be doing additional work for them. Either they will be doing it themselves, one would presume, or it will not be done.

**Mr Pratt**—That is correct.

**Senator FISHER**—Are there any other possibilities?

**Mr Storen**—If I may, the slight amendment to that might be that there was an amount of work undertaken from the Workplace Authority through their establishment phase by the department, so you could see the decline into 2008-09 as a result of the establishment workload reducing.

**Senator FISHER**—What sort of work was the department doing for the Workplace Authority? You say ‘establishment work’—talk about that first, please.

**Mr Pratt**—There are a range of things. The revenue we get from the Workplace Authority covers things like provision of IT services, corporate services and legal services. During the first part of the financial year, we lent to the Workplace Authority a large number of staff to work on assessments of agreements against the fairness test. It is in those sorts of areas.

**Senator FISHER**—Is there any work that the Workplace Authority does that DEEWR did not assist with?

**Mr Pratt**—Certainly. That is a matter for the Workplace Authority, but they have a significant staff and budget themselves. It was in the set-up phase of the Workplace Authority that the former DEWR supported them with assistance on a range of things. Some elements of the revenue we get from the Workplace Authority go to ongoing enabling support, particularly IT, although of course there was some early IT development work for them which is not ongoing. We support them in corporate services in some areas.

**Senator FISHER**—Will DEEWR be assisting the Workplace Authority in respect of any backlog of workplace agreements?

**Mr Pratt**—No.

**Senator FISHER**—In respect of the \$27 million worth of revenue that you do expect to receive, what percentage of that do you expect to receive because of work that you are doing for the Workplace Authority?

**Mr Pratt**—I do not believe all of that \$27 million is coming from the Workplace Authority.

**Senator FISHER**—How much of it is predicted to?

**Mr Pratt**—I would have to take that on notice.

**Mr Storen**—It is in the order of \$14 million from the Workplace Authority.

**Senator FISHER**—Thank you. What sort of work will DEEWR be doing to earn that 14 million bucks?

**Mr Storen**—DEEWR will be doing a range of work. As Mr Pratt has outlined, it is largely in the ongoing corporate services—human resources and financial operations are probably the largest elements of it.

**Ms Paul**—IT et cetera.

**Mr Storen**—Ongoing support of desktop, as well.

**Senator FISHER**—So will the major difference be no longer assessing workplace agreements? If much of it is as before, yet in terms of revenue the projection is \$20 million less, what is the difference between before and after?

**Mr Pratt**—It will largely be for things which occurred as a one-off early in this financial year, which would have included the original IT development for a number of the Workplace Authority's systems. Early in the financial year we provided a significant amount of legal advice to the Workplace Authority on the application of the fairness test, and also we loaned them a significant number of staff in the period up until, from memory, the end of October last year to assist with dealing with the backlog of fairness tests.

**CHAIR**—It now being just past three o'clock we will finish this part of the questioning in outcome 9 and move to cross-portfolio.

**Senator FISHER**—Can I ask one more question?

**CHAIR**—Will that finish outcome 9?

**Senator FISHER**—No, but it will finish this bit of questioning about the revenue from other sources. Mr Pratt, will DEEWR be assisting with the assessment of any workplace agreements for the Workplace Authority in 2008-09?

**Mr Pratt**—I do not believe so.

**CHAIR**—Because we seem to be well into outcome 9 we certainly will not go back to outcome 9 today. We will resume with outcome 9 at the conclusion of the Australian Fair Pay Commission Secretariat. We will then move back and finish outcome 9.

**Proceedings suspended from 3.03 pm to 3.09 pm**

**CHAIR**—I apologise for the late change in the order, but we will now return to questions in outcome 9 until roughly 3.30 pm. Then after the afternoon break we will then proceed to questions on cross-portfolio.

**Ms Paul**—We have one addition to a previous answer. I will hand over to Ms James at this stage.

**Ms James**—Senator Fisher, I think you asked before about the use of other assistants or consultants on the development of the legislation by the Workplace Relations Legal Group. We have engaged the services of Professor Andrew Stewart through Piper Alderman, which is the law firm that he works out of, to provide us with some advice on the architecture of the legislation.

**Senator FISHER**—Thank you, Ms James. The government claims that the new workplace relations system will increase productivity and there is reference in the budget papers to this. Budget paper 1.5 says:

There is considerable body of research which shows that collective enterprise agreements contribute to productivity improvement.

I think there has been some commentary along those lines today from Mr Kovacic. Can you table a list of that research and a copy of the research to which this statement is referring?

**Mr Kovacic**—Certainly, Senator. I will just mention three reports. One, containing research undertaken by Fry, Jarvis and Loundes, found:

that organisations ... entering into agreements with their workers, reported substantially higher levels of self-assessed labour productivity relative to their competitors.

Another study by Tseng and Wooden found:

that firms where all employees were on enterprise agreements had almost 9 per cent higher levels of productivity than comparable firms where employees relied upon conditions specified in an award.

And studies by the Productivity Commission showed that collective agreement making is good for productivity. I will table all of those studies.

**Senator FISHER**—I think some of these questions belong in outcome 9, Chair, but I am sure I will be corrected if it is actually—

**CHAIR**—It is all right, just go with it.

**Senator FISHER**—A part of Forward with Fairness promises to implement a one-stop shop called Fair Work Australia, to operate from January 2010. This, as I understand it, plans to be quite a significant agency as a one-stop shop. There are certainly no detailed indications in the budget papers of preparations being underway for the establishment of this significant agency by January 2010. What can you tell me about that? It is proposed to incorporate the work, as I understand it, of all the existing agencies including the Fair Pay Commission, the Workplace Authority and the Workplace Ombudsman. What preparations have been undertaken or are being undertaken to ensure that this so-called one-stop shop is implemented on the proclaimed target of January 2010?

**Mr Kovacic**—The issues associated with the establishment of Fair Work Australia are currently being considered in the context of developing the government's substantive

workplace relations reforms and, as Mr Pratt indicated before, the legislation will be introduced into the parliament later this year.

**Senator FISHER**—So what preparations have been undertaken?

**Mr Kovacic**—As I have said, the issues associated with the establishment of Fair Work Australia are part and parcel of the development of the government's substantive workplace relations reforms. It is being considered in that context.

**Senator FISHER**—If we proceed as tracked, we will have some legislation introduced in parliament by the end of this year. Thereafter, the fate of that legislation, in terms of a time line, is unknown and thereafter there will be a maximum of 12 months to have the legislation passed and a mega-agency created and yet no preparatory work has been done, if I heard you correctly?

**Mr Pratt**—Certainly, that is not what Mr Kovacic was saying. He was referring back to my previous answer about the work that we are engaging in. Without going into the detail of this, because this goes to the nature and content of policy advice to the government, we are doing policy work in relation to all aspects of Forward with Fairness, which includes Fair Work Australia. We will be providing legal advice, we will be drafting aspects of the legislation and we are consulting with interested stakeholders on the construction of Fair Work Australia. In terms of preparation and implementation of the future agency, as you yourself pointed out, the feeder agencies are all in place and operational, so it is not as though it is creating a brand-new agency from scratch. And, yes, we are on track.

**Senator FISHER**—It may not be creating a brand-new agency from scratch but if the proposal is as significant as the government's policies would like to have you believe, I would have thought they would want to hear that it is a significant change. I am trying to work out what operational planning is being done for a significant change.

**Mr Pratt**—Certainly.

**Senator FISHER**—How much money has been allocated to Fair Work Australia?

**Mr Kovacic**—Given that the government's substantive workplace relations reforms will not be fully operational until January 2010, there is no specific allocation at this stage in the budget papers for Fair Work Australia and that is not surprising, given the time frame we are talking about. But clearly the starting point is the budget allocations for the various bodies that will together form Fair Work Australia.

**Senator FISHER**—So there is no money in the budget. How many staff are proposed to be involved in the preparations when you start them?

**Mr Kovacic**—These are issues that we are currently working through at the moment.

**Senator FISHER**—What do you think at the moment?

**Ms Paul**—I think that that would fall within nature of advice, Senator, and we probably can't go there.

**Senator FISHER**—Is the minister's office being briefed on the preparations, to the extent that they are being made?



**Mr Pratt**—To answer that question generically, we certainly are briefing the Deputy Prime Minister on all aspects of implementing Forward with Fairness.

**Senator FISHER**—Including the preparations relating to Fair Work Australia?

**Mr Pratt**—By definition, yes.

**Senator FISHER**—The Fair Pay Commission is one of the bodies rolled into Fair Work Australia. Let's go to page 171, table 2.1, of the budget papers.

**Mr Pratt**—Without wanting to be unhelpful, questions in relation to these tables are ones that should be directed to the Fair Pay Commission secretariat tomorrow.

**Ms Paul**—These are their budget statements?

**Senator FISHER**—Yes. Mr Pratt, has DEEWR discussed with the Fair Pay Commission how DEEWR sees the Fair Pay Commission will slot its work into Fair Work Australia in the new world?

**Mr Pratt**—No, not in any detail.

**Senator FISHER**—I will now turn to paid maternity-paternity-parental leave. The government are suggesting that clearly this issue is being looked at and that they are considering providing a version of paid parental leave. Obviously, there is some not insignificant pressure from certain quarters to do so, so what work is being conducted on paid parental leave within the department?

**Mr Kovacic**—The government has asked the Productivity Commission to conduct an inquiry into paid maternity leave. It has been asked to report by February 2009 on those issues. Consideration is currently being given to whether the department makes a submission to that inquiry.

**Senator FISHER**—On what basis will you make a decision as to whether you will make a submission to that inquiry?

**Mr Kovacic**—There are issues in the sense that there are a number of other agencies that have an interest in support for working families in this area, so one option is a whole-of-government response or a submission to the inquiry. But the likelihood is that some factual material about the current state of play in terms of maternity leave et cetera will possibly be canvassed in any sort of submission.

**Senator FISHER**—I am not sure that that tells me on what basis you will decide whether to make a submission.

**Mr Kovacic**—The likelihood is we probably will make a submission; it is still being worked through.

**Senator FISHER**—Is the department doing work independently of the Productivity Commission review on the prospect of paid parental leave?

**Mr Kovacic**—No.

**Senator FISHER**—I gather then from what you have said that, given that you are still deciding whether to do anything, you do not know at this stage if you do decide to do something what number of staff you will have involved working on the project?

**Mr Kovacic**—It is a small number of people who have been involved to date. It would not be more than probably three or four people and it would not be a full-time involvement working on a possible departmental submission.

**Senator FISHER**—If the department were to make a submission to the Productivity Commission review, would you contemplate consulting with outside parties prior to making the submission?

**Mr Kovacic**—As I alluded to in one of my earlier questions, clearly one of the issues that has been the subject of some discussion is whether there is a whole-of-government submission, so we have spoken to other interested agencies, such as the Department of the Prime Minister and Cabinet and particularly the Office of Work and Family in that department, as well as the Department of Families, Housing, Community Services and Indigenous Affairs.

**Senator FISHER**—What about bodies and parties external to the Public Service?

**Mr Kovacic**—It is a departmental submission.

**Senator FISHER**—If you were to decide to make one, it would be a departmental submission?

**Mr Kovacic**—Yes.

**Senator FISHER**—A report in the *Financial Review*—which I do have to hand, in line with the chair's ruling, which I am happy to share—on 27 May this year, suggested that the ACTU is:

... pushing the ... government to toughen its proposed rights for employees to request flexible leave to cover all parents with children up to 16 years old and to allow appeals if employers reject requests for leave ...

Has that proposal been put in any form to the department?

**Ms Paul**—No, I do not think so. I think at the moment it really rests with the Productivity Commission.

**Senator FISHER**—Something may or may not have been put to the Productivity Commission in that respect, but has a proposal along those lines been put to the department, whether formally or informally?

**Mr Kovacic**—I am not aware of a formal submission or an informal submission to that effect.

**Senator Wong**—If I could just make a comment there: the department has outlined the position in terms of the way the government is approaching this issue. This is an issue that various groups—including, I think, Ms Pru Goward in her previous role—put a view on to the then government. Quite a number of individuals and groups have expressed views publicly about this. But Mr Kovacic has outlined what the government is doing, and that is consistent with what we indicated prior to the election.

**Senator FISHER**—I am aware that the Productivity Commission is conducting a review, but the government have emphasised this aspect of their workplace relations policies on work and family initiatives and, in particular, paid parental leave. I am interested to see whether

DEEWR has been involved in progressing those initiatives in any significant way beyond the Productivity Commission review.

**Ms Paul**—This article is a report of a supposed view from some unions. We have not had that approach, as we have just said. On the broader issue of our involvement, I think we have made that clear, through Mr Kovacic. We will consider making a submission to the Productivity Commission. That is the right way to do it at the moment. If we do that, we will have a team of people working on that.

**Mr Kovacic**—Can I just add that the article refers to the ACTU's submission as part of the consultation process on the National Employment Standards, dealing with some of the issues referred to in the article. I have not read that in detail, but it is possible that some of the issues mentioned in the article might be canvassed in that context. They would be considered, along with the other 128 submissions that we received, as part of the consultation process.

**Senator FISHER**—Thank you. I want to turn now to the workplace agreement guide.

**Mr Kovacic**—Is that the no disadvantage test policy guide?

**Senator FISHER**—Yes.

**Mr Pratt**—That is a matter which you will want to take up with the Workplace Authority tomorrow morning.

**Senator Wong**—We canvassed this with Senator Watson. We are happy to respond again, but the document is, as I understand it, prepared by the Workplace Authority.

**Senator FISHER**—Was DEEWR involved in the production of this document at all—that is, the *Agreement making and no-disadvantage test policy guide*, April 2008.

**Mr Kovacic**—We were consulted in the development of the guide to provide advice as to the specifics of the transitional legislation that was passed by the parliament earlier this year.

**Senator FISHER**—So you were involved in respect of the transitional elements of the workplace relations legislation?

**Mr Kovacic**—We provided advice on the transition legislation—the Workplace Relations Amendment (Transition to Forward with Fairness) Bill 2008, as it was at that stage, and as it has now been passed by the parliament. We provided that advice to the authority as it developed its policy guide on the no disadvantage test.

**Senator FISHER**—Did DEEWR approve any aspects of the guide prior to it being released?

**Mr Kovacic**—No. That is a guide that is issued by the Workplace Authority Director.

**Senator FISHER**—So you offered some comments and what happened then?

**Mr Kovacic**—The director would have taken those into account, presumably in terms of finalising the guide. But they are issues you should discuss with the Workplace Authority Director.

**Senator FISHER**—I will. So, consistent with what you have said, Mr Kovacic—and correct me if I am wrong—then to the extent that there is commentary in the guide about the

making of workplace agreements, up until the end of the operation of the transition act, DEEWR provided input until—

**Mr Kovacic**—We provided technical advice on the effect and the provisions of the transition to Forward with Fairness act to assist the Workplace Authority as it developed the no disadvantage test policy guide. The extent to which it took that advice and assistance into account in finalising the guide is a matter that you need to discuss with the Workplace Authority director.

**Senator FISHER**—Okay then. We will leave aside the guide itself because we do have the government's policies. We also have a transitional act. I have some questions about the no disadvantage test. Many of those questions I will also ask of the Workplace Authority, but I would have thought, given DEEWR's involvement in the policy aspects of the transition act and Forward with Fairness, that you would have, at the very least, a view on some of these issues. Let us go to the issue of collective agreements and the no disadvantage test. Is it intended to be the case that all workers subject to a collective agreement will be required to pass a no disadvantage test? Will the no disadvantage test have to be passed in respect of each and every worker proposed to be subject to that collective agreement before it is approved?

**Senator Wong**—Is the context of this the transitional bill or the—

**Senator FISHER**—Both actually, Minister.

**CHAIR**—Senator, it is past the time for the break but, if we are coming to an end of outcome 9, I am sure the department would appreciate us continuing on until the end so that they can get at least eight hours work in before they go home tonight!

**Senator FISHER**—Productivity rules!

**CHAIR**—But, if there are a substantial amount of questions, we will break.

**Senator FISHER**—Yes, I have still got a fair amount.

**CHAIR**—All right then, we will now break until 10 to four and then we will commence with cross-portfolio questions.

#### **Proceedings suspended from 3.34 pm to 3.52 pm**

**CHAIR**—Order! The committee will resume with questions to cross portfolio. Could you advise the committee on what has been the spend on advertising for the successive Work Choices advertising campaigns, including all merchandise, by financial year and for July-December 2007?

**Ms Pearce**—Were you interested in the Work Choices and workplace relations campaigns?

**CHAIR**—Specifically, the Work Choices campaigns.

**Ms Pearce**—What I can give you are figures for advertising, research and other promotional activities by year.

**CHAIR**—And for the July-December 2007 period?

**Ms Pearce**—I can give you a figure for 2007-08 which would essentially be that period because there was no other advertising campaign after that.

**CHAIR**—Okay.

**Ms Pearce**—Would you like me to give you the totals for the split advertising?

**CHAIR**—If you could.

**Ms Pearce**—The total for advertising for 2005-06 and 2007-08 was \$92.6 million, if you do not mind me rounding it. For research for those three years it was \$3.1 million, and for PR and promotional activities it was \$3.1 million. If you are interested in the 2007-08 figure, which is the figure that takes us from July, the new annual reporting period, I can give you that specifically.

**CHAIR**—Yes.

**Ms Pearce**—It was \$51 million for advertising. That is the creative side of it plus the media buy.

**CHAIR**—Are you able to break that up, even if you have to take that on notice?

**Ms Pearce**—I could take it on notice. I might have those figures in here somewhere; I will have a quick look. Research for the period 2007-08 is essentially \$1 million. PR and promotional activity is \$671,754.

**CHAIR**—That includes merchandising as well?

**Ms Pearce**—Yes.

**CHAIR**—Are you able to break up the sorts of merchandising—how much we spend on pens and the like?

**Ms Pearce**—I am not. I am unfamiliar with these campaigns and do not have that information.

**CHAIR**—Can you take that on notice for me?

**Ms Pearce**—Sure.

**CHAIR**—You also mentioned another campaign.

**Ms Pearce**—I also should mention a campaign around EAP which is worth about \$35 million.

**CHAIR**—What is EAP?

**Mr Pratt**—That is the Employer Advisor Program.

**Ms Pearce**—I do not have any breakdown; I just have a figure for EAP. Do you have a breakdown on that, Ms Balzary?

**Ms Balzary**—No. Senator, EAP is actually not specifically advertising. It was an initiative that ran concurrently with the Work Choices campaign and it involved funding employer industry advisers to provide advice on the Work Choices reforms to employers and employees.

**CHAIR**—Can you break that down year by year and also for the July-December 2007 period?

**Ms Balzary**—In relation to EAP?

**CHAIR**—Yes.

**Ms Balzary**—Detailed questions on EAP will need to be directed to the Workplace Authority.

**CHAIR**—They manage that?

**Ms Balzary**—Yes.

**CHAIR**—Are you aware of the total spend? It was \$35 million, did you say?

**Ms Balzary**—Total spend was \$35 million; that is right.

**CHAIR**—What about how much was spent through the different waves to the different recipients? Is that a matter for you or is that also a matter for the Workplace Authority?

**Ms Balzary**—In relation to EAP or the different—

**CHAIR**—Yes, EAP.

**Ms Balzary**—Yes, it is a matter for the Workplace Authority.

**Ms Pearce**—Does that answer your question?

**CHAIR**—Yes, I think so. Do you have any more information to give me about Work Choices?

**Ms Pearce**—You were asking me specifically about workplace relations advertising, and Work Choices—

**CHAIR**—Is that component.

**Ms Pearce**—is that component, yes.

**CHAIR**—So there is only the EAP combined with Work Choices.

**Ms Pearce**—The only other campaigns the communications area within my group looks after, from the old DEST side, are the New Apprenticeships and Skills for the Future campaigns.

**CHAIR**—Before we get onto that, what was the total spend on Work Choices advertising?

**Mr Pratt**—Perhaps I can clarify in terms of what I would see as the three components of communications related activities which were funded over recent years. There is the Work Choices campaign, which Ms Pearce talked about, which in total was a spend of about \$44 million. That was followed by the ‘Know where you stand’ campaign, which had a total spend of \$58.5 million—these are GST-exclusive figures. The third component was the Employer Advisor Program, which has had a spend to date of \$35 million. The complication with EAP was that the machinery of government changes which occurred with the introduction of the fairness test last year saw the Employer Advisor Program move from the then DEWR into the newly created Workplace Authority. The total figure is \$137 million, GST-exclusive.

**CHAIR**—Thank you, Mr Pratt. What was the spend on advertising, research and PR activities for promoting skills training and apprenticeships?

**Ms Pearce**—What periods are you interested in?

**CHAIR**—The same financial years.

**Ms Pearce**—I have a briefing which basically covers the New Apprenticeships campaign, which began in 1996 and concluded when we established the new Skills for the Future campaign in 2006-07. I can give you either a total from 1996 to 2006-07 or the breakdown.

**CHAIR**—If you could give me a breakdown, I would appreciate that.

**Ms Pearce**—I am looking at creative miscellaneous expenditure, media buy and research. Will I do a total of those three categories?

**CHAIR**—Yes, please.

**Ms Pearce**—New Apprenticeships campaign 1996-97 was \$76,255, 1997-98 was \$1.3 million—I will round these figures—and these figures are GST inclusive figures because that is the way we prepared our figures in the past. The 1998-99 was \$339,000, the 1999-2000 was \$3.9 million, the 2000-01 was \$11.9 million, the 2001-02 was \$4.3 million, the 2002-03 was \$3 million, the 2003-04 was \$10.5 million, the 2004-05 was \$61,486, and in 2006-07 there was some research done relating to the campaign, which would have been the wrap-up research, which was \$614,000. The total there is \$36.2 million. Then we moved into the Skills for the Future campaign beginning in 2006-07. There were two phases that year. The total for phase 1 was \$12.1 million, the total for phase 2 was \$5.1 million. Phase 3 was July-September 2007 and that was \$8.7 million. The total is \$26.1 million.

**CHAIR**—That was the total spend?

**Ms Pearce**—That is the total, GST inclusive.

**CHAIR**—That was for promoting skills training and apprenticeships?

**Ms Pearce**—Yes that is right: New Apprenticeships and then Skills for the Future, which was Australian Apprenticeships.

**CHAIR**—That is over how many years?

**Ms Pearce**—The New Apprenticeships campaign began in 1996 and essentially it finished in 2006-07.

**CHAIR**—What money, if any, was spent in the final six months of 2007?

**Ms Pearce**—That would have been phase 3 of the Skills for the Future campaign, which was \$8.7 million.

**CHAIR**—What paraphernalia was produced?

**Ms Pearce**—My area just looks after the advertising, the research and the media buy. You really would need to refer that question to the vocational education and training groups.

**CHAIR**—If any was produced, it was not out of the figures that you have just given me?

**Ms Pearce**—No. That is right. I am unaware of what might have been produced.

**CHAIR**—Thank you. That is all I have. Senator Watson, do you have a question for the cross portfolio group?

**Senator WATSON**—How many staff worked in CDEP program delivery in DEWR as at the 23 November 2007, and how many staff transferred from DEWR to FaHCSIA to administer CDEP?

**Ms Paul**—I am just finding the numbers.

**Mr Storen**—What transferred to FaHCSIA as a result of the recent machinery of government changes were the disability support program and CDEP. I have the numbers together in terms of a headcount of those who transferred, which is 115. The DSP component was quite small. The headcount may have been in the order of about seven from recollection. So we are talking a number in the order of 110.

**Senator WATSON**—Is CDEP an employment program as such?

**Ms Paul**—CDEP itself is an income support payment, actually.

**Senator WATSON**—It is a support program.

**Ms Paul**—Yes. The component that transferred to the other department was about the actual payment of the payment—the administration of the income support payment CDEP.

**Senator WATSON**—What was the reasoning behind this transfer when the Indigenous Employment Program; STEP; STEPERS; Corporate Leaders for Indigenous Employment Project, CLIEP; the Indigenous Small Business Fund, ISBF; and the Emerging Indigenous Entrepreneurs Initiative, EIEI, remain with DEEWR?

**Ms Paul**—The logic there is that FaHCSIA is clearly responsible for Indigenous affairs broadly and also for relevant income support. DEEWR remains responsible for employment, Indigenous employment, policy broadly and employment policy broadly. We work very closely together because—

**Senator WATSON**—You have to.

**Ms Paul**—Yes, that is right. Clearly those things are intimately related but it is important for the department, which is responsible for employment, to retain responsibility for those things which go directly to employment. In other words, employment outcomes and people getting a job versus the income support payment paid to somebody in lieu of a job, if I can make that distinction.

**Senator WATSON**—I would like to look at some of the performance indicators for each provider. Have you got anything like that?

**Ms Paul**—I think I might.

**Senator WATSON**—Performance indicators?

**Ms Paul**—I think we are back into outcome 7 or 8.

**Senator WATSON**—It is cross-portfolio, though, isn't it, because it is part one, part the other?

**Ms Paul**—Yes, except that you are now asking about performance indicators from outcome 7 or 8. We could either go to that or take it on notice.

**Senator WATSON**—Take it on notice.

**Ms Paul**—We will take it on notice.

**Senator Wong**—Sorry, just to confirm. This is for all providers? Which providers—

**Senator WATSON**—No. It is in relation to the programs I just mentioned.



**Ms Paul**—The ones which we retain.

**Senator Wong**—The ones which DEEWR retains?

**Ms Paul**—Yes.

**Senator WATSON**—And how many of the CDEP providers did not meet their key performance indicators? Again, you will have to take that on notice.

**Ms Paul**—Yes. That is a matter for FaHCSIA now.

**Senator WATSON**—And since 1 January 2008, how many CDEP participants have been placed in paid employment?

**Ms Paul**—That is a matter for FaHCSIA now.

**Senator Wong**—As I understand the department's advice, CDEP is now with FaHCSIA.

**Ms Paul**—Yes, that is right.

**Senator WATSON**—Again, could you take it on notice?

**Ms Paul**—Again, it is a question which is properly directed to the other portfolio, FaHCSIA, that is being heard at present. It is being heard next door.

**CHAIR**—We will get it to the right agency.

**Senator WATSON**—How many providers are on the CDEP panel? You will have to take that on notice, too.

**Senator Wong**—This department is not responsible for CDEP.

**Ms Paul**—That is right.

**Senator WATSON**—That is right.

**Senator Wong**—Any questions on that will need to go to the other committee.

**Senator WATSON**—Now that Senator Abetz is here, maybe we should defer to him.

**CHAIR**—Senator Fisher, did you have anything for cross-portfolio?

**Senator FISHER**—I do.

**Ms Paul**—I should clarify: I have just been advised and it is absolutely correct. I should have said that CDEP—that is, the CDEP wage component—is more than just income support. It is a program which funds organisations to develop and administer community development projects. That is true, too, and I am sorry. It does not make any difference to our answer. I just need to clarify what I said.

**CHAIR**—Thank you, Ms Paul.

**Senator FISHER**—I will start with some questions about departmental staffing and positions. I am not sure of whom I will ask these questions, but how many positions have been advertised at the EL1 classification since January 2008?

**Ms Paul**—I suspect we would have to take that on notice, unless Ms Pearce has it.

**Ms Pearce**—I am sorry; I do not have that information, but I will take it on notice.

**Senator FISHER**—I will provide a series of questions on notice, arising from that: how many positions have been filled et cetera.

**CHAIR**—Did you want to submit them in writing, Senator, through the secretary or did you want to actually ask them now to be taken on notice?

**Senator FISHER**—Perhaps I will ask these. There is quite a series of them but perhaps I will ask. I will be submitting quite a few in writing in any event. I have asked how many positions have been advertised at the EL1 classification level since January 2008. How many of those positions have been filled to date, how many of those appointees have been external to the APS candidates, how many of those appointees have been internal to the APS candidates and from which agencies have they come? I have the same series of questions in respect of the EL2 classification, so I think I will back these up with questions in writing to make sure that we are on the same hymn sheet, as it were. And I have the same series of questions in respect of the SES classification level. In respect of contractors, how many contractors has DEEWR hired since January 2008, at what level are those contractors working, what program or project is each contractor working on and what is the duration of the contracts for those contractors?

**Ms Paul**—Just on your previous round of questions about recruitment broadly, I think we will absolutely do our best. I think everything will be pretty readily available, except possibly for internal to government, which agency people have come from. I do not know if that will be easy to pull out, but we will do our best. If we have got it to hand, obviously we will provide it, but I just wanted to offer that small word of qualification.

**Senator FISHER**—Okay.

**Ms Pearce**—We would not keep that on a database; you would have to go back to the files to see where they came from.

**Senator FISHER**—Yes, I understand that.

**Ms Paul**—It may not be possible.

**Senator FISHER**—In respect of departmental staff and what might be characterised as funding cuts and, therefore, staffing cuts, one would presume, I want to ask some questions about how that will impact on essentially DEEWR's deliverables. Can you provide me with the details of how many staff are being removed from the department and from each program area as a result of the budget?

**Ms Paul**—Yes and no. The figure that has the most integrity is the figure in budget paper 1, I think, which goes to the overall ASL. Budget paper 1 on page 6-61—it must be an appendix—talks about 213. That figure was in the public presumably as soon as this was published. If you go through the PBS, for example—and Mr Storen can talk more about that—we could go through each one, although it is not completely straightforward because there are still some machinery of government effects which flow through into those figures. But do you want us to try, with those qualifications, to deal with it outcome by outcome?

**Senator FISHER**—I think so, I think that would be helpful. And you will take that on notice?

**Ms Paul**—If you wish.

**Senator FISHER**—Yes, I think that is fine. How many staff have been made redundant since January?

**Ms Paul**—We have not made any staff redundant.

**Senator FISHER**—As a result of the staffing reductions, what programs and what services will be affected?

**Ms Paul**—That is not entirely clear. What we need to do is to take the overall bottom line for us and then basically direct our resources to the areas of highest priority as best we can. The 213 figure represents about a 3.9 per cent figure, but our turnover rate is running at about 18 per cent on an annualised basis. Clearly, we can manage with natural attrition.

**Senator FISHER**—Such is the competitive labour market.

**Ms Paul**—Indeed.

**Senator FISHER**—When you say, Ms Paul, that you will direct the resources you have to the high-priority areas, within that equation you must have some mid-priority areas and some low-priority areas so where would you be directing your resources?

**Ms Paul**—Clearly, we need to look across the department at the new commitments, for example. Implementing the budget measures and so on is obviously a high priority. Everything we do has its own priority, obviously.

**Senator FISHER**—But can you enumerate what would be regarded as high priority?

**Ms Paul**—I think the priorities of government in terms of the implementation of election commitments, budget measures and the vital ongoing programs which we administer, of which there are almost countless numbers.

**Senator FISHER**—Is it easier for the purposes of the question to indicate which of your current business is low priority and would fall off first? You must have a—

**Ms Paul**—It will not require that sort of—and I do not mean this wrongly—crude approach because 213 is not that big a number. The department in its previous forms would have faced similar calls in the past. We are a very large department and 3.9 per cent is manageable. We simply need to do well what we always do, which is to try to be as efficient as possible and ensure that the work is spread in a fair and meaningful way.

**Senator FISHER**—How will you be ensuring that? What sort of analysis are you going to do to achieve that?

**Ms Paul**—I have been talking in the organisation about moving from phase 1 of our creation, which I guess you might call consolidation—which we have probably achieved now; I hope we have—through to the next phase, which is what I am calling agility inside the organisation. That means that we need to match the resources to the work. That is the normal thing, of course; you always do that. There are lots of different ways to do that. Internal budget processes is one way, internal mobility is another way and looking at our business processes is another way.

**Senator FISHER**—I do not think Senator Watson asked this question quite in the way that I am interested in seeking the information. I want to ask a question around section 24 of the Public Service Act, which provides that an agency head may from time to time determine in

writing the remuneration and other terms and conditions of employment applying to an APS employee or employees in the agency. I understand that a determination cannot reduce the benefit to any employee of an individual term or condition in any applicable workplace agreement or award instrument—award instrument was my terminology. The recent Australian National Audit Office report addressed the difficulty that the public sector has been having in the broad in recruiting and retaining staff. AWAs have been a component of employment in the public sector. Have any determinations been made in the department since 24 November last year under section 24?

**Ms Paul**—Yes, because the former departments were abolished in our case and the determinations which provide for continuity of employment are under section 24. The fundamental determination is under 24(3). We can go into more detail on that but, yes, that is what had to be exercised to allow us to start off.

**Senator FISHER**—So how many determinations were made?

**Mr Bennett**—There was a determination made on 6 December last year, immediately after the machinery of government changes were announced, reflecting the fact that a number of departments had been abolished and, therefore, their collective agreements ceased to have effect at that stage. A determination was made to maintain the status quo at that point so that the existing collective agreement conditions would apply to the people in the merged departments. That determination was made under section 24(3) by the Public Service minister. There was another section 24(3) determination made on 13 March this year which built on the initial determination in respect of those agencies. It allowed those agencies, if they so chose, to make 24(1) determinations which built on the 24(3) determination. As far as I am aware, there have been no 24(1) determinations which build on those 24(3) determinations in a generic sense, but there may have been 24(1) determinations made for individual employees who, for example, were new to the department and needed some conditions of employment other than those of the old arrangements which were brought across from people's old AWAs or collective agreements.

It is a very complicated, technical process. At the heart of it, though, is that the two determinations that were made, the two 24(3) ones, were initially made, firstly, to maintain the status quo, principally for the collective agreements and, secondly, to allow further flexibility as an interim measure for those agencies—because you can only make determinations as an interim or emergency measure under 24(3). The second of those two determinations applied not only to collective agreements but also to maintain the terms and conditions of persons who had AWAs.

**Senator FISHER**—If I have understood the inference of what you are saying, section 24(1) determinations are different from 24(3) determinations in that they exist for interim purposes. Is that right?

**Mr Bennett**—Section 24(3) determinations are made by the Public Service minister for emergency purposes. There have only ever been three of them made in the history of 24(3) determinations; they are not made very often. Section 24(1) determinations are made more frequently, though in the past they were made quite sparingly. A 24(1) is different in character from a 24(3) in a number of respects. A 24(1) determination is agency specific and cannot

override awards, AWAs and collective agreements. It is more limited in scope. A 24(1) determination can be made for individual employees or to cover a class of employees within an agency. As I said, only three 24(3) determinations have ever been made. One of them was in respect of the Mersey Hospital and there were the two I have already referred to in relation to the five or six agencies whose collective agreements did not carry over after the machinery of government changes in early December.

**Senator FISHER**—I take it from what Ms Paul said earlier in respect of DEEWR that there are now a large number of 24(1) determinations.

**Ms Paul**—No. I did not say that. There was one section 24(3) determination struck for the whole of the Public Service affected by the machinery of government changes, as Mr Bennett said.

**Senator FISHER**—So there is one section 24(1) determination—

**Ms Paul**—No. Actually, he said there have been two section 24(3)s, which basically establish and preserve conditions and so on. Section 24(1)s are a matter for the individual agency. We would not have much coverage through 24(1)s.

**Mr Bennett**—I am told that the section 24(1)s apply to about half a per cent of the current employees, so they are of negligible importance at this stage. But they are a device which can be used as an interim measure—as the bargaining framework and supporting guidance says they must be—to cover situations where, for example, a collective agreement is not available. We are about to commence negotiating the collective agreement for the agency. As new people move into the department, at some levels it is a question of: does the 24(3) cover them appropriately? The answer might be no. Can we somehow build on the 24(3) to give those employees appropriate terms and conditions of employment?

**Senator FISHER**—To what extent is either of these determination tools being used by the agencies to replace what previously might have been negotiated by AWAs?

**Mr Bennett**—The current 24(3) determination maintains the terms and conditions in the existing AWAs, which were negotiated during the life of the previous government, so in a sense they are not replacing the AWAs. AWAs, unlike collective agreements, can transmit after a machinery of government change. At this stage you will probably find with this and other agencies that if people who were ‘mogged’—transferred as a result of a machinery of government change—went to a similar job and the AWA allowed it, the AWA could still continue. So it is not as if hundreds and hundreds of AWAs have disappeared; they are still sitting in the system. In relation to this particular agency, they are actually being suppressed, though, by the 24(3) determination. The 24(3) determination, rather than the AWAs themselves, is delivering the terms and conditions which were provided for under those AWAs. When the 24(3) determination ceases to operate, it is possible that a large number of those AWAs will pop up again.

**Senator FISHER**—Have you got that, colleague?

**Senator ABETZ**—I was just going to say that it sounds very clear to me!

**Mr Bennett**—I did warn you earlier that this is very technical.

**Senator FISHER**—Are you sure you want to go there, Senator Abetz? I am sure you were going to ask me whether you were able to ask questions. That means that a series of AWAs will continue to have life in the public sector.

**Ms Pearce**—In terms and conditions, yes.

**Mr Bennett**—Yes.

**Senator FISHER**—So is there an end point for the life of those AWAs in the public sector?

**Ms Paul**—Each has its own end point, and finally of course there is the new system, which will come in from 1 January 2010.

**Senator FISHER**—Does that mean that an AWA that may effectively be in subsidence because it has section 24(3) over the top of it may be reactivated? Ms Paul, you are saying yes, but, when the new system kicks in, what will happen to that reactivated AWA?

**Ms Paul**—The impact is the same on us as on anyone in the private sector at that point. Perhaps somebody would like to explain the technicalities.

**Mr Bennett**—The technicalities are that if an AWA pops back into existence because the 24(3) determination ceases to operate—and the 24(3) determination will cease to operate either when it is replaced by another 24(3) determination or when the department negotiates a collective agreement—it will continue until its nominal expiry date. When it reaches its nominal expiry date, either party to that agreement can terminate the AWA.

**Senator FISHER**—But if they do not, the AWA can continue?

**Mr Bennett**—That is correct.

**Senator FISHER**—Can the department take on notice the provision of further details as to what the section 24(3) overarching determinations are, whom they cover and what their life is.

**Mr Bennett**—I can pass over to you the current 24(3) determination which we have a copy of. It is not a determination which the department makes; it is one which the Public Service minister made. I can happily pass that across to you now, if I go through my papers. It is not a particularly long document.

**Senator FISHER**—I am happy to receive it now but, again, I would like it together with an indication of the number of employees and classifications of employees covered by it.

**Mr Maynard**—Could I just give you the boundary of it: it would be all persons who are employed in the Department of Broadband, Communications and the Digital Economy; the Department of Climate Change; the Department of Education, Employment and Workplace Relations; the Department of Innovation, Industry, Science and Research; and the Department of Resources, Energy and Tourism, who would not otherwise be covered by a live, operable AWA. For us to be able to answer your question on how many employees there are by classification, we would have to determine how many employees in each of those agencies were covered by a live, operable AWA—and that is not a simple process.

**Mr Bennett**—In relation to this agency, though, we can say that all employees are covered by section 24(3) at the moment. It might not spell out all their conditions of employment, because there will be other legislations, such as long service leave legislation, which provides

some terms of conditions of employment which 24(3) does not affect, but the way that 24(3) operates, at least in relation to DEEWR, is that all employees, including those on AWAs, are affected by the 24(3) determination. I do not think that is the case in relation to the broadband department. I would need to check that. Subject to advice from the other end of the table, that might also be the position in relation to the other agencies. I should correct a figure I gave you earlier. When I was saying that the determinations that have been made under 24 affect 0.5 per cent of the department, it is in fact 0.05 per cent—so it is insignificant.

**Senator FISHER**—Can you just restate the last sentence.

**Mr Bennett**—I am just correcting my earlier error due to the fact that I was having trouble reading this document. Instead of being 0.5 per cent who are covered by 24(1) agency-specific determinations, it is actually 0.05 per cent, so it is a very small number indeed.

**Senator FISHER**—To the extent that section 24(3) determinations are made because of exceptional circumstances, which you and Ms Paul touched on, can you clarify what were deemed to be the exceptional circumstances in these instances?

**Mr Bennett**—There have only been three of these since 1999. The first one was made by the previous government in relation to the Mersey Valley Hospital. The second and third ones are the ones we are primarily interested in. The first one was made because it was not anticipated that the way the machinery of government change was done would actually succeed in abolishing a number of collective agreements. So a number of collective agreements, including the three that would have applied to this merged department, disappeared in a puff of smoke, so to speak. So something had to be put in their place in a hurry, so a 24(3) determination was made on the afternoon that people became aware that the machinery of government change had effectively got rid of three collective agreements.

**Senator FISHER**—I gather this was an unintended consequence after the government took office?

**Mr Bennett**—Yes, I think that is a polite way of describing it.

**Senator ABETZ**—I am sure you would not venture an impolite way of describing it!

**Mr Bennett**—No. The third one—the first of the two more recent 24(3) determinations was made for the purpose of holding the line and maintaining the status quo. The status quo was maintained until the government devised new framework bargaining arrangements and supporting guidance and subsequently a new 24(3) determination, which was to continue the effect of the initial one but to allow greater flexibility.

**Senator FISHER**—I guess we had a collective heaving of sighs of relief that there was a safety mechanism in the 24(3) determination.

**Mr Burmester**—This need for a 24(3) arose because several departments were abolished and new ones were created. Normally, in a large number of long changes, you just merge departments; you do not actually abolish them.

**Ms Paul**—There is often a parent department, as it were, but in this case there was no parent department to have a legal basis to proceed.

**Mr Burmester**—That is why that list of departments that was read out earlier only covered those departments. It did not cover the whole of the APS, because a lot of departments simply either continued as they were or were merged in other ways. It was only because of the abolition of a department that this occurred. That is why the safety mechanism is available for those exceptional circumstances.

**Senator FISHER**—Why were departments abolished rather than merged? What was the need for that?

**Ms Paul**—We cannot answer that, Senator. That is not a matter for this portfolio; that was a matter for government more broadly, I think.

**Senator ABETZ**—Minister, are you able to assist us in that regard?

**Senator Wong**—No, I am not. I would assume, if you are referring to the machinery of government changes which the Prime Minister announced, it is a matter that probably should go to the committee in which the Prime Minister is represented.

**Senator ABETZ**—One of the difficulties with this fortnight of estimates is that issues like this arise and the Department of the Prime Minister and Cabinet has already been and gone. I was hoping that you, as a senior cabinet minister, might have some understanding of the machinery of government and how and why these decisions were made but, if you cannot shed light on it, that is fine.

**Senator Wong**—I can talk to you about the establishment of the Department of Climate Change, but I think we have already had that discussion.

**Senator FISHER**—Do section 24 determinations effectively offer the same flexibility as an AWA would?

**Mr Bennett**—I think we can discard section 24(3) determinations because they are made in emergency circumstances. We are talking about 24(1) determinations. They are subject to the current bargaining framework and supporting guidance in the same way that making a collective agreement, or making a contract, in the APS would require that a flexibility clause be included in the agreement and that those determinations or agreements or contracts be preceded by bargaining. So, although there will be different legal consequences of making a collective agreement or making a contract or the departmental secretary entering a 24(1), it is possible to arrive at a similar outcome in terms of the substance. It is possible to insert the same sort of flexibility clause in a collective agreement, in a contract and in a determination. Indeed, the bargaining framework and the supporting guidance require that those sorts of flexibility provisions be included. I suppose the answer to your question is yes, but subject to the caveat that there may be circumstances where one form of instrument is preferable to another for a different reason, and that might inhibit the flexibility that you could incorporate into that instrument. I have not thought all that through but, as best I can answer, I think the answer to that question is yes.

**Senator FISHER**—So, in some ways, they might be AWAs but just by another name?

**Mr Bennett**—AWAs were a form of statutory contract. I do not think there is any argument about that. The basis of employment in the public sector, unlike in the private sector, is contract but governed by statute. So that if you make a contract of employment, or a common-



law agreement, in the public sector then some aspects of it will look very much like a statutory contract just by its very nature. There will be certain things you cannot do using a contract, though. You can build on what you have got, but you cannot undercut what is in a collective agreement. So an AWA, to the extent that you could undercut what was in a collective agreement, would be different

**4Senator FISHER**—Or changed.

**Mr Bennett**—Or changed, yes, so there are some differences. They are not quite the same. There might be some context, though, where it would not be an unreasonable thing to describe them in similar terms. But you would need to look at the individual instrument or the individual agreement before you could make those judgements.

**Senator FISHER**—If you want to talk in substantive terms, but in concept terms I think you have answered the question, which is that they are not all that dissimilar.

**Mr Bennett**—They are your words. If we threw ITEAs into the mix as well then ITEAs are not being offered in the APS.

**Ms Paul**—We had a long discussion of this in outcome 9 in a previous estimates, I think, in terms of the differences between AWAs and the proposal in Forward with Fairness platform, which has a safety net. It has a different safety net.

**Mr Bennett**—I think that is the key distinction, so I do not think it is possible to override that distinction in all contexts.

**Senator FISHER**—Are there any other forms of employment arrangements that are available to the department or the public sector?

**Mr Maynard**—The expectation of the government set out in the Australian Government employment bargaining framework is that non-SES employees would be covered by a collective agreement and SES level employees would be covered either by an individual arrangement, being a section 24(1) or a common-law contract, or, where the majority so chooses, by a collective agreement. Their contract of employment, as Mr Bennett has said, would continue to be the Public Service Act. However, the instrument that defines their terms and conditions, other than those that are already prescribed by legislation, would be in that instrument, the common-law contract, the section 24(1) determination or the collective agreement.

**Senator FISHER**—Thank you. The department is one of the key operational departments implementing the policy of a 37,500 place increase in the migration program for 2008-09. I understand from the budget papers that this is a reasonably significant activity for the department, costing an estimated \$398 million over four years. I want to ask some questions about how the department is going to allocate those moneys and expenses.

**Ms Paul**—I think you may be referring to outcome 8.

**Mr Storen**—If I may, the 37,500 place increase actually covers outcomes 1, 2, 3, 4 and 7. Because of the arrangements for the provision of quite a range of Australian government programs, particularly in this department, migrants become eligible once they are in the department. For instance, in relation to the schools area, there are programs in relation to English as a second language for new arrivals. That is probably the best example. In the skills

area, we have the language, literacy and numeracy training program. So, with an increase in migrant intake, there is an increase in expectation for numbers there. Perhaps we can take on notice—it may be easier—to unpack that substantial investment into the particular administered items or programs that will be receiving funding.

**Senator FISHER**—Either that, or when we return to outcomes 7 and 8 tomorrow afternoon.

**Ms Paul**—We are not.

**CHAIR**—No, we have finished 7 and 8 so we are not returning to them.

**Ms Paul**—Even so, given that it actually crosses more outcomes than eight, I think Mr Storen is right: we should take it on notice and unpack for you what that means for each of the outcomes that are named there on page 23.

**Senator FISHER**—That would be good. When you break them down, can you indicate how the expenses for the services have been estimated?

**Ms Paul**—I am not sure, but we can see what we can do.

**Mr Storen**—We can do that in most cases. In a lot of them there are pre-agreed unit costs with how the programs are funded. I am thinking particularly of new arrivals in the schools area, but we can certainly indicate for those programs where it is able to be done.

**Senator FISHER**—I think it is informative to know the profile of the additional migrant intake and the associated expenses. In respect of temporary working visas and enhancement arrangements as part of the migration program, do I understand correctly that the expenses within DEEWR are projected to rise significantly over four years?

**Ms Paul**—We could probably go to the PBS. Are you referring to a particular page?

**Senator FISHER**—My notes say 261.

**Ms Paul**—Sorry, were you referring to the humanitarian migration program or were you referring to the migration program overall?

**Senator FISHER**—It was in two parts. My initial questioning was about the migration program overall.

**Ms Paul**—Yes. On page 22 there are some numbers against the humanitarian migration program—an extra 500 places for Iraqis, an extra 750 special humanitarian places—and if you want us to go to that we would have to do the same thing. You can see that it affects a whole bunch of outcomes in the first column. So, again, we would need to take it on notice and unpack it for you, which we are happy to do.

**Senator FISHER**—Okay, that would be good. Let's do it that way.

**Ms Paul**—Okay.

**Senator ABETZ**—I have a few general questions. I do not know if we can sneak them in as cross-portfolio questions or not.

**CHAIR**—You can try.

**Senator ABETZ**—I apologise for not being here earlier. If the areas have been covered, tell me. Is it appropriate here to ask questions about the two per cent dividend, for example?

**Mr Storen**—Yes.

**Senator ABETZ**—Was an exemption sought by the department, or indeed by any agency within the department, for an exemption from the 2 per cent dividend?

**Mr Storen**—I can respond in respect of the department itself. I am not sure whether you can phrase it an exemption, but the increase to the efficiency dividend of 2 per cent was applied to the department across the board, except for the workplace relations function, which was subject to a separate reduction measure.

**Mr ABBOTT**—How much was that?

**Mr Storen**—If you bear with me, Senator, I need to refer to the portfolio additional estimates statements from last year.

**Mr Pratt**—Senator, from recollection in relation to the department it was actually quite small. We will try and dig that out now. The bulk of the savings related to some of the portfolio agencies. You might want to touch base with them on that tomorrow morning.

**Senator ABETZ**—Has the minister in this portfolio received her charter letter yet?

**Ms Paul**—I understand so, yes.

**Senator ABETZ**—You understand that she has?

**Ms Paul**—Yes, I believe so.

**Senator ABETZ**—Can you please take on notice the date that she received her charter letter. Is it the intention to make her charter letter public?

**Ms Paul**—That is a matter for government, Senator. I do not even know—

**Senator ABETZ**—I know that, and that is why I am asking whether any message has been sent that these charter letters will be made public.

**Ms Paul**—I have seen various things in the media but I cannot comment; it is a matter for government. Indeed, I am not sure who has received what, so for our portfolio I would certainly have to take that on notice.

**Senator ABETZ**—Minister, can you assist us? Is it the intention of the Prime Minister to make these charter letters available?

**Senator Wong**—Senator Abetz, I think you and I canvassed these issues in detail previously and I will do what I did in those committees—that is, take the matter on notice and refer the matter to the Minister representing the Prime Minister.

**Senator ABETZ**—Thank you. We have a situation where Senator Sherry says he has received a charter letter and we have now been told that Ms Gillard has received a charter letter, yet we have been told by other ministers that they are not going to receive charter letters and that charter letters are no longer part of the go. It is interesting that we seem to have this sort of disarray.

**Ms Paul**—I was not definitive on that; I wanted to take that on notice. I am not sure. I would need to take that on notice.

**Senator ABETZ**—If you want to review your answer, that is fine.

**Ms Paul**—I will review the answer, yes.

**Senator ABETZ**—With respect, I think you were about as definitive as you can be, but I will not pursue that any further. The suggestion seems to be that charter letters have been dumped, have fallen out of favour with this government. Therefore, in the event that your answer comes back that the minister has not received a charter letter, could we be advised as to the basis on which the minister has received her charter instructions.

**Ms Paul**—We can probably answer the first part of your question, but I think the latter part is not a question for us. It is probably a question for the Prime Minister's portfolio—but I am happy to take it on, and we will do our best.

**Senator ABETZ**—With great respect, I can understand the department not necessarily taking it on but I would have thought that the minister representing the minister, Ms Gillard, would be in a position to take this on notice and advise the committee what the arrangements were in relation to her charter instructions—in particular, if the charter instructions were arrived at as a result of a chat between the Prime Minister and the relevant minister and whether there was a note of the conversation.

**Ms Paul**—I think I have already taken that on notice.

**Senator ABETZ**—In relation to that note, or minute, of conversation created as a result of those discussions—and whether it is a note of conversation or a minute of conversation seems to depend on which minister you talk to—can you take on notice whether the minister and/or the Prime Minister initialled or signed that note of conversation, or minute, as an agreed record of what the charter instructions actually were.

**Mr Kovacic**—In relation to Mr Storen's answer about Workplace Relations and the efficiency dividend, page 19 of the portfolio additional estimates for 2007-08 details the savings that are required of outcome 9 within the department.

**Senator ABETZ**—My question was about whether the department or any agency within it had sought an exemption from the two per cent dividend. I have been told that the department did not ask but that a section had a different dividend requirement applied to it. That is what you are answering now?

**Mr Kovacic**—That is correct. That savings measure is set out at page 19 of the portfolio additional estimates.

**Senator ABETZ**—Can you remind us of what that percentage was?

**Mr Kovacic**—It was part of a much wider savings measure that the government announced before the election. It was an election commitment—

**Ms Paul**—It was not a percentage; it was not a dividend as such. It is the savings which accrue from the change in the number and nature of agencies that there are now to Fair Work Australia—and that delivers savings. We can certainly tell you what the saving was. Most of it is carried by the agencies, and they will appear before you tomorrow morning.

**Senator ABETZ**—Was it open to agencies or the department to go back to Finance to ask for an exemption if special circumstances prevailed?

**Ms Paul**—Not that I am aware of.

**Senator ABETZ**—Was there extra work involved in providing this new format of portfolio budget statement?

**Ms Paul**—A lot of the work for us has been in terms of drawing together the elements of the new portfolio—the machinery-of-government changes.

**Mr Storen**—It is probably fair to say that there was as much work involved in working to a new format as there was in bringing together the three large elements of three previous departments into one. It would be very difficult to extract the time involved in terms of the new format.

**Senator ABETZ**—Have you previously been involved in putting together the PBS? Who is in charge of the PBS?

**Ms Paul**—Mr Storen is definitely in charge of the PBS!

**Senator ABETZ**—That sounds like a hospital pass, to me! Mr Storen, have you been involved in putting together the PBS before?

**Mr Storen**—Yes. I have been involved in that ever since the PBS has been the PBS—and I can tell you about its predecessors.

**Senator ABETZ**—You would therefore have a great degree of historical knowledge, so you might be the sort of person I need for this question. Does the revised presentation that we now have incur more work or less work for you and the agencies, or is it about the same?

**Mr Storen**—I would say it is about the same. Bear in mind that each portfolio works to guidelines provided centrally, so there is a divergence in approach—as I am sure you would know better than I do—across our portfolios. In respect of both the Education and Employment predecessors, we have moved along some of the path that this new document has created. So the net increase was not as much. It was the same sort of data but in a slightly different format.

**Senator ABETZ**—Every PBS trumpets that the new design, or the revision, is made to reduce the workload on agencies. I have yet to come across an agency that is willing to volunteer that the workload has in fact decreased, so I was wondering about that explanation.

**Mr Storen**—I can say that there was no decrease in workload for this portfolio in the production of this particular document.

**Senator ABETZ**—You and your department are not Robinson Crusoe in relation to that. That is fine; it is just that—for want of a reference, on page viii of your portfolio budget statement, under the heading ‘Structure of the portfolio budget statements’—we are told:

The portfolio budget statements have been revised with significant changes made to reduce the workload on agencies ...

**Ms Paul**—But do not forget that Mr Storen is talking about a range of factors which make this a complex PBS, and for us the machinery of government is one of the massive complexities.

**Senator ABETZ**—You are not suggesting any PBS is not complex?

**Ms Paul**—Absolutely.

**Senator ABETZ**—Given Mr Storen's background and history, I think he did indicate to us that it was about the same.

**Ms Paul**—And about the net sort of impact of it.

**Senator ABETZ**—Yes, that is fair enough. Mr Storen, at dot point 3 on page viii we are told:

In the *Strategic Direction for 2008-09* ...

Is that a reference to a document?

**Ms Paul**—It is a reference to this document. It is the description of the way this document is now put together.

**Senator ABETZ**—You see, it says:

In the *Strategic Direction for 2008-09* agencies are to present a narrative approach ...

The 'narrative approach'—and 'story time', as I have been known to refer to Senate estimates as a result of these changes—was not something that this department struck upon, was it? This was a direction from Finance.

**Ms Paul**—What you are seeing on page viii are the directions for everyone, for all of us.

**Senator ABETZ**—That is right, for all of us—as in 'all departments'—and that would have come down from on high from Finance.

**Mr Storen**—I would have interpreted them as guidance material from the department of finance, rather than direction. But, yes, you are correct. That is the central view of the contents.

**Senator ABETZ**—There is something in italics, the '*Strategic Direction for 2008-09*'. Was there a document—

**Ms Paul**—For the department, that is on page 11 of the PBS. What you are seeing on page viii is a description of some of the changes that happen later in the document.

**Senator ABETZ**—Yes, you are right; it appears on page 11. Why is '*Strategic Direction*' in italics when, for example, the heading 'Outcomes' at the top of page ix in the outcomes section is not in italics? That is what alerted me to the point that there is possibly a separate document to which reference ought to be made.

**Ms Paul**—I feel there is no science to the reason for italics.

**Senator ABETZ**—There is no science; to put a few words in italics is just artistic style to break up the monotony, is it?

**Ms Paul**—Unless I am corrected, I would be pretty sure that that reference on page viii is to what comes from page 11 and on.

**CHAIR**—We will see if we can get the publications committee onto this.

**Senator ABETZ**—I am just trying to get my head around these things. Would it be fair to say that pages viii and ix, 'Structure of the portfolio budget statements', is not in fact written

by the Department of Education, Employment and Workplace Relations but is in fact written by the Department of Finance and Deregulation?

**Mr Storen**—Yes, the guidance material does come from the Department of Finance and Deregulation. That is correct.

**Senator ABETZ**—You are quite right. It is from the Department of Finance and Deregulation, and all the words on pages viii and ix are a standard form of words that fit into the front of all portfolio budget statements, aren't they?

**Ms Paul**—I do not think we could vouch for that, Senator.

**Senator ABETZ**—That is fair enough. I daresay you did not bother to read them all.

**Ms Paul**—Funnily enough, I have not opened anybody else's.

**Senator ABETZ**—I would be worried if you could admit to having read them all. I accept that answer. I understand that in this document—and somebody might be able to assist me with it—we are told that:

*In the Strategic Direction for 2008-09* agencies are to present a narrative approach rather than being restricted to a fixed number of headings. The key emphasis is on telling the agency 'story' ...

That made me think that I should come to estimates with my slippers, dressing-gown and a cup of cocoa ready for story time. The key strategies are supposedly set out herein.

**Ms Paul**—I bet it is the case, and I am sure Mr Storen can confirm, that the previous format had a number of required headings for this stuff on page 11 and onwards. I imagine that is no longer the case.

**Senator ABETZ**—Yes, and as a result we no longer have the fixed number of headings which, I might say, were helpful. On page ix we are told that we are moving 'away from focusing on the activities and processes of agencies.' I am not critical of the department on this but I make the observation that Senate estimates is about focusing on activities and processes of agencies, and we are now being told the focus is being taken away from that. Nevertheless, we are told that we have key performance indicators. Is anybody able to assist me in relation to the employment outcomes that we are hoping for where the key performance indicators can be found?

**Ms Paul**—To go back to where you started on page ix, that is not to say there would not be any focus on activities and processes; of course that is a matter for the committee, as you say, Senator. Rather, this guidance is telling us that to the extent that we can we should also focus on outcomes, which goes to your focus on performance information.

**Senator ABETZ**—Not quite, with respect, Ms Paul, because it says 'and away from focusing'. If it said 'as well as focusing on activities and processes' I would accept your interpretation, but this specifically tells us that the focus has been taken 'away from' activities and processes.

**Ms Paul**—That is fine, Senator. I may have overstated this. I accept your view.

**Senator ABETZ**—Ms Golightly, where are we in relation to the key performance indicators?

**Ms Golightly**—On page 119 of our PBS are tables 2.7A, 2.7B and 2.7C. Table 2.7B goes over a number of pages.

**Senator ABETZ**—Is there a benchmark there as to the growth in unemployment?

**Ms Paul**—We did have some discussion about this earlier, under outcome 7. Ms Golightly may wish to comment.

**Ms Golightly**—Yes. I think the Treasury budget papers go to unemployment and labour market statistics broadly.

**Senator ABETZ**—That is right. They are budgeting for an increase of 134, 000 overall. I am wondering where that is as a benchmark in this specific PBS. We were told previously that a minister's performance could be judged against their charter letters when they were made public. We no longer have charter letters, and the notes of conversation as to the charter instructions are not going to be made public, so we cannot use that any more as an assessment method. Therefore, we need key performance indicators. I would have thought a very important key performance indicator in this particular portfolio would be the growth of unemployment—and, might I add, I would see the growth of unemployment as a very negative key performance indicator.

**Ms Golightly**—Senator, the way we have measured this portfolio for quite a long time is in table 2.7A: 'Trend in the average duration'. There are also some further outcome indicators in outcome 8. While we are on this particular outcome, there are also indicators in table 2.7B around average duration on income support et cetera, which have been there for some time. Over the page—

**Senator ABETZ**—But is there an indicator as to the actual raw number of our fellow Australians who are unemployed?

**Ms Golightly**—No, Senator.

**Senator ABETZ**—No, I did not think there was.

**Ms Golightly**—These are the indicators that have been used consistently for some time.

**Ms Paul**—We have not changed these indicators, particularly. The unemployment rate tends to be a province of Treasury. As Ms Golightly talked about, the budget papers go to the unemployment rate, which basically goes to Treasury. Our performance indicators under outcomes 7 and 8 are basically what we have had for a fair while, and Ms Golightly has taken us through them. Under outcome 8 on page 132 there is a range of performance indicators for labour force participation versus unemployment and so on and a proportion on working age payments.

**Senator ABETZ**—In some of the other areas we are now given raw number estimates of people who are going to be engaged, aren't we—for example, how many were budgeted for in Green Corps in 2007-08, how many actuals and the budgeted number for 2008-09?

**Ms Golightly**—Yes, Senator. Those figures are about a third of the way down on page 122.

**Senator ABETZ**—That is the third page reference that I have been given. You will not blame me for not having found it easily. Is that on Green Corps?

**Ms Golightly**—Yes.



**Senator ABETZ**—Yes. That is the point I am trying to make.

**Ms Golightly**—Because we have a number of programs—there are nine employment programs all up—the table goes through the various descriptions.

**Senator ABETZ**—Yes. I am just trying to make a comparison with the overall unemployment rate, the actual raw number of our fellow Australians who are going to be unemployed at the end of the 2008-09 budget period.

**Ms Paul**—We have said before that those things tend to be picked up there. It is a Treasury province, based on their parameters, and they are reflected in the budget papers. Earlier today we did have a discussion about the unemployment rate and so on.

**Senator ABETZ**—Then I will refer myself to the *Hansard* record of the previous discussion.

**Ms Paul**—If it does not go to precisely what you want, of course give us a question on notice.

**Senator ABETZ**—Once again, I give my apologies for not being able to get here earlier. Minister, last time we were at Senate estimates we had a little exchange. Thank you, Chair. With your agreement I will pass back to Senator Fisher.

**CHAIR**—Thank you.

**Senator FISHER**—I understand there is a strategic coordination unit in the Strategic Coordination Branch of DEEWR.

**Ms Paul**—Where is your reference, Senator? Are you referring to something in particular or have you just heard that? I just want to pin it down. I think I know what you are talking about, but I want to make sure I am on the right track.

**Senator FISHER**—Well, why don't you tell me what you think I am talking about, because I cannot actually find anything about it in here, yet I recall reference to a strategic coordination unit. It may be a simple 'no'. To what do you think I am referring?

**Ms Paul**—I am not completely sure what you are talking about there, Senator. We have established a strategic policy team, which is a new piece of structure in the department. Other than that, there is not a thing called a 'strategic coordination unit' as such.

**Senator FISHER**—Okay. What does the strategic policy team do?

**Ms Paul**—It is a new and large department, so it has been important to create a unit that can draw from across all the research type activities that are going on across the place. They are quite new; they have not undertaken much work to date. It is just a small piece of new structure. I am not sure about coordination. I do not think there is anything which would quite—

**Senator FISHER**—Okay. So they are more to do with policy. Is there a strategic liaison group that coordinates briefs and the provision of information from the department to the minister?

**Ms Paul**—We do have various places that would do that. Perhaps you could tell me what you are thinking of.

**Senator FISHER**—Do you have departmental liaison officers, as they used to be called?

**Ms Paul**—Yes.

**Senator FISHER**—Are they still called departmental liaison officers?

**Ms Paul**—Yes.

**Senator FISHER**—Who coordinates their workload and the jobs that they do?

**Ms Paul**—Their jobs are the same as they have ever been. They are basically attached to our parliamentary area. We have not really had any change in how we serve government in that way.

**Senator FISHER**—What area of DEEWR houses the DLOs?

**Ms Paul**—Departmental liaison officers are departmental staff located in ministers' offices. The same system has been around for a long, long time. They are connected with their home area, which is the parliamentary area within the department, as it has been for a long time. Nothing has changed in that area.

**Senator FISHER**—Can I ask here about staff in the Deputy Prime Minister's office, as the Minister for Employment and Workplace Relations, in terms of numbers and funding? This is the appropriate time to ask those questions, I presume.

**Ms Paul**—I think so.

**Ms Pearce**—Are you asking about DLOs within the Deputy Prime Minister's office?

**Senator FISHER**—Let us leave that for a moment.

**Ms Pearce**—Okay.

**Senator FISHER**—Thank you, Ms Pearce. I may return to that. What is the breakdown of employees working within the Deputy Prime Minister's office?

**Ms Paul**—The only employees of ours working within the Deputy Prime Minister's office are the DLOs. The other employees are MOPS Act employees, and they are covered under the portfolio of Finance and Deregulation.

**Senator FISHER**—Aren't you able to tell me about the lot, to the extent that they service the minister in this portfolio?

**Ms Paul**—Sorry?

**Senator FISHER**—Aren't you able to cover in your answer to me those covered by the MOPS Act as well, given that they are servicing the minister's office in respect of this portfolio?

**Ms Paul**—Are you interested in numbers, for example?

**Senator FISHER**—Yes, the breakdown of employees who are working in the Deputy Prime Minister's office.

**Ms Paul**—Yes. We can offer you numbers. I do not have them in front of me, but we can certainly get the numbers.

**Senator FISHER**—Okay. That would be good—the breakdown of employees working within the Deputy Prime Minister’s office, including how many senior advisers, advisers, media advisers and assistant advisers.

**Ms Paul**—Sure. Basically, the staff numbers are in line with the Prime Minister’s guidance about taking 30 per cent fewer in number than previously. As I understand it, that is basically where they are at, but we can offer you those numbers in more precision.

**Senator FISHER**—Thank you. And you will obviously include DLOs in those figures?

**Ms Paul**—Of course.

**Senator FISHER**—What sort of funding has been allocated to the minister’s office for additional items such as cameras, phones, laptops? Are you able to provide that information?

**Ms Paul**—I think we would have to take that on notice too.

**Senator FISHER**—On notice would be good. That is for additional items such as cameras, phones, printers, Foxtel subscriptions—anything else of interest.

**Senator Wong**—Can I just clarify. When you say ‘additional items’, additional to what—additional to what the previous government had?

**Senator FISHER**—Yes.

**Senator Wong**—So we take as given everything that you had—is that what you want us to do?

**Senator FISHER**—Yes.

**Ms Paul**—We can only answer for our own portfolio, but I am happy to try to do that, although of course it is a completely different portfolio, so a comparison will be quite difficult. But we will do our best.

**Senator Wong**—That would require the department to look at what two previous ministers’ offices had.

**Ms Paul**—Three, actually.

**Senator Wong**—Three, yes. So you might want to reconsider that question.

**Senator FISHER**—I am satisfied with you comparing with what there was—

**Senator Wong**—The three ministerial offices?

**Senator FISHER**—immediately prior to the election. Can you confirm the expenditure to date from the minister’s office on media monitoring?

**Ms Pearce**—We do have a brief on that, if you will bear with me. Sorry, no, we cannot in terms of the minister’s office. I might have to take that on notice, actually. We just have a general figure on media monitoring.

**Senator FISHER**—That is fine. I am happy for you to take that on notice.

**Ms Paul**—I think what Ms Pearce is saying is that we have a figure for the department. That is not what you are asking, though, is it?

**Senator FISHER**—I would like the department's figure as well, but in particular, yes, I am asking about the Deputy Prime Minister's office.

**Ms Paul**—In general terms, I know that it has not really shifted, or it has possibly gone down, relatively.

**Ms Pearce**—I only have the monthly spend, and that has gone down about \$10,000. I would be better off getting a proper readout for you.

**Senator FISHER**—Okay.

**Ms Paul**—The comparison the senator seeks I think will show a decline, but I do not know—I do not have the figure in front of me.

**Senator ABETZ**—Is that a fixed cost contract or is it per page of news delivered?

**Ms Paul**—I have to take that on notice.

**Senator ABETZ**—That may well be one of the reasons for the change. But can I ask: is the media-clipping service shared with the shadow minister?

**Ms Paul**—I do not believe so.

**Senator ABETZ**—Some ministers do; some do not. It is just interesting to know who the nice ministers are and who the not so nice ministers are.

**Senator STERLE**—You should have asked us when you were in government.

**Senator Wong**—You never shared them with me.

**Senator ABETZ**—My portfolio always did without any difficulty.

**CHAIR**—You just thought any publicity was good publicity.

**Senator ABETZ**—No. Different ministers, different approaches. I just want to see if there is a consistency with this government, and clearly there is not, just as much as I understand there was not consistency in our government either—I acknowledge that. But I have a very important issue to raise, and that is the cleanliness of Ms Gillard's kitchen. That has somehow got special mention in dispatches, unlike other ministerial kitchens. Just to make sure: she does not have a butler as well, does she, to assist her with kitchen duties in a ministerial office?

**Ms Paul**—I could not possibly comment on the state of the kitchen, but I think when we offer the answer to the question on notice about the breakdown of advisers in the office there will certainly not be a heading of 'butler'.

**Senator ABETZ**—There was no butler or valet, or any other description? For whatever reason Ms Gillard's ministerial suite was picked out for special commendation for the neatness and tidiness of her kitchen in comparison to other ministers. Sometimes it is said, Chair, that opposition senators can be critical of ministers. This is an occasion when we want to be supportive of a minister's conduct in the running of her office, albeit in a very small area.

**CHAIR**—Is there a question coming?

**Senator ABETZ**—No. I just wanted to put it on the record that we were supportive of the minister's kitchen habits.

**CHAIR**—Let us move on to some issues of importance if we can find any.

**Senator ABETZ**—I interrupted Senator Fisher on media.

**Senator FISHER**—What a pleasure. Are there other purchases made by the minister's office for which the department might pay; for example, coffee that is supplied to people who attend meetings in the minister's office—those sorts of incidentals? Can you provide a breakdown of all purchases made by the minister's office and paid for by DEEWR since 1 December 2008?

**Ms Paul**—We have already taken the nature of support on notice, so we will have a look at that.

**Senator FISHER**—Will you include all purchases made in support?

**Ms Paul**—If it is possible. I do not know how the data stands but we will certainly do our best to answer your question.

**Senator FISHER**—And an overall figure at the end of the day, a global figure.

**Senator ABETZ**—We do not need to know how much was spent on coffee, how much on milk and how much on tea bags, but if there is an allocation for the sort of service that Senator Fisher was talking about of morning-afternoon tea hospitality, we would like a global figure for that.

**Ms Paul**—We have taken that on notice.

**Senator FISHER**—That will suffice. Has the department been asked to arrange or pay for media training or other presentation type training for the minister's office?

**Ms Paul**—Not to my knowledge, but I will have to check on that.

**Senator ABETZ**—I would like to add a little addendum. Senator Fisher has asked for the minister's office—just so there is no misunderstanding for staff—but also for the minister herself.

**Ms Paul**—I am confident the answer is no but we will double-check.

**Senator ABETZ**—Thank you. That was in relation to media.

**Ms Paul**—Media training et cetera, as Senator Fisher has asked.

**Senator ABETZ**—And public presentation and those sorts of things.

**Ms Paul**—Yes, I understand that.

**Senator FISHER**—Earlier I asked a question on notice, which caused the minister some consternation, on funding additional items such as cameras and phones—additional to what was provided to the previous ministers. Perhaps I can recast that question to assist in the provision of information and talk about what items are provided by DEEWR to the minister's office for use that you might characterise as additional. That would suffice for my purposes.

**Ms Paul**—That is probably all we could answer, as well. We could only answer on our own account.

**Senator FISHER**—I have one further question in cross-portfolio. I have an organisational chart, and I want to refer again to the questions about strategic coordination. There is a group under the responsibility of Sandra Parker, Manager, Workplace Relations Policy Group in an organisational chart that I have accessed. One of those groups is labelled the Strategic Coordination Branch, headed up by Stewart Thomas. I am interested in what that unit does.

**Mr Kovacic**—That branch does several things. It provides secretariat services to a range of consultative bodies—for instance, it provides secretariat services to the National Workplace Relations Consultative Council, the Workplace Relations Ministerial Council and the senior officials group that sits under the Workplace Relations Ministerial Council. Similarly, it provides secretariat support to the workplace relations reform steering committee, which Mr Pratt referred to earlier today. In addition, it provides, I suppose, briefing to the minister on issues which require a coordinated contribution across outcome 9. Or, indeed, where there might be a need for a coordinated contribution from the outcome into wider things across the portfolio, it will represent outcome 9 in that regard.

**Ms Paul**—That area is outcome 9 specific. It is workplace relations specific.

**Senator FISHER**—Yes. Are you happy to answer questions in this area?

**Ms Paul**—We seem to be doing okay on it.

**Senator FISHER**—You do.

**Ms Paul**—I was not trying to redirect you; I was just clarifying that it is not a unit which services every outcome in the department. It is specifically about outcome 9.

**Senator FISHER**—Is there a dedicated group within the department which responds to questions from the minister's office about emerging workplace relations issues of the day and requests for briefs, and which coordinates the provision of that advice?

**Mr Pratt**—We used to have a unit of that sort under the previous government, but no longer.

**Senator FISHER**—Mr Thomas's unit, if I understand Mr Kovacic correctly, is essentially secretariat support for a range of consultative groups; is that a fair summary?

**Mr Pratt**—That is the major function of that area.

**Senator ABETZ**—Have there been any complaints in this department about staff being required to work excessively long hours?

**Ms Paul**—I am not aware of complaints in that area. That is not to say people are not working very hard; they are, but certainly I have not seen complaints of that nature.

**Senator ABETZ**—There has been some media speculation—

**Ms Paul**—Sure.

**Senator ABETZ**—that this has been the case. That is not a great authority from my point of view, but one would imagine that, from the Prime Minister's perspective, if the CPSU, his own union, makes a comment on it there ought be some credibility attached to those criticisms. I wonder whether you, Ms Paul, or anybody else in the department can indicate

whether those general criticisms are applicable to your department and/or agencies within your department.

**Ms Paul**—It has not been the subject of specific complaint within DEEWR. At the same time, of course, people are working very hard, and I take those messages very seriously. We had a discussion before—I am not sure whether or not you were in the room—in which I was talking about the need to spread the load fairly. I was talking about the fact that, while we do not face the challenge of having to lose large numbers of people, which is fantastic, we nonetheless need to make sure we have the work spread fairly. That is something I constantly think about, and I pay tribute to people who are working as hard as they are. For us, the challenge is more about matching where the workload is with the resources we have available. We had a bit of a discussion about some of the internal levers that help us do that.

**Senator ABETZ**—I think we are all agreed that we have got a pretty competitive labour market at the moment and, therefore, if workers or officials are dissatisfied with the hours they are required to work, there may potentially be a loss of expertise to the department, so I am sure, Ms Paul, that you are monitoring that fairly closely.

**Ms Paul**—I am very interested in how our people are finding their work. We have a theme, if you like, in the department—something which I care about a lot—which is actually called ‘caring for people’. It is a theme which means that we really will do as much work as we need to make sure that work is spread fairly and that people are not being asked to do something which is outside of reasonable. I hope we are achieving that balance but, of course, we have to keep working on that all the time.

**Senator ABETZ**—That is a laudable object, caring for people, but how do you determine that? Do you undertake surveys of the staff to ascertain whether they think they are working hours that are excessive?

**Ms Paul**—Yes, we do. There is a whole range of things we do, and that is one of them, that is right.

**Senator ABETZ**—Are you willing to make that sort of information available to the committee?

**Ms Paul**—I would not have it available since the change of government and, therefore, it would be based on previous departments. I could certainly give you—

**Senator ABETZ**—You see, there were not these sorts of complaints under the work-friendly Howard government. What I am concerned about is the change. Surprisingly, the Prime Minister’s own union complained about this only after 24 November, so it was not a complaint made against the previous worker-friendly government.

**CHAIR**—Let us try to keep it serious.

**Ms Paul**—In short, I have said that, no, I have not received complaints of that nature and, yes, there are a number of ways in which we can make sure we know how people are feeling in the place, and staff survey is one of them.

**Senator ABETZ**—All right. When is the next survey going to be undertaken?

**Ms Paul**—The next survey for the new department will be next February, I think.

**Senator ABETZ**—So we will have gone—

**Ms Paul**—That is true, but do not forget we are in—

**Senator ABETZ**—So we will have gone from—the new government was sworn in early December.

**Ms Paul**—It will have been about a year.

**Senator ABETZ**—Over a year. It will be 14 months before you bother surveying your staff in relation to hours despite what has been in the public domain.

**Ms Paul**—And there are a range of other ways, as I said, in which we are tapping into how people are feeling as well.

**Senator ABETZ**—Such as?

**Ms Paul**—We do feedback sessions, we have had a whole communication strategy—

**Mr ABBOTT**—Feedback sessions—what with?

**Senator Wong**—Senator, if Ms Paul could finish her answer before you ask the next question, it might expedite proceedings.

**Senator ABETZ**—Fair enough.

**Ms Paul**—We have had quite a comprehensive communication strategy connected with the creation of the new department. There are many facets of that which I could spell out on notice, if you wish, but they involve the things which you go to—people being able to make their views heard—and I am happy to give that to you. It is probably easier to do it on notice. It has been a formal strategy because of the change we have been undergoing in creating a department out of three former departments.

**Senator ABETZ**—Are the feedback sessions person to person or—

**Ms Paul**—As I say, it is probably easier for me to give you that on notice, but they include person to person, they include email and they include meetings.

**Senator ABETZ**—But they would tend to identify the worker?

**Ms Paul**—No.

**Senator ABETZ**—Not necessarily?

**Ms Paul**—I specifically asked for a mechanism to allow people to give their views anonymously, so people can do that as well.

**Senator ABETZ**—When does that start, as of the next—

**Ms Paul**—It has already started.

**Senator ABETZ**—So that has already started?

**Ms Paul**—All this is in train—everything I have talked about now—because it was part of the formal change management strategy which we undertook to create the new department.

**Senator ABETZ**—But I daresay the department has monitoring systems in place, not that I am saying that that would occur but it would be open for the department to track an anonymous email sent from within the department.



**Ms Paul**—We have set up the system so that that cannot happen with that part of that system.

**Senator ABETZ**—That cannot happen; well done.

**Ms Paul**—Then there are a range of other ways. In fact, that way has not been used much. The main ways that people have offered feedback on the new department are through email, meetings and so on. It is a sort of a loop, so that we are able to collect people's feedback and then answer the questions that people might have in various ways through our newsletter or whatever.

**Senator ABETZ**—You are quite right to refer to the heavy workload from the three parts of the departments coming into one and the fairly heavy workload in relation to the changes from the so-called education revolution. In the workplace changes there would be a fairly heavy workload impacting on your department. I would have thought that if there was this sort of criticism, as we are led to believe by the CPSU, your department may be a prime candidate for the source of such complaints. But you are saying no.

**Ms Paul**—That is right. There is no doubt that people are working very hard—and I certainly would not resile from that. Our challenge—and I think we are meeting this as best we can—is to make sure, as I said before, that the workload is spread fairly. I do not think we are there yet as much as I would like, but we will get there. It is my commitment to our people to make sure we can apply the right resourcing to those priorities you have named—and there is no doubt that they are high priorities.

**Senator ABETZ**—You say that you are still working to spread the workload fairly. Can I read into that that you acknowledge that there are some areas of your department that have an unfair workload?

**Ms Paul**—No, I did not say that.

**Senator ABETZ**—I know that you did not say it, and that is why I am asking whether I can read that into your statement or not.

**Ms Paul**—No, I did not talk about unfairness. What I am talking about is the ongoing priorities that arise and the work that arises. It is a constant thing. I mean, we have just had a budget, so there is another set of priorities and so on. It is not as if you can lock it into place in one go.

**Senator ABETZ**—Apart from yourself, is there anyone in the department whom you think has an unfair workload?

**Ms Paul**—I do not think I can comment on that. There are areas that are still emerging and still growing—for example, some of the new budget areas—which we need to continue to resource. But it would not be right for you to think I was saying there is some unfairness. All I was trying to say was that the job of work that we do, as leaders of the place, to try and strike the right balance is ongoing.

**Senator ABETZ**—So you are willing to tell this committee that, to your knowledge, there is nobody with an unfair workload within your department?

**Ms Paul**—I cannot speak on behalf of all my staff. If we get feedback that people are feeling that—and there are certainly people who are working very hard—I am very happy to consider it. But of course I am not going to speak on behalf of 6,000 people. I accept it as part of my responsibility that we try to strike the right balance across the place. It is very important to us.

**Senator ABETZ**—I absolutely agree with you, and that is why I am asking these questions. In the emails, meetings and ‘comprehensive communication strategies’ with staff, have you had any feedback that the workload they are being subjected to at the moment is untenable or unsustainable?

**Ms Paul**—I am not sure. I could probably take that on notice and have a look at the feedback mechanisms. Most of the feedback that comes to mind has been about the creation of a new department—‘What is happening with my pay?’ et cetera. It has been questions about the arrangements for the new department. I would have to take that question on notice.

**Senator ABETZ**—I would be genuinely interested in that. As I indicated, I would have thought that with all the changes to your department—and this is no reflection on you or the minister—this department may have been a prime candidate for the source of the complaints that we have heard about in the media.

**Ms Paul**—I do not know where the CPSU was drawing that from, but I can say that people are working very hard and it is a great tribute to them.

**Senator ABETZ**—Be careful; the CPSU is the Prime Minister’s union. We do not want to upset him or his union.

**CHAIR**—Are there any other further cross-portfolio questions?

**Senator ABETZ**—Not from me.

**CHAIR**—We will take a short break and then return to outcome 9.

**Proceedings suspended from 5.45 pm to 5.57 pm**

**Senator ABETZ**—I understand that we have developed a no disadvantage test policy guide, which will be implemented by the Workplace Authority.

**Mr Pratt**—The Workplace Authority has developed a no disadvantage test policy guide, and detailed questions about the guide need to be directed to them tomorrow morning. Where we got to with Senator Fisher earlier in the evening was that the Workplace Authority, which is independent from the department, did consult us on some technical matters in relation to the guide but it is ultimately their guide.

**Senator ABETZ**—Did DEEWR have any policy input into the guide?

**Mr Kovacic**—As I indicated to Senator Fisher earlier this afternoon, we provided some technical advice to the authority relating to the Workplace Relations Amendment (Transition to Forward with Fairness) Bill 2008 and the act as it related to the policy guide, but ultimately it was a matter for the Workplace Authority director to determine the policy guide.

**Senator ABETZ**—Just so that we are absolutely clear on this: we will not be told tomorrow by the Workplace Authority: ‘We just implement the guide. Somebody else gave us

this guide as a set of instructions that we have to implement. We have to run the ruler over agreements in relation to this guide’.

**Mr Pratt**—That is correct, Senator. The Workplace Authority would regard the guide as their guide.

**Senator FISHER**—As we have already discussed, the outcome 9 strategy is essentially owned by DEEWR. It is professed that part of that strategy is to assist the government with their process of developing a new workplace relations systems et cetera—of which a fairness test, the no disadvantage test, is a component. I would have thought the government would say that was a key component, and I would have thought DEEWR has a key role in advising the government as part of that process. I think we are entitled to ask DEEWR questions about the no disadvantage test—the actual workplace agreement making guide.

**Mr Pratt**—We have agreed with that.

**Senator FISHER**—Thank you.

**Ms Paul**—You were asking about the guide, which is not our particular product per se.

**CHAIR**—And you have answered those questions, haven’t you?

**Ms Paul**—We did have quite a discussion at the last hearings in particular I think.

**Mr Pratt**—And before the break, or before we went to cross-portfolio, Ms James was answering questions about the legislation.

**Senator FISHER**—I will resume and try and recall where we got to before we went to the break. My question—and I think Ms James was preparing to answer it—was around the no disadvantage test. The minister sought clarification once I had asked my question. My question was: in order for a certified agreement to pass the no disadvantage test, must the no disadvantage test be passed in respect of every employee who is the subject of the collective agreement?

**Ms James**—You asked me a similar question, I think, when this committee considered the bill on 11 March. I might refer to my previous evidence on that matter because what I said then is what I will say now, which is that no individual can be disadvantaged in order for a collective agreement to pass the no disadvantage test. The language of section 346D of the legislation says that the authority director must be satisfied that the agreement would not result, on balance, in a reduction in the overall terms and conditions of employment of the employees.

**Senator ABETZ**—Of the employees plural?

**Ms James**—Of the employees whose employment is subject to the agreement. That comparison is with the relevant reference instrument. As I mentioned to you on 11 March, the language used in that provision is very similar—indeed, almost identical—to the language used in the no disadvantage test that existed in the legislation before Work Choices, and the jurisprudence around that test was that no single employee could be disadvantaged in the case of a collective agreement in order for the agreement to pass the test. So the answer to your question is that every individual employee must not be disadvantaged in order for the collective agreement to pass the no disadvantage test.

**Senator FISHER**—Does that mean that no worker is able to be worse off under a certified agreement which passes the no disadvantage test?

**Ms James**—I think you put a similar proposition to me last time, and last time I said I am not in the business of giving guarantees. I am just setting out the way the law applied before, the way I would expect it to be implemented under the bill and the way in which I understand it is being implemented. Of course, the question of what is going on in individual cases is a matter for the Workplace Authority.

**Senator FISHER**—You will recall that Professor Stewart painted a scenario in which an individual worker may be entitled to shiftwork payments or overtime payments but other workers may not be enjoying those benefits. In his view, with the bill as it was drafted at the time of the Senate inquiry—and I do not think I am misquoting him—an individual worker could have their take-home pay reduced if the no disadvantage test were applied as proposed by the bill.

**Ms James**—You put his evidence to me when I answered the question last time, and my answer remains the same: I do not believe that is the case.

**Senator FISHER**—Let us go back a step. If I recall correctly, the bill was not amended in this respect.

**Ms James**—The bill was not amended in this respect because it was not necessary.

**Senator FISHER**—In your view.

**Ms James**—That is my view and the view of the Australian Industrial Relations Commission in the case of the Salmat Teleservices Pty Ltd Enterprise Agreement 2003. I do not have Professor Stewart's full submission before me at the moment. I do not know how strong he was in putting this proposition, but he did quote from some of his submission:

What neither the section nor the Explanatory Memorandum make clear is whether a collective agreement may be considered to pass the NDT if *some but not all* of the employees it covers are disadvantaged.

According to this transcript, that is what he said. I agree with the point that the EM and the bill did not make it clear in terms of the express words of the legislation, but I am telling you the way that it was interpreted by the Australian Industrial Relations Commission and the way I understand it is being applied by the Workplace Authority.

**Senator FISHER**—To recap: your view is that, if the government's policies are implemented as per the amended act as now it stands, no employee can be disadvantaged by a collective agreement which has passed the no disadvantage test?

**Ms James**—It could not pass the no disadvantage test if the Workplace Authority was not satisfied that no employee had been disadvantaged relative to the reference instruments. In the case of a collective agreement, that would be an award or equivalent instrument. In the case of an ITEA, it would potentially be a collective agreement or, if there is no collective instrument in place, an underlying award.

**Senator FISHER**—If the no disadvantage test is correctly implemented, no worker covered by a collective agreement could have their take-home pay reduced?

**Ms James**—I am not going to comment on take-home pay. The no disadvantage test is a global test, so it considers the sum of the terms and conditions underneath the relevant reference instrument.

**Senator FISHER**—Leaving aside the take-home pay, which is clearly a very important issue to Australian workers, you are saying no Australian worker could have their overall terms and conditions of employment reduced under the no disadvantage test?

**Ms James**—Their terms and conditions of employment as they exist in the relevant reference instrument. It depends on what the reference instrument is.

**Senator FISHER**—Does this mean that, to ensure the outcome that you are attempting to reassure us exists, the body responsible for assessing the no disadvantage test, the Workplace Authority, would have to inquire into the situation of every employee who is covered by a collective agreement? Whilst the test is a global test, would the Workplace Authority have to do this to ensure that none of the workers covered by the collective agreement suffer a detriment?

**Ms James**—I am not going to speculate about how precisely the authority goes about its job from an administrative point of view. That is a question that you will need to put to the authority.

**Senator FISHER**—Fair enough.

**Ms James**—What I will say is that, to be satisfied that a collective agreement passes the no disadvantage test, the Workplace Authority, like the Australian Industrial Relations Commission, is going to need information about work patterns and the entitlements that exist in the reference instrument and work patterns and the entitlements that will exist under the collective agreement that is before them in order to make that assessment. They will need to obtain information to reassure themselves. If the Workplace Authority is unable to be satisfied—to use the language of the legislation—then the collective agreement would not pass the test.

**Senator FISHER**—That is going to be quite some inquiry.

**Ms James**—Again, I will not speculate as to how the Workplace Authority might go about it, but it is precisely the same inquiry as the no disadvantage test that existed in the 1996 Workplace Relations Act until the commencement of the Work Choices reforms.

**Senator FISHER**—I will come back to that. In Budget Paper No. 2, at page 152, is there an allocation of funds to the Australian Industrial Registry for the lodgement of collective agreements?

**Mr Kovacic**—The Australian Industrial Registry does not accept the lodgement of collective agreements. Collective agreements are lodged with the Workplace Authority.

**Senator FISHER**—What is that allocation of funds for?

**Mr Kovacic**—I think it is primarily part of the government's measures relating to Forward with Fairness. I think it is additional resources for the Australian Industrial Registry and the Australian Industrial Relations Commission in respect of award modernisations.

**Senator FISHER**—Ms James, I come back to your comment that it will not be all that different from before. Can you give me a bit more detail about what you mean by that comment?

**Ms James**—Perhaps it will help if I refer back to precisely what I said before. I said the key concepts and words in the current test are the same as in the previous test. The Australian Industrial Relations Commission considered the question of minority disadvantage in its decisions under the previous test. In the case of the Salmat Teleservices Pty Ltd Enterprise Agreement 2003, it determined that the test would not be satisfied if one or more employees would suffer a reduction in spite of the fact that a majority were better off. In the old test, that was a reduction relative to the award and relevant state and territory laws and federal laws. In the new test, it is the relevant reference instrument—slightly different language is used because of the way in which the new system operates. Just to return to what I said before: that is the jurisprudence, if you like, coming from the commission, under the old test. I would expect that approach would be adopted by the Workplace Authority when dealing with collective agreements with the new test.

**Senator FISHER**—If a large retailer has a collective agreement which provides for a young person to work a Thursday night shift and a Sunday shift, will the no disadvantage test have to be passed in respect of that worker as well as a normal full-time employee?

**Senator Wong**—Senator Fisher, I have not intervened until now because Ms James was providing you with responses on the issues you have raised. What you are now putting to her and to the department is essentially hypothetical. I also note that these matters were substantively canvassed in the Senate inquiry on this bill. If the opposition wants to spend its time in estimates traversing the same ground you have already traversed in detail in the Senate inquiry, that is up to you. I do not know that it is appropriate to be putting a hypothetical factual situation to Ms James and essentially asking her for a legal opinion. She has given you evidence about her understanding of the operation of the test in light of the existing jurisprudence and the wording under the legislation. I am not sure we can take it much further.

**Senator ABETZ**—I would like to embark upon a slight change of topic. Is there any information, any studies or any body of evidence that would suggest that labour market reform has been of assistance in reducing the sustainable unemployment rate?

**Ms James**—I think we went into this in quite some detail this morning.

**Senator ABETZ**—Part of the government's mantra has been about productivity, fighting inflation et cetera. There seems to be a fair body of opinion which would suggest that having flexibility in the workplace does help increase productivity and also helps put a damper on inflationary pressures. Is that a view that is generally accepted by the department?

**Mr Kovacic**—I indicated in response to a question from Senator Fisher earlier this afternoon that there is a significant body of research linking collective bargaining with higher rates of productivity growth. I have taken on notice a request from Senator Fisher to table copies of a number of research studies that go to that point.

**Senator ABETZ**—What about the Econtech report commissioned by the department late in 2007?

**Ms Paul**—We discussed that in quite a bit of detail earlier on.

**CHAIR**—Maybe we could get a quick summary, but we have spent a lot of time on that.

**Senator ABETZ**—Fair enough. I accept that.

**Mr Kovacic**—There were two reports that were commissioned in 2007. One report looked at a reregulation of the labour market—and the point I made very clearly was that that report did not model the workplace relations policies of the government as they are currently detailed in *Forward with Fairness*. The other modelling exercise looked at a further deregulation of the labour market—including an increase in the number of employees covered by AWAs from five per cent to 20 per cent and also a decline in the number of people covered by awards from 19 per cent to 10 per cent, among other criteria. Neither of those reports was released by the previous government.

**Senator ABETZ**—If this area was canvassed previously, I will have a look at the *Hansard*. Is there such a thing as a Commonwealth-State Relations Unit? Have you canvassed that?

**Mr Kovacic**—We have not canvassed it. An area was established earlier this year, from the outcome 9 perspective, to liaise with the state and territory governments in relation to the government's substantive workplace relations reforms—in particular, the development of a national workplace relations system for the private sector.

**Senator ABETZ**—Is this specifically referred to in the PBS?

**Mr Kovacic**—Not explicitly. It is a subset of the policy services output under outcome 9.

**Ms Paul**—It is just an area of the department, so it would not have its own line.

**Senator ABETZ**—Has any specific funding been made available to this Commonwealth-state relations unit?

**Ms Paul**—It is just a structural unit within the department. It is staffed by our people.

**Senator ABETZ**—It is part of 'More productive and safer workplaces'?

**Ms Paul**—Yes.

**Senator ABETZ**—That is outcome 9, as I understand it. Is that right? It is on page 134.

**Mr Kovacic**—That is correct.

**Senator ABETZ**—Good. I am on the right page. That is always helpful. Is there a specific unit called the Commonwealth-State Relations Unit within the department?

**Mr Kovacic**—We have a group of people working on issues to do with states and territories around workplace relations reform. I am not sure whether the precise title of that unit is the Commonwealth-State Relations Unit, but I think it is pretty close. That is certainly the idea.

**Senator ABETZ**—Are people tasked specifically with working in that area? Could it be that they might spend half an hour on it and then an hour on something else, or is it a unit specifically devoted to this task?

**Mr Pratt**—Largely their responsibilities relate to dealing with the states and territories on the development of a national workplace relations system, but their work is not exclusively in that area.

**Senator ABETZ**—If it were a specific unit, I could ask about the current number of positions, classifications et cetera. But you telling us it is an amorphous group of people within the department whom we cannot necessarily pinpoint.

**Mr Pratt**—We can certainly pinpoint the people who are working on this predominantly, but as a department we do like to be relatively agile and flexible on these things. For example, the head of the unit is not here currently because he is attending the ILO governing body meeting.

**Senator ABETZ**—From state relations to international relations—it is very commendable that we have this sort of flexibility. Chances are that it is easier to deal in the international forum than with the state governments. I wish him well. I assume it is man?

**Mr Pratt**—That is correct.

**Senator ABETZ**—If we were to do a rough assessment, how many full-time equivalents are dedicated to the task?

**Mr Kovacic**—The unit itself comprises three people. In addition, because of the nature of the discussions with the state and territory officials, we would also bring in subject matter experts from other areas of the outcome. But in a nominal sense there are three people dedicated to the unit.

**Senator ABETZ**—Would the title ‘Coordinator of Commonwealth-State Relations’ fairly describe the person who is specifically tasked with driving this particular agenda?

**Mr Kovacic**—Earlier this afternoon we were discussing the various consultative mechanisms that have been established to take forward the development of the government’s substantive workplace relations reforms. One of those bodies is the High Level Officials Group, which is comprised of a number of officials from the department as well as various state and territory officials. The head of the Commonwealth-State Relations Unit is a key member of the High Level Officials Group. Indeed, his unit provides secretariat support to that group.

**Senator ABETZ**—‘High level’—lovely terminology. What level of the SES is that?

**Mr Kovacic**—The head of the unit is at the SES band 2 level.

**Senator ABETZ**—I would imagine that the secretarial assistance is not an ongoing thing. It would be ad hoc.

**Mr Kovacic**—It is clearly for the duration of the process that we are working on.

**Senator ABETZ**—Sorry, I thought that was just for the meetings that took place.

**Mr Kovacic**—The High Level Officials Group has had either a teleconference or a meeting on seven occasions to date for this calendar year. The secretariat support clearly fluctuates depending on the frequency of the meetings and those sorts of issues.



**Senator ABETZ**—Are these meetings attended just by state government officials and Commonwealth officials, or do those meetings also include other stakeholders?

**Mr Kovacic**—No, it is solely state, territory and Commonwealth government officials.

**Senator ABETZ**—All right, thank you. Has a representative from the minister's office being present at any of these meetings—as in the minister's personal ministerial office, not the department?

**Mr Kovacic**—Not that I am aware of.

**Senator ABETZ**—Take it on notice. If you need to change that answer, let us know.

**Senator FISHER**—How many of those consultative meetings have there been?

**Mr Kovacic**—Seven.

**Senator FISHER**—Since?

**Mr Kovacic**—It would have been after 1 February, when the Workplace Relations Ministers Council agreed to establish the high-level officials group.

**Mr Pratt**—The unit also has looked after bilateral discussions with various states and territories. Not everything has been done multilaterally.

**Senator ABETZ**—Because states under the governance framework, as I understand it, will be able to elect if and how they opt into the national system—is that right?

**Mr Pratt**—That is correct.

**Senator ABETZ**—Therefore, you may need to have bilateral discussions with particular states and territories if they do not necessarily want to go with the national flow.

**Mr Pratt**—Potentially that is the case. I do not want to speculate but, to date, and as I said a few minutes ago, we have also had bilateral discussions with states and territories.

**Senator ABETZ**—Go on, tell us: who are the recalcitrant ones?

**Ms Paul**—I do not think it is a matter of being recalcitrant; it is just a matter of us keeping our connections and working with them on their points of view.

**Senator ABETZ**—If ever you wanted to, I think you could move to the foreign service. That was a very diplomatic and very good answer.

**Mr Pratt**—The decisions to have bilateral discussions with some states have not been based around any recalcitrance. It was that we wanted to talk to each of the states independently, as well as as a group.

**Senator ABETZ**—As I understood, under Forward with Fairness the objective was achieving a truly national system. Is that a correct interpretation of Forward with Fairness?

**Mr Kovacic**—Forward with Fairness provides that a national system for the private sector will be achieved either by state governments referring powers for private sector workplace relations or by other forms of cooperation and harmonisation.

**Senator ABETZ**—‘Or other forms’. So the ‘other forms’ allows the wiggle room for states not to opt into the national system.

**Mr Kovacic**—In terms of how a national system might be created, it could be by virtue of full referral of powers, a text based referral of powers or, alternatively, the various jurisdictions establishing mirror legislation or harmonised legislation. There are a variety of forms through which you could achieve a national workplace relations system for the private sector, and Forward with Fairness certainly contemplates that there is that range of vehicles for doing so.

**Senator ABETZ**—Yes, that is Forward with Fairness, but doesn't the government's framework contemplate the possibility of an individual state saying, 'Look, thanks very much, but I'm not going to be in it.'

**Ms Paul**—I think we have just talked about the whole framework with what we have said.

**Mr Kovacic**—Senator, if I could refer you to the principles that were unanimously endorsed at the most recent meeting of states and the Workplace Relations Ministers Council, one of those principles is consistent with what I indicated a moment ago:

States will be able to elect if and how they opt into the national system, for example by full referral of powers, text based referral, mirror legislation or harmonisation. It will be open to States to include specific issues and/or particular areas in the national system beyond those currently covered, e.g. public sector employees.

This clearly goes beyond the private sector.

**Senator ABETZ**—Yes, but the word 'if' was used. Is that not correct?

**Mr Kovacic**—That is correct.

**Senator ABETZ**—Therefore, does that not contemplate the possibility—'states will be able to elect if they opt into the national system'—that they will potentially be able not to opt in?

**Mr Pratt**—That is correct.

**Senator ABETZ**—That is correct; that is what I thought. If a state decides not to opt in, how does that meld or dovetail in with Forward with Fairness, which had as its objective achieving a truly national system? If we have got a state that decides not to opt in, we are not going to have a truly national system, are we?

**Mr Pratt**—Senator, we will try to find the relevant reference in Forward with Fairness.

**Senator ABETZ**—I do not want to spoil your dinner, but possibly you might like to find that reference over dinner.

**Mr Pratt**—Here it is:

This will be achieved either by State Governments referring powers for private sector industrial relations or other forms of cooperation and harmonisation.

As I understand it, it is the government's intention that a national system for the private sector will be achieved through cooperation and harmonisation.

**Senator ABETZ**—But the governance framework has—

**CHAIR**—I think we will leave it there and ask that question after dinner.

**Proceedings suspended from 6.30 pm to 7.30 pm**

**CHAIR**—Order! The committee will reconvene with questioning under outcome 9.

**Senator FISHER**—I will take up an issue from the budget papers, which is reflective of Forward with Fairness, that:

... the Government is working closely with State and Territory governments to implement nationally consistent workplace relations laws for the private sector.

Am I to understand that the federal government has made a decision to exclude public sector workers from this national system?

**Mr Pratt**—No, Senator. In its documentation, the government has said that it is aiming to deliver a uniform national IR system for the private sector. Of course, the government will be happy if the states choose to include the public sector in the national system.

**Senator FISHER**—To what extent have there been discussions about the inclusion of public sector employees in what might end up being a national system?

**Mr Pratt**—There have been some discussions. Some states have indicated informally that they may be prepared to consider public sectors being covered by the national system.

**Senator FISHER**—In your view, Mr Pratt, what would be the implications of covering the private sector, but not the public sector, in a so-called national workplace relations system?

**Senator Wong**—Senator, I think that question explicitly seeks an opinion.

**Senator FISHER**—Mr Pratt, in advising the government about implementing its quest for a national workplace relations system, what are the options in respect of the public sector? You would be advising the government as to the suite of options in a national system, including the extent to which they can cover the employee population, so what are the options?

**Mr Pratt**—I am not sure that I understand the question, Senator. Clearly, if a state or states decide to refer their powers or to harmonise legislation and it extends to the public as well as the private sector, this creates even more of a national system. It is clearly a positive thing but it will ultimately be up to the states.

**Senator FISHER**—What is the status of discussions with the states about whether or not the public sector would be included in any national system?

**Mr Pratt**—As I mentioned before, the comments from states so far have been informal. They have been made in private in our discussions with them. We have had discussions only with a couple of the states, not with all of them.

**Senator FISHER**—Which states are they?

**Mr Pratt**—I would rather not say. They were private conversations.

**Senator FISHER**—What is the position of the New South Wales government?

**Senator Wong**—We would have to ask them.

**Mr Pratt**—I would have to get the authority of the New South Wales government.

**Senator ABETZ**—I would like to ask a few questions so that we nail this down. Under the governance framework it will be possible for some states to opt out of the national system. Is that correct?

**Mr Pratt**—As read through by Mr Kovacic, on the agreed principles that is the case.

**Senator ABETZ**—Could this extend to organisations that are constitutional corporations as well, if they are, for want of a better term, resident in a particular state?

**Mr Pratt**—Constitutional corporations are part of the federal system already.

**Senator ABETZ**—That is what I thought. Will they be included, whether the states like it or not?

**Mr Pratt**—They will stay in the federal system.

**Senator ABETZ**—Thank you very much.

**Senator FISHER**—In terms of the suite of options for a national system, which may or may not be an opt-out model, where the department advises the government, assume that all states opt in. How would, for example, a text based system of referral leave the enforcement of workplace relations laws in each jurisdiction?

**Mr Pratt**—Those are issues which are still a matter of discussion with the states.

**Senator FISHER**—Is it possible, if not probable, that the enforcement of workplace relations laws would happen, unless you tell me otherwise, through state instrumentalities, for example, through state courts?

**Mr Pratt**—Not necessarily, I would not like to speculate on that.

**Senator FISHER**—In terms of delivering a national system and the goals that the government is putting forward on fairness, and the underpinnings supporting the desirability of a national system; consistency and simplicity—if individual state jurisdictions, state court by state court, were to enforce albeit consistent national laws, is it not possible, probably probable, that there will be differing outcomes due to different application by state courts?

**Mr Pratt**—That is a hypothetical question. The government's policy on the regulation of the new system is pretty clear—they are creating a single independent umpire, Fair Work Australia, to oversee the new system. Any speculation about whether or not state courts might have a role is very much in the realm of hypothetical.

**Senator WATSON**—Will the principles of state law apply?

**Ms Paul**—I think we have already said that these matters are still under consideration and Mr Pratt has gone into the nature of the policy. I think we have answered this question.

**Senator WATSON**—But under the determination state law can apply. That is how I read it.

**Senator Wong**— From recollection, Mr Pratt's answer was that these are matters still under discussion and I think in that context he is not really able to provide a response to the various hypothetical questions that Senator Fisher seeks to put to him.

**Senator ABETZ**—In the meeting that was held on Friday a week ago where a communicate was released, we were told in paragraph 2(b):

... including the freedom to choose whether or not to join and be represented by a union or participate in collective activities.

Does that also extend to being subjected to collective outcomes when you are in a minority?

**Mr Kovacic**—One of the policy issues indicated in Forward with Fairness is the capacity to establish majority support for collective bargaining to overcome a current flaw in the arrangements in circumstances where one party may not wish to bargain collectively. Forward with Fairness envisages Fair Work Australia being able to establish whether a majority of employees wish to bargain collectively, and if so there would be good faith bargaining obligations which will also be established under the substantive workplace relations reforms legislation. So in essence if the majority of employees wish to bargain collectively, an employer would be obliged to bargain in good faith with employees; however, an employer could not be obliged to enter into an agreement based on the policies outlined in Forward with Fairness.

**Senator ABETZ**—I am asking about individual employees, because what it says is ‘the freedom to choose whether or not to join and be represented by a union’. I read that to mean individual employees having that right, and also ‘or participate in collective activities’—I would also think that would only apply to employees. So, I am asking, if an employee decides, I don’t want to be a member of the union, I don’t want to be part of collective activities, there is still the possibility that he or she will have foisted upon them the results of that union and collective agreement whether they want it or not. Isn’t that the position?

**Mr Kovacic**—If a collective agreement is negotiated at a workplace and the coverage of that collective agreement is intended to cover all employees at the workplace, the employee would be covered by that collective agreement—

**Senator ABETZ**—Yes, whether he or she wanted to be covered by it or not.

**Mr Kovacic**—The agreement would cover all employees if the scope of the agreement was such. However, I would mention that Forward with Fairness also envisages that all collective agreements would include flexibility clauses which would enable an employee or employees and an employer to develop specific flexibilities that they may wish to negotiate.

**Senator ABETZ**—Yes, but the point here is that we have had dressed up that employees are going to be given the freedom to choose whether or not to join a union and be represented by a union. They are even going to be given the choice of whether or not they participate in collective activities. But we are not going to give them the choice as to whether they are going to be subjected to the results of that collective activity.

**Ms Paul**—I think Mr Kovacic has answered that for you, Senator, by way of talking about that the essence of the system is a collective bargaining system but that in addition there will be flexibility clauses which will allow an individual to enter into negotiations with the employer.

**Mr Kovacic**—The situation at the moment is that, if there is a collective agreement that applies at a workplace, that collective agreement, if it were to cover the employee, the employee would have no choice as to whether or not he or she was covered by that collective agreement.

**Senator ABETZ**—But previously, had the employer so decided, somebody could have entered into an individual agreement with the employer. Is that correct?

**Mr Kovacic**—There was a capacity, but there was no obligation on an employer to actually agree to an individual arrangement.

**Senator ABETZ**—But now if an individual employee does not want to be part of the union, does not want to be part of the collective activities and does not want the product of those collective activities, they cannot approach their employer asking for an individual agreement.

**Mr Kovacic**—In the transitional period whilst individual transitional employment agreements are available in limited circumstances, there might still be that capacity, but certainly it would only be available for a limited period and in limited circumstances, whereas at 1 December last year the employer had employees on AWAs or the employer was covered by an AWA or it was a new employee and the employer had previously used AWAs.

**Senator ABETZ**—We have had pretty lengthy answers to this but I would have thought it was a pretty obvious assessment that, even if you do not want to be a union member, even if you do not want to be represented by a union, even if you do not want to be engaged in collective activities, you may well still be subjected to the product of those collective activities that have been undertaken by the union.

**Ms Paul**—And I think Mr Kovacic has also said that that is basically the same as it has been, taking the difference in terms of individual agreements—

**Senator ABETZ**—Yes, a very important difference.

**Ms Paul**—But I think Mr Kovacic made a fundamental point, which is that the employer would have had to have agreed. So, if the employer had chosen to strike a collective agreement with the employees and one employee was in the position that you have outlined, it is not necessarily the case that they would be anything other than subject to the collective agreement.

**Senator ABETZ**—But there was that option and possibility, which will now no longer exist.

**Mr Pratt**—As has been pointed out, under the new system, of course, each collective agreement will have a flexibility clause that will still allow for there to be a flexible arrangement negotiated between the individual and the employer.

**Senator ABETZ**—And what will that allow for? Not an AWA by a different name, surely?

**Mr Pratt**—Those are matters which are still being determined through the development of the legislation.

**Ms Paul**—And we have already spoken in this hearing and the previous one about the fundamental difference, which is the nature of the safety net in terms of AWAs versus what Mr Pratt is talking about there.

**Senator ABETZ**—And of course the flexibility that is allowed in the collective agreement; is that where I would find the flexibility clause? Is that right?

**Mr Pratt**—That is correct.

**Ms Paul**—That is what Mr Pratt is talking about now.

**Senator ABETZ**—So this is a bit of a nonsense, isn't it. I do not want to be a member of the union, I do not want to be represented by the union, I do not want to be—

**CHAIR**—Is there a question coming here, Senator? You have asked the same question several times and you have got the same answer.

**Senator ABETZ**—Yes. I do not want the result of the collective activities, and then I am told as an individual employee that, guess what, there might be a flexibility section in my collective agreement. That is hardly likely to cater for the odd man or woman out in that particular workplace, is it? That is the reality, isn't it?

**Senator Wong**—The Labor Party's position on AWAs was fairly well litigated prior to the election.

**Senator ABETZ**—Clearly, clearly.

**Senator Wong**—So, if you want to go to the issues about which our respective parties argued for quite a number of months leading up to the federal election, we can, but I would suggest to you that the Australian people were well aware of what the Labor Party's position was prior to the election, and we make no apologies for the policy and the approach that has been taken in government, which is consistent with that.

**Senator ABETZ**—The Australian people were well aware as to promises on fuel prices, grocery prices and other matters, Minister, but this document to which I am referring is not your policy, it is an agreement between all the governments of Australia, as I understand it, because paragraph 2 is prefaced by saying, 'All governments commit to a uniform and stable national workplace relations system for the private sector built on the following pillars,' and one of these pillars is the one that I have been exploring.

**CHAIR**—Have you got a question?

**Senator ABETZ**—Absolutely.

**CHAIR**—Good. Well, ask it.

**Senator ABETZ**—That is why to try to relate it simply to the election policy is disingenuous by the minister because this is a new development of all the states coming together.

**CHAIR**—So what is your question?

**Senator ABETZ**—Exactly the same.

**CHAIR**—If it is exactly the same, it has been answered three or four times now. Have you got a new question?

**Senator ABETZ**—No, it has not been answered and I think we do need to nail this down. But if it is too embarrassing for you, Chair, we will move on.

**CHAIR**—It is not embarrassing at all, but if you are going to ask the same question time and time again hoping that you will get a different answer, I would suggest to you that you are not.

**Senator ABETZ**—No, I am hoping that I might actually get a responsive answer.

**CHAIR**—Well, ask your question.

**Senator ABETZ**—Thank you very much. What I was seeking to explore was that the flexibility to which Mr Pratt, I think it was, referred, that might or might not exist in the collective agreement, would only be in there as a result of the union that had negotiated that collective agreement agreeing to there being a flexibility clause in it. Isn't that the fact?

**Ms Paul**—Mr Pratt was actually referring to the nature of the policy Forward with Fairness. That was the platform he was coming from.

**Mr Kovacic**—Forward with Fairness states:

Under Labor's new collective enterprise bargaining system all collective agreements will be required to contain a flexibility clause which provides that an employer and an individual employee can make a flexibility arrangement.

The aim of the flexibility clause is to enable individual arrangements which are genuinely agreed by the employer and an individual employee.

**Senator ABETZ**—Thank you. That is very helpful. I was under a misapprehension, and that is why, Chair, allowing these further questions sometimes does help.

**Senator Wong**—Senator, if it assists you, it appears at page 14 of the election policy, the Forward with Fairness policy implementation plan, issued on August 2007.

**Senator ABETZ**—Yes, but I am referring to a document that was issued only on 23 May, Minister, and I was making—

**Senator Wong**—The individual flexibility definition that Mr Kovacic just read out comes from the document I identified.

**Senator Abetz**—sure that the two actually did marry up, and that the terminology was identical to or was deemed to have the same meaning as that in the Forward with Fairness document. We have now had that clarification, and I thank the officials for it.

**CHAIR**—I am pleased that you are now satisfied. Are there any more questions?

**Senator FISHER**—In terms of the individual flexibility clauses, the Forward with Fairness implementation plan says Fair Work Australia will also publish a model flexibility clause to assist employers and employees in workplace bargaining. What progress has been made in the drafting of those flexibility clauses?

**Mr Kovacic**—The President of the Australian Industrial Relations Commission in the context of award modernisation issued a statement on 29 April which addressed a number of issues, including the issue of a draft flexibility clause for inclusion in all modern awards. Part of that statement was to invite submissions or comments from interested parties around that issue. Other issues canvassed in the statement were priority awards and the timetable for award modernisation. The full bench of the commission has been conducting consultations, and individual members of the commission were conducting consultations last week. The commission is required to finalise those issues by 30 June by settling the terms of an award flexibility clause, listing priority industries and finalising a timetable for progressing award modernisation.

**Senator FISHER**—I will go to that list in a minute, Mr Kovacic. I understand that it is intended that the enterprise flexibility clauses will be able to give individual flexibility to vary from the award.



**Mr Kovacic**—The intention is to provide flexibility through flexibility clauses in all modern awards. Again, I take you to the Forward with Fairness Policy Implementation Plan. At page 11, it states:

Under Labor's new system, awards will provide the parameters within which flexibility arrangements can be made under an award flexibility clause. This may include matters such as:

- rostering and hours of work;
- all up rates of pay;
- provisions that certain award conditions may not apply where an employee is paid above a fixed percentage as set out in the award; and
- an arrangement to allow the employee to start and finish work early to allow them to collect their children from school without the employer paying additional penalty rates for the early start.

**Senator FISHER**—Under an enterprise flexibility clause, will a worker be able to agree one-on-one with the boss to cash out annual leave or sick leave?

**Mr Kovacic**—The issue of annual leave is dealt with through the National Employment Standards, and the National Employment Standards are currently in the process of being finalised.

**Senator FISHER**—Will an enterprise flexibility clause allow a worker to agree to cash out annual leave or sick leave?

**Mr Pratt**—We cannot answer that question at this stage because the National Employment Standards have not been finalised.

**Mr Kovacic**—Nor has the award flexibility clause.

**Senator FISHER**—So, subject to the National Employment Standards and to the terminology of the model enterprise flexibility clause, it is possible that items such as annual leave and sick leave could be cashed out?

**Mr Pratt**—We are not saying that. We are not pre-empting what will be in the National Employment Standards and the award flexibility clause.

**Senator FISHER**—What testing will there be of enterprise flexibility arrangements?

**Mr Pratt**—Can you repeat that question?

**Senator FISHER**—Forward with Fairness talks about employees being forced to take it or leave it under AWAs, supposedly. What will prevent take it or leave it flexibility clauses? What testing will there be to ensure that no worker will be required to sign up to an enterprise flexibility clause that leaves them worse off?

**Senator Wong**—I am going to refer you again to page 14, and we can provide you with a copy of our policy if it would assist.

**Senator FISHER**—The policy implementation plan or the other?

**Senator Wong**—The one I referred to previously in answer to questions from Senator Abetz. On page 14:

The aim of the flexibility clause is to enable individual arrangements which are genuinely agreed by the employer and an individual employee.

**Senator FISHER**—So, Minister, are you suggesting that the protection lies in genuine agreement between the employer and employee?

**Senator Wong**—I am simply pointing you to that section of the policy, which sets out the nature of the individual flexibility clause. I think Mr Kovacic and Mr Pratt have answered, as best as they are able, your questions about this. You are putting, with respect, a range of hypothetical questions to them about this which they are not able to assist you with.

**Senator FISHER**—Minister, if the best answer that you can give is that there must be genuine agreement for these enterprise flexibility clauses to be approved, then anyone doing their homework can find an endless list of criticisms of the previous government for talking about genuine agreement between employer and employee being a protection—not the least of which came from your backyard.

**CHAIR**—What is your position there?

**Senator FISHER**—I am happy to hear any other answer about—

**Mr Kovacic**—Perhaps I can refer you to page 12 of the policy implementation plan where it talks about flexibility clauses in respect of modern awards:

The clause must be as simple as possible for an employer and employee to understand and implement—and this is the important bit, given the questions you have just asked—

and will be subject to the genuine agreement of the employer and employee without any coercion or duress.

**Senator FISHER**—How will that be tested?

**Mr Kovacic**—These are issues that are subject—

**Senator FISHER**—And assessed?

**Mr Kovacic**—They are currently in the context of developing the substantive reform legislation.

**Senator ABETZ**—In this communique on 23 May, in subparagraph (e), we were also told that one of the pillars that this new national workplace relations system was going to be built on was protection from unfair dismissal. Forgive me for asking what that actually means, because there is a difference between protection from unfair dismissals as blandly stated there and that which we were told in Forward with Fairness—that there were certain exemptions. Are we talking about one and the same thing here as what was in Forward with Fairness, or not?

**Mr Pratt**—Can I draw your attention to paragraph 1. The principles identified in attachment A are a subset of that point, which is that:

All governments endorse Forward with Fairness as providing the basis of a modern, fair and flexible workplace relations system.

So each of these things refers back to Forward with Fairness.

**Senator ABETZ**—Completely—word for word, every comma?

**Ms Paul**—This is a series of principles that ministers have signed up to. Mr Pratt said that each one of these principles, which is phrased as a pillar, falls under the auspices of Forward with Fairness.

**Senator ABETZ**—If that is the case, what you are really telling us is that paragraph 2 is otiose. Is that right? They could have just said, ‘All governments endorse Forward with Fairness as providing the basis of a modern fair and flexible workplace relations system.’ Why do we have enumerated seven special pillars in paragraph 2?

**Ms Paul**—Presumably because all ministers responsible for workplace relations in this country decided to express their joint view about what the particular pillars might be.

**Senator ABETZ**—If we are just adopting Forward with Fairness holus-bolus, there is then no need to detail particular issues. That is why I am seeking clarification on this. Mr Pratt, you are telling us that basically all the states have signed on to all the principles and policy elements of Forward with Fairness?

**Mr Pratt**—Paragraph 1 is fairly clear that governments are endorsing Forward with Fairness as the basis for this system.

**Senator ABETZ**—As the basis, yes.

**Mr Pratt**—The items identified in paragraph 2 are key elements of Forward with Fairness.

**Senator ABETZ**—All of them? Are you saying that there are seven key elements in Forward with Fairness?

**Ms Paul**—All we are saying here is that these are the areas that the ministers decided that they would express a joint view on as being important pillars. It is clearly their view that they want to express.

**Senator ABETZ**—They are either all—as Mr Pratt suggested to us—in heated agreement with Forward with Fairness as the basis, or they are cherry picking through Forward with Fairness and setting them out in seven subparagraphs. That is what I am trying to get a handle on. If this communicate is all verbiage and it could have finished at the end of paragraph 1, that is fine. Tell us that. Or is there special meaning in all the other paragraphs that follow?

**Ms Paul**—Clearly all workplace relations ministers in Australia felt there was some usefulness in spelling this out. It was their choice. We probably cannot take that any further. It is not our document; it is a document that has been put out by all the ministers.

**Mr Pratt**—If we go back to what the objective of this document is, it is an expression of the principles that the governments have signed up to in terms of negotiating the development of a national system for the private sector. I do not think you can read any more into it than that.

**Senator ABETZ**—Whereabouts in *Forward with fairness* do I read that states should be given the opportunity of opting out?

**Mr Pratt**—At the end of paragraph 4, on page 6, of the original *Forward with fairness* document, it says:

This will be achieved either by State Governments referring powers for private sector industrial relations—

**Senator ABETZ**—Sorry, which paragraph is it on page 6?

**Mr Pratt**—The fourth one.

**Senator ABETZ**—Oh yes:

This will be achieved either by State Governments referring powers—

**Mr Pratt**—And further:

... or other forms of cooperation and harmonisation.

**Senator ABETZ**—What other form of cooperation and harmonisation do you envisage if a state government uses the opportunity afforded to it—that is, it elects not to opt into the national system?

**Mr Pratt**—Harmonisation suggests to me that it is done cooperatively, rather than the Commonwealth government imposing it.

**Senator ABETZ**—Yes, but in paragraph 3 we are told that states will be able to elect if and how they opt into the national system, and then we have a few examples. It leaves the door open for them to say, ‘Enough is enough. Our discussions have failed and we are not going to go into the national system. We are going to go it alone.’ That is right, isn’t it?

**Mr Pratt**—That is correct. We agreed that before.

**Senator ABETZ**—Where was that countenanced in Forward with Fairness?

**Mr Pratt**—My reading of this paragraph, including where it says that Labor will work cooperatively with the states to achieve national industrial relations laws for the private sector, implies rather strongly that it is going to be done through cooperation rather than through imposition. That is not inconsistent with paragraph 3.

**Senator ABETZ**—If cooperation fails, we are not going to get a truly national system, which we are told earlier on is a critical economic reform for our nation’s future.

**Ms Paul**—We have already addressed the issue several times as to whether the states can opt in, and the answer is yes.

**Senator ABETZ**—So they can opt in but they do not have to opt in. If they do not opt in, we do not have a truly national system. Is there any fault with my logic there, Mr Pratt?

**Mr Pratt**—I choose not to comment on your logic, Senator.

**Senator ABETZ**—Minister, is there any fault with my logic there?

**Senator Wong**—With respect, Senator, it is a fairly long bow. The evidence that you have been given is that the government is working cooperatively with the states on these issues. You have the governance framework and proposed principles, which is a public document. You have asked many questions about that. I think to draw the officers into a hypothetical about what may or may not happen, given that these things are still the subject of negotiation and discussion between the Commonwealth and the states, is really not going to take us very far.

**Senator ABETZ**—I think it does because this communique specifically re-countenances the possibility of states not opting into the national system.

**Ms Paul**—We have already addressed that.

**Senator ABETZ**—That is right, they can. Minister, do you think it is appropriate for officials of the department to have such a good working knowledge of a Labor Party document?

**Ms Paul**—We have to, if I may say, because it is the basis of the policy work we do.

**Senator ABETZ**—And you need a very good working knowledge of that document—

**Ms Paul**—As we always have had—

**Senator ABETZ**—to help advise people like me—when I got something a bit wrong earlier on, you set me straight—and ensure that what the department implements is part and parcel of the government's election platform so that you are true to the election platform.

**Ms Paul**—We serve the government of the day, as you know, Senator.

**Senator ABETZ**—Minister and Ms Paul, that was no reflection on this department—in fact, I welcome it. It has been suggested to me in the roads and transport portfolio that it would be highly inappropriate for departmental officials to access the Labor Party's website and get the roads policy for the last election. When you have cabinet discussions, Minister, you might like to indicate the helpfulness that officials can provide at Senate estimates when they are across these election issues and are able to assist the committee with this sort of information. Whilst my questions were dealt with somewhat defensively, I indicate that there is no criticism of the way the department has handled itself here. I welcome the fact that they are across the detail of the election policies. It would be nice if some other departments were also.

**CHAIR**—Are there any more questions on outcome 9?

**Senator FISHER**—Mr Kovacic, you referred to the list of priority industries in terms of award modernisation and that there have been 19 nominated. How was that list determined?

**Mr Kovacic**—My understanding is that that was a list developed by the President of the Industrial Relations Commission following consultations with the Australian Chamber of Commerce and Industry, the Australian Industry Group and the Australian Council of Trade Unions.

**Senator FISHER**—Was the list agreed between all those participating in the consultations?

**Mr Kovacic**—I am not aware, because the Commonwealth was not involved in those consultations. But I would presume, given the fact that the president—through the statement that I referred to previously—has invited comment on the list of priority industries, that it is certainly not done and dusted, if I can put it that way.

**Senator FISHER**—So there could well be changes to the list?

**Mr Kovacic**—That is a natural assumption based on a consultation process which invites comments on the list of priority industries. But whether that will eventuate or not I have no idea.

**Senator FISHER**—What involvement will the department have in the award review process?

**Mr Kovacic**—It is a process that is being driven by the Australian Industrial Relations Commission. Certainly, the Deputy Prime Minister initiated that process through the issuing of an award modernisation request, which is clearly the key level of involvement of the government to date in the award modernisation process.

**Senator FISHER**—What involvement will the department have in progressing the review of awards?

**Mr Kovacic**—That is an issue that is still a matter of consideration. It is not settled at this stage if there is to be any role for the department at all.

**Senator FISHER**—Has DEEWR allocated any staff to the project?

**Mr Kovacic**—We have been following up the issuing of the statement. Beyond that, most of our work has been in the provision of advice to the Deputy Prime Minister more broadly around the issue of award modernisation.

**Senator FISHER**—How often are you briefing the minister on the award modernisation project? How often are you advising her?

**Mr Kovacic**—That probably goes to the nature of advice that we provide.

**Senator FISHER**—I do not think so. You have just indicated to me that you are briefing her on that issue, and I am asking you how often.

**Mr Kovacic**—I would indicate that that goes to the nature of the advice we have been providing to the Deputy Prime Minister.

**Senator FISHER**—I do not think so. You have indicated that you are providing the minister with information about the review. I am asking you how often.

**Mr Kovacic**—I have to take that notice.

**Senator FISHER**—Is the Prime Minister's office being kept informed of the progress of the award review task?

**Ms Paul**—That would be a matter for the Deputy Prime Minister's office. I think we said before in response to a similar question: where relevant, we liaise with the Department of the Prime Minister and Cabinet.

**Senator ABETZ**—Yes, but can the minister take it on notice and ask her colleague how often? That would be appropriate. I understand the department should not and cannot, but the minister can.

**Senator Wong**—What is the question?

**Senator FISHER**—The question is: how often? It is a twofold question. Mr Kovacic indicated the department would take on notice the first question: how often is the department briefing the Deputy Prime Minister on the award review project? The second question, which we are asking you, Minister, to take on notice, is: are the Department of the Prime Minister and Cabinet and/or her office being briefed as to the progress of the award review?

**Senator Wong**—In relation to the first part of that two-pronged question, questions about whether the Department of the Prime Minister and Cabinet is briefed I presume the department can respond to. In relation to discussions with the Prime Minister, I suppose what I would ask is: what is the relevance of that? This is clearly an area where government is going to have discussions. Do you really consider it to be in the public interest for you to know every single time the Deputy Prime Minister of Australia speaks to the Prime Minister about these issues?

**Senator FISHER**—No, but—

**Senator ABETZ**—Yes, absolutely.

**Senator Wong**—I will take that on notice.

**Senator ABETZ**—Thank you. If she has not spoken once to him about it, that would be within the public interest. If she has had a hundred discussions with him about it, I would have thought that would also be within the public interest. And we will be the arbiter of whether we think it is of interest to ourselves.

**Senator Wong**—With all due respect, I do not think it would be a state secret that ministers might talk to the Prime Minister about matters in their portfolios.

**CHAIR**—The question has been taken on notice.

**Senator ABETZ**—Charter letters were a state secret. They still are.

**CHAIR**—The question has been taken on notice. Are there further questions?

**Senator BOYCE**—I have some questions around the small business work and family grants program, which provides \$12 million over three years to assist small business to help meet the set-up costs of family-friendly working arrangements. The media release related to this that came out from Minister Gillard's office in May says:

As part of the \$12 million commitment, the program will provide grants of \$5 000 to \$15 000 to small businesses ...

Could someone tell me which part of the \$12 million will actually be going to small businesses as grants?

**Mr Maynard**—Certainly, Senator. If you have a copy of the PBS handy, I can walk you through that detail. Page 28 of the 2008-09 PBS identifies the 'Work and family support for small businesses' as a new expense measure. You will see in the 'Total' line \$3.6 million, \$3.965 million and \$4.397 million, making up the \$12 million. There is a departmental component which is part of the \$12 million.

**Senator ABETZ**—Sorry, could I have some assistance? Are we on page 28?

**Mr Maynard**—Page 28, yes—'Work and family support for small businesses'. It has two components identified there: the administered component and the departmental component. The departmental provides us with funding for the department to administer the program. The administered, for this coming financial year, is \$3.208 million. If I might take you—

**Senator BOYCE**—So \$3.2 million will go to small business?

**Mr Maynard**—I will take you to page 136. Under the administered items, next to the second last of those—‘Small Business Work and Family’—is \$2.313 million. That is the grant amount—the amount that will go to small business. In addition to that, the line above it says \$895,000. Those two amounts combined will amount to the \$3.2 million in the administered bucket. So we have \$895,000 next financial year to promote the scheme, to promote the outcomes of the grants, to identify best practice and promote that to industry and to provide industry-specific ideas for small business, which may then implement that in their own workplace.

**Senator BOYCE**—So we have \$2.313 million actually going to small businesses.

**Mr Maynard**—In this coming financial year, that is correct.

**Senator BOYCE**—In the coming financial year. My last figures suggest that there are about 1¾ million small businesses in Australia. Have you got a more recent figure on that?

**Mr Maynard**—No, I have not.

**Senator BOYCE**—It is not very much each, is it? When I look at the minister’s media release, it appears to be a cut and paste from Labor Party policy on the issue of fresh ideas for small businesses. Was there any consultation at all with small business from the time of the election to the time of this announcement?

**Mr Maynard**—I am sure there would be regular consultation between the DPM and many stakeholders. In relation to this particular program, we are in the process of preparing the administrative arrangements to support it. It commences next financial year, and that includes consultation with small business areas within the department of industry and with state governments and, I would have to say, through any other forum that is appropriate.

**Senator BOYCE**—So you will be consulting with small business now about giving them this \$2.3 million for family-friendly workplace practices.

**Mr Maynard**—It would be to make sure that the administration associated with this program is as simple and efficient as possible so that those who come up with the ideas to warrant granting of \$5,000 to \$15,000 per business are able to do so in an efficient way.

**Senator BOYCE**—Can we now go back to the 1¾ million small businesses in Australia. As far as I am aware, exactly 33⅓ per cent are run by women. Is that correct as far as the department is aware?

**Mr Maynard**—I have no data which would suggest that was correct or incorrect.

**Senator BOYCE**—And 40 per cent of employees in small business are in fact women. Can we confirm that or not?

**Mr Maynard**—I will take your advice.

**Senator BOYCE**—The point of the \$5,000 to \$15,000 is to give small businesses the opportunity to establish rosters based on school terms and alternative core hours—to work out how to employ people between, for example, 10 am and 3 pm; to develop workplace policies on unpaid leave for carers or workers who have a child with a disability or other special needs; to provide facilities such as family rooms for employees with young children; and to set up workplace mentoring. Presumably this applies to all small businesses, irrespective of



the number of staff they have. Given that, would someone please comment on why you would pick small business—which is, according to the Equal Opportunity for Women in the Workplace Agency, one of the most flexible places, for women with children especially, to work. Why would we pick this as the area without consulting the people that you would be providing it to?

**Ms Paul**—I think we have already said that there was probably quite a bit of contact. These areas actually respond to some of the themes which come through in some of the interactions with small business.

**Senator BOYCE**—Has there probably been consultation, or has there been consultation?

**Ms Paul**—I do not think we have undertaken formal consultation; I think we have said that. I am simply making the point that these points about rosters and so on are quite common themes when we deal with small business. I think Mr Maynard has also talked about the consultation we are now going to go into as well.

**Senator BOYCE**—So now that we have the program pretty much set in concrete we are going to ask people if that is what they want. How many responses have there been about this program from small business? I presume, if it is starting on 1 July, and given that there is a pretty small pot of money and a lot of small businesses, that a lot of people have been inquiring about how to get themselves on the list, what the terms of reference are and what the application forms look like.

**Mr Pratt**—No.

**Ms Paul**—This was an election commitment. It even says in the media release, which you no doubt have:

... will be progressively introduced from July 2008 when small businesses will be able to apply ...

The question you are asking now will actually be better answered after 1 July. I would not expect there to have been much inquiry so far because it says here quite clearly what the time frame is. When we next meet, for example, I imagine there will be quite a bit more to say on that range of questions which you raise.

**Senator BOYCE**—Except that, as you point out, it was an election commitment and small business, which tends to be looking for every assistance it can get from the government, has been aware of this since November. One imagines that there would have been some queries about this if this was something that small business was looking for. I presume that you have had some input from small business regarding the end of the \$700 million Commercial Ready project and the end of the small business officer projects that were stopped in the last budget. Has small business commented to the department about those?

**Mr Pratt**—That is not something we can comment on; that is the responsibility of another department.

**Ms Paul**—It is not in this portfolio.

**Senator ABETZ**—I can indicate to Senator Boyce that, if Senator Carr was not aware of the community reaction, he is as a result of today's Senate estimates.

**Ms Paul**—That is right. It is in Minister Carr's portfolio.

**Senator ABETZ**—Yes.

**CHAIR**—We will not deal with it here.

**Senator BOYCE**—So it has been dealt with?

**CHAIR**—Not here.

**Senator BOYCE**—No, but dealt with.

**CHAIR**—It may have been

**Senator BOYCE**—What we have got here really is \$12 million over three years replacing about \$800 million—but anyway let us go on.

**Senator Wong**—Hang on, Senator. I cannot let that—

**Senator BOYCE**—What we have is the—

**CHAIR**—No, no, Senator Boyce, you have put a proposition and the minister is now going to respond to that.

**Senator ABETZ**—Now the minister does want to comment?

**CHAIR**—It is already programmed.

**Senator ABETZ**—We welcome this discussion.

**CHAIR**—If people are going to make speeches and make comments, then there is going to be the appropriate response and I am going to allow that.

**Senator ABETZ**—Good.

**Senator BOYCE**—Happy to—

**Senator Wong**—Senator, I think that to try for political purposes to utilize this program, which I remind you is a program where people can apply for grants—small businesses can apply for grants—and to try to correlate that with decisions that may or may not have been made in another portfolio is really a very long bow. If you want to compare—

**Senator ABETZ**—It is not—

**Senator Wong**—No, just let me finish—let me finish.

**Senator BOYCE**—Let her finish.

**Senator Wong**—If you wanted to do that my suggestion is that you should go and talk to the other committee about your views about particular expenditure decisions or policy decisions or reprioritising what the government is undertaking, but clearly this is not the only thing. The implication of your proposition is that this is somehow the only other thing that government is doing for small business and that is simply not the case.

**Senator BOYCE**—When you look at the policy from which the minister's media release was taken, the last comment in this policy says:

With the right encouragement and support, small businesses can be endlessly creative about the means of driving change. By facilitating change and creating the incentives for change, Federal Labor's fresh approach will help Australians balance work and family life.

I am just concerned that, whether they want it or not, apparently the encouragement and support that small business is going to get is a \$3 million a year program. I am just wondering how any business, when you have nearly two million businesses and \$3 million to dole out a year, can help anybody be endlessly creative about the means of driving change.

**Ms Paul**—This is a new program, Senator. We did not have any program like this in the past and so this is all new money and a new approach for small business. As the minister said small business will be able to apply for grants, which they have never had access to before, to undertake some innovation in their practices about balancing work and family.

**Senator BOYCE**—I concur. I think small business in Australia is fabulous at creatively driving change. It is just a shame they are not asked what sort of change they would like.

**CHAIR**—Let's move on to questions and answers.

**Senator Wong**—Senator Boyce, I just want to remind you of what the department said—I think Ms Paul said—about this being a new program. In other words, it is not that we are replacing a program that your government had in place on this front; this is new money to assist in the manner that is outlined in the Deputy Prime Minister's media release.

**Senator BOYCE**—Thank you.

**CHAIR**—Let's move on into questions and answers.

**Senator ABETZ**—How does small business find out about this scheme?

**Mr Maynard**—Part of the allocation to next financial year will be \$895,000 to promote the scheme. That would include through industry associations and a variety of other means. We are dealing with the department of industry looking for mailing lists and the like to promote the scheme and to get the information out there.

**Senator ABETZ**—This would not be government advertising, would it? I just would hate to think that this would fall into that sort of category. This is what? Actual promotion of a government's program is it?

**Mr Maynard**—There would be some advertising in that—

**Senator ABETZ**—As well.

**Mr Maynard**—We will be taking out press ads to promote the fact that people will be able to apply for grants

**Senator ABETZ**—All right. So this will be public money expended to promote a government's program. I wonder where I have heard that happening before. But can I ask, in relation to that—and I do not object to these things but I am just not hypocritical about these things, that is all, and that is the difference.

**Senator Wong**—I doubt that it will add up to \$137 million, which, from memory, is what your government spent on Work Choices.

**Senator ABETZ**—Chances are not on a \$2 million program. It is a program of \$12 million over three years, and the \$895,000 is coming out of the \$12 million?

**Senator STERLE**—Just don't talk about the mousepads. I think I mentioned it, but I might have got away with it.

**Mr Kovacic**—Senator Abetz, it would be to advertise how people apply for funding, to inform people that there are funding grants available and where they actually get the documentation to apply. It would be informing people how they could access the program.

**Ms Paul**—That is a direct answer to your question. You asked how small business will learn about the program, and that is what we are answering.

**Senator ABETZ**—That was ages ago.

**Ms Paul**—Well, that is the answer.

**Senator ABETZ**—I have since asked whether the \$895,000 comes out of the \$12 million.

**Mr Kovacic**—Yes, it does.

**Senator ABETZ**—Thank you very much. I have nothing but support for governments promoting programs that are designed to assist people, but I remember there was an occasion where all these matters were all added up, and it is just very interesting seeing the different standards—or in fact the same standard now, but the different standard from opposition to government.

**Senator Wong**—I am sorry, Senator; what is your point? You were equating \$895,000 with \$137 million—is that the point you are making?

**Senator ABETZ**—No.

**Senator Wong**—I am having difficulty understanding the point you are making.

**Senator ABETZ**—Minister, you are very droll. You and your party went around at the last election complaining about the totality of the government's advertising expenditure and you even used little sums like we have before us today to add up to the total global figure. Then Mr Rudd went around the country saying, 'This global figure could have been spent on a hospital or on a road,' or whatever.

**Senator STERLE**—Chair, is there a question here?

**CHAIR**—Based on the same position I took earlier, a position was put for the minister and I am happy for the senator to respond, but I would rather us all get back to questions.

**Senator ABETZ**—I think that is a great idea. It is not often I agree, but I think on this occasion I might be forced to agree with you. Will people who might be described as 'home workers' be able to apply for the support for small businesses?

**Ms Paul**—This program is for small businesses to apply.

**Senator ABETZ**—Yes, and would you classify home workers as being potentially independent contractors and people that might fall into this category?

**Mr Maynard**—On the face of it, there is a potential for home workers to put forward a case for a grant.

**Senator ABETZ**—But of course the home workers committee has been given \$4 million already—is that correct?

**Mr Maynard**—That is correct.

**Senator ABETZ**—Just remind me—does the home workers committee operate out of the same building as the TCFUA?

**Ms Paul**—We actually answered a series of questions earlier on today about the money for that committee. We went through the membership of it, which we could revisit if you wish, which was quite broad ranging. The committee has been in place since 1999, I think, or something like that, with the same form. Whom they share premises with I cannot comment on; I do not know. But we did go to the nature of that program which is to support—in brief, because we did canvass this earlier—their campaigns. I think they have a No Sweat Shop campaign.

**Senator ABETZ**—But the project officer is actually the media officer for the TCFUA.

**Ms Paul**—I could not comment on that. We went through the membership, which was quite broad ranging, of the committee earlier today.

**Senator ABETZ**—Isn't the department making \$4 million available to this committee?

**Mr Maynard**—Over four years, yes.

**Senator ABETZ**—And the department cannot tell me who the project officer is?

**Ms Paul**—The project officer is not receiving \$4 million; the committee is.

**Senator ABETZ**—Yes, I know that.

**Ms Paul**—We went through the nature of the committee, which has been the structure of the committee since, as I understand it, perhaps 1999.

**Mr Maynard**—It was 1998 when the committee was first established. It has representatives from employee associations, employer associations, the community sector and a variety of individual businesses.

**Senator ABETZ**—Thank you for that but I did not ask about that. I wanted to know whether the project officer is the media officer for the TCFUA.

**Mr Kovacic**—We would have to take that on notice.

**Senator ABETZ**—Does somebody have that information? I think they might.

**Ms Paul**—I would be surprised if we did. I think we will need to take that on notice.

**Mr Maynard**—Our dealings with the committee have been with an officer in their role as the committee representative. What they do in other aspects of their life is not something that we have enquired into.

**Senator ABETZ**—That roundabout answer suggests to me that you do know the answer, but you are not—

**Ms Paul**—I do not think it suggests anything of the type.

**Mr Maynard**—No. We have undertaken to take it on notice.

**Senator ABETZ**—Yes, if you can take that on notice that would be very helpful, because this is \$4 million worth of taxpayers' money. Can you tell us how often this committee meets?

**Mr Maynard**—We have already taken that on notice this morning. Could I just take you back to the other program that we were discussing, the Small Business Work and Family

Grants program. I am advised that sole traders would not be eligible for assistance under this program.

**Senator ABETZ**—Sole traders will not be. All right; thank you for that.

**Senator FISHER**—In respect of the Small Business Work and Family Grants program, for the purposes of the grant, what is the definition of ‘small business’?

**Mr Maynard**—It is in the order of—and there is some flexibility here—businesses with approximately 20 or fewer employees.

**Senator FISHER**—Approximately 20 or fewer employees?

**Mr Maynard**—There is flexibility here, so it may be, subject to the specific case, that there could be a larger number of employees. Let’s take a very simple example; if they were all part-time employees then we would take that into account and there would be some flexibility. It is not a hard and fast rule that if you have 21 employees you are out. We would be—

**Senator FISHER**—That seems somewhat at odds with the government’s proposed definition of ‘small business’ in respect of unfair dismissal measures. What might be the rationale for the difference?

**Mr Maynard**—The criteria that we are proposing to apply to this particular grants program are still being finalised, and that is our current thinking, that it is in that order.

**Senator FISHER**—You indicated that there would be some flexibility around the number. Will the same flexibility be applied to whatever is the number in respect of an unfair dismissal regime?

**Mr Kovacic**—That is yet to be determined.

**Senator FISHER**—Has the department advised the minister how many employees are expected to benefit from this measure? Coming off the back of Senator Boyce’s questioning about the percentage of women in small business and reasons why women already enjoy working in small business, has the department advised the minister on how many employees—

**Ms Paul**—Are you asking whether we have offered advice or would you like us to try to answer your numerical question? We cannot go to the nature of the advice.

**Senator ABETZ**—Whether you have given advice, you can tell us—

**Ms Paul**—Yes, I am just asking the senator to clarify her question.

**Senator FISHER**—That was my question.

**Ms Paul**—Have we offered advice?

**Senator FISHER**—Yes. How many employees are estimated to benefit from this measure over the period of the entire allocation?

**Mr Pratt**—We will take that on notice.

**Senator FISHER**—So you do not know whether or not you have advised the minister as to that?

**Mr Pratt**—There are two aspects to that. I think we need to determine whether or not we have provided advice of that sort, and the other aspect is whether or not the question as phrased in fact requires us to give an indication of what we have advised the minister.

**Senator FISHER**—Well, my question is not about the latter but it is about the former.

**Senator Wong**—He has taken it on notice, Senator.

**Senator FISHER**—What analysis or investigations has the department undertaken to determine whether this program will be effective in any way?

**Mr Pratt**—The program is yet to be introduced. As the Deputy Prime Minister's media release—

**Senator FISHER**—It is announced; you have talked about the funding for it.

**CHAIR**—Senator Fisher, let Mr Pratt answer your question.

**Mr Pratt**—As the Deputy Prime Minister's media release makes clear, it is going to be progressively introduced from July 2008 and the full program will be up and running from 1 January 2010, so we are still in the process of developing this program.

**Senator FISHER**—So it is going to be introduced. As Senator Boyce indicated, you will consult with small business about a program that has already been determined. The department, it would appear, has not done any analysis or investigations about the effectiveness of it; yet it is going to be introduced.

**Mr Pratt**—I am not sure that I would agree with that point.

**Senator FISHER**—If you have done it, I would be interested to hear that you have done it.

**Senator Wong**—Mr Pratt has taken that question on notice and it is not unusual—and I am sure you would know this, having been through a number of estimates committees—for governments to make budget decisions in relation to which guidelines are subsequently developed. That is not uncommon. As I understand the evidence, the guidelines are yet to be developed. Mr Maynard, quite helpfully—that was more helpful than he might otherwise have been—has given you an indication of what the department's current thinking is.

**Senator FISHER**—Indeed.

**Senator ABETZ**—But I just wish you had not been so critical when we did things like that, Senator Wong. That is the purpose of these questions.

**Senator Wong**—We are spending a lot of time on questions about a \$12 million program which is designed to provide grants to small businesses to assist them to implement practices to help employees balance their work and family obligations.

**CHAIR**—Are there more questions?

**Senator FISHER**—Yes, there are.

**CHAIR**—Well, proceed with questions.

**Senator FISHER**—This is all within the context of a Prime Minister who has talked about the development of evidence based policy.

**Senator ABETZ**—Like alcopops.

**CHAIR**—I suppose you have the same choice to block this as you will with alcopops.

**Senator FISHER**—In answer to an earlier question from Senator Boyce, you commented on whether or not small businesses had sought this program. Can you remind me of your response to that question? Has small business sought assistance from the government?

**Mr Kovacic**—I think Senator Boyce's question was as to whether there had been any inquiries post the budget announcement of this measure.

**Senator FISHER**—I stand corrected. Had small business sought assistance of this sort—these two different sorts?

**Ms Paul**—If you are asking the other question, this is an election commitment, so we would not necessarily know the approaches which small business made to the then opposition prior to the election. In terms of your point about effectiveness, the full program will not be up and running until 1 January 2010. Effectiveness normally would go to evaluation, and a program like this would have some sort of evaluation to it, but that will be worked out between now and 2010. That is not something which you would expect to be in place yet.

**Senator FISHER**—The criteria upon which you would perform that evaluation you would expect to be determined at the outset, surely.

**Ms Paul**—We are hardly at the outset yet. The outset is from July 2008. The program is up and running from 1 January 2010. Between now and then, yes, we will be working on the evaluation strategy and we will be most happy to report to the committee as we go through.

**Senator FISHER**—We look forward to it. How was the amount of funding determined?

**Ms Paul**—This was an election commitment.

**Senator FISHER**—The \$12 million was as well?

**Ms Paul**—Yes.

**Senator ABETZ**—Clearly evidenced based.

**Senator FISHER**—Hear, hear. It is a tragedy, Chair. It is a tragedy.

**CHAIR**—It is a tragedy all right.

**Senator FISHER**—I have one further question in the context of award modernisation.

**CHAIR**—If we are moving on, I have some questions on a different issue. We will give the government a chance for a little while while you collect some documents.

**Senator FISHER**—Certainly.

**CHAIR**—I am just wondering whether the department has quantified the cost to business caused by the delays in processing workplace agreements under the fairness test and the creation of the backlog of over 100,000 agreements.

**Mr Kovacic**—Not that I am aware of.

**CHAIR**—You have not done any costing for small business?

**Mr Kovacic**—Not that I am aware of.



**CHAIR**—Did the department quantify the cost to business of the delay in announcing the fairness test and when the Workplace Authority could commence processing agreements, which was only after the passage of the relevant legislation?

**Mr Kovacic**—Not that I am aware of.

**CHAIR**—Are you quantifying those costs? Did the department ever quantify, assess or model the impact of the requirement that employers must provide a Work Choices propaganda fact sheet to all of their employees?

**Mr Kovacic**—No.

**CHAIR**—You did not? Was any funding set aside for the prosecution of employers who failed to provide the fact sheet and were therefore in contravention of the Workplace Relations Act?

**Mr Kovacic**—That is a question you should direct to the Workplace Ombudsman.

**CHAIR**—Thank you; I will. Can you tell me how many fact sheets were distributed?

**Mr Kovacic**—The fact sheets were distributed by the Workplace Authority, so I think that question is better directed to the authority.

**CHAIR**—Okay. Are you aware of any impact the fact sheets had?

**Mr Kovacic**—Again, that is probably a question that you should direct to the authority.

**CHAIR**—What sanctions are being imposed against noncomplying employers?

**Mr Kovacic**—Again, that is a question that should be directed to the Workplace Ombudsman.

**CHAIR**—Did the department's marketing or communications department have input into the development of the fact sheet content?

**Mr Kovacic**—Yes, together with the policy and legal areas of the department.

**CHAIR**—Can you outline that input?

**Mr Kovacic**—In essence, it was to ensure that the document was user-friendly, for want of a better description. It built on focus-group work and research on the workplace relations fact sheet. It was intended to ensure that the fact sheet was not only technically correct but also user-friendly and would be able to be understood by those who it was directed at. But ultimately the Workplace Authority director was responsible for determining the fact sheet content.

**CHAIR**—Can you tell me how much that input cost?

**Mr Kovacic**—I would have to take that on notice.

**CHAIR**—Did the department ever conduct modelling on the economic or social effects of the Work Choices legislation?

**Mr Kovacic**—There was some modelling conducted in 2005. The department commissioned the Centre of Policy Studies at Monash University to model the impact of some aspects of Work Choices, such as changes to unfair dismissal laws, moving to a national system and changed wage-setting arrangements. The department received that final report

from the Centre of Policy Studies in October 2005. However, the report was never publicly released, in short, because the conclusions drawn in the report were considered likely to be misleading for several reasons, including that the consultants oversimplified key aspects of the reforms and overlooked or misinterpreted key aspects of the reforms and/or their impact.

**CHAIR**—Is that answer consistent with previous answers you have given this committee in respect of that question?

**Mr Kovacic**—The first occasion that it was raised, I think, was at a November 2005 estimates hearing, which was shortly after we had received the actual report. I referred to the fact that we had received that report. There were subsequently a number of questions taken by us which sought access to the report. The report was never provided.

**CHAIR**—So the report has never been released? Where did it go?

**Mr Kovacic**—It went to the former government, who decided never to release it. There was a heavily redacted version released in response to a freedom of information request. That was a decision by the department, but it was, I think, only a small component of the report that was released.

**CHAIR**—So that was the only model ever done on Work Choices?

**Mr Kovacic**—In terms of Work Choices, that is the only modelling around that legislation. The subsequent modelling was the one that we discussed earlier today, the two Econtech reports.

**CHAIR**—Are there any further questions on outcome 9?

**Senator FISHER**—I have a question with respect to award modernisation. We talked earlier about the award modernisation request that now forms a schedule to the Workplace Relations Act. In the award modernisation request there are dual goals expressed about which there has been some conjecture in the past in terms of the capacity to ensure both that employees are not disadvantaged and that the award review process does not cause additional cost to employers. What progress has been made by the department towards ensuring that award modernisation does not disadvantage any group, whether it be employees or employers?

**Mr Pratt**—The award modernisation process has been conducted by the Industrial Relations Commission.

**Senator FISHER**—Of whom will I be able to ask that question in these proceedings?

**Mr Pratt**—Tomorrow morning you will be able to—

**Senator Wong**—The Industrial Relations Commission appears before this committee tomorrow.

**Senator FISHER**—They do not actually, Minister.

**Senator Wong**—The registry does.

**Senator FISHER**—The registry. So, in your view, is it within the powers and functions of the Industrial Registrar, Mr Williams, to answer a question of that nature?

**Mr Pratt**—We do not want to put words into Mr Williams' mouth. He may be able to assist you. What I said was that the Industrial Relations Commission is conducting the award modernisation process following the request from the government.

**Senator FISHER**—Yes, and then it was indicated that another party would be able to help me in answering that question.

**Mr Pratt**—That is right. The Industrial Registrar is supporting the commission.

**Senator FISHER**—What reassurance do I have that the Industrial Registrar will not tell me that he simply administers operations?

**CHAIR**—Senator, it is not a question for this department to give you guarantees on what another agency may or may not tell you.

**Senator FISHER**—You are right, Chair. It is more a question of the minister—

**CHAIR**—Yes, but it is not a question. I understand the point you are making.

**Senator FISHER**—It is more a question of the minister. It is a process based question. I should be entitled to ask it of someone, somewhere during these proceedings.

**CHAIR**—Yes, but you cannot ask for a guarantee from this department about how, or if, an authority will answer your questions. They have indicated that they cannot answer your question because they are not dealing with it, so it is a problem you will have to work out.

**Senator FISHER**—Unfortunately for Mr Pratt, he is about the closest I am going to get.

**Senator Wong**—Senator, as I think the department has indicated to you, the award modernisation request was signed on 28 March. That is a request of the AIRC, and as a result the President of the AIRC has issued a statement. If you are seeking, essentially, to question the president of the commission, no the president of the commission does not appear before the estimates committee, and has not before either government.

**Senator FISHER**—That is right.

**Senator Wong**—Senator, you were a lawyer in a past life. It would be the equivalent of seeking a member of the federal bench to appear before the parliamentary committee.

**Senator FISHER**—The concern that I have is an inability to ask a question about a vital piece of the mechanics of the government's program in terms of workplace reform. I am not insisting that questions about those mechanics be answered by the president of the commission, or indeed anyone else, but I am concerned that it appears that it may not be possible to have questions of this nature answered as part of these proceedings.

**CHAIR**—That may simply be life. The department here has indicated that they cannot answer that question because they are not dealing with the issue. They cannot go further than that.

**Senator FISHER**—Thank you. I have a couple of questions around submissions to the Australian Fair Pay Commission in respect of its ongoing progress of the minimum wage. When did DEEWR make its most recent submission to the AFPC?

**Mr Kovacic**—The government submission was forwarded to the Fair Pay Commission on 21 May, I think.

**Senator FISHER**—Did the minister sign off on the submission?

**Mr Kovacic**—It was a government submission.

**Senator FISHER**—So did the minister sign off on the submission?

**Mr Kovacic**—It was a government submission signed off by the government.

**Ms Paul**—In other words it was taken more broadly than the Deputy Prime Minister. Of course she would have supported it.

**Senator FISHER**—What other agencies and ministers were involved in reviewing or signing off on that submission?

**Ms Paul**—You are actually touching on a cabinet process. What we are saying is that it is a government submission.

**Senator FISHER**—Which branch of the department prepared the submission?

**Senator Wong**—We are not going to deal with that. Sorry—it depends what you are asking. I should be clear about that. Are you asking in relation to the submission to the commission?

**Senator FISHER**—Yes, sorry—the submission to the AFPC.

**Mr Kovacic**—It was developed by the department's Workplace Relations Policy Group.

**Senator FISHER**—Much of the data relied on in the submission came from the 2007-08 Mid-Year Economic and Fiscal Outlook. Has the department provided the AFPC with a post-budget submission?

**Mr Kovacic**—That is the submission I referred to that was forwarded to the commission on 21 May.

**Senator FISHER**—So there was an earlier submission?

**Mr Kovacic**—That is correct. That was forwarded to the Fair Pay Commission on 14 March earlier this year.

**Senator FISHER**—Are both those submissions are public? I presume they are.

**Mr Kovacic**—I understand that they have both been published on the Fair Pay Commission's website.

**Senator FISHER**—If they have not been, are we able to be supplied with a copy of them?

**Mr Kovacic**—I am pretty confident that they have been, but if they are not I would imagine that we would be able to provide them to the committee.

**Senator FISHER**—Does the post-budget submission include a nominated dollar increase for the AFPC to consider?

**Mr Kovacic**—The submission reiterated the government's support for an increase in minimum wages without recommending a specific quantum of minimum wage increase.

**Senator FISHER**—Why is that?

**Mr Kovacic**—The government believes that it is the role of the independent umpire—in this case, the Fair Pay Commission—to set the minimum wage using the best available data.

**Senator FISHER**—Did the department have discussions with the minister or any members of her office with respect to including a dollar figure or not in the submission?

**Ms Paul**—That goes to the nature of advice. We cannot answer that.

**Senator FISHER**—Did the department have a discussion with the minister or her staff about whether or not a quantum figure should be included in the government's submission to the AFPC?

**Ms Paul**—You are still asking about the nature of advice.

**Senator Wong**—That is the same question.

**Ms Paul**—We cannot go to the nature of advice.

**Senator Wong**—Senator, this might assist you: I understand that your government also declined to nominate a quantum increase to either of the AFPC's first two minimum wage reviews.

**Senator FISHER**—Yes, that is right.

**Senator ABETZ**—What was your reaction at the time, Minister?

**Senator FISHER**—Exactly!

**Senator Wong**—I am just indicating to you that you might want to be aware of that.

**Senator FISHER**—Can I ask about the alternative dispute resolution proposal?

**CHAIR**—You can ask.

**Senator FISHER**—Thank you.

**CHAIR**—I am going to say no at some point in time and see how you react!

**Senator FISHER**—Not until 11 o'clock! The budget papers show in outcome 9 an allocation in 2007-08 of \$70 million. Is that right?

**Mr Pratt**—It is \$70,000.

**Senator FISHER**—Yes. I stand corrected. Would you explain to me how you see the 2008-09 funding working.

**Senator Wong**—Are we all on page 136 of the PBS?

**Senator FISHER**—Yes.

**Mr Pratt**—We are about to have a very similar discussion to the one we had earlier about GEERS. The \$70,000 represents the estimated expenditure for this financial year on the ADRAS, as we call it. The funding available for the next financial year is the forward estimate for this program and was established some years ago. As with previous years, we are very unlikely to use the full amount.

**Senator FISHER**—Why provide it, then? This is a new program, so I am not sure that you can argue that—

**Mr Maynard**—No, Senator. It is not a new program; it has been in place for some years. The original allocation for this financial year was \$1.561 million—page 54 of last year's PBS. The column to the left on page 136 of the current PBS is our estimated actual spend. We

estimate that we will only spend \$70,000 in this financial year on this existing program. Next year we return to the out-year amount, which is available to spend, of \$2.495 million. It is a demand driven scheme. The demand has not been there this financial year.

**Senator FISHER**—Nonetheless, you are certainly providing for it to be there in the following financial year.

**Ms Paul**—As per the previous forward estimates—that is what we are saying. That is right.

**Mr Kovacic**—This program was established in the context of Work Choices. The funding was provided as part of the overall suite of funding for various measures that were provided under Work Choices.

**Senator FISHER**—Have the criteria of the scheme been amended in any way?

**Mr Kovacic**—No.

**Mr Maynard**—No.

**Senator FISHER**—Were any outside parties consulted in the determination of the allocated funding amount for the budget?

**Mr Pratt**—No, Senator.

**Senator FISHER**—How has the scheme performed in the last 12 months?

**Mr Pratt**—Very quietly.

**Senator FISHER**—Who was provided with funding under the scheme for the preceding 12 months?

**Mr Maynard**—Nobody. No claims have been made for assistance under this scheme.

**Senator FISHER**—That is exceedingly quiet. It begs the question as to whether or not you have met your processing targets.

**Mr Maynard**—It does.

**Mr Kovacic**—We are doing swimmingly well at the moment.

**Senator FISHER**—That is another one for Mr Maynard to answer, perhaps.

**Mr Kovacic**—He's got a champion, too, I see.

**Mr Maynard**—I cannot praise my team enough.

**Senator ABETZ**—All clients are satisfied. I will go back to the home workers, if I may. Does the department have a figure as to how many home workers we believe exist in Australia?

**Mr Maynard**—Yes. The figure that we have was used by the Deputy Prime Minister in her media statement when launching this—that is, there are currently around 330,000 home workers in the textile, clothing and footwear industry.

**Senator ABETZ**—Did the department provide the minister with any advice in relation to that aspect of her announcement?

**Ms Paul**—I think you are asking about a particular aspect of advice. We cannot answer that.

**Senator ABETZ**—No, I am asking: did the department give any advice around the issue of how many home workers are in the country?

**Ms Paul**—The answer inevitably leads you to answer the nature of advice question, so I think we are not really able to go there.

**Senator ABETZ**—With great respect, Ms Paul, either you did or you did not, and it is up to the minister whether she accepts or rejects your advice. All I am asking is whether or not advice was sought or provided.

**Ms Paul**—Okay, Senator. I am sorry.

**Mr Pratt**—We certainly did not provide advice to the government in opposition on the numbers. This was an election commitment.

**Senator ABETZ**—Thank you for clarifying that for me. Since the election, has any advice been offered to the Deputy Prime Minister as to the number of home workers?

**Mr Pratt**—We have provided advice to the government on the general implementation of this policy.

**Senator ABETZ**—Yes, I am sure you have, but have you provided advice specifically in relation to the numbers of home workers, which we believe exist in Australia?

**Mr Pratt**—Without wanting to have the same debate we had before, can I take that on notice? I do not know.

**Senator ABETZ**—Yes. It would be passing strange if the department had a different set of numbers than the Australian Bureau of Statistics, which has set the number at 48,000. Of course, Ms Gillard, in opposition, took her number of 330,000 from the TCFUA website. We are only out by a factor of six—

**CHAIR**—Is there a question?

**Senator ABETZ**—but that is indicative of the Rudd government's evidence based policy, I think.

**Mr Kovacic**—I think it would be true to say that there are some practical difficulties with the ABS in terms of actually identifying outworkers or home workers. For a range of reasons, many of these individuals are very reluctant to identify themselves, so the prospect of them actually being captured as part of any ABS survey process is very slim. So I am not sure that the ABS numbers themselves go beyond questioning.

**Senator ABETZ**—I am not suggesting that they are beyond question, but when you are out by a factor of six you have a choice of believing the union or the ABS. The chances are that I am punting with the ABS rather than the TCFUA, but I agree that is a matter for debate. I ask that the department and the minister consider whether the Workplace Ombudsman might be a better place to investigate claims about workers being exploited.

**Mr Maynard**—To make sure we are not talking at cross-purposes, the Workplace Ombudsman continues to have a role to ensure compliance. The purpose of the Homeworkers Code of Practice Program is to promote the Homeworkers Code of Practice, which is a self-regulatory model where manufacturers and the industry as a whole can voluntarily choose to

sign up to the process to ensure that the people in their supply chain are adhering to their obligations. It is supplementing the ombudsman's role rather than replacing it.

**Senator ABETZ**—But did the department consider this issue? Yes? No?

**Mr Kovacic**—As I think Mr Maynard mentioned before, the committee has been established since 1998. In essence, it offers an accreditation process which assists those in the industry to assure themselves that those in the production chain are actually meeting their obligations under workplace relations legislation and instruments. To that end, as Mr Maynard has indicated, it complements the work that the Workplace Ombudsman does in this regard.

**Senator ABETZ**—We are not going to get any further on this one, are we, so let us move on. The figure of \$4 million was part of the election promise—is that correct?

**Mr Maynard**—That is correct.

**Senator ABETZ**—Which area within the department is overseeing the \$4 million contract?

**Mr Pratt**—It is the Workplace Relations Implementation Group, which Mr Maynard heads.

**Senator ABETZ**—Mr Maynard, do you know that the project officer is Tommy Clarke?

**Senator Wong**—We have been here before, and we have answered your questions on this.

**Senator ABETZ**—We have not had a name before. I have now been provided with some extra information. Ms Paul, is it Tommy Clarke?

**Ms Paul**—I do not know.

**Mr Maynard**—Yes, Senator.

**Senator ABETZ**—It is. Chances are that—given that the Homeworkers Code of Practice Committee is situated at 359 Exhibition Street in Melbourne, which is the same address as the TCFUA in Melbourne, which has a media officer by the name of Tommy Clarke—we can draw a conclusion that the media officer of the TCFUA is one and the same person as the project officer. So who is the officer from the homeworkers committee responsible for the funding? Who do you, Mr Maynard, liaise with to discuss aspects of the contract—or, if not you, people within your section or area?

**Mr Maynard**—We liaise with Tommy Clarke, and the—

**Senator ABETZ**—It was not that hard to mention his name, was it?

**Mr Maynard**—Senator, I was unaware of the officer's name, as I have not personally been involved in the conversation.

**Senator ABETZ**—Fair enough; I withdraw that.

**Mr Maynard**—Having said that, Mr Clarke, in that role, also represents the other members of the committee, which include the Council of Textile and Fashion Industries of Australia—

**Senator ABETZ**—Yes, I think we have been through that.

**Mr Maynard**—the Brotherhood of St Laurence—



**CHAIR**—I think you need a full answer to the questions.

**Senator Wong**—I am not sure if Senator Abetz was in the room or whether he just wants to reiterate what has previously been gone through, but I remind him of the members of the committee, which include, apart from the union—

**Senator ABETZ**—I am aware of them.

**Senator Wong**—as Mr Maynard said, the Council of Textile and Fashion Industries of Australia—

**Senator ABETZ**—I am aware of all of them.

**Senator Wong**—the Brotherhood of St Laurence—

**Senator ABETZ**—Yes, they are on the website here.

**Senator Wong**—Australian Business Limited, the Australian Industry Group, Pacific Brands and Poppets Schoolwear. Senator, you will also be aware that the issue of homeworkers, in fact, was an issue that even senators from your side, during the Work Choices legislation debate, did express significant concern about.

**Senator ABETZ**—Absolutely.

**CHAIR**—I think some still do.

**Senator Wong**—Some senators still do on your side, I think.

**Senator ABETZ**—I moved the government amendments in relation to it, if I recall correctly, so I am well and truly acquainted with the seriousness of the concerns in this area. The question is as to our friend Mr Clarke. Do we have a split up of how the \$4 million for the homeworkers committee is used?

**Mr Maynard**—This morning we have taken a number of questions on notice in relation to this matter, and one of them was the question of the contract, which contains the funding arrangements. That would make it clear and address the question you have just asked.

**Senator ABETZ**—Will it incorporate issues such as whether rental is paid in the building from which they operate and whether they pay for telephone usage, stationery and all of those sorts of matters?

**Mr Maynard**—The contract itself will not. However, the reports that the committee is obliged to provide for us, which we also took on notice this morning, would.

**Senator ABETZ**—Will Mr Tommy Clarke be paid any moneys for his role as project officer? If so, how much? Take all those aspects on notice, and also whether there are any other people who are drawing a salary off this \$4 million; how much is used, as I said, for rental; how much is used for publicity et cetera. I would be interested in a full and detailed break-up.

**CHAIR**—Senator Boyce?

**Senator BOYCE**—I would seek your guidance on this: the Social Inclusion Board, the ministry for social inclusion and the unit of social inclusion. I realise that there have been some questions within Finance and Public Administration on this topic but, since the minister is also the Minister for Employment and Workplace Relations and since there is a strong

employment component in this, I would like to know what involvement, if any, the department has in an ongoing way with the social inclusion agenda.

**Ms Paul**—The issues which you started with, that is the board and the unit, are both matters for the Department of Prime Minister and Cabinet. Indeed, I watched them give some evidence in that regard last week. In this portfolio there is a range of areas that we will be working in. The priority areas for us include support for jobless families. One of the focuses which the social inclusion perspective offers is on a place based approach to addressing the needs of the most disadvantaged. You were not here this morning when we were talking in outcomes 7 and 8 about the employment services system having shifted focus towards the most disadvantaged in quite a clear way, but that would be an example of what we might call a social inclusion perspective. A department like ours, particularly given that the Deputy Prime Minister is also the Minister for Social Inclusion, will take a keen interest in services policies and support for the most disadvantaged people in the Australian community.

**Senator BOYCE**—Would the department then have responsibility for the delivery of any programs in relation to social inclusion?

**Ms Paul**—Not the programs specifically called ‘social inclusion programs’.

**Senator BOYCE**—Is there policy advice?

**Ms Paul**—We could well offer advice which might cover a range of relevant matters, and the perspective we will take, of course, is to have a focus on social inclusion issues, like policies which support the most disadvantaged people in the community, and so on, as I have said before.

**Senator BOYCE**—Do you liaise with other departments? Are there specific social inclusion agenda meetings held between departments?

**Ms Paul**—I do not have the relevant people with me at the moment, so I am not sure whether there are formal structures. Certainly we have been dealing with other departments—for example, the Department of the Prime Minister and Cabinet—around social inclusion.

**Senator BOYCE**—Health?

**Ms Paul**—I am not sure. I would imagine we would liaise, for example, with the Department of Families, Housing, Community Services and Indigenous Affairs.

**Senator BOYCE**—If you are not sure, who would know that?

**Ms Paul**—I do not have the relevant officials with me. I am happy to take it on notice and talk about it. I can come back on notice about what sort of contact we have had across other departments. There has been a fair bit of it but I would have to get the detail.

**Senator BOYCE**—The siloing of departments and policies has been an issue for the clients of all varieties of government for a number of years. If we are going to overcome this, then I think we need to end the siloing of answers in regard to the social inclusion area as well. I am just trying to just get to the bottom of who exactly is going to be held accountable and responsible for social inclusion. Will there be one person in each department, for instance, who could advise on what is happening with social inclusion in that department?

**Ms Paul**—What I can do is come back to you on notice about the other departments we have had contact with to date and perhaps give you a sense of some of the areas of interest.

**Senator BOYCE**—Perhaps the minister might be able to also advise me. The question is: will there be someone in each department who can respond to questions regarding the social inclusion agenda?

**Ms Paul**—I do not think a particular person has been identified in each department, but I would be confident that many departments are taking a social inclusion perspective in their programs and so on. I can give you some sense of that in my response to the question that I have taken on notice.

**Senator BOYCE**—I tend to take the view that unless someone has the job, the hat or whatever, things can be talked about a lot but nothing is actually ever achieved. That was the reason for trying to get something that is a little bit firmer than the nice feeling that appears to be around the idea of social inclusion at the moment.

**Ms Paul**—There are many ways of working in a whole-of-government way, and the way you mention is one of them. I am happy to come back to you with some of the things that are going on and the sorts of interests that there are.

**Senator BOYCE**—Thank you.

**Senator ABETZ**—I would like to go back to the home workers. I understand that this morning we were told that there were 32 manufacturers who were signed up to the accreditation process—the code. Has the department made an assessment as to how many others might be out there that are not signed up?

**Mr Maynard**—We do not have a number, but the intent of funding the home workers code of practice is to promote it more broadly.

**Senator ABETZ**—With 32 manufacturers signed up, have we covered 10 per cent of them—or is it 90 per cent? Has any information been obtained in relation to that, or is there any advice the department can give this committee as to how far we are down the track with this?

**Mr Maynard**—I will take that on notice.

**Senator ABETZ**—All right. Could you find out what tactics are used to sign them up, or how many more manufacturers there are that are not covered by this code.

**Mr Maynard**—I know it is a voluntary code of practice.

**Senator ABETZ**—If there are, say, 320 manufacturers using home workers, we know we have 10 per cent coverage of the manufacturers. How will we find out how many are actually out there in Australia?

**Mr Maynard**—I have taken that on notice.

**Senator ABETZ**—All right. Are we convinced that all the manufacturers have identifiable labels?

**Ms Paul**—I think we need to cover that to the best extent we can in the question we have taken on notice.

**Senator ABETZ**—Thank you for that. The Chair will undoubtedly tell me if I am not in the correct area, but I have a few questions about transitional legislation, unless they have already been asked earlier today.

**Senator Wong**—Senator Fisher is shaking her head, but I thought we had actually traversed a fair bit of the transitional legislation.

**CHAIR**—We have, but I am sure we have not exhausted it, so please ask your question, Senator Abetz.

**Senator ABETZ**—Has the department, or the minister's office, sent drafting instructions to the parliamentary drafters in relation to drafting of any further aspects of Forward with Fairness.

**Ms Paul**—We did cover that.

**Senator FISHER**—In the government's Forward with Fairness policy implementation plan, on page 8, the government committed to releasing an exposure draft of the industrial relations legislation for public comment in 2008-09. Mr Pratt indicated earlier that drafting preparations were on track for having it introduced before the end of this year. What is the date for the release of an exposure draft of the legislation for public comment, consistent with the government's election commitment?

**Mr Pratt**—That is a matter for government.

**Senator FISHER**—Minister?

**Senator Wong**—I am not sure I can add to that answer, but I am happy to take it on notice.

**Senator FISHER**—Thank you. In that case my question is: when will an exposure draft of the legislation be released?

**Senator Wong**—That is what I have just taken on notice.

**Senator ABETZ**—These laptops are terrible things. They feed you all sorts of questions.

**Senator Wong**—You do not have to ask every question they email you. In fact, I used to not do that.

**Senator ABETZ**—I know I do not have to. But these are particularly good questions, so I feel obliged to ask them. Have letters being sent to the TCFUA about allegations of the union extracting funds from employers who have allegedly breached awards?

**Mr Maynard**—That question was asked this morning and it was noted that that should be a matter for the Workplace Ombudsman.

**Senator ABETZ**—Nevertheless, it is a very good question. They have got some notice on that, especially on whether they wrote in 2006.

**CHAIR**—They must have been listening this morning. They are just copying the questions that have already been asked. You need to have a word to them.

**Senator ABETZ**—No. In fact, they are significantly different. So the Workplace Ombudsman would be the place to ask these questions?

**Mr Maynard**—This morning Senator Watson asked the question in relation to letters that had been sent. I believe, Senator Watson, you mentioned that 2005 was the year of the letters in question.

**Senator ABETZ**—I am asking about 2006. Were there any letters? Let us not get tripped up by whether it was 2005 or 2006. Can you advise whether in the last five years—or whatever is a reasonable period of time—the department has had occasion to write to the TCFUA about its tactics?

**Mr Kovacic**—As Mr Maynard has mentioned, I think those questions are best directed to the Workplace Ombudsman.

**Senator ABETZ**—You did not take that on notice?

**Ms Paul**—No, we gave the same answer we are giving now.

**Senator ABETZ**—Can collective agreements from prior to Forward with Fairness be extended or varied? The blank look suggests—

**Ms Paul**—That we have not answered it—and that is correct. It has not been asked before today's hearings.

**Senator ABETZ**—It has not been asked previously?

**Ms Paul**—I do not think so.

**Senator ABETZ**—I have a short bracket in this area, so who can assist? You have now told me that it has not been answered, so who can provide me with an answer?

**Ms James**—Can you clarify the time period you are interested in? Are you asking whether, right now, people can vary collective agreements?

**Senator ABETZ**—Yes. Are collective agreements that are currently in existence and were in existence prior to Forward with Fairness able to be extended or varied under their current terms?

**Ms James**—Yes.

**Senator ABETZ**—Can they be varied before and after the nominal expiry date of the agreement?

**Ms James**—Yes.

**Senator ABETZ**—Is it possible for parties to the agreement to take industrial action in support of an extension or variation prior to the nominal expiry date?

**Ms James**—Under the normal rules you can only take protected industrial action after the nominal expiry date of an agreement and subject to following a range of procedural requirements set out in the act. I am not certain about this but you may be alluding to some specific provisions that were inserted into the act by the transition bill which talked about varying pre-Work Choices collective agreements, which are a different category. Going from memory—I will check in a moment—I think a jurisdiction was created to allow the Australian Industrial Relations Commission to vary or extend those agreements subject to certain conditions.

**Proceedings suspended from 9.29 pm to 9.45 pm**

**CHAIR**—The committee will resume with questions in outcome 9. I will kick off with a follow-up question regarding fact sheets. A question was taken on notice in respect to the money spent in the development of the fact sheet. It may be broad enough to encompass this question, but I specifically also want to know how much money was spent on focus groups in the development stage of the fact sheet too, if you could include that on notice.

**Mr Kovacic**—We will take that on notice.

**CHAIR**—Thank you.

**Senator BOYCE**—My questions relate to the National Employment Standards, and where we are at with that process at the present time. I gather we are going to have something made publicly available in a fortnight. Is that correct?

**Mr Kovacic**—In the consultation process, we received 129 submissions. We are currently considering those submissions. The expectation is that the NES will be finalised fairly shortly.

**Senator BOYCE**—That was going to be my next question. There are 129 submissions set out on the website. Have there been subsequent submissions that will be considered?

**Mr Kovacic**—Not that I am aware of; I will just check, though. My sense is probably not, but I would need to take that on notice just to confirm it.

**Senator BOYCE**—And they will be made public as the ones that are currently there are, if there are any subsequent ones; is that the case?

**Mr Kovacic**—Unless the party that has made the submission has specifically requested that it not be made public.

**Senator BOYCE**—About a third of those 129 are confidential, as noted on the website. Why are they confidential?

**Mr Kovacic**—It is probably because they have been requested to be confidential at the request of the party making the submission.

**Senator BOYCE**—Is that in every case that they are confidential because the submitter has asked for them to be confidential?

**Mr Kovacic**—That is correct.

**Senator BOYCE**—Certainly from my reading of them, there appears to be almost universal disagreement from various perspectives on the standard working hours. Would that be your reading of them up to the current time?

**Mr Kovacic**—I have not read them all. I am advised that we would not describe it as a disagreement but there was certainly a lot of comment in the various submissions that were received around the issue.

**Senator BOYCE**—Most of them saying that it should not be left in its current wording?

**Mr Kovacic**—As I have said, there is certainly a lot of comment on the exposure draft that was released.

**Senator BOYCE**—Certainly all the comments I read would have been negative comment, not positive comment. Can you just take me through the process from now until the making public of the standards, as to what will happen?

**Mr Bohn**—We will assess the submissions, and we will provide advice to government. The government has indicated that the final form of the NES will be provided to the commission by the end of June.

**Senator BOYCE**—So you will collate up all the submissions—

**Mr Bohn**—The government will make decisions—

**Senator BOYCE**—and tell the government there were 20 in favour of this and 20 opposed. How will you do it, is what I am asking.

**Mr Bohn**—We will assess the submissions and brief the minister on the content of the submissions and the themes of the submissions, and then the government will make decisions, and it will be provided to the commission by the end of June.

**Senator BOYCE**—Will that include any suggestions on changes that would meet the views of submitters?

**Mr Bohn**—The advice will cover the range of submissions that were made. I am not sure that I can indicate what the content of the advice would be.

**Senator BOYCE**—I am not asking you tell me what would be in the advice, but I am asking you to tell me what form this advice would be. Would it be summaries of the submissions, or what?

**Senator Wong**—I think that is getting close to advice, but yes, of course we are analysing the submissions with a view to being able to advise government on what the submissions have to say, so whatever approach we take it will get to that outcome, whether it is through summaries, as you suggest, which is one way—

**Senator BOYCE**—Would there be a view from the department about what the submissions say about the standards that would go to the minister. Is that correct?

**Ms Paul**—I imagine we would do a summary of submissions, analysis or whatever you want to call it. That is what Mr Bohn has been saying.

**Ms James**—The purpose of the discussion paper process was to consult with stakeholders and to obtain their views about the draft national employment standards. It goes without saying that we would provide the Deputy Prime Minister with advice on the nature of the feedback that has been received through that process.

**Ms Paul**—Transmitting those views.

**Senator BOYCE**—It is nice to make sure that we all understand what is going without being said at the present time. That report will go to the minister and that will lead to the publication of final draft standards. Is that correct?

**Ms James**—The purpose of the development of the national employment standards at this stage is to allow the Australian Industrial Relations Commission and the stakeholders who are involved in the award modernisation process to undergo that process with the knowledge of the content of those national employment standards. The government safety net is a two-part safety net. It is made up of the legislated standards, the national employment standards, and the modernised awards, and they work together. It is a fairly important part of the commission's process to be able to take into account those national employment standards.

**Senator BOYCE**—A number of the submissions suggest that perhaps the cart has been put before the horse in regard to that process as well.

**Ms James**—I do not think we would agree with that statement.

**Senator BOYCE**—You do not have to.

**CHAIR**—Are there further questions for outcome 9?

**Senator FISHER**—Yes. The unlawful termination assistance scheme is a scheme introduced by the previous government. I have a couple of questions about the budget provision for this item. I fear I may get similar answers to those I have had to budget questions about some other programs, but let us see how we go in any event. Outcome 9, the actual expenditure for 2007-08 is \$250,000 and the estimated total is \$3 million. Is that right?

**Mr Pratt**—It is the same as before. That is the funding available if necessary and represents the forward estimates which were developed some years back.

**Senator FISHER**—Have the criteria of the scheme been amended in any way?

**Mr Pratt**—No.

**Senator FISHER**—How has the scheme performed in the last 12 months?

**Mr Pratt**—Pretty quietly. Mr Maynard will have some figures on participation.

**Mr Maynard**—To date we have 81 applications for assistance that have been provided under this scheme.

**Senator FISHER**—Are you able to provide a report of those 81 successful applicants?

**Mr Maynard**—I would have to take that on notice.

**Mr Kovacic**—Since the scheme was introduced in 2006 there have been 169 applications processed. Of those, 122 applications were assessed as eligible; 47 applications were assessed as ineligible; the number of eligible applications who received financial assistance was 82; and eligible applicants who have not yet accessed their financial assistance is 40.

**Senator FISHER**—On what sort of grounds were the 47 rejected?

**Mr Kovacic**—I would have to take that on notice.

**Senator FISHER**—A bit more information about the make-up and break-up of the 126 and then some would be good. The budget sets the department's targets for processing claims on page 139. How has the department gone as against the 95 per cent processing within five days target?

**Mr Maynard**—Very well, thank you.

**Senator FISHER**—Those who are helping me are unable to locate the post-budget submission made by DEEWR to the AFPC on the AFPC website. Could the department provide me with a copy of the department's post-budget submission to the AFPC?

**Mr Kovacic**—We would certainly be able to provide a copy of the government's submission to the—

**Senator FISHER**—The government's submission, thank you.



Which branch within DEEWR is going to be responsible for developing and publishing pay scales once the Australian Fair Pay Commission has handed down its decision?

**Mr Kovacic**—That is the responsibility of the Workplace Authority.

**Senator FISHER**—Has DEEWR had responsibility for this in the past, under an earlier regime?

**Mr Pratt**—At one stage yes. The responsibility was, I think the term that was used earlier was ‘MOGED’ over to the Workplace Authority.

**Senator ABETZ**—What was that term?

**Mr Pratt**—It means ‘machinery of government’ change. The responsibility moved to the Workplace Authority.

**Senator Wong**—It is a verb that has been utilised earlier today which I queried at the time, but it appears that the department uses it.

**Senator ABETZ**—I think what they really mean is mugged.

**Senator Wong**—I think what they mean is ‘affected by the machinery of government changes’. Is that correct?

**Mr Pratt**—Correct.

**Senator FISHER**—It does not mean the same as goaled. Did the AFPC have this function itself in the early days, or at some stage?

**Mr Pratt**—Yes. There are different types of pay scales. The Workplace Authority published, from memory, close to 500, or over 400 pay scale summaries. The Fair Pay Commission was tasked legislatively with publishing pay scales. That is no longer a function of theirs and ultimately Fair Work Australia will be publishing pay scales in relation to the new system from 2010.

**Senator FISHER**—Thank you.

**Senator ABETZ**—Another little revisit. Was it the department and not the Ombudsman that sent the letter raising concerns about TCFUA tactics?

**Mr Maynard**—Quite correct. The reference that we discussed this morning was that the area of the department that had sent it has subsequently been moved to the Workplace Ombudsman and they would be the people to follow up this issue with.

**Senator ABETZ**—Aha. It was the department that sent it?

**Mr Maynard**—Yes. The area of the department has been subject to machinery of government changes and is now within the Workplace Ombudsman department.

**Senator ABETZ**—Has this been MOGED as well?

**Mr Pratt**—Yes. It was part of the department but it was the Office of Workplace Services, as part of the department at that stage, which became the Workplace Ombudsman, and it was MOGED.

**Senator ABETZ**—I will need to ask this question in the event that we are told tomorrow morning that the office, at the time, did not have carriage of the matter. Can we have

confirmed that departmental people did in fact meet with Seaborne Clothing at the Stamford Hotel last year and that these matters were outlined?

**Mr Maynard**—I have no knowledge of such a meeting, but I would be happy to take the question on notice to determine if any department staff were involved in such a meeting.

**Ms Paul**—We can liaise with the Ombudsman to make sure your question is answered. I would suggest that you ask it tomorrow but, if not, we will leave it there as a potential question on notice.

**Senator ABETZ**—This is going to come as a matter of great disappointment to the chair but chances are that I will not be able to grace the committee tomorrow morning. Somebody else will be here.

**Senator Wong**—We will make sure that we can liaise with him.

**Senator ABETZ**—I did say it with some self deprecating humour in my voice. For the benefit of Hansard, I had better put that on the record so that Senator Wong does not take the sort of umbrage that she is likely to.

**Senator Wong**—No. I just thought it was an interesting verb to use.

**Senator ABETZ**—Some of us can make light of our self-importance. Can I come back to where we were prior to the evening break. Ms James, the chances are that you will not remember this.

**Senator Wong**—She probably will.

**Senator ABETZ**—I think I am correct in saying that you made reference to ‘normal rules’ in one of your answers.

**Ms James**—I recall the question.

**Senator ABETZ**—Excellent.

**Ms James**—You were asking me about the variation of agreements that were made prior to the transition bill.

**CHAIR**—This is very good. You get to ask the question as well.

**Ms James**—In exploring the issue it became clearer that what you were particularly interested in were some amendments that were made in the transition bill in creating a special jurisdiction in the Australian Industrial Relations Commission to vary what are called pre-reform certified agreements. These are agreements made prior to the commencement of Work Choices—not to be confused with pre-transition certified agreements, which are agreements made before the commencement of the transition bill.

**Senator ABETZ**—That is all very clear.

**Ms James**—Pre-reform agreements—that is, certified agreements that—

**Senator ABETZ**—Wait a minute. Pre-reform. Are we talking pre-Forward with Fairness?

**Ms James**—Pre-Work Choices.

**Senator ABETZ**—Pre-Work Choices. All right. Thank you.

**Ms James**—Pre-reform agreements are agreements that were made prior to the commencement of Work Choices. The Work Choices legislation contained transitional arrangements that allowed for the ongoing operation of these agreements in part 2 of schedule 7 to the Workplace Relations Act. That schedule allowed for the ongoing operation of these agreements but limited the ability of parties to vary those agreements to essentially some procedural circumstances and circumstances where there is an ambiguity or an uncertainty about the operation of the agreement. The amendments contained in schedule 5 of the transition bill allowed, in some very specific circumstances, parties to extend or vary these pre-reform agreements where they could not do so before. So the relevant provision is item 2(A) of schedule 7 of the Workplace Relation Act, inserted by schedule 5 of the transition bill.

**Senator ABETZ**—I will take your word for that.

**Ms James**—I am referring to the explanatory memorandum now. It allows the parties to extend the nominal expiry date of a pre-reform certified agreement for up to three years only where all parties bound by the agreement genuinely agree to the extension or variation of the agreement and when none of the parties have, from 14 February onwards—the day after the transition bill was introduced, which I am reliably informed by people with better memories than mine was 13 February—organised or engaged in or threatened to organise or engage in industrial action or applied for a protected action ballot in relation to proposed industrial actions. Essentially, that means that there is a limited ability of parties now, under these circumstances, to vary pre-reform agreements, pre-Work Choices agreements, where they could not before.

**Senator ABETZ**—Are there potentially constitutional issues here or not? Has advice been sought on whether this might in any way be seen as a property right that people entered into, what the current state of the law was and whether there have been changes made which could impact on that which they had contracted for?

**Ms James**—We consider that the transition bill and all the parts of it are constitutionally sound. I do not consider that there is a risk of the acquisition of property on unjust terms, which I think is what you are referring to.

**Senator ABETZ**—I would be gobsmacked if you were to tell this committee that you thought it was constitutionally unsound—

**CHAIR**—And not you alone!

**Senator ABETZ**—Was specific advice sought in relation to that issue?

**Ms James**—I do not believe specific advice was sought. However, a senior person from the Australian Government Solicitor who is a constitutional expert is working with us. She is reviewing all of our legislation. She is very conscious of acquisition of property issues, and I am absolutely certain she would have advised us if she had any concerns in that regard in relation to this measure.

**Senator ABETZ**—That is a big call. You must have great faith.

**Ms James**—I have great faith.

**Senator FIERRAVANTI-WELLS**—As a former occupant of the office of the Australian Government Solicitor, I can vouch for them.

**Ms James**—I should say that this is a person who advised us heavily on the Work Choices constitutional High Court challenge. So, yes, I do have great faith in her.

**Senator ABETZ**—And she was very sound, despite all the protestations of certain people sitting around this committee saying how unconstitutional Work Choices was.

**CHAIR**—It does not matter now, anyway.

**Senator ABETZ**—That is exactly right. It does not matter now—because the new government has fully accepted the use of the corporations power. Thank you for that little sidetrack on the constitutional matters that I have raised—that just came to mind as you were giving that answer. I will have to read the *Hansard* and study your answer very carefully. I say that not in any disparaging way. I think you have presented yourself exceptionally well. What did the term ‘normal rules’ apply to?

**Ms James**—When we were having that exchange it was not clear to me that you were asking clearly about this jurisdiction, so I do not recall exactly what I was referring to.

**Senator ABETZ**—The moment has passed, in any event. So we will not bother drilling down into that.

**Ms Paul**—We have clarified it now.

**Senator ABETZ**—I am not sure that we have, Ms Paul. I do not think either of us can necessarily remember the full—

**Ms James**—The amendments that I was referring to just recently applied to the pre-Work Choices agreements. There are no limitations on varying agreements made between the commencement of Work Choices and the commencement of the transition bill, other than of course the fact that the no disadvantage test now applies to any such variations.

**Senator ABETZ**—When varying or extending pre-fairness test collective agreements, will it be possible to include content that was previously considered to be prohibited content under the Work Choices reforms?

**Ms James**—The prohibited content provisions in the act apply to a different stream of agreements—agreements being made under the Work Choices framework. These provisions deal with agreements made prior to the Work Choices framework, before prohibited content in its current form existed. At the time those agreements had to conform with certain limitations on content, such as the freedom of association limitations, but they did not have to conform with the current prohibited content regime that exists in the act.

**Senator ABETZ**—Once again, I will have to read the *Hansard* and see what follows from that extensive answer.

**CHAIR**—I am sure that you, as minister, had carriage of these bills in the Senate.

**Senator ABETZ**—I did indeed. The lateness of the hour does catch up, especially when you have been in another committee all day as well. Did you receive advice from anyone as to whether the capacity for collective agreements or AWAs made under the Workplace Relations Act prior to 28 March 2008 can be varied or extended?

**Ms James**—Can you repeat that? It was agreements made prior to the commencement of the transition bill.

**Senator ABETZ**—Yes.

**Ms James**—But between—

**Senator ABETZ**—The capacity for collective agreements to be varied or extended.

**Ms James**—The amendments that I referred to changed the situation in relation to one category of agreements that existed at the time of the transition bill's commencement, which is these pre-Work Choices, pre-reform agreements. I do not think we specifically sought any advice in relation to that because they were—I would not say they were straightforward amendments, they involved some work to get them right, but they did not raise any difficult legal questions as such. Let me confirm that. Yes, that is correct.

**Senator ABETZ**—When making ITEAs or collective agreements under Forward with Fairness, is it possible to include prohibited content in these agreements?

**Ms James**—I want to clarify what you mean by 'under Forward with Fairness'. Do you mean under the current legislative framework post the commencement of the transition bill or do you mean once the government's substantive reforms have been passed in parliament?

**Senator ABETZ**—You have given me another idea. Allow me to ask you both.

**Ms James**—Collective agreements made today have to conform with the prohibited content requirements set out in the Workplace Relations Act and in the regulations. I think the government's policy in relation to content is set out in the policy documentation. I am aware that the policy makes some statements about the content of agreements, but I just do not have it to hand. Perhaps if you will give us a moment. Page 14 of Forward with Fairness—

**Senator ABETZ**—Under which heading?

**Ms James**—Forward with Fairness, not the policy implementation plan but the first one.

**Senator ABETZ**—Yes, but under which heading on page 14?

**Ms James**—Under 'Labor's more flexible system.' It states:

A Rudd Labor government will also remove the government's onerous, complex and legalistic restrictions on agreement content. Under Labor's system, bargaining participants will be free to reach agreement on whatever matters suit them.' It continues on the next page, but I think that is the—

**Senator FIERRAVANTI-WELLS**—Are you going to be able to take industrial action in support of the inclusion of prohibited content in these agreements?

**Ms James**—I think that we are starting to go to the substantive reforms which are still the subject of consultation and under development. The policy makes it clear that tough rules on industrial action will remain and there will be a range of prerequisites to take in protected industrial action under the framework. I think page 16 of the policy sets some of that out—for example, 'Industrial action during the life of an agreement will not be protected. Secret ballots will be required'

**Senator FISHER**—So, Ms James, are you leaving the door open to protected industrial action being able to be taken over an item that would be prohibited content?

**Ms James**—I think we have just covered some ground about what will or will not be. The prohibited content concept is not part of the policy for the substantive performance—but, again, I think we are getting into the details of matters that continue to be under consultation.

**Senator FISHER**—Nonetheless, surely that opens the door for increased industrial disputes?

**Ms Paul**—You are speculating now, Senator. Earlier today we talked about the fact that some of these matters are still being developed, and I think that is probably where we are.

**Senator FIERRAVANTI-WELLS**—I am interested in the parameters of the possible extent of industrial relations. How far is the door going to be opened? That is really the gist of my question.

**Mr Pratt**—We can talk about what is covered by the government's policy papers on this but—given that the actual detail of the legislation is still being advised on, the government is still consulting on these matters and final decisions have yet to be made—we are not in a position to speculate as to how that might work in the future.

**Senator FIERRAVANTI-WELLS**—Are you starting with a clean sheet as to a wider parameter of industrial action?

**Ms Paul**—It has started with the government's policy and it is still subject to consultation and so on, as we described earlier on at some length.

**Senator FIERRAVANTI-WELLS**—It is an interesting question, given what we see in the media about unions flexing their muscles, meetings at the Lodge with the MUA, secret agreements and those sorts of things. I am interested to know how far the door is going to be left open.

**Ms Paul**—We talked about consultation at some length earlier today, and there is probably nothing more we can add to what Mr Pratt has said.

**Senator FIERRAVANTI-WELLS**—Chair, didn't you read in the paper about the meeting at the Lodge on Australia Day?

**CHAIR**—I would be very happy if the committee wanted to spend their time asking me questions and I would be happy to take up lots of your time answering them, too. I prefer that if you are going to refer to newspaper articles you provide them to the witnesses. I think that is the best way, if you are serious about pursuing this. Let us get back to questioning the witnesses. Are there further questions?

**Senator FIERRAVANTI-WELLS**—It was an off-the-cuff comment.

**Senator FISHER**—I understand that, in response to concerns expressed about inflation and wages, the minister has indicated on numerous occasions that what might otherwise be the inflationary impact of wages will be kept in check by the requirement for wage increases to be offset by productivity improvements. Is that a fair summary of the proposal into the future?

**Mr Kovacic**—I think it is true to say that the government's workplace relations policies are based on collective bargaining at the enterprise level, with wage increases linked to improvements in productivity. It is also fair to say that the government has developed a five-

point plan designed to fight inflation by boosting productive capacity, skills and labour supply. The plan comprises the following: ensuring that pressure is taken off demand by running a strong budget surplus through fiscal restraint; examining options to provide real incentives to encourage private savings; tackling skills shortages, including delivering up to 630,000 additional training places over five years; tackling infrastructure bottlenecks through development of Infrastructure Australia; and looking to improve workforce participation—for example, by increasing the childcare rebate to 50 per cent to make it easier for parents to enter the workforce. In addition, the government has also urged employers and employees to demonstrate restraint and, to this end, has committed to freeze parliamentarians' pay for 12 months.

**Senator FISHER**—I am interested in what could be the inflationary impact of wages heading into the future and in the Deputy Prime Minister's reassurances that concerns of that nature will be dealt with by the government's insistence on wage increases being offset by productivity improvements. Has the department provided the minister with advice as to linking wage increases with productivity improvements? I am not asking for the content of the advice; I am asking whether the department has provided the minister with a system for linking the two.

**Mr Kovacic**—The government's workplace relations policy, as enunciated in Forward with Fairness, clearly envisages a workplace relations system based on collective bargaining at the enterprise level with wage increases linked to improvements in productivity.

**Senator FISHER**—Has the department advised the minister on mechanisms by which agreement making and wages could be linked to productivity in the manner perhaps anticipated by the policy?

**Mr Kovacic**—That would go to the nature of advice that the department may or may not have provided to government.

**Senator ABETZ**—With respect, no it would not.

**Ms Paul**—The area you have named is fairly narrow. We could probably say, yes, we have advised broadly on some of these matters.

**Senator ABETZ**—Was advice provided—yes or no?

**Senator Wong**—Senator Abetz, this department has been very reasonable in indicating whether advice was provided or not. When you phrase a question in the way you did, on a very narrow topic, you are clearly asking for more than when advice was provided. You are in fact asking whether advice of that specific nature was provided. So it goes to the content of the advice.

**Senator ABETZ**—No, it does not.

**Senator Wong**—If the question is: 'Has the department provided advice about the implementation of Forward with Fairness?' I am sure the department could respond to that. In other words, I think the specificity of your question really goes to the content of the advice—and that is the point Ms Paul is making.

**Senator ABETZ**—No. Even before, we had a question about whether the department had offered advice on how many home workers we believe there are in Australia, and I was told

that, yes, they had. I did not ask what the advice to the minister was. That was a very specific issue. I asked for a yes or no answer on whether advice had been provided. As to the content of that advice, we can only speculate.

**Mr Pratt**—My recollection of our answer to that question is that we gave a general response in relation to the implementation of the program rather than specific advice on the particular question.

**Senator ABETZ**—I followed that up by saying that the *Hansard* would record that—and I may well have that wrong. But just because a question specifically asks whether advice was sought or provided or whatever in a particular area does not rule it out. Minister Wong, I would have thought you would have a few letters from the good Clerk of the Senate advising you about that.

**Senator Wong**—Those would be the ones you ignored when you were the minister.

**Senator ABETZ**—About which you had a great fanfare saying things would be different under a Labor government. Clearly, they are not.

**CHAIR**—Let us stop now. Senator Abetz, I do not recall the exact wording of the question you asked, but it may be appropriate that the officers take it on notice and check the *Hansard* and answer it to the extent that they are able to.

**Senator ABETZ**—You are a great peacemaker.

**CHAIR**—Thank you. Are there further questions on outcome 9? Senator Fisher.

**Senator FISHER**—The department's organisational chart shows that there is a Building Industry Branch under the Workplace Relations Implementation Group. That branch is under Mr Maynard and headed by Mr Artuso. What does that team do?

**Mr Maynard**—The branch looks after building industry policy, including in relation to the Building and Construction Industry Improvement Act, the national code of practice and the implementation guidelines. It also provides assessment services for the industry to assess industrial instruments against the national code of practice and implementation guidelines.

**Senator FISHER**—So part of what it does is check whether agreements are code compliant and do or do not contain prohibited content?

**Mr Maynard**—It provides assessments against the national code of practice. The legislative role for checking against prohibited content rests solely with the Workplace Authority.

**Senator FISHER**—How many DEEWR employees work in Mr Artuso's area?

**Mr Maynard**—The Building Industry Branch has approximately 30 staff.

**Senator FISHER**—Mr Maynard, could you—perhaps, on notice—indicate what their responsibilities are and what classifications they fall into?

**Mr Maynard**—I could provide some detail in relation to that on notice.

**Senator FISHER**—How does that team operate in conjunction with the Australian Building and Construction Commission?



**Mr Maynard**—The department is responsible for the policy, and we provide code assessment facilities.

**Senator FISHER**—So they actually check whether agreements are code compliant?

**Mr Maynard**—Correct. The Australian Building and Construction Commission does on-site audits and provides feedback to industry on the compliance of their processes and practices with their obligations under the Workplace Relations Act, the Building and Construction Industry Improvement Act and the national code of practice.

**Senator FISHER**—Let me understand this correctly. The Building Industry Branch checks whether agreements are code compliant and then the ABCC checks whether the conduct on the building sites is code compliant?

**Mr Maynard**—Yes, that is correct.

**Senator FISHER**—How many agreements have been checked for code compliance from 1 January this year to 1 June this year, yesterday?

**Mr Maynard**—I am not sure I have the data in exactly that format.

**Senator FISHER**—Can you provide it?

**Mr Maynard**—However, over this financial year we have processed approximately 3,500 code assessments.

**Senator FISHER**—That is for this financial year.

**Mr Maynard**—I do apologise. The data timeframe I have is from 1 September until current, so it would be slightly more than that.

**Senator FISHER**—Can you provide on notice the number of agreements that have been checked for code compliance from 1 January this year to 1 June this year, and then the number of agreements that were checked for code compliance in the preceding 12 months, so from January 2007 to December 2007?

**Mr Maynard**—And for this financial year from 1 January until?

**Senator FISHER**—Until 1 June this year. Is the team aware through this work how many agreements in the building industry will expire in the next 12 months?

**Mr Maynard**—Yes, in the order of 4,000.

**Senator FISHER**—Thank you. I asked an earlier question about moving towards the one-stop shop Fair Work Australia. I am sure you will refresh my memory, but I recollect the answer to my questions about progress that was being made was, 'It is in hand.' I note from my organisational chart that we have under Ms James the Fair Work Australia transition team headed by Mr De Silva and ably assisted by Ms Perdikogiannis, who I notice are both in the room with us today. The Fair Work Australia implementation team involves Mr Peter Culley, who is also in the room today. You have got two teams of people within the department progressing some work towards the implementation of Fair Work Australia. I am now somewhat curious. I would have thought they would know within reasonable specifics what their jobs are within that framework, so I am interested to hear a little more about what their

jobs are and what they are doing to progress the implementation of the government's policy of a one-stop shop in terms of Fair Work Australia.

**Mr Pratt**—Can I start, and I will just go back to my answer this morning on this. Their job—and again this is very general—is to provide policy advice and legal advice to government to assist in supporting the government in its consultation on all aspects of the Forward with Fairness program, including the development of Fair Work Australia, and so those people have been heavily involved in considering the issues associated with the development and implementation of Fair Work Australia.

**Senator FISHER**—Ms James?

**Ms James**—I should also say I think the org chart that you are working off is a little out of date.

**Senator ABETZ**—It has not been mugged yet—is that what you are telling me?

**Ms James**—No mugging. When the transition bill was being developed, we had a team working on the transition bill and other transitional measures such as the development of the National Employment Standards. Once the transition bill commenced, and demonstrating the agility which Ms Paul mentioned before and that we are all getting very used to at the moment, we have reformatted our structure a little because our main focus now is, of course, assisting on the development of the reforms for the substantive legislation.

**Senator FISHER**—All right. Thank you.

**Senator FIERRAVANTI-WELLS**—Going back to industrial action: under the transitional legislation which took effect in March, can you take industrial action in support of the inclusion of prohibited content in pre Forward with Fairness agreements—that is, those agreements made under Work Choices?

**CHAIR**—Are we are getting into asking for legal advice?

**Senator FIERRAVANTI-WELLS**—No, I am just asking: can you take legal action? It is a pretty simple question.

**Senator Wong**—Is this in relation to the bill that has passed the Senate?

**Senator FIERRAVANTI-WELLS**—Yes, the one that took effect on 28 March.

**Senator ABETZ**—The transitional legislation.

**Senator Wong**—So you are asking for advice about the effect of legislation which has been passed through the parliament?

**Senator ABETZ**—Yes, that is right.

**Senator Wong**—It sounds like an opinion to me—

**Senator ABETZ**—No.

**Senator Wong**—You don't think so?

**Senator ABETZ**—It happens on a regular basis.

**Ms James**—The terminology you are using is not the terminology in the legislation, but I think I am on fairly safe ground when I say that nothing in the transition bill allowed

protected action to be taken for prohibited content in relation to any of the myriad of transitional agreements or current agreements.

**Senator FIERRAVANTI-WELLS**—Thank you.

**Senator FISHER**—Ms James, is it possible for you to provide the committee with an updated organisational chart, given I am so out of date?

**Ms Paul**—I will see what we have got for you. We can certainly spell out the people that are now working on Fair Work Australia, which is where you were.

**Senator FISHER**—Is there an issue with providing an updated organisational chart in its entirety?

**Ms Paul**—No, I do not think so, if you want the broader look.

**Senator FISHER**—I think the committee would welcome that, noting that it may change from time to time. One further question in respect of the building industry. The minister is currently, as I understand it, conducting a review of the ABCC and its transition to Fair Work Australia. Is the building industry branch involved in this?

**Mr Maynard**—The Deputy Prime Minister announced that the Hon. Murray Wilcox QC would conduct extensive consultations with industry stakeholders on the regulatory framework and a series of other matters set out in the DPM's press release associated with the transition from the existing regulatory framework to that which will apply under the specialist building and construction division within the inspectorate of Fair Work Australia. That transition will be at the end of January 2010. The building industry branch to date has, through myself, had initial consultation with His Honour and would be expected to provide some secretariat services to him to assist with that consultation process.

**Senator FISHER**—Is it the government's intention to merge the building and construction industry improvement legislation into the substantive legislation?

**Mr Maynard**—The consultation process that has been announced is to explore industry stakeholders' views that would inform any such decision making.

**Senator FISHER**—So that is clearly a prospect?

**Senator Wong**—Can I just be clear that the Deputy Prime Minister's media release quite clearly indicates this consultation is in the context of the government's pre-election commission to retain the ABCC until 31 January 2010 and to replace it at that time with a specialist building and construction division of the inspectorate of Fair Work Australia. It makes clear that, consistent with those commitments, the Wilcox consultation process is about ensuring that the transition to those new arrangements will be orderly, effective and robust.

**Senator FISHER**—Thank you, Minister.

**CHAIR**—Are there any further questions in outcome 9?

**Senator ABETZ**—We in the coalition are very concerned about public servants working long hours and therefore, whilst Mr Rudd does not give them an early mark, we thought we might.

**CHAIR**—So this concludes questioning in outcome 9? You have no further questions?

**Senator ABETZ**—I think that is so.

**CHAIR**—We will adjourn shortly. We will commence at 9 am tomorrow according to the rest of the program and then conclude when that is over.

**Ms Paul**—Chair, just for clarification: I am assuming that you will do the agencies tomorrow and then you will stick to the schedule of starting the education components on Wednesday?

**CHAIR**—Yes. Thank you to the officers who attended today. Minister, the hearing is adjourned.

**Committee adjourned at 10.37 pm**