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Official Committee Hansard

SENATE

EDUCATION, EMPLOYMENT AND WORKPLACE RELATIONS
LEGISLATION COMMITTEE

ESTIMATES

(Budget Estimates)

MONDAY, 31 MAY 2010

CANBERRA

BY AUTHORITY OF THE SENATE

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SENATE EDUCATION, EMPLOYMENT AND WORKPLACE RELATIONS**LEGISLATION COMMITTEE****Monday, 31 May 2010**

Members: Senator Marshall (*Chair*), Senator Cash (*Deputy Chair*), Senators Back, Bilyk, Jacinta Collins and Hanson-Young

Participating members: Senators Abetz, Adams, Barnett, Bernardi, Birmingham, Mark Bishop, Boswell, Boyce, Brandis, Bob Brown, Carol Brown, Bushby, Cameron, Colbeck, Coonan, Cormann, Crossin, Eggleston, Farrell, Feeney, Ferguson, Fielding, Fierravanti-Wells, Fifield, Fisher, Forshaw, Furner, Heffernan, Humphries, Hurley, Hutchins, Johnston, Joyce, Kroger, Ludlam, Lundy, Ian Macdonald, McEwen, McGauran, McLucas, Mason, Milne, Minchin, Moore, Nash, O'Brien, Parry, Payne, Polley, Pratt, Ronaldson, Ryan, Scullion, Siewert, Sterle, Troeth, Trood, Williams, Wortley and Xenophon

Senators in attendance: Senators Abetz, Bilyk, Cash, Collins, Cormann, Fifield, Fisher, Marshall, Mason, Parry, Ronaldson, Siewert and Sterle

Committee met at 9.00 am**EDUCATION, EMPLOYMENT AND WORKPLACE RELATIONS PORTFOLIO****In Attendance**

Senator the Hon. Mark Arbib, Minister for Employment Participation, and Senator the Hon. Kim Carr, Minister for Innovation, Industry, Science and Research

Department of Education, Employment and Workplace Relations

Ms Lisa Paul, Secretary

Mr Robert Griew, Associate Secretary, Strategy

Mr Ewen McDonald, Deputy Secretary, Corporate

Mr Tony Cook, Deputy Secretary, OECECC

Dr Michele Bruniges, Deputy Secretary, Schools

Mr Michael Manthorpe, Deputy Secretary, BER

Ms Kathryn Campbell, Deputy Secretary, Tertiary Youth and International

Ms Sandra Parker, Deputy Secretary, Employment

Mr John Kovacic, Deputy Secretary, Workplace Relations

Corporate and network

Ms Lisa Paul, Secretary

Mr Ewen McDonald, Deputy Secretary

Mr Craig Storen, Chief Finance Officer, Corporate, Finance Group

Mr George Kriz, Chief Legal Officer, Corporate, Legal, Investigations and Procurement

Mr Simon Gotzinger, Acting General Counsel, Corporate, Legal, Investigations and Procurement

Ms Helen Willoughby, Group Manager, Corporate, Communication

Ms Susan Smith, Group Manager, Corporate, Delivery and Network

Ms Paul McHugh, Acting Branch Manager, Corporate, Delivery and Network

Ms Fiona MacDonald, Acting Branch Manager, Corporate, Delivery and Network
Mr Benjamin Wyers, Acting Group Manager, Corporate, People Group
Ms Christine Silk, Branch Manager, Corporate, People Group
Ms Sue Saunders, Branch Manager, Corporate, People Group
Ms Tina Daisley, Acting Branch Manager, Corporate, People Group
Dr Alison Morehead, Group Manager, Social Policy Unit
Ms Lynne Stevenson, Branch Manager, Indigenous Employment Program

Outcome 1—Office of Early Childhood Education and Childcare

Ms Lisa Paul, Secretary
Mr Tony Cook, Deputy Secretary
Ms Vicki Rundle, Group Manager, Outcome 1—OECECC, Early Childhood Development
Ms Kathryn Shugg, Branch Manager, Outcome 1—OECECC, Early Childhood Development
Ms Maddona Morton, Branch Manager, Outcome 1—OECECC, Early Childhood Development
Ms Ngaire Hosking, Group Manager, Outcome 1—OECECC, Indigenous Pathways and Early Learning
Mr Matthew Hardy, Branch Manager, Outcome 1—OECECC, Indigenous Pathways and Early Learning
Mr Russell Ayres, Branch Manager, Outcome 1—OECECC, Indigenous Pathways and Early Learning
Ms Robyn Calder, Branch Manager, Outcome 1—OECECC, Indigenous Pathways and Early Learning
Ms Helen Lamming, Acting Branch Manager, Outcome 1—OECECC, Indigenous Pathways and Early Learning
Mr Ben Johnson, Group Manager, Outcome 1—OECECC, Early Childhood Programs
Mr Murray Kimber, Branch Manager, Outcome 1—OECECC, Early Childhood Programs
Mr Mark Wright, Acting Branch Manager, Outcome 1—OECECC, Early Childhood Programs
Ms Robyn Shannon, Branch Manager, Outcome 1—OECECC, Early Childhood Programs
Ms Amanda Brown, Acting Branch Manager, Outcome 1—OECECC, Early Childhood Programs

Outcome 2—Schools

Ms Lisa Paul, Secretary
Dr Michelle Bruniges, Deputy Secretary
Dr Evan Arthur, Group Manager, Outcome 2—Schools, Digital Education and Youth Transitions
Ms Rhyan Bloor, Branch Manager, Outcome 2—Schools, Digital Education and Youth Transitions
Ms Helen McLaren, Branch Manager, Outcome 2—Schools, Digital Education and Youth Transitions
Ms Catherine Wall, Group Manager, Outcome 2—Schools, Lifting Educational Outcomes
Ms Louise Hanlon, Branch Manager, Outcome 2—Schools, Lifting Educational Outcomes
Mr Matt Davies, Branch Manager, Outcome 2—Schools, Lifting Educational Outcomes

Ms Margaret Banks, Branch Manager, Outcome 2—Schools, Lifting Educational Outcomes

Ms Gabrielle Phillips, Branch Manager, Outcome 2—Schools, Lifting Educational Outcomes

Mr Stephen Goodwin, Branch Manager, Outcome 2—Schools, Lifting Educational Outcomes

Ms Janet Davy, Group Manager, Outcome 2—Schools, National Curriculum, Assessment and Reporting

Mr Tony Zanderigo, Branch Manager, Outcome 2—Schools, National Curriculum, Assessment and Reporting

Mr Craig Robertson, Group Manager, Outcome 2—Schools, Infrastructure and Funding

Ms Leonie Horrocks, Branch Manager, Outcome 2—Schools, Infrastructure and Funding

Mr David De Silva, Branch Manager, Outcome 2—Schools, Infrastructure and Funding

Outcome 2—Building the Education Revolution

Mr Michael Manthorpe, Deputy Secretary

Mr Anthony Parsons, Group Manager, Outcome 2—Schools, Building the Education Revolution, Program Management

Ms Gillian Mitchell, Branch Manager, Outcome 2—Schools, Building the Education Revolution, Program Management

Ms Kylie Emery, Acting Group Manager, Outcome 2—Schools, Building the Education Revolution, Strategic Management

Outcome 3—Tertiary, Youth and International

Ms Lisa Paul, Secretary

Ms Kathryn Campbell, Deputy Secretary

Ms Nicky Govan, Branch Manager, Outcome 3—Tertiary Youth and International, National Resources Sector Employment Taskforce Secretariat

Ms Margaret McKinnon, Group Manager, Outcome 3—Tertiary Youth and International

Mr Michael Maynard, Group Manager, Outcome 3—Tertiary Youth and International, Youth and Industry Skills

Mr Daniel Owen, Branch Manager, Outcome 3—Tertiary Youth and International, Youth and Industry Skills

Ms Katy Balmaks, Branch Manager, Outcome 3—Tertiary Youth and International, Youth and Industry Skills

Ms Jan Febey, Branch Manager, Outcome 3—Tertiary Youth and International, Youth and Industry Skills

Ms Donna Griffin, Branch Manager, Outcome 3—Tertiary Youth and International, Youth and Industry Skills

Ms Robyn Priddle, Branch Manager, Outcome 3—Tertiary Youth and International, Youth and Industry Skills

Mr David Hazlehurst, Group Manager, Outcome 3—Tertiary Youth and International, Higher Education Group

Ms Julie Randall, Branch Manager, Outcome 3—Tertiary Youth and International, Higher Education Group

Ms Susan Bennett, Branch Manager, Outcome 3—Tertiary Youth and International, Higher Education Group

Ms Jenny Chadwick, Branch Manager, Outcome 3—Tertiary Youth and International, Higher Education Group
Mr Jason Coutts, Branch Manager, Outcome 3—Tertiary Youth and International, Higher Education Group
Ms Catherine Vandermark, Branch Manager, Outcome 3—Tertiary Youth and International, Higher Education Group
Ms Jennifer Taylor, Group Manager, Outcome 3—Tertiary Youth and International, Tertiary Skills and Productivity
Mr Neil McAuslan, Branch Manager, Outcome 3—Tertiary Youth and International, Tertiary Skills and Productivity
Ms Maryanne Quagliata, Branch Manager, Outcome 3—Tertiary Youth and International,, Tertiary Skills and Productivity
Mr Richard Millington, Acting Branch Manager, Outcome 3—Tertiary Youth and International, Tertiary Skills and Productivity
Ms Linda White, Branch Manager, Outcome 3—Tertiary Youth and International, Tertiary Skills and Productivity
Mr Colin Walters, Group Manager, Tertiary Youth and International, International
Mr John Barbour, Acting Branch Manager, Outcome 3—Tertiary Youth and International, International
Ms Tulip Chaudhury, Branch Manager, Outcome 3—Tertiary Youth and International, International
Mr Jason Coutts, Branch Manager, Outcome 3—Tertiary Youth and International, International
Mr Vipin Mahajan, Branch Manager, Outcome 3—Tertiary Youth and International, International
Ms Di Weddell, Branch Manager, Outcome 3—Tertiary Youth and International, International

Outcome 4—Strategy

Ms Lisa Paul, Secretary
Mr Robert Griew, Associate Secretary
Ms Margaret Kidd, Group Manager, Outcome 4—Strategy, Job Strategies
Mr Mark Roddam, Acting Group Manager, Outcome 4—Strategy, Economic Strategies
Ms Sue Dawson, Group Manager, Outcome 4—Strategy, Strategic policy
Ms Jo Wood, Group Manager, Outcome 4—Strategy, Indigenous Economic Strategies
Dr Alison Morehea, Group Manager, Outcome 4—Strategy, Social Policy
Ms Alex Gordon, Branch Manager, Outcome 4—Strategy, Social Policy
Ms Rosemary Addis, Group Manager, Outcome 4—Strategy, Social Innovation
Ms Jenny Harrison, Victorian State Manager
Ms Helen McCormack, Branch Manager, Victorian State Office

Outcome 4—Employment

Ms Sandra Parker, Deputy Secretary
Ms Dianne Fletcher, Group Manager, Outcome 4—Employment, Procurement and Business Partnerships
Ms Margaret McKinnon, Group Manager, Outcome 4—Employment, General Employment Services

Mr Stuart Watson, Branch Manager, Outcome 4—Employment, General Employment Services

Mr John Manthey, Branch Manager, Outcome 4—Employment, General Employment Services

Ms Ingrid Kemp, Branch Manager, Outcome 4—Employment, General Employment Services

Ms Linda Laker, Branch Manager, Outcome 4—Employment, General Employment Services

Ms Fiona Buffinton, Group Manager, Outcome 4—Employment, Specialist Employment Services

Ms Alison Durbin, Branch Manager, Outcome 4—Employment, Specialist Employment Services

Ms Sharon Stuart, Branch Manager, Outcome 4—Employment, Specialist Employment Services

Mr Derek Pigram, Branch Manager, Outcome 4—Employment, Specialist Employment Services

Ms Marsha Milliken, Group Manager, Outcome 4—Employment, Income Support

Ms Margaret Sykes, Branch Manager, Outcome 4—Employment, Income Support

Mr Stephen Moore, Group Manager, Outcome 4—Employment, Employment Systems and Relationships

Outcome 5—Workplace Relations

Ms Lisa Paul, Secretary

Mr John Kovacic, Deputy Secretary

Ms Michelle Baxter, Group Manager, Outcome 5—Workplace Relations, Safety and Entitlements

Ms Helen Marshall, Federal Safety Commissioner, Outcome 5—Workplace Relations, Safety and Entitlements

Mr James Hart, Branch Manager, Outcome 5—Workplace Relations, Safety and Entitlements

Ms Flora Carapellucci, Branch Manager, Outcome 5—Workplace Relations, Safety and Entitlements

Mr Derren Gillespie, Branch Manager, Outcome 5—Workplace Relations, Safety and Entitlements

Mr Jeff Willing, Acting Group Manager, Outcome 5—Workplace Relations, Workplace Relations Implementation

Ms Helen Bull, Branch Manager, Outcome 5—Workplace Relations, Workplace Relations Implementation

Mr Matthew Gardiner, Acting Branch Manager, Outcome 5—Workplace Relations, Workplace Relations Implementation

Ms Kate Driver, Acting Branch Manager, Outcome 5—Workplace Relations, Workplace Relations Implementation

Ms Colette Shelley, Acting Group Manager, Outcome 5—Workplace Relations, Workplace Relations Policy

Mr Paul Dwyer, Acting Branch Manager, Outcome 5—Workplace Relations, Workplace Relations Policy

Ms Rachel Livingston, Acting Branch Manager, Outcome 5—Workplace Relations, Workplace Relations Policy

Ms Jody Anderson, Branch Manager, Outcome 5—Workplace Relations, Workplace Relations Policy

Ms Jan Rees, Acting Branch Manager, Outcome 5—Workplace Relations, Workplace Relations Policy

Mr Jeremy O’Sullivan, Chief Counsel, Outcome 5—Workplace Relations, Workplace Relations Legal

Mr Peter Cully, Branch Manager, Outcome 5—Workplace Relations, Workplace Relations Legal

Mr David Bohn, Branch Manager, Outcome 5—Workplace Relations, Workplace Relations Legal

Ms Elen Perdikogiannis, Branch Manager, Outcome 5—Workplace Relations, Workplace Relations Legal

Mr Henry Lis, Branch Manager, Outcome 5—Workplace Relations, Workplace Relations Legal

Australian Curriculum, Assessment and Reporting Authority

Dr Peter Hill, Chief Executive Officer, Australian Curriculum, Assessment and Reporting Authority

Mr Robert Randall, General Manager, Curriculum, Australian Curriculum, Assessment and Reporting Authority

Mr Peter Adams, Acting General Manager, Assessment, Australian Curriculum, Assessment and Reporting Authority

Mr David Wasson, Acting General Manager, Reporting, Australian Curriculum, Assessment and Reporting Authority

Australian Building and Construction Commission

The Hon John Lloyd, Commissioner, Australian Building and Construction Commission

Mr Ross Dalgleish, Deputy Commissioner, Australian Building and Construction Commission

Ms Heather Hausler, Assistant Commissioner, Australian Building and Construction Commission

Mr John Draffin, Assistant Commissioner, Australian Building and Construction Commission

Mr John Casey, Chief Financial Officer, Australian Building and Construction Commission

Australian Institute for Teaching and School Leadership

Mr Tony Mackay, Chair, Australian Institute for Teaching and School Leadership

Mr John McCarthy, Acting Chief Executive Officer, Australian Institute for Teaching and School Leadership

Australian Learning and Teaching Council (ALTC)

Dr Carol Nicoll, Chief Executive Officer, Australian Learning and Teaching Council

Comcare

Mr Paul O’Connor, CEO, Comcare

Mr Steve Kibble, Deputy CEO, Comcare

Fair Work Australia

The Hon Geoff Giudice, President, Fair Work Australia
Mr Tim Lee, General Manager, Fair Work Australia
Mr Dennis Mihelyi, Director, Fair Work Australia
Ms Bernadette O'Neill, Director, Fair Work Australia
Mr Brendan Hower, Director, Fair Work Australia
Mr Terry Nassios, Director, Fair Work Australia

Fair Work Ombudsman

Mr Nicholas Wilson, Fair Work Ombudsman, Fair Work Ombudsman
Mr Alfred Bongi, Customer Service GM, Fair Work Ombudsman
Mr Michael Clark, Executive Director Contact Centre/AVR, Fair Work Ombudsman
Mr Leigh Johns, Chief Counsel, Fair Work Ombudsman
Mr Michael Campbell, Executive Director WR Policy and Education, Fair Work Ombudsman
Ms Ann Smith, Executive Director Knowledge Management, Fair Work Ombudsman
Mr Bill Loizides, Field Operations Group Manager, Fair Work Ombudsman
Ms Natalie James, Group Manager Fair Work Implementation Strategy, Fair Work Ombudsman
Mr Mark Scully, Finance and Reporting CFO, Fair Work Ombudsman
Mr Steven Ronson, Executive Director, Fair Work Ombudsman

Safe Work Australia

Mr Rex Hoy, CEO, Safe Work Australia
Ms Amanda Grey, Branch Manager, Safe Work Australia
Mr Wayne Creaser, Branch Manager, Safe Work Australia
Mr Drew Wagner, Branch Manager, Safe Work Australia
Ms Justine Ross, Branch Manager, Safe Work Australia

Skills Australia

Mr Robin Shreeve, CEO, Skills Australia
Ms Sue Beitz, Branch Manager, Skills Australia Secretariat

CHAIR (Senator Marshall)—I open this public hearing of the Education, Employment and Workplace Relations Legislation Committee. On behalf of the committee I wish to acknowledge the traditional owners and custodians of the land on which we meet today and pay my respects to their elders, both past and present. The Senate has referred to the committee the particulars of proposed expenditure for 2010-11 and related documents for the Education, Employment and Workplace Relations portfolios. The committee must report to the Senate on 22 June 2010 and has set Friday, 30 July 2010 as the date by which answers to questions taken on notice are to be returned.

Under standing order 26, the committee must take all evidence in public. This includes answers to questions on notice. Officers and senators are familiar with the rules of the Senate governing estimates hearings. If you need assistance, the secretariat has copies of those rules. I particularly draw the attention of witnesses to an order of the Senate of 13 May 2009 specifying the process by which a claim of public interest immunity should be raised, and which I now incorporate into *Hansard*.

The document read as follows—

Public interest immunity claims

That the Senate—

- (a) notes that ministers and officers have continued to refuse to provide information to Senate committees without properly raising claims of public interest immunity as required by past resolutions of the Senate;
- (b) reaffirms the principles of past resolutions of the Senate by this order, to provide ministers and officers with guidance as to the proper process for raising public interest immunity claims and to consolidate those past resolutions of the Senate;
- (c) orders that the following operate as an order of continuing effect:
 - (1) If:
 - (a) a Senate committee, or a senator in the course of proceedings of a committee, requests information or a document from a Commonwealth department or agency; and
 - (b) an officer of the department or agency to whom the request is directed believes that it may not be in the public interest to disclose the information or document to the committee, the officer shall state to the committee the ground on which the officer believes that it may not be in the public interest to disclose the information or document to the committee, and specify the harm to the public interest that could result from the disclosure of the information or document.
 - (2) If, after receiving the officer's statement under paragraph (1), the committee or the senator requests the officer to refer the question of the disclosure of the information or document to a responsible minister, the officer shall refer that question to the minister.
 - (3) If a minister, on a reference by an officer under paragraph (2), concludes that it would not be in the public interest to disclose the information or document to the committee, the minister shall provide to the committee a statement of the ground for that conclusion, specifying the harm to the public interest that could result from the disclosure of the information or document.
 - (4) A minister, in a statement under paragraph (3), shall indicate whether the harm to the public interest that could result from the disclosure of the information or document to the committee could result only from the publication of the information or document by the committee, or could result, equally or in part, from the disclosure of the information or document to the committee as in camera evidence.
 - (5) If, after considering a statement by a minister provided under paragraph (3), the committee concludes that the statement does not sufficiently justify the withholding of the information or document from the committee, the committee shall report the matter to the Senate.
 - (6) A decision by a committee not to report a matter to the Senate under paragraph (5) does not prevent a senator from raising the matter in the Senate in accordance with other procedures of the Senate.
 - (7) A statement that information or a document is not published, or is confidential, or consists of advice to, or internal deliberations of, government, in the absence of specification of the harm to the public interest that could result from the disclosure of the information or document, is not a statement that meets the requirements of paragraph (1) or (4).
 - (8) If a minister concludes that a statement under paragraph (3) should more appropriately be made by the head of an agency, by reason of the independence of that agency from ministerial direction or control, the minister shall inform the committee of that conclusion and the reason for that conclusion, and shall refer the matter to the head of the agency, who shall then be required to provide a statement in accordance with paragraph (3).

(Extract, Senate Standing Orders, pp 124-125)

CHAIR—The committee will begin today's proceedings with outcome 4 and will then follow the order as set out in the circulated program. Proceedings will be suspended for breaks as indicated on the program. I welcome the minister representing the Minister for Education, Employment and Workplace Relations, Senator the Hon. Mark Arbib, the departmental secretary, Ms Lisa Paul, and other officers of the department. Minister, would you like to make an opening statement?

Senator Arbib—No, that is fine, thank you.

CHAIR—Ms Paul, do you have an opening statement?

Ms Paul—No, I am fine, thank you.

[9.01 am]

CHAIR—We will start as indicated with questions in outcome 4.1.

Senator CORMANN—Ms Paul, nearly one year in, how is the Job Services Australia contract going?

Ms Paul—I think it is going very well, thank you very much, Senator. As we have said here before, it was a massive reform, a very significant reform, to bring a large number of programs into one new program and to focus resources squarely on job seekers who are the most disadvantaged. Job Services Australia is proving that it is able to do exactly that. Some of the programs that were rolled into what was the old Job Network did not have employment outcomes as their key focus. Now people who are particularly disadvantaged—they may be homeless, have mental health issues, addiction issues and so on—are being placed in jobs to a much greater extent than they were in the past. We are delighted about that. We always seek to make improvements. We get feedback from providers all the time. We are always happy to hear it. We are always happy to think about what that might mean for us. I would characterise the year as highly successful, particularly in the face of course of a global recession and the impact that that had.

Senator CORMANN—From your point of view, providers are performing consistent with their requirements under the contract?

Ms Paul—We will measure the performance of providers. That is one of the strengths of this system, of course, and was one of the strengths under the old system too. We measure quite rigorously. If at any stage providers are not performing, we are able to act on that. I do not know of the current status. Perhaps my colleagues would like to take—

Senator CORMANN—That would be great. I understand now what you are doing and that does not surprise me; what I am keen to know is whether providers are performing consistent with their requirements and, if not, what some of the issues are.

Mr Griew—I might start out with some performance data at a whole-of-service level, if you are interested. This is data for the first nine months of the new contract. There have been 59,500 13-week job outcomes, which is about 15 per cent higher than for the same months in 2003-04. That is a good early indication of the comparative period of nine months at the beginning of JSA versus nine months at the beginning of the previous contract. As Ms Paul said, one emphasis of the new contract is on the incentives and the support for providers for job seekers at the higher levels of disadvantage. We have 24,568 stream 4 job placements to

the end of March 2010. Under the previous system, where there was not an uncapped set of services for those more disadvantaged job seekers, there were 30,000 on the waiting list for personal support services. Similarly there have been 3,145 13-week outcomes for a similar cohort for the same period. In 2003-04, the number of placements into employment and training for the personal support program and job placement employment training programs was estimated to be around 2,500. That set of statistics indicates that for the first nine months we have reason to be fairly satisfied that the system is performing and performing against the kinds of policy objectives that Ms Paul outlined.

Senator CORMANN—Is it true that some providers that were contracted under the Job Services Australia tender last year have since subcontracted to other providers?

Mr Griew—There are a very significant number of job service providers in the system, and that is not, of course, an allowable action unless it is approved.

Senator CORMANN—I saw some nodding there, so that does happen, does it not?

Ms Paul—Yes, absolutely, and indeed when we were assessing the tender, tenderers had to identify who their subcontractors would be and advise us of their subcontractors. Yes, of course that happens.

Senator CORMANN—If the primary provider subcontracts, as a department you do take an interest as to the quality of the subcontractor? Is that something that you have assessed in the lead-up to even allocating the tender?

Ms Paul—I might just take you through how we assess performances. Overall, yes, but I might get into detail.

Ms Fletcher—The department is involved and approves all the subcontracting arrangements. Prior to a contracted organisation entering into subcontracting arrangements, they must approach the department and seek our prior permission in order to do that.

Senator CORMANN—Out of all of the contracts let, how many of them are then subcontracted?

Ms Fletcher—The number of subcontracting arrangements can change from time to time because it is a commercial arrangement between the organisation that has the contract with the Commonwealth and the organisation that they may choose to subcontract with. At this point in time, there are about 120 organisations that have some form of subcontracting arrangement in place.

Senator CORMANN—One hundred and twenty out of how many?

Ms Fletcher—There are 111 contracts for Job Services Australia.

Senator CORMANN—They are provided by how many organisations?

Ms Fletcher—There are 111 contracts and there are 136 organisations.

Senator CORMANN—So are 120 of them subcontracted?

Ms Fletcher—No. In addition to the 136 organisations, there are around a further 120 organisations that are delivering subcontracting arrangements that have been approved by the department, at this point in time.

Senator CORMANN—You have got 111 contracts and you have got 136 primary providers fulfilling those 111 contracts, so some contracts are shared by more than one primary provider then, presumably?

Ms Fletcher—Certainly. The tender allowed for the provision of group tendering and partnering arrangements in consortium.

Senator CORMANN—Are there instances where the providers you have contracted, as part of your tender last year, then turned around and subcontracted an unsuccessful tenderer who previously held that contract?

Ms Fletcher—In the process of the tender, organisations as part of their tendering arrangements were asked to identify subcontracting arrangements. There will be instances, but I do not have it to hand, the number of organisations that previously delivered employment services that were unsuccessful in the tender and may now be involved in it.

Senator CORMANN—Could you take that on notice?

Ms Fletcher—Certainly.

Senator CORMANN—On the face of it, if somebody is not good enough to be the primary provider and the primary provider cannot deliver the service unless they contract to the provider that had the contract before but was unsuccessful, it seems like there is some inefficiency there. I suspect that there would be some administrative costs in the subcontracting process as well, wouldn't there?

Ms Paul—May I clarify one piece of what you said, before handing back to Ms Fletcher? It would not have been the case that the key provider was successful and then found they could not do it without this subcontractor because we approved the subcontractors in the tender process. We had to be satisfied in the tender process with the subcontractors and with the overall tender. That is only one piece of what you said. It may well have happened that someone tendered successfully and we gave them some allocation of business, and subsequently they have sought our approval for further subcontractors. That may have happened and Ms Fletcher can go to that. I just wanted to clarify that piece; it is not the case that they could have come in without us knowing about who their subcontractors are.

Senator CORMANN—Except if you have a major provider who is competing for business themselves, they are hardly going to make a competitor's bid more competitive by allowing themselves to be used as a subcontractor to be part of your bid. That does not make sense.

Ms Paul—We actually saw quite a lot of it. In the tender we saw quite a lot of both consortia and subcontracting arrangements. It was quite interesting and that could be for a number of reasons, such as to achieve a certain geographical spread or to achieve a certain client targeting, as was often the case. I remember sitting in the tender room and seeing that. Because we were rolling all these programs into one, some people had been specialists in just one area and an umbrella tenderer needed that expertise. That was quite a common thing. I should not hog the air space and will hand back to Ms Fletcher. It was certainly something that we saw in the tender.

Ms Fletcher—I think Ms Paul covered the main issues.

Senator CORMANN—Did she?

Ms Paul—Except I think you were also going to talk about after the tender, weren't you?

Senator CORMANN—What is intriguing is that as I travel around and meet people, I hear stories of major organisations who have had a strong track record but are unsuccessful themselves in getting the tender. But on the basis of what Ms Paul has just told me, they might have contributed to somebody else being successful on the basis that they were the subcontractor. They still end up with the same work they had before but no longer as the primary contractor, as a subcontractor. How does that make sense?

Ms Paul—Do not forget that it was incredibly competitive. That organisation may be a strong organisation but it may have competed in one of the 118 employment service areas in the tender that was just sensationally competitive. And it was sensationally competitive. It is not necessarily the case that they are a dud organisation in any way. Indeed, they cannot be if we have approved them to be a subcontractor.

Senator CORMANN—In terms of getting value for money, let me ask the question another way. Wouldn't you get better value for money by contracting directly? Wouldn't you have a preference to contract directly rather than to have the subcontracting second level down? Isn't there an efficiency loss there somewhere?

Ms Paul—My view would be that it is an efficiency gain, particularly under the new system because of this capacity to target. You can imagine an umbrella tenderer who might have tendered for more than one employment services area in Australia. They have the efficiency, the economy of scale of a national operation often but they had to prove to us that they were able to work locally. One of the criteria was about local linkages and it had a significant weighting on it. The subcontracting arrangements make a lot of sense in that situation where you have got the economy of scale and the reputation and so on of a national provider coupled with local expertise. In addition to that, because we were rolling a number of programs together, you have also got the addition of the expertise to focus on particular client groups. Given that we assessed it holistically, I think it is quite an efficient approach.

Senator CORMANN—Except that people might end up doing the same work as a subcontractor but getting less money because some of it gets picked up by the primary provider who does not actually provide the service.

Senator Arbib—Can you just explain that?

Senator CORMANN—I am sure that you might know who I am talking about. You may have somebody who has lost a contract but ending up continuing to provide the same work they provided before now as a subcontractor. The primary provider does not provide the service; they just subcontract to the exact same provider that was providing the service before, so there is now somebody interposed between the government and the provider actually providing the work. I find it very difficult to understand where there is efficiency.

Ms Paul—But of course it is a commercial arrangement, and they have gone into it voluntarily.

Senator CORMANN—Of course, because if you have lost your business and you are looking at sacking staff, and your second best option is to go in as a subcontractor then of course you will. Otherwise it is nothing or that.

Ms Paul—I can appreciate that, but of course we will have assessed them against our criteria in terms of effectiveness to help job seekers, local linkages, governance and so on.

Senator CORMANN—If the primary provider was not fulfilling their contractual obligations as a subcontractor, for example, if the primary provider did not pay what was due to be paid under the contract and that was going to have an impact on the obligations to you, what would the department do in that circumstance?

Ms Fletcher—Under the contract there are obligations of the lead contractor to pay all their commitments and liabilities as and when they fall due. If it came to our attention that a lead contractor was not fulfilling those obligations then that is a contract management issue that we would take up with that lead contractor.

Senator CORMANN—Have there been any such instances since 1 July 2009?

Ms Fletcher—There has been some anecdotal feedback of that occurring in one location with which I am familiar.

Senator CORMANN—When you say ‘anecdotal feedback’, describe to me what you mean by that. You have hearsay or has somebody—

Ms Fletcher—It was hearsay.

Senator CORMANN—So nobody has actually made a formal approach to the department saying, ‘I am having a problem with the lead contractor, who is not paying my fees’?

Ms Fletcher—No, it was not a formal approach on that basis.

Senator CORMANN—What sort of approach was it?

Ms Fletcher—The subcontractor indicated that there were some relationship issues commercially in that arrangement between the lead contractor and the subcontractor. We worked with both providers to facilitate a commercial outcome but we did not inject ourselves into that arrangement.

Senator CORMANN—That sounds much more than anecdotal, if you actually involved yourselves. What form did the approach take?

Ms Fletcher—It was a contact to our state office that said that they were not happy with the arrangement. There was no evidence, there was no specific detail provided to underpin what—

Senator CORMANN—Are you confident of that?

Mr Griew—I think what Ms Fletcher said is that the department, through the state office, facilitated a commercial settlement between two commercial parties, which is going to be a preferable outcome in terms of the delivery of the service to arbitrating on a contractual matter.

Senator CORMANN—Sure, and has the lead contractor now paid all his or her dues? There are no outstanding issues there in relation to this?

Ms Fletcher—Not to my knowledge.

Mr Griew—Which of course we would look into if either party raised that.

Senator CORMANN—I am intrigued about the way you describe the approach. I was led to believe that there was a much formal approach with a formal notice to the department that essentially the services were going to cease because no payment was being received. You seem to be describing it as a ‘we’ve got some issues’ type of conversation whereas I am led to believe it was a much more formal approach to the department.

Ms Parker—Our contract management relationships are via our state offices. The state offices talk to providers daily and they hear a lot of things. When we say ‘anecdotal information’, we get anecdotal information every day through our state offices. They talk to providers about what they are hearing, but unless it is formally raised there will be no investigation on a formal basis. It does not mean our state offices would not have a conversation with the provider to say that they are hearing certain things. That is how you build relationships with providers and that is how we know what is going on between contractors, subcontractors, providers, job seekers and so on. Anecdotal information is important because of the relationship we want to build with providers. It does not mean that it necessarily gets ramped up to anything formal.

Senator CORMANN—Certainly the way that you have described the department’s interest is quite different from what I was led to believe providers were told at a state office level. I was led to believe that the feedback was, ‘Subcontractors issues are nothing to do with the department; that is a matter between you and the primary provider. The only contractor that we deal with is the primary provider.’ From what Ms Paul and all the rest of you have said today, you have got a direct interest in those sorts of relationships between subcontractors and primary providers; is that right?

Ms Parker—They have a commercial relationship, as Ms Paul said. As I said, that would not stop account managers from raising issues they have heard of with a provider around their subcontractors.

Senator CORMANN—Have any of your contracted providers had or do they continue to have financial difficulties?

Ms Parker—Financial viability issues?

Senator CORMANN—Have any of your providers had or continue to have any financial viability issues since 1 July 2009?

Ms Parker—In general terms, as Ms Paul said, the contract is working well. We do, from time to time, have conversations with providers and account managers have conversations with providers around what they would say is financial viability. The new model took a little time to settle in. Providers had to get used to the changes in that. It is a more flexible model; they need to use their employment pathway fund differently. They need to target specific job seekers. That has taken some time to settle in for some of them, particularly some of the smaller organisations. In general, we would say the model is working well and we are seeing it settling in and things working. As I said, from time to time, our account managers have conversations with individual providers, but that is between them. Until it is formal and they are looking at perhaps closing a contract, we would not want to disclose that.

Senator CORMANN—Is that a long way of saying yes?

Ms Parker—The question of whether any of them have closed?

Senator CORMANN—No, I have not asked whether any of them have closed; I have asked whether any of them have financial viability issues.

Ms Parker—I think it is a confidential question. What I was saying, I suppose in a roundabout way, was that those are issues between providers, subcontractors and account managers, and until it is formalised we would not want to discuss it here.

Senator CASH—Could I jump in for one moment and ask a follow-up question? What risk management measures does the department have in place for dealing with providers who do have financial viability issues?

Ms Parker—We have a range of performance management requirements including, not specific—

Senator CASH—Hold on, not performance management; risk management as opposed to performance management.

Ms Parker—Around financial viability?

Senator Arbib—That was not the original question, you did not ask about risk management.

Senator CORMANN—Senator Cash is asking that.

Senator CASH—Yes, risk management. I thought I did ask about that but if I did not, I apologise.

Ms Parker—Part of the performance framework that I mentioned is around ensuring that providers are financially viable. Our account managers, for example, look at their financial statements and they look at how they are running as a business amongst all of the other quality measures as well. One of those is how they are operating as a business. As I said, we look at financial statements, whether they are keeping those and whether they are keeping records as you would with any business. They operate as accountants, if you like, checking their records.

Senator CASH—Do you have a risk management procedure that you could table for us?

Ms Parker—Yes, we have a quality framework that we can provide at a high level including KPIs, which include financial management.

Senator CORMANN—To go back—and I am not asking you to reveal confidential information in terms of naming names—what I am asking for is a number. How many providers out of the 136 contracted have raised financial viability issues with you?

Ms Fletcher—Please repeat the question?

Senator CORMANN—How many providers have raised any sort of financial viability issue with you out of those contracted providers since 1 June 2009?

Ms Fletcher—As Ms Parker says, there are conversations that occur on a day-to-day basis between account managers and providers—

Senator CORMANN—All 136?

Ms Fletcher—but not all of those are necessarily catalogued or recorded formally. In the order of about 10 to 12 organisations have specifically identified issues regarding their commercial operations and the way they operate their business and raised them with the department. Some of that has resulted in their restructuring internally and potentially considering not delivering employment services. Some of that goes to their commercial leases that they have in sites and things that are more expensive than they anticipated, so they are looking at their fixed costs and how they can manage those fixed costs better.

Senator CORMANN—Have those 10 to 12 got characteristics in common? Are they smaller community based types of organisations? What are the characteristics that they may or may not have in common?

Ms Fletcher—They are quite varied organisations. Some of them are small organisations that are only operating in one of our employment services areas and may be operating from a small number of sites. Some may be slightly larger and operating across a larger number of employment services areas. They may have a larger number of sites and range of other businesses that they operate outside of employment services—in the social and health sector, for example.

Senator CORMANN—How many contracts do those 10 to 12 providers that have raised financial viability issues with you look after?

Ms Fletcher—I would have to take that on notice to do the breakdown for the number of locations they come from.

Senator CORMANN—Are you able to tell us today the dollar figure of business that they are looking after for you?

Ms Fletcher—We would have to take it on notice, yes.

Ms Paul—I think too, given that we are now going to specific providers, that we might also—

Senator CORMANN—I am not asking you for names, incidentally.

Ms Paul—No, I appreciate that.. We might also try and give you a sense of the types of issues and whether they have been resolved. I would not like us to have any implication out there that something dire was going to happen. Often, as Ms Fletcher says, these are just people who are saying, ‘We are restructuring internally,’ or, ‘We are rethinking our business model’ or whatever. I think we need to give you a sense of that as well.

Senator CORMANN—Of course.

Senator Arbib—Could I just also add—and I know that you do know this, but it is still extremely early in terms of the rollout of the program—that the providers I talked to, and the same ones you probably talked to as well, are still getting used to the new system. There have been some rather large changes.

Ms Paul—The feedback we have had from providers is extremely positive about the support of the system to them. They are very positive about having a bit less red tape. They are positive about having the full range of responsibility from people who are well able to find a job right through to the most disadvantaged. So the feedback overall—

Senator CORMANN—We have already gone through that, Ms Paul. I have got a whole lot of questions.

Ms Paul—I beg your pardon.

Senator CORMANN—Out of the 10 to 12, are you saying to me that all of those issues are manageable and none of them are at risk of closure?

Ms Fletcher—Those issues in the main are manageable and we have worked with the providers to identify opportunities for them to—

Senator CORMANN—In the main: can you specify that?

Ms Fletcher—Certainly.

Ms Parker—Some of that is speculation. We do look into—

Senator CORMANN—Are you concerned about any provider?

Ms Parker—We are concerned about all the providers that might have issues. The key is that we are working very closely with them.

Senator CORMANN—If I can finish my question: are you concerned that any of the providers with financial difficulties may be forced to close down?

Ms Fletcher—To date, five organisations have approached the department to either transfer business to other providers or to hand back their contract.

Senator Arbib—Can I just say that is not unusual, as you know, in terms of previous contracts. If you go back to the contract under Job Network, I think you will find there were many, many providers who handed back contracts.

Senator CORMANN—Well, it depends. What is the size of the contracts that we are talking about, the five organisations that have approached the department? How big are those providers, how big are those contracts? How much business are they looking after for you?

Ms Fletcher—I might have to take that on notice.

Ms Paul—That business transfers, of course, so there is no loss of business, but we can set out for you how much business has transferred to other providers. There is no loss of support to the job seeker.

Senator CORMANN—Just finishing off on the subcontractors, and we have gone through this to a certain degree, has the department or the minister received any complaints from subcontractors beyond not being paid? We have gone through the not being paid bit. Has the department or the minister received any complaints from subcontractors because they are not satisfied with the way the arrangements are playing out for them?

Ms Fletcher—I am going to take that on notice.

Mr Griew—I think Ms Fletcher has previously indicated to you that she is unaware of that situation but it would probably serve you well if we were to just check with the state offices on any issues that they would want to report. That is just being certain to provide you with the right information?

Senator JACINTA COLLINS—Just on the subcontractor issue, can I ask you to put these transition issues into context in terms of the previous changes in the model, going back from

JN1 to JN2 and what issues there were around subcontractors at that point so we have the context of these current transitions?

Ms Parker—Any detail we would need to take on notice from the previous contracts.

Senator JACINTA COLLINS—I understand, but I am just saying when you are talking about the issues that have occurred on this occasion, I would like to see them in the context of the previous changes.

Senator Arbib—I was going to make a point but I did not get a chance, that subcontracting was a part of the previous contracts; this is not new under Job Services Australia.

Senator CORMANN—I am not suggesting it is. What I am sort of a bit intrigued about is when I come across major providers who have lost business for whatever reason and within five seconds are asked to provide the same service as a subcontractor, after they have been unsuccessful. Minister, you are aware that that is something that has occurred.

Senator Arbib—I accept that. Again I just wanted to make the point that this is not unusual; even under Job Network exactly the same thing was happening.

Senator CORMANN—I am not making any assertion. Finishing off on this financial viability issue, have any of the 10 to 12 providers who have raised financial viability issues with you raised the Job Services Australia funding model as the reason for their financial viability issues?

Ms Parker—We understand that a number of them have raised concern with the JSA model as one of the issues. They have also raised other issues as well such as wanting to transfer business and change the commercial arrangements. As part of the discussions with them we will look at all of those issues.

Senator CORMANN—What sort of funding issues around the JSA model have they raised with you?

Ms Parker—I mentioned before that it is a new model. Some of them that had business before and have moved into JSA had some concerns or certainly took some time to settle into the flexibility of the new model. They need to be able to plan for each job seeker and have flexible arrangements. Some of them have not adapted as well to that as most of the others. The concerns are around having to use the Employment Pathway Fund for job seekers individually and having to work very closely with job seekers in a different way, so it is a transition issue.

Senator CORMANN—Are you planning any changes as a result of the issues that have been raised, such as the contract?

Ms Parker—No. The model for the vast majority of providers appears to be working well.

Mr Griew—I think it is worth recalling too that the model we are talking about has deliberate objectives about providing a flexible service which focuses on the most disadvantaged job seeker and that it provides the service provider with a lot of flexibility in how they actually allocate resources to achieve outcomes for those people. This is a learning process for the providers; they have to budget and use the much more flexible funding pool, and there are strong incentives to working with the most difficult job seekers. It would be unsurprising that what is actually a small number of providers are—

Senator CORMANN—What, about 10 per cent, just under ten per cent?

Mr Griew—It is unsurprising to me that a small number of providers are in active discussion with the department as they try to work their way through the issues of a new funding system which is quite substantially different and is apparently, as I indicated in the first answer I gave you, starting to achieve very good results. The measure here is that we continue to achieve those results and that over time the providers bed down these transition issues, because the system itself gives them a lot of room to move.

Senator CORMANN—In answer to a question on notice from the February estimates, you told me that 6,061 complaints or 46.6 per cent of 12,997 contacts from individual fully eligible job seekers were received in the period 1 July to 31 December 2009. That would seem quite high, wouldn't it?

Ms Paul—Can you give us the reference, please?

Senator CORMANN—EW1042_10; does that mean something to you?

Senator JACINTA COLLINS—Probably.

Ms Paul—This was the number of complaints?

Senator CORMANN—The number of complaints, yes. Am I quoting you correctly, 6,061 out of 12,997, which is 46.6 per cent?

Ms Parker—Yes, that is correct. Out of a total of 12,997 inquiries we had a subcomponent of complaints, that was from 1 July to 31 December.

Senator CORMANN—That would seem like a large proportion of contacts that actually raised a complaint. It is just under half.

Ms Parker—Yes, that is correct, but there are many thousands of job seekers, so 6,000 complaints is not very many.

Ms Paul—There are 700,000 job seekers. I do not think this is historically any different. This is the complaints line so we want to know complaints of course. We want to strive for continual improvement if there is anything to be done. If you like, we can give you the historical run—

Senator CORMANN—If you could that would be great.

Ms Parker—although of course it is a bit hard to compare because there were seven program and now there is one.

Senator CORMANN—But what you could compare is proportionally. Absolute numbers might not be all that relevant.

Mr Griew—The proportion would be the proportion of clients, not the proportion of people who ring the line, because the line is actively seeking feedback.

Senator CORMANN—What was the most common form of complaint that you have received?

Ms Parker—We would need to take that on notice. We do have breakdown but not with us.

Ms Paul—The interesting thing, if we can do it, would be to compare numbers at the beginning of the last contract. That was a much more controversial time; I do not know what it was like then.

Senator CORMANN—How are your complaints tracking for the period 1 January 2010 to today? Have you got those figures handy or do you need to provide them on notice?

Ms Parker—Yes, we do.

Senator CORMANN—Some more talking points, Minister?

Senator Arbib—I am looking at your question on notice. Out of 700,000 job seekers, 6,000 complaints would seem extremely low, especially when we have just come out of a global recession. I am just trying to put that in a bit of context.

Ms Paul—It is less than one per cent.

Senator CORMANN—In what sort of circumstances would a job seeker request to transfer from one job services trade provider to another? There have been 1,564 job seekers who did that.

Ms Parker—Is the question under what circumstances?

Senator CORMANN—Yes, under what circumstances would they ask to be transferred?

Ms Parker—They can request a transfer at any time if they are not comfortable with the provider or if they feel they would like a change.

Senator CORMANN—What is the current case load for Job Services Australia?

Ms Parker—As at 31 March the case load was 826,064.

Senator CORMANN—Can you break that down into four streams?

Ms Parker—Yes we can. The case load for stream 1 at 31 March was 255,776, which is 31 per cent; stream 2 was 240,468, which is 29 per cent; stream 3 was 197,953, which is 24 per cent; and stream 4 was 125,051, which is 15 per cent.

Senator CORMANN—Thank you. In terms of those providers that have reported financial viability issues with you, have you changed the frequency of site monitoring or online monitoring since that time?

Ms Parker—No. We have an agreed monitoring process. As Ms Fletcher said, state officers, state contract managers, are in often daily contact with providers, but there is a specific set of formal contract management arrangements and monitoring arrangements which are undertaken throughout the year and throughout the contract period which we can provide. We have already agreed to provide those.

Senator CORMANN—I was picking up on Senator Cash's question. Does not a provider that raises financial issues with you go into a higher risk profile and get some more intense attention from the department?

Ms Parker—Yes, that is right.

Senator CORMANN—What form does that more intense attention take?

Ms Fletcher—The attention would vary based on the scenario. It could take the form of, for example, going out to the provider's location and working for a concentrated period, perhaps over a week or two, with that provider to work through whatever issues they may have or to facilitate improving housekeeping, their capacity to claim for payments, helping them to identify areas where they may be not necessarily utilising the flexibility of the model as much as they could, through to ongoing desktop monitoring. It is a whole range of face-to-face through to working through the desktop system and anything in between.

Senator CORMANN—Ms Parker mentioned the performance framework. How is that going? You are about to publicly release the star rating are you?

Ms Parker—The first star ratings will not be publicly released. In line with the previous contract, the first star ratings were provided only to the providers themselves on a confidential basis. That was because, as the minister mentioned before, it is early days—

Senator CORMANN—My recollection that in February you said that it would be publicly released from June 2010 is wrong is it?

Ms Parker—That is correct, from June 2010.

Senator CORMANN—What you are saying is that the data from June 2010 is going to be released is it?

Ms Parker—The performance from June. We have released one set of star ratings.

Senator CORMANN—You have released star ratings in relation to the previous contract or in relation to this contract?

Ms Paul—Ms Parker is saying that this is the same arrangement we had in the previous contract at this point.

Ms Parker—At this point the first set of ratings are given only to the provider themselves.

Senator CORMANN—So that they get a chance to address any issues.

Ms Paul—Correct.

Senator CORMANN—I understand now. I sort of misunderstood. When you said from 2010, I understood that it would be publicly available from 2010; what you are saying is performance from 2010, is that right?

Ms Parker—Yes. When they have been running the contract for a year in other words, they will be in a position to have public star ratings released so they will see each other's performance.

Senator CORMANN—Even though you will not make it public, how are the current Job Services Australia providers tracking under your performance management system? Again, not individuals specifically but can you give us some indicators around that?

Ms Paul—Can we just clarify: we have already given star ratings to the providers confidentially. What Ms Parker was saying is that we are going to make public the star ratings after the finish of that first year of performance.

Senator CORMANN—When is it going to be made public?

Ms Parker—About a month later so towards the end of July.

Senator CORMANN—But you have the information now?

Ms Parker—Sorry, we have done the first period.

Senator CORMANN—The answer is yes, is it not?

Ms Paul—We have given them information from a portion of the first year of operation. What will go public will be the performance information from the whole first year of operation.

Senator CORMANN—You have obviously approached all of the individual providers and given feedback as to how you have assessed them. I am not asking you to tell me how every individual provider is riding but what I am looking for is an indication as to how many providers are within each star ranking. Is that something that you would be able to provide us? I think that is sufficiently up structurally.

Ms Parker—Some general information we can provide is that the overall results are positive. This is the period 1 July 2009 to 31 March. The overall results are positive.

Senator CORMANN—That is a very nice sentence but it means nothing.

Ms Parker—Around 71 per cent of all employment service area contracts were at three stars or above and this compares to around 70 per cent at three stars or above for previous Job Network arrangements.

Senator CORMANN—So no change, one per cent?

Ms Parker—Very little change.

Senator CORMANN—Have you had feedback from providers regarding their star ratings as they were confidentially supplied to them from the department?

Ms Parker—After we produced the star ratings our account managers in the states immediately went out and had meetings with each of the providers and talked through the initial star ratings. The feedback is on that basis. They are talking through with them what it means, how they need to improve their performance, if there are areas for improvement and what it means for the next set of star ratings.

Senator CORMANN—Have any of the providers complained about the star ratings prior to public release?

Ms Parker—Not that we are aware of; they may have done to account managers.

Senator CORMANN—I would be surprised if none of them have. I am sure that the instinct would be to say, ‘We deserve a higher star rating.’ That would only would be human, would it not? I am a bit suspicious when you say you are not aware of any complaints.

Ms Parker—We are not aware of any formal complaints. We can check out with our account managers whether there have been any complaints. If you mean formal complaints then no, we have not.

Senator CORMANN—I have had some feedback from industry that the KPI 3 on quality is not, in some providers’ view, being assessed properly. Could you comment on that?

Ms Parker—KPI 3 is a work in progress and it is to do with quality. I suppose we are bedding down the KPI system.

Ms Paul—I think one of the reasons there has not been formal complaint is that it has been a very, very transparent process with them. The minister set up a group of providers and others which we chaired to look at precisely how the star ratings would unfold including the quality indicator. I think everyone is pretty well clear about where it is up to. I think it was a really good process. It is very positive that we are where we are and that people are on the whole accepting of what the approach is showing, but there would not have been any particular surprises in the approach.

Senator CORMANN—Ms Parker said that that KPI 3 on quality was a work in progress. Can you explain what that means? Is the KPI still being bedded down?

Ms Parker—I was a bit unclear there. Because KPI 3 is to do with quality, there is a lot more discussion needed with account managers when it comes down to measures on quality. Some of the measures are very much quantitative, such as how many job seekers they are getting through. KPI 3 is about quality: how they engage with their jobs seekers; how they actually deliver the service; how they do the employment pathway plans; how they work with stakeholders. A lot of discussion goes on with the account managers around these particular measures—more so perhaps than with the others. So what I meant was that a work in progress means that there will be a lot more discussion with providers on this one. Providers have had a lot of input to KPI 3, as we said, but because it is qualitative, it is always going to be much more about discussing with account managers than is the case with the others.

Senator CORMANN—Have any providers failed KPI 3, the quality KPI?

Ms Fletcher—Not at this point in time.

Senator CORMANN—But you have got concerns in relation to some of them?

Ms Fletcher—We have some concerns. It does not necessarily mean that they fail, as such; it is just that there is room for improvement in comparison to other providers in the marketplace.

Senator CORMANN—How many providers would you be concerned about in relation to this KPI?

Ms Fletcher—I will take that on notice.

Senator CORMANN—That is not something that you know from your little notes?

Ms Fletcher—No, Senator.

Senator CORMANN—It is an obvious question I would have thought.

Ms Paul—It is worth noting that there has never been a quality KPI before. The providers are welcoming of it; they understand it. I think it is incredibly important but, because it has never been in any previous contract, it is something which we are still working through. Certainly in the meetings that I have chaired on this with providers and so on, it seems to be working through quite well.

Senator CORMANN—Has any provider rated poorly on any of the other KPIs and, if so, how many?

Ms Fletcher—When you refer to other KPIs—

Senator CORMANN—You have the KPI on quality and you have got, as you say, more objective KPIs around numbers. Has any provider rated poorly on those?

Mr Griew—It is probably important to get clear precisely what you are driving at. The notion of a—

Senator CORMANN—What I am driving at is whether you are unhappy with the performance of your contracted providers according to any of the KPIs, essentially.

Mr Griew—A quality framework, if it is working, will necessarily have a range of results for a range of providers because otherwise it is going to be a very ineffective quality framework that rates every provider at the top of the scale. What might be useful is for me to give you some indicative sense of the spread of ratings.

Senator CORMANN—What might be useful is if you could give me the number of those where you are concerned that they are not meeting—

Ms Paul—We will take it on notice to give you a breakdown.

Senator CORMANN—In terms of your evaluation strategy, it mentions that specific studies will result in a series of evaluation papers. In February we talked about this and you said that it would be available later in 2010. Have you got a firmer release date in relation to that now?

Mr Griew—Ms Margaret Kidd has come to the table. She is responsible for our evaluation function within the contract. It would be good if we could just be clear which of the evaluations you are asking for an update about.

Senator CORMANN—I am not asking you about any specific one. In your evaluation strategy paper it mentions that there are going to be specific studies—a number of them—which will result in a series of evaluation papers, plural. If you have got different dates then I am quite happy for you to give me different dates.

Mr Griew—Sorry—I was not trying to be difficult; I was just trying to get clear the question so Ms Kidd could answer.

Ms Kidd—The Job Services Australia evaluation is quite a complex evaluation. We have broken it down into a number of small components, primarily so that we can get some early results, but also there is a longitudinal aspect of it that obviously will take place over a period of time. In terms of the evaluation, we are looking at some preliminary products mid this year. They are for components where the event has actually occurred so that we can test the results of it. What I mean by that is: there are various services along the way in Job Services Australia, such as intensive activities that job seekers do early on in the period of service, and we would have sufficient people who have done those components in order for us to evaluate those and have some results around June.

Senator CORMANN—Excellent; thank you. That is all I had in relation to the evaluation strategy, so I am sorry but we are not going to have a very long conversation, Ms Kidd. I am going to go back to the job seekers in those four streams and ask a series of questions in relation to that. We have gone through the number of job seekers in the stream. Can you provide us with a breakdown by age of those, on notice, perhaps—unless you have got it just ready to go?

Ms Parker—By age?

Senator CORMANN—Yes, by age: how many of them are under 25, et cetera. You have got that there handy?

Ms Parker—We have some information, yes.

Senator CORMANN—Why don't you read us your relevant briefing note, or table it?

Ms Parker—I have not memorised them, Senator. As at 31 March: for youth, 15- to 24-year-olds, the total case load was 235,322; for mature age, which is 55 plus, we had 89,032. I do not have other age groups; I have male, female and Indigenous, if that would be useful.

Senator CORMANN—Are there some more age groups arriving there now?

Ms Parker—Yes, sorry—we do have all of them. For 15 to 20-year-olds, job placements for the same period up to 31 March numbered 44,230.

Senator CORMANN—That is placements, is it, rather than clients in Job Services Australia?

Ms Parker—Yes, that is placements. We can provide that by stream.

Senator CORMANN—Maybe I could just ask you what I am after and then it may be easier to get it on notice because otherwise we will waste too much time.

Ms Parker—Okay, that is fine, thank you.

Senator CORMANN—If I could get the numbers by stream, broken down by 15 to 24, 24 to 50 and then 50 and above, and female, male and Indigenous, that would be really useful.

Ms Parker—Yes, we can provide that.

Senator CORMANN—That would be great, thank you. The case load overall seems to have gone up quite a bit since we talked about it in February, effective 31 December 2009.

Ms Parker—Yes.

Senator CORMANN—What has been the main driver of that? Unemployment figures overall have not gone up but your case load has gone up quite a bit, from 791,000 to 826,000.

Ms Parker—Yes, that is right.

Senator CORMANN—Yes, that is right?

Ms Parker—It is the global financial crisis; there is a lag time, and long-term unemployed and other at-risk job seekers are still quite affected.

Ms Paul—It is a seasonal impact too. We do get seasonal impacts as well.

Ms Parker—So they are coming through.

Senator CORMANN—So that is the main reason for it—there is nothing else that you can pick up on? I see you shake your head, so that is good. I am just reading it into *Hansard* because *Hansard* cannot hear a shake or nod. How many job seekers in stream 1 have been unemployed for more than 12 months?

Ms Paul—We have not had 12 months yet.

Senator Arbib—We have just started this system. We have not done 12 months yet as stream 1.

Senator CORMANN—What happened to people—

Senator Arbib—The new Job Services Australia model started on 1 July.

Ms Paul—We can tell you ‘long-term unemployed’ or ‘unemployed more than 12 months’ but we cannot tell you stream 1 because stream 1 has only existed since 1 July 2009.

Senator CORMANN—There would be people in stream 1 that you would know have been unemployed for less than 12 months, potentially?

Ms Paul—Yes—sorry; I see what you are asking.

Senator CORMANN—Yes, that is my question. I am not saying, ‘How long have they been in stream 1?’ How many people in stream 1 have been unemployed for more than 12 months? That is a reasonable question I would have thought. It might be zero.

Ms Paul—Sure.

Ms Parker—We need to take that on notice, Senator. We can provide—

Senator CORMANN—I assume it is a low number because it is the lowest level of support.

Senator Arbib—Stream 1 is job-ready.

Senator CORMANN—That is right. So the question is: has anybody been in stream 1 all the way since 1 July 2009?

Ms Paul—We can get that for you if there is any—

Senator SIEWERT—On those who are, at the moment job-ready: how long are they generally staying in stream 1 before they find a job? In other words, how quickly are they going on and off? I asked this of Centrelink and they told me to ask you.

Ms Paul—Yes, it is for us, but we may need to take it on notice.

Ms Parker—We can provide that but we do not have it with us. We can certainly look at that for you.

Senator SIEWERT—Could you get that over the next two days? Is that possible—

Ms Parker—I am sure it is.

Senator SIEWERT—rather than taking it on notice?

Ms Paul—We will see if we can do that.

Senator SIEWERT—That would be much appreciated, thank you.

Senator CORMANN—Are you continuing to look for that or are you providing that on notice?

Ms Parker—We will provide that on notice but within the next couple of days, hopefully.

Mr Griew—We may be able to bring the answer back.

Senator CORMANN—If you could provide that same information for other streams as well that would be really good. What percentage of job seekers out of those 826,000 is in work experience placements or training?

Ms Parker—As at 31 March 86,045 job seekers have commenced work experience since the beginning of the contract.

Senator CORMANN—86,000?

Ms Parker—86,045 have commenced in the work experience phase. In terms of percentages, I have a breakdown—

Senator CORMANN—No, forget about the percentages, give me the numbers. So 86,000 work experience; give the breakdown of what the other 700,000-plus are doing.

Ms Kidd—Can we just clarify the question?

Senator CORMANN—You have 826,064 job seekers in the system with 86,045 of those in a work experience placement at present. How many of them are in training, how many of them are doing other things? I am trying to get a breakdown of what those 826,000 job seekers are up to right now.

Ms Parker—We have some in work experience, some in job placements and some will be doing other activities. Work experience of course covers a very broad range of activities. In the work experience phase they will be undertaking things like Work for the Dole, part-time work, accredited training, voluntary work, National Green Jobs Corp and many, many other activities in work experience.

Senator CORMANN—How many of those 826,064 are doing neither work experience nor any of the things that you have just listed?

Ms Parker—Those who are not yet in the work experience phase will be looking for work.

Senator CORMANN—That is like people who have not gone through the 12 months?

Ms Parker—That is right, yes.

Senator Arbib—Job Search.

Ms Parker—That does mean that they are not also doing training, depending on what their provider thinks will be good for them to do.

Senator CORMANN—Then there is also a series of people who have got exemptions?

Ms Parker—That is correct.

Senator CORMANN—I am keen to get a breakdown of the number of people who are in various placements and recognised activities, those that are not yet, as you describe it, in the work experience phase, that have not gone through the 12 months yet, and then those who are doing neither or do not fall into that category, and the reasons why.

Ms Parker—For example, of the 826,064, there are a number, as you have said, who would be suspended, for example because they might be off getting a job, they may be undertaking voluntary work or they may have medical reasons for not actually being in work experience or job searching, and there will be others, as we said. There is a combination of

people in stream services, some of whom are undertaking work experience and some of whom are suspended for those ranges of reasons that I mentioned.

Mr Griew—We can take on notice a breakdown across those categories.

Senator CORMANN—If you could provide us a detailed breakdown of that, that would be great.

Ms Parker—Sure.

Senator CORMANN—How many of those job seekers had a connection failure since 1 July 2009?

Ms Parker—Connection failures to 31 March numbered 242,866.

Senator CORMANN—242,866 connection failures, but that is individual connection failures rather than people, isn't it?

Ms Parker—Yes.

Senator CORMANN—How many people does it relate to, how many individual job seekers?

Ms Parker—How many job seekers? I think I would need to take that one on notice. I have specifics by actual failures, not job seekers.

Senator CORMANN—If you could tell us how many job seekers that relates to, that would be good. Can you tell us how many job seekers with a connection failure were breached?

Ms Parker—Yes, 60,763 had applied connection failures out of the 242,866.

Senator CORMANN—Were they individuals or were they people who were breached?

Ms Parker—Again, we are still talking about breaches as opposed to individuals, so an individual may have more than one.

Senator CORMANN—This is instances rather than people?

Ms Parker—Yes.

Mr Griew—It could be, as you are implying, that an individual has a couple of connection failures and that leads to a breach.

Senator CORMANN—I am not adding them all together; I understand that. I would be very keen to know how many individual people are involved. How many job seekers have had their income support suspended?

Ms Parker—Financial penalties to the end of March numbered 21,189.

Senator CORMANN—Again, because the minister and Ms Paul always emphasise the historical context and the importance of that, are you able to provide us that data, not now but on notice, in its historical context?

Mr Griew—I can give you the data for exactly the same nine months for the previous year: the number was 16,903.

Senator CORMANN—Rather than go through all of them, if you could provide us that data for two or three years.

Ms Parker—Yes.

Senator CORMANN—Going back to the number of exemptions, how many job seekers actually have formal exemptions from mutual obligation?

Ms Parker—Is that the exemptions from participating?

Senator CORMANN—Yes, that is right, exemptions from participation requirements.

Ms Parker—To end of March, 69,177.

Senator CORMANN—Again you might have them there: could you give us the same numbers for the last three years? Take it on notice.

Ms Parker—We will take it on notice, I am not sure.

Senator CORMANN—Have there been any complaints from Job Services Australia providers around the increased number of exemptions? There seems to be a perception among stakeholders that there has been an increase in the number of exemptions.

Ms Parker—Some providers have said that while they have been putting in participation reports for job seekers, as in when job seekers are not connecting or reconnecting for appointments for example, that there has been, in their view, a high rate of rejection of those from Centrelink. The department has been working very closely with Centrelink and the providers to ensure that they understand the system, the IT requirements, and that they provide the right reasons. That has been going on over the last month or so. That is an issue that has been raised. In terms of the number of exemptions themselves, the proportion of those exemptions has been relatively steady, a marginal decrease in those over time. For example, Centrelink exemptions in December were 16 per cent and in 2003 they were around 17 per cent. There has not been a major increase in exemptions.

Senator CORMANN—If there was an issue it was because of the lack of connect between providers and Centrelink in terms of what?

Ms Parker—There has been a little bit of that. Centrelink, for example, needs to give quite clear reasons for job seeker exemptions. I think it has been mostly to do with the system itself and getting used to the IT system. There have been some changes to that to make it simpler and more explicit. For example Centrelink will need to be very sure that a job seeker does need to have an exemption and will need to provide the reasons for that.

Senator CORMANN—What is the average length of time spent on Newstart allowance before entering the Work for the Dole scheme?

Ms Parker—They are required to enter the work experience phase after 12 months.

Senator CORMANN—And after 12 months everybody enters?

Ms Parker—No, it depends on the job seeker. After they have been in the system for 12 months, if they are stream 1 to 3 they will be required to do six months of the following 12 months in work experience.

Senator Arbib—Senator Cormann, some of the questions you have asked in relation to figures concern actual classifications that are not the classifications the department works from.

Senator CORMANN—Ms Parker read them out to me, that is why I asked it.

Senator Arbib—I understand. I just want to make sure we get some consistency.

Senator CORMANN—I am sure you are going to be the master of consistency, Minister.

Senator Arbib—I am trying to ensure that you get the data you want but that it is robust and in accordance with our own reporting requirements, that is all.

Senator CORMANN—Yes, Minister. I kept it intentionally broad and generic, and I asked Ms Parker to read them out to me, all the different categories, so that I used your nomenclature, to your specifications, and I am sure the answers are going to be just perfect, Minister. I am sure that you and I will disagree on the interpretation of it anyway.

Senator Arbib—I am sure we will disagree on it. I am just trying to make sure that the data is comparable and robust, that is all.

Senator RONALDSON—Minister or Ms Paul, I want to return to a matter that we raised at the estimates before last; I think the February estimates did not allow time for it. In relation to the company A4e, you will remember previous discussions at the Senate estimates about this British firm. Last year my colleague, Senator Cash, asked question on notice EW654_10:

Who attended the meeting in February 2008 between A4e executives, Minister Gillard's office and Minister O'Connor's office on behalf of the government and on behalf of A4e and was there any department representative at the meeting?

The government's response to this question was:

A senior advisor to the Deputy Prime Minister met with the executives from British work placement firm A4e in February 2008.

I ask again, who was this advisor? Was it Tom Bentley who participated in that February 2008 meeting with A4e?

Ms Paul—I do not know if it was Tom Bentley, I would have to take that on notice. That meeting in February 2008 was a long, long time before the request for tender was even developed for Job Services Australia and it is a long, long time away from now. I do not have a briefing on it with me.

Senator RONALDSON—Ms Paul, that is the very point, it was before the tender process. The question Senator Cash asked on 21 October last year was, 'Who attended the meeting?'

Ms Paul—I am happy to take that on notice, Senator.

Senator RONALDSON—With the greatest respect, this was on notice and you have refused to provide the name of that person. All we got was 'a senior advisor'. Ms Paul or Minister, what is the cover up here? Because clearly it was Mr Bentley. Clearly it was Mr Bentley who was working, as I am sure you are aware, with the Deputy Prime Minister at the time; is that correct?

Ms Paul—I actually do not know if it was Mr Bentley. I have not spoken to Mr Bentley about it. I am happy to take it on notice. I note, as I did in October, that any contact happened an enormous time before the tender was even let. I probably should add, because of the comments you have just made, that I do recall last October that we went through in some detail the probity arrangements for the tender for Job Services Australia. We used external

probity advisors, the delegate was a departmental person and I personally sat in the tender room and saw how the probity arrangements worked, which were entirely impressive. Of course the relevant minister was not the Deputy Prime Minister for the Job Services Australia tender but, at any rate, the delegate was a departmental person. Their RFT was hundreds of pages long and very detailed. We had tremendous competition. A4e won a small slice of business absolutely on its merits. I can personally vouch for the probity of the process, and I think we went through most of that before.

Senator RONALDSON—We went through it before and I was accused of providing you with hypothetical information about the fact that this A4e company had actually been involved in fraudulent behaviour in the UK. You and the minister said, ‘Oh, it is just all hypothetical.’ I gave you a newspaper report which clearly indicated that it was, and of course it was. You know full well, Ms Paul, that £12,500 was repaid with an acknowledgement of fraud.

Ms Paul—I am not sure that is the case, Senator. Where is that?

Senator RONALDSON—I will table it. Ms Paul, these were very serious allegations. If you have not made those inquiries, why were they not made?

CHAIR—Tabling is not a matter that you just do by yourself, Senator.

Senator RONALDSON—I will provide it to Ms Paul then.

CHAIR—It is a matter for the committee. If you want to ask questions about this document, circulate it at this time, that is fine and the committee will make a decision whether to table it.

Ms Paul—I think we looked into it, Senator. Have we given you a question on notice on this? We are going back a fair while now. I thought we might have given you an answer. I know we looked into it following October.

Senator RONALDSON—I had asked the question about whether the department or those conducting the probity aspect of these tenders contacted the British Department for Work and Pensions to ascertain whether there were issues.

Ms Paul—Arising from your remarks in October, we went all the way back to the UK and asked them what was going on. We can either give you a report now, unless we already have it on notice, we may have. It is a long time ago now, October.

Senator RONALDSON—I will quote from this memorandum which was submitted to the British parliament:

Fraud and cases of poorly executed contract management seriously undermine this objective, and A4e is committed to working with the DWP and other partners to tackle these issues.

...

In doing so, A4e have drawn on some lessons learnt from the fraud case in Hull...

That is their case where they were required to repay money.

A4e repaid DWP £12,500 for these incorrectly claimed outcome payments.

They were falsified job outcome payments. That was the reason for my question; this was a company who had been forced to repay moneys because there were fraudulent claims.

Ms Paul—My recollection is that when we looked into this with the UK Department for Work and Pensions, which is one of my equivalent departments in the UK, we found it was not a significant issue from their point of view, that there may have been an employee—

Senator RONALDSON—What, fraud is not a significant issue?

Ms Paul—I actually cannot remember the full story. We certainly looked into it and I can satisfy you on that. We certainly satisfied ourselves that from the Department for Work and Pensions' point of view it was not a longstanding or significant issue or perhaps there was not even an issue. I just cannot remember and we probably should take it on notice, if we have not already, and come back to you with the value of our investigation.

Senator RONALDSON—Why the reluctance of the department and why the reluctance of yourself, Minister, to actually give me something concrete?

Ms Paul—There is no reluctance at all. I think we may have even given some answers on notice, I just cannot recall, October is a while back. I recall us investigating, I recall us being satisfied; I am very happy to answer that question on notice.

Senator RONALDSON—Mr Bentley worked for Mr Plunkett.

Ms Paul—I am sorry?

Senator RONALDSON—David Plunkett in the UK, the—

Ms Paul—I do not know, Senator.

Senator RONALDSON—You are now denying that that is the situation? Ms Paul, we have been through this.

Ms Paul—I do not know. I have not denied anything, I do not know. I have already taken two questions on notice—

Senator BILYK—She said she did not know.

Ms Paul—today even though I think we may have answered them on notice before.

Senator RONALDSON—Minister, why are you and the department covering up answers to quite clear questions about the relationship between someone in the Deputy Prime Minister's office and the relationship between someone who is being paid for by A4e for whom that person worked and for whom there was a meeting which department officials apparently did not attend. Why the cover-up with this?

Senator Arbib—We have responded to this as a question on notice. I refer you to EW670_10 and an answer that has been given there. That was undertaken—

Senator RONALDSON—That is not an answer.

Ms Paul—The main point here is what I said before, namely, no matter who met and no matter the nature of that meeting, there is no way that a meeting in February 2008 could have had any impact, any impact, on the outcome of a tender process which was fully covered by probity in 2009, was the subject of an extraordinarily detailed comprehensive process which had enormous integrity and where the minister was (a) not the delegate, and (b) not the Deputy Prime Minister.

Senator RONALDSON—Certainly Patricia Karvelas in the *Australian* on 1 June did not share your views about this.

Ms Paul—She has not sat in the tender room with me, and that is probably a good thing for her, really. I can assure you, even personally, having sat there with the probity adviser from Clayton Utz and the process, the seven layers of consideration that we took, the incredible detail that the team went through, the checking, cross-checking, calibration and so on, that it is just not even possible that a meeting well before the RFT was even written could have had any impact at all on a process where the minister was a different minister and the delegate was departmental.

Senator RONALDSON—The process was so good that you did not even realise that one of the people who successfully contracted had actually had to repay money because they had fraudulently claimed against the UK government. So how can you call that a comprehensive process?

Senator Arbib—I would refer you to that answer because, as Ms Paul has discussed, obviously there was contact with the UK Department for Work and Pensions, and the answer says:

The UK Department of Work and Pensions was a referee for A4e as part of the tender process. The letter submitted as part of A4e's tender response was dated 28 October 2008 and did not indicate any concerns with A4e's performance or operations. The department followed up with members UK Department of Work and Pensions to verify the contents of the letter.

So there was a follow-up.

Ms Paul—Yes, I thought we had addressed this on notice, actually.

Senator RONALDSON—Sorry?

Ms Paul—I thought we had addressed this on notice, and the minister has just read it.

Senator RONALDSON—You have addressed lots of things on notice, but you have not answered the question.

Ms Paul—I think that answers it.

Senator Arbib—That does answer the question.

Senator RONALDSON—There have been lots of questions on notice. Are you finally going to tell me whether Tom Bentley was the person from the Deputy Prime Minister's office who met with these executives from A4e in February 2008? Are you actually going to tell me whether that is right or not?

Ms Paul—I said I do not know that, and I said I would take it on notice.

Senator RONALDSON—But when you find out, are you actually going to let me know?

Ms Paul—I have already taken that on notice.

Senator RONALDSON—As you did when Senator Cash asked this question six months ago.

Ms Paul—I cannot go any further than taking it on notice again.

Senator Arbib—Senator, it has been taken on notice. We will get you the answer.

Senator RONALDSON—An objective assessment of this would indicate that these guys are trying to cover up something. Why will they not just provide the information requested?

Ms Paul—I am happy to take it on notice.

Senator RONALDSON—Are you trying to cover up something in relation to this relationship?

Senator Arbib—Senator, we have just gone through that. You asked a question in regards to what follow-up took place; did we investigate, and certainly you already had on notice a response from the department, and I have referred you to that response. In regards to a staff member, as Ms Paul said, we will get you that answer.

Senator RONALDSON—What did the committee say about it, and it might have been the minority members on the committee? Didn't 4.63 in the conclusion of the committee's investigations say:

Doubts linger in the minds of the committee majority concerning the probity of this tender process. Although the committee received assurances that all steps taken were subject to probity audit, much of the information sought by the committee and other members of parliament to verify this was not available.

CHAIR—Sorry, to what report are you referring, for the benefit of the committee?

Senator RONALDSON—This is a report you were involved in, I think.

CHAIR—I certainly was not involved in that part of the report, and anyone who sat through that inquiry could not come to that conclusion. I suggest that that was a political stunt by the opposition senators on that committee. That is all I can say about that report.

Senator RONALDSON—That is a very serious—

CHAIR—Your report did not reflect any of the evidence the committee took during that inquiry. You want to rely on your own words, that is a very foolish strategy.

Senator CORMANN—We were focused on the national interest. The chair should not make assertions on the motivations of opposition senators.

Senator Arbib—I will make an assertion. I totally reject that claim by Senator Ronaldson, and again, as was explained in October at estimates, it was an independent probity audit done, and as we have seen and as has been tabled in the past, there were no issues raised.

Senator RONALDSON—Ms Paul, given that 40 per cent of the selection criteria for successful Job Services Australia tenders were based on a combination of 'management and governance' and 'past performance', does not A4e's confession of fraud and concession actually put that aspect of the tender into some doubt?

Ms Paul—Well, (a), I am not sure that I agree with your first assertion that there is some admission, and (b)—

Senator RONALDSON—So you do not agree with that?

Ms Paul—we have answered on notice, as the minister referred to EW670_10, the UK Department for Work and Pensions was a referee for A4e, so clearly we have done all the homework that is required. Certainly I can absolutely vouch for the thoroughness of the processes in the tender. It was quite extraordinary working our way through I think seven

levels of consideration, if not more, and cross-checking and independent review and references taken into account and so on and so forth. It was not just the fact that the probity arrangements were entirely sound, and we have already tabled the letter from the independent probity auditor, but also the process itself was extraordinarily sound—

Senator RONALDSON—Are you still suggesting to this committee that A4e did not fraudulently claim payments from the British government?

Ms Paul—I am not suggesting one thing or another. I have said that—

Senator RONALDSON—Well, you have tendered this. Is that what it says or not?

Senator Arbib—Yes, I think it—

Senator RONALDSON—You think it? Someone just say yes, they did, and they had to repay it.

Senator Arbib—I actually now have a copy of what you have put forward, and I think you have to put a bit of context around this, because it also runs through all the actions that were taken by A4e. Again, I refer you back to the question on notice that was provided by the department in terms of the information that was sought from the equivalent UK department, and their response.

Senator RONALDSON—A4e had to repay £12,500 for fraudulently claimed outcome payments, yes or no?

Senator Arbib—We can only at present take this document that you have provided as—

Ms Paul—I cannot verify this document. This document is claiming that some employees acted in some way which required this repayment. I have no knowledge of the verification of this document.

Senator RONALDSON—So will you take that on notice?

Ms Paul—I think I already have, but at any rate, I will note again, the UK Department for Work and Pensions was a referee for A4e. We did follow up after estimates in October with the UK Department for Work and Pensions and we satisfied ourselves, and I have already taken that piece again on notice.

CHAIR—We will leave it there and suspend until 10.45 am. Thank you.

Proceedings suspended from 10.29 am to 10.44 am

CHAIR—The committee will now resume with questioning in program 4.1. Senator Ronaldson, do you still have some questions?

Senator RONALDSON—Thank you. Ms Paul, would you accept that your arrogant refusal to answer questions in relation to this matter—

CHAIR—That is not appropriate, Senator. You are lucky Senator Siewert is not here because I would have gone straight to her.

Senator RONALDSON—Okay. If you do not like the question, that is your issue.

CHAIR—If you have any other questions. No, I will not have you just insult the witnesses like that.

Senator RONALDSON—If you want to rule it out of order, that is fine, but do not sort of flap your finger around like that. My next question is to you, Minister. Are you, your office and the department avoiding appropriate questioning in relation to this matter, refusing to answer questions in relation to this matter, so that effectively it is put over until after the next election to provide some protection for the Deputy Prime Minister from a matter that quite frankly does not pass the political sniff test?

Senator Arbib—Not at all, Senator. You raised this, if I remember, last October; we are now in May, and there has not been a word said. You have not actually raised it in question time; you have not raised it at the last Senate estimates hearings. A number of responses have been made to questions on notice, and I am sure you have those, so I will not go through those again. Ms Paul has said today that she will take on notice the issues you have raised and will get you a response.

Senator RONALDSON—Thank you, Minister. I will not be holding my breath.

Senator CORMANN—In relation to the one-stop-shop job centres, how much of that comes out of your department?

Senator Arbib—Are you talking about the recent announcement in terms of the pilot trials?

Senator CORMANN—Yes.

Mr Griew—This is a pilot that has been developed by a taskforce reporting to our secretary and to the secretary of the Department of Human Services. It is a trial of an integrated service to support disadvantaged job seekers where the services of Centrelink, job service providers and other agencies are brought together to ensure a personally tailored package of support for the job seeker.

Senator CORMANN—Now we have Centrelink, we have your department, we have Job Services Australia and the one-stop-shops to bring everybody together?

Mr Griew—The advantage here is that we are bringing together in one place all the different supports that disadvantaged job seekers might need. Many job seekers are able to engage with the job service provider and negotiate their way through the labour market. There is a proportion of job seekers whose barriers to employment will be overcome with the assistance of a number of different agencies, and this pilot is a trial in keeping with international best practice of assisting that job seeker by providing the range of supports they might need into one place.

Senator CORMANN—Why do you need to set up another level of bureaucracy? You have only just put in place this new Job Services Australia contract which you are saying is working wonderfully well. Why would not Job Services Australia be able to do this one-stop-shop business of making sure that the job seeker is able to get the support they need, in the context of all of the different government services?

Mr Griew—I make a couple of points to maybe assist you with that. First, this is a trial, it is a pilot.

Senator CORMANN—So we are just going to give it a try?

Mr Griew—No, quite appropriately we will be measuring and adjusting something that is a new innovation.

Senator CORMANN—It is not an innovation; it is just another layer of bureaucracy. That has been done before.

Ms Paul—No, it is not, actually, but I think we need to explain that to you.

Mr Griew—The second thing I was going to say is that it is not a new organisation at all. It is locating a range of services in a pre-existing location to which job seekers go. The other point is that, for these particular job seekers, the range of services that will help them will go beyond the normal labour market services, often to include family support services of various kinds. Bringing all of those together minimises the chance of people whose disadvantages are often many and include health problems and family problems and so on, falling through the cracks.

Senator CORMANN—Are we talking stream 4 type job seekers in the main?

Ms Kidd—It is primarily stream 4 type job seekers. It is targeting people who have been unemployed for five years plus, and also disadvantaged youth. Generally you would expect that they would be in stream 4.

Senator CORMANN—Obviously anything that we can do that is going to lead to good outcomes is a good thing. However, I still cannot get past this: you have a very recent contract, and as part of this contract you are supposed to provide services to stream 4 job seekers as part of the Job Services Australia set-up. Centrelink obviously has a role. Are you suggesting that the Job Services Australia model is failing those stream 4 job seekers and you are in a position where you have to put another layer of bureaucracy into the mix to make sure that nobody falls between the gaps?

Senator Arbib—First I reject that it is another layer of bureaucracy, because these are services that are actually going to be provided to—

Senator CORMANN—Are they public servants that will provide those services?

Ms Paul—There is a mix of people providing the services.

Senator Arbib—Under Job Services Australia, we did bring it down to a one-stop-shop in terms of employment services, but what we are doing here is saying it is not just the employment services that need to be at one location. We are also saying access to Centrelink, maybe access to state departments, maybe access to the department of housing from the state level; it is about bringing the services into one place to assist long-term job seekers.

Senator CORMANN—Does that then mean that the Job Services Australia contract, as far as it relates to stream 4 job seekers, those with the most intensive needs, was not properly structured?

Ms Paul—No, we are actually getting better results. I said this earlier on. We are actually getting better results from stream 4 job placements for the most disadvantaged than under the previous programs which were outside Job Network and which did not have job placement as a key focus. I will give you an example. What we are doing here is trying something that supports the whole family of people who were highly disadvantaged—long, long-term, very long-term unemployed. For example, this family may be a family that is touching all sorts of

services—domestic violence services, juvenile justice services, child welfare services, unemployment services, et cetera. It may be that their presenting problem is not that they do not have a job or have not had one for five years; the presenting problem may be that the car broke down. This pilot will actually help bring all of those services together for that family to actually address whatever it takes on a real basic personal level to work towards being able to take up employment. It is not a layer of bureaucracy; it is actually bringing various services, which might include non-government services, together. The idea has been successfully adopted in New Zealand, and I have been particularly interested in what New Zealand has been doing, and perhaps it is easier there with one level of government, et cetera, but nonetheless, they have had good results with these families who are very complex—

Senator CORMANN—Maybe we need another level that can bring together all of the services that bring services together?

Ms Paul—What, with New Zealand?

Senator CORMANN—No, I mean like state, federal, local, and the local employment coordinators and this and that.

Ms Paul—Yes, sure.

Senator CORMANN—There seem to be things going in all directions. Maybe we need somebody that brings all of the people together that are people bringing people together?

Ms Paul—That is what this does, yes. That is what this does for these families.

CHAIR—Or we just get rid of the states.

Senator CORMANN—That is on record now, Chair. Is that the policy of the Labor Party?

CHAIR—I thought your policy was to get rid of WA from the rest of us?

Senator CORMANN—Not my policy at all, Chair; just to make sure that is on the record.

Senator CORMANN—I am just trying to get a bit of a sense; let us just go through some specifics. What are the costings? It is a pilot.

Ms Parker—A range of departments are providing resources.

Senator CORMANN—How much is your department putting in?

Ms Parker—There are two parts to this. There is the actual running of the pilot, to which different organisations would contribute. Centrelink provides its own costs for that; the staff from Job Services Australia provide their own costs to that, et cetera. Then there is the taskforce, a small group of officers who are running it. In terms of that, we have a number of staff from our department who are involved in setting up the thing.

Mr Griew—No additional costs in the taskforce.

Senator CORMANN—No additional costs? Presumably they have been taken away from somewhere, where they are doing nothing.

Mr Griew—It is a policy function of the Department of Human Services and of our department to develop policy innovation in the services that the government provides. It is a standard function. We have put together a group of people who are experts—

Senator CORMANN—So they were doing other things before, and now they are doing this?

Ms Paul—No, they were fully employed before, and they are fully employed on this now.

Mr Griew—The secretaries of the two departments deploy staff to develop policies for government.

Senator CORMANN—They are sitting there waiting for some idea to pop up. Let us set up another—

Ms Paul—No, they are pushing forward with these pilots and so on. They have had a look at what New Zealand has been doing; they have had a look at what is needed for these very, very long-term unemployed people who really need all the help we can offer.

Senator CORMANN—How many people will be part of the pilot scheme? How many job seekers will be captured by the pilot?

Ms Kidd—There are four sites in scope for the pilot. The pilot has commenced already in Frankston, Victoria. That commenced on 24 May. It is going to kick off in Kempsey, New South Wales, on 31 May—I think that is today; Ipswich, Queensland on 7 June, and Elizabeth, South Australia, on 21 June.

Senator CORMANN—Where in South Australia?

Ms Kidd—Elizabeth. The actual number of job seekers is not known yet, but certainly there are four sites that will be set up capable of taking on these policies.

Senator CORMANN—When you say it is not known yet, is it open-ended? If you fill the criteria, you are in? When you have a pilot, often you have a specified number of people, because presumably you have to compare them to a reference group. If you are running a pilot and you want to compare how this is performing compared to this other, you have to have people who do not receive the service as well as people who receive the service.

Ms Kidd—That is right. Obviously we will have many sites where people do not get the service, and we will be looking at the results at these sites where they do. It is voluntary to be involved in the pilot.

Senator CORMANN—Chair, I see that Senator Siewert is here.

CHAIR—Yes, if this is an appropriate time to swap, we will swap. Senator Siewert.

Senator SIEWERT—I refer to the Job Capacity Assessments and also some compliance data. Is it okay if I ask some questions around compliance data? Have we moved on to Job Capacity Assessment yet?

Mr Griew—No, not yet.

Senator SIEWERT—I know that Senator Cormann was after some data on compliance. In terms of the new process and the review that is being undertaken at the moment on compliance, are you making data available in a timely manner so that stakeholders can participate? I want to explore that a little bit. I know you have been through the data a bit earlier, and I took down quite a bit of information and you are giving more on notice. How are you going about providing data in a timely manner so that people can participate in the review?

Ms Parker—The review has only recently started.

Senator SIEWERT—That is why I am asking now. I am getting feedback from stakeholders saying that they are not able to get access to data, so they think it is going to limit their ability to participate properly.

Ms Parker—The review will be talking to a number of stakeholders, including the department. We are working with the taskforce at the moment and providing them with data as they request it. We will also be providing a submission to the review, as will other stakeholders who wish to. We will include a lot of data in our submission, so we will talk about the previous system, the current system, how the compliance regime works, specifics that will be of interest. Our submission will be published. I am not sure what you mean when you say data has not been available.

Senator SIEWERT—Two things: will the timeline in your submission be earlier than other submitters so that other submitters can get access to the data? If they are trying to participate in the process and put in submissions, they also want access to the most recent data so that they can make comment on that.

Ms Parker—Yes.

Senator SIEWERT—If they have to wait for your submission before they can get access to data then that actually not only delays them but also hampers their ability to participate, certainly in the first round.

Ms Parker—The question I would ask is what data would you want, because stakeholders can request data from the department, and we will determine whether there are confidentiality issues obviously, but we can do that.

Senator SIEWERT—The sorts of things that have been raised with me include issues around penalties, issues around no-show, issues around breakdown of Indigenous and non-Indigenous, payment type, type of failure, the working off penalty provisions—particularly data around some of those new areas that have come into the compliance process. I realise that it is new and some of these only started fairly recently, and I realise therefore that there will be less wealth of data than there has been in the past to compare it. Also, the reason people are asking is because it is new.

Mr Griew—Most of that data for the nine months the system has been operating, or for however long particular initiatives have been operating, we would provide if stakeholders ask.

Senator SIEWERT—You will provide?

Mr Griew—Yes. If they wanted to write to us and specify.

Senator SIEWERT—Because it is not going up on the website, is it?

Ms Parker—Only in terms of our submission. We will obviously endeavour to get our submission in early. As I said, the review panel is also talking to us about data they are collecting. We will talk to them about what they might make available as well. But if you have specific data that you wish to have, you are very welcome to ask us for that.

Senator SIEWERT—Are you able to provide the data on the issues of breakdown of age, gender, Indigenous and non-Indigenous, payment types, type of failure, no-show, working off penalty provisions, the use of the hardship provisions and the appeals data?

Ms Parker—Yes. I think we can provide you with most of those.

Senator SIEWERT—How soon can you provide that information?

Ms Parker—Fairly quickly, I think. Sorry, that is slightly vague. I would need to talk to staff about that, but we would not be holding you up in terms of your own submission.

Senator SIEWERT—That would be appreciated, if you could. That deals with this most recent issue. If you could get that to us as soon as possible, that would be appreciated.

Mr Griew—In terms of the feasibility of getting it done easily, it would be useful to know precisely. That was a kind of verbal interchange.

Senator SIEWERT—I can very quickly provide you with a series of dot points for the information.

Mr Griew—That would be fantastic.

Senator SIEWERT—That would be great, if I could get that to you. I now move to the bigger picture issue, and we have had ongoing issues about trying to get access to data over a period of time in terms of the regularity and the frequency with which data is published on the website. What is the department's intention from now on in terms of publishing this data, both the extent of the data and the frequency of publication of that data?

Mr Griew—Our standard is to publish this data quarterly.

Senator SIEWERT—It has not been, though, has it?

Mr Griew—Has it not?

Ms Milliken—It has been our practice to publish the data quarterly. There is always a lag of about three months to make sure the data is valid in terms of whether people have appealed so the decision is actually a changed decision in terms of the application of a penalty. There was also some delay in finalising the data for the last six months of the previous framework, and that information is now available on the website.

Senator SIEWERT—When was that made available?

Ms Milliken—It was there yesterday, because I saw it.

Senator SIEWERT—I must admit, I have not been on the website for a little while, certainly not yesterday.

Ms Parker—A few months?

Ms Milliken—I would think it has been available one to two months. That was delayed as we were developing both the data for the current framework as well as finalising the previous arrangements. For all of pre-1 July 2009, the data is available.

Senator SIEWERT—So it is all up to date now?

Ms Milliken—Yes.

Senator SIEWERT—But it is not there under the new system?

Ms Milliken—We do not have any information published at this time on the new system. We have been developing the data and, as Ms Parker has said, we expect to have that information available shortly.

Senator SIEWERT—So that information will be available shortly. I want to go back to whether it is going to be updated quarterly or not. We are talking now about nine months worth of data.

Ms Milliken—Yes.

Senator SIEWERT—When do you expect to put that up? Will it then be updated every three months? Why has it taken so long to get the new system going and to get the data available?

Ms Milliken—As I said, there was some time taken in terms of ensuring that we had valid data for the post-1 July, so the current arrangements. There is always a lag after the data for a quarter so that we can ensure that it is validated.

Senator SIEWERT—I appreciate that.

Ms Parker—The answer to your question is that we have had to build a whole new system and it has taken some time. The first set of data is taking longer, but from getting the first set of data up, it will be quarterly.

Senator Arbib—I do take on board your point in terms of the review. If people want to approach us, if groups want to approach us, that offer is there, obviously.

Senator SIEWERT—I thank you very much for that offer. If they approach you prior to the department putting out its submission, so they can actually get working on theirs, you will supply that information?

Mr Griew—Yes.

Ms Parker—We will provide the quarterly data. As Ms Milliken said, the issue we have in providing very current, let us say data as of yesterday, is that there is a verification process due to appeals. For example, where we have failures, it may be that some of those are under appeal and need to be checked, so the data is not absolutely accurate. But the quarterly data will be accurate and will be verified to a point in time.

Senator SIEWERT—Okay. So you could provide, say, at least the first six months so that people could actually have access to that data for their submissions?

Ms Parker—Yes. During the review time period, that set of data will be available.

Senator SIEWERT—The latest set, you mean?

Ms Parker—Yes, for the quarter leading up to it.

Senator SIEWERT—Thank you very much, that is much appreciated. I have more on the assessment stuff, but that is next.

Senator CORMANN—One of the things we talked about last time was the number of young people not in employment or training. I was told that the next update was going to come out in May 2010.

Mr Griew—We will get the right officer to come to the table.

Senator CORMANN—Ms Paul, just by way of a general question, I am intrigued as to why the ABS does not report separately on those young people aged 15 to 17 that are neither in education or work. They only report in a consolidated figure, those that are in part-time education or part-time work, but not both, as well as no education or work. That does not seem to be split up. The information I was given appears to have been split up by your department.

Ms Paul—I am not sure.

Senator CORMANN—I do not mean to be cute or anything, but it seems to me that it is worthy to be monitored in its own right.

Ms Paul—Yes, indeed. I do not know what the ABS policy is, and I think you have made a good point.

Senator CORMANN—Maybe just take it on board and if there is something—

Ms Paul—Yes, I am happy to raise it with them.

Senator CORMANN—I am sure that you would be more influential than me in suggesting to the ABS that it might be worth while monitoring.

Ms Paul—Very kind. I would not guarantee it, but you never know.

Dr Morehead—We have data here on the age range of 15 to 24 years, because that is the most common definition used for youth.

Senator CORMANN—Although the ABS actually provides data for every individual year group, don't they—15, 16, 17?

Dr Morehead—Yes. I can give you some information on the 15- to 20-year-olds, and then a broader age range, if you like. But the most detailed information I have here today is on the most common definition of youth, which is 15 to 24 years.

Senator CORMANN—Give me what you have on 15 to 24, but given that last time I asked specifically around 15, 16 and 17, because under the government's jobs compact there are particular commitments in relation to those kids, I would have thought that it would be pretty predictable that I would want to compare how that is tracking.

Dr Morehead—Yes. The jobs compact, for example, does go under our National Partnership on Youth Attainments and Transitions, and actually there is a suite of programs that do target people from 15 to 24.

Senator CORMANN—Yes, but broken down, 15 to 17, 17 to 20?

Dr Morehead—I can do most of that. You can do the Youth Allowance population, which is 15 to 21, for example. But what we do in terms of our programs—

Senator CORMANN—What I am very specifically interested in—and the minister and I had a little discussion before about comparable data—is comparable data. You provided me last time with information about young people aged 15, 16 and 17 as to how many of them were neither in education nor work? I am very keen to get exactly comparable data.

Dr Morehead—We will get that for you as I am talking. The 15- to 24-year-old population gives you a good look. Obviously, someone is only a certain age for one year, so it is of

interest to look across the time and see how people are going over a broader age range. Then you can see generally what is happening with youth in Australia. From a policy perspective, that is quite important. There are 3,071,000 people in this country who are aged between 15 and 24, for example. Eighty two per cent of them, which is over 2.5 million, are in full-time work and/or study, so they are what we call on a fully productive pathway. The government does obviously provide support to youth in those categories who are financially disadvantaged, for example, through our student income support. You will be aware that changes are happening to the Youth Allowance student income support so that on 1 July this year about 100,000 extra people will receive Youth Allowance for the first time or in fact will receive more Youth Allowance than they were getting because of the changes.

Senator CORMANN—You are still not giving me data. You are telling me that, but I am looking at data; I am looking at numbers. You are telling me three million are—

Dr Morehead—We will go back to the numbers—2.5 million are doing full-time work and study. I can break that down into what exactly they are doing. Of the 2.5 million 15 to 25-year-olds who are in full-time work and/or study, 1.6 million of them are not on any income support and are students. They are your average student not on income support. That obviously makes up a large chunk of that population. The people who are working full time, who are not studying and not on any income support, so the ones who have transitioned into the full-time labour market, total 594,382. That is 19 per cent of the nearly 3.1 million people in that group. Then 8.5 per cent of them are on that Youth Allowance (Student) that I just talked about. That is close to 260,000 students who are on income support and are full-time students. Then we have 4,305 people on the Youth Allowance, because they are a new apprentice.

Senator CORMANN—We are still talking within the 2.5 million envelope, are we not?

Dr Morehead—We are, yes. Then, of ABSTUDY, there are 8,922. What we say from a policy perspective, they are travelling well and the government is supporting the financially disadvantaged ones to travel well. Then, out of the 3.1 million roughly 15- to 24-year-olds, we have 309,432 young people on another form of income support and not the student income support.

Senator CORMANN—Such as?

Dr Morehead—We have Newstart Allowance, Youth Allowance (Other), disability support pension, parenting payments, single parenting payment, partnered, and then a small other range of payments.

Senator CORMANN—As you are talking through, you have given me the numbers for all of the others. Can you give me the numbers for the list of income supports that you have just listed? You obviously have it there.

Dr Morehead—As at March 2010 there are 89,124 15- to 24-year-olds receiving Newstart. They make up 2.9 per cent of the whole civilian population at that age range.

Senator CORMANN—So they are young people who are unemployed?

Dr Morehead—They might be earning. In fact, 17 per cent of them are actually earning some income, but they are not earning enough to get themselves off income support, so they

are on Newstart Allowance, and they are looking for more work if they do not have some work already. Then we have 89,747 who are on Youth Allowance (Other), and they make up 2.9 per cent of the whole 3.1 million.

Senator CORMANN—Who are they, Youth Allowance (Other)?

Dr Morehead—Youth Allowance (Other) are people under the age of 21. Once you turn 21 you go onto Newstart Allowance.

Senator CORMANN—So they are people with insufficient work, but that are not yet older than 21, and they are getting essentially unemployment benefits, is that right?

Dr Morehead—Yes, that is right, and 17 per cent of the people on Youth Allowance (Other) are actually earning some money, but not enough to get them off income support.

Senator CORMANN—How many of them are not earning any money in the age bracket 15 to 24? How many of them are neither at school nor in training, or not earning any money?

Dr Morehead—Out of the 3.1 million there is 313,160, or 10.2 per cent, who are not in education, employment or training.

Senator CORMANN—That is as at 31 March 2010?

Dr Morehead—Yes.

Senator CORMANN—How does that compare with 31 March 2009?

Dr Morehead—Someone can get that for us while we are talking. I think I have it somewhere in the files.

Senator CORMANN—On notice, not now, are you able to provide us with a breakdown—again, this was discussed before—of male, female, Indigenous? Do not worry about it now, but are you able to provide that breakdown?

Dr Morehead—Yes.

Senator CORMANN—What I would be interested in today, though, rather than having to wait for the answers on notice to come in, is the 31 March 2009 figure which compares to the 313,000-odd that you have mentioned; is that okay?

Ms Paul—Yes, sure. If we do not have it here, we can obtain it on notice.

Senator CORMANN—Anecdotally, it is young males that are most at risk, is that what your data says?

Dr Morehead—About 57 per cent of what we call the NEET category. They are not in education, employment or training, so it is skewed a little bit. If you had to look at who the 'typical' job seeker was, it would be an unemployed male aged between 20 to 24 who does not have year 12 qualifications. What you tend to find with the NEET—Not in Education, Employment and Training—group is that they do not have very high education levels, hence the National Partnership on Youth Attainment and Transitions and the suite of programs under that, including the Compact with Young Australians—\$723 million in new commitments over four years to really help that group not get into that category. We look at it over that broader age range of the 15- to 24-year-olds; we take a lifecycle approach. We have early childhood reforms; we have school reforms to keep the children engaged, and then we concentrate very

firmly on that transition period. We have, for example, \$287 million for Youth Connections, which is a special program for children who are at risk of not attaining year 12. These are the people who we really do not want falling into that Not in Education, Employment and Training category, et cetera.

Senator CORMANN—Thank you. Has somebody found that figure yet for March 2009?

Senator Arbib—It does not look like it.

Ms Paul—I think we will take it on notice.

Senator CORMANN—I would rather you get it back today.

Ms Paul—We will try to get it back today.

Senator CORMANN—I will just move on. Relocation of job seekers, can people at the table cover that?

Ms Paul—Yes, we can cover that.

Senator CORMANN—How many relocations of job seekers have been funded from the Employment Pathway Fund? Please feel free to come back once you have the information.

Dr Morehead—We will.

Ms Kidd—I will just find the figure, but it is in the order of 700.

Senator CORMANN—That is in the period from when to when?

Ms Kidd—From 1 July 2009 to 13 April. Yes, 787 job seekers.

Senator CORMANN—Talk me through the process. What do they get?

Ms Kidd—It really depends what they want. The Employment Pathway Fund is flexible—

Senator CORMANN—Say I am an unemployed person in western Sydney or north of Queensland, and there is a job going in Karratha or whatever; what happens?

Ms Kidd—They would have a discussion with their JSA provider. The discussion would be about whether the person would benefit from relocating and whether the job prospects were good. If that were the case, they would talk about the kind of assistance that could be provided.

Senator CORMANN—How much assistance can be provided?

Ms Kidd—In a sense, the sky is the limit.

Senator CORMANN—The sky is the limit? Gee, Minister!

Ms Kidd—Really, it is a decision for the provider to make.

Senator CORMANN—The sky is the limit; that is an interesting statement.

Senator Arbib—A figure of speech.

Ms Paul—Of course there are dollar limits per stream on the Employment Pathway Fund.

Senator CORMANN—What is the dollar limit of the sky, Ms Paul?

Ms Kidd—The Employment Pathway Fund is a flexible pool of funds that is available to providers to spend on job seekers.

Senator CORMANN—Up until what? I am one job seeker. How much—

Ms Kidd—It is not limited; that was the point, I guess.

Senator CORMANN—Let us say I am a stream 4 job seeker, I am from Western Sydney, and there is a job going somewhere in Western Australia. How much will come out of the Employment Pathway Fund to relocate me to the great state of Western Australia?

Ms Kidd—It is really a decision for the provider to make. They need to assess the likelihood—

Senator CORMANN—Okay, the sky is the limit, we know, but how much? What is the limit?

Ms Parker—It depends.

Ms Kidd—There is no limit. Theoretically they could spend their entire Employment Pathway Fund on that person relocating.

Senator CORMANN—How much is that?

Ms Parker—It depends how many job seekers they have.

Senator CORMANN—No, but how much is the entire fund?

Ms Kidd—The way the fund works is that the providers receive a credit every time a job seeker walks through the door, in effect, and at various other points in time. Those credits are pooled, and they can use it how they see fit. While a job seeker might attract a credit of \$500, for example, to the Employment Pathway Fund as they enter stream 2 services, the provider makes a decision on how they spend that. They do not need to spend it on that individual. It is really a pooled fund and they can spend as much as they like on different individuals.

Senator CORMANN—Okay. Let us continue to go through the example. I am long-term unemployed with kids, and it is quite expensive for me to relocate to Western Australia. Would you pay, what, \$10,000, \$20,000, \$25,000 to relocate my belongings and my travel? Surely there must be a limit somewhere?

Ms Kidd—The provider makes the decision on the best outcome for the job seeker. If their best chance of employment is relocating to Western Australia, and that is quite expensive, they may choose to do that. Equally, if their best course of action is an expensive drug and alcohol intervention, they might choose to spend the money on that.

Senator CORMANN—The provider would be quite reluctant to spend that much money, wouldn't they, because if they spend it on me then they will not be able to spend it on Senator Cash, who walks through the door the next day?

Ms Kidd—That is right.

Senator Arbib—Do you know something that is coming up?

Senator CORMANN—You know what I mean.

Senator Arbib—Does Senator Cash know what you mean? That is the important thing.

Senator CORMANN—Let us have a more credible example, then: if Senator Marshall walks through the door—

Senator Arbib—That is not credible!

Ms Paul—Perhaps even better; rather than speculate at all, perhaps we could take on notice the sorts of examples that are actually in that 700.

Senator CORMANN—What I am trying to understand—and again, I am not meaning to be flippant, but I am a bit surprised to hear words like ‘the sky is the limit’ and ‘it really depends on what the provider thinks is appropriate’. That is bad in two ways: it can be bad in the upward way, because people might spend more than is appropriate, but it can also be bad the other way because they might be reluctant to spend everything on one because that stops them from spending on others. I would have thought there ought to be some sort of objective criteria around how much relocation expenses you can qualify for if you are looking at shifting to get a job in Western Australia?

Ms Paul—It is all about getting the outcome for the job seeker, isn’t it?

Senator CORMANN—Is it? At whatever cost?

Ms Paul—That is why I am offering for us to look at the 700 for you, actually, because my suspicion would be that most of those 700 are much, much more local than going from the east coast to the west coast. Indeed, the last time the department trialled a mobility pilot which did take job seekers from the east coast to the west coast it was not a success.

Senator CORMANN—We will get to that. We will get to the interpretation of whether it was a success or not. Maybe we can go to the 787 that have been relocated. What is the average cost of relocation? We know that the sky is the limit for each individual, but in terms of on average across the 787, how much did we actually spend?

Ms Kidd—The average is \$481 per individual.

Senator CORMANN—The sky is cheap.

Mr Griew—That makes the point that they are not going very far.

Ms Paul—They are not going too far. There is some mobility for a job, but they are not having to move, say, from the east coast to the west coast.

Senator CORMANN—Ms Paul, you mentioned the relocation pilot. You made the point that that was not successful?

Ms Paul—Our evaluation found that that was not a cost efficient or successful way of trying to support mobility. In that pilot, and I am sure Ms Kidd or others have more detail, but in that pilot, to my recollection, which was some years ago now, there were some job seekers who moved from the east coast to the west coast, but the proportion who actually stayed there and stayed in work was quite small. The unit cost was very, very high. So overall, we did not find that it was a cost-effective way necessarily of supporting job seekers.

Senator CORMANN—You make these sorts of generic statements that the unit cost was high; can you put some figures around it? In the pilot program, people would get a \$5,000 relocation allowance. Was there a huge cost on top of that?

Ms Paul—I will turn to my colleagues at this stage. We did do a full evaluation.

Senator CORMANN—The sky is the limit, and \$5,000 does not seem—

Ms Kidd—I am going to regret saying that, aren't I?

Senator STERLE—No, you will be in the news clippings tomorrow, no doubt.

Senator CORMANN—No, I do not think so. Relax, it is all good. It is just you and me. Forget about the rest.

Senator STERLE—Yes, trust me.

Senator JACINTA COLLINS—Definitely don't listen to him.

Ms Kidd—We ran two phases of the pilots: the first one commenced in May 2006 and the second in May 2007. It was testing the notion of relocation, in this instance from the east coast to the west, or from poor labour markets to relatively strong labour markets. We had 130 places that we were looking to fund on the pilot. We had an issue with take-up. We could not actually fill the 130 places. We filled 87 places for the pilot. An amount of up to \$5,000 was available to cover costs associated with relocation. This was generally for fares; it might be to store people's goods back here; it could be for initial rent payments, bond payments, et cetera. So they could access that, and that was tailored to individual circumstances. We also had the Job Network, at the time, providers heavily involved, and they could use their job seeker account to supplement that, if required.

Senator CORMANN—But this was voluntary, wasn't it?

Ms Kidd—It was absolutely voluntary, yes.

Senator CORMANN—How many out of the 87 actually found employment?

Ms Kidd—They all had to have jobs to go to. We did not just move them across and hope for the best. We worked with the employers in Perth, which is mainly where they went, to secure jobs and appropriate training in advance so that when they shifted across, they would move straight into those jobs.

Senator CORMANN—So after 13 weeks, how many were still in employment in WA?

Ms Kidd—I am not sure about after 13 weeks, but we found down the track, about 12 months on, that 67 of the job seekers stayed over in the west, and 20 either returned home or moved elsewhere.

Senator CORMANN—That is 77 per cent. I would have thought that is pretty successful, out of a group of 87, if you still have 77 per cent in employment where they were relocated?

Ms Kidd—Yes.

Senator CORMANN—Ms Paul just said it was expensive. The cost was the \$5,000, plus what?

Ms Kidd—Plus anything spent out of the Employment Pathway Fund. I think the average cost was a bit over \$5,000.

Senator CORMANN—What, like \$10,000, \$6,000?

Ms Kidd—No, \$5,000 and something.

Senator CORMANN—So these were people that were job seekers and unemployed that were receiving income support?

Ms Kidd—Yes.

Senator CORMANN—Once they relocated, 77 per cent of them no longer were receiving income support because they had a job?

Ms Kidd—That is right.

Senator CORMANN—And the cost to the Commonwealth was a bit over \$5,000?

Ms Kidd—Yes. What we found was that our evaluation looked at the likelihood of them gaining a job if they had not relocated. So we did a study to—

Senator CORMANN—Sure. Mr Griew just helpfully pointed it out to you, did he?

Ms Paul—No, I do not think so. I think Ms Kidd is still going, Senator.

Senator CORMANN—Sorry.

Ms Kidd—We compared the likelihood of them getting a job back on the east coast. What we found was that there was probably a bit of a selection bias here. There are not a lot of people that are willingly volunteering to move to the west coast, and the Job Network providers work to identify people on the case load. They were very much of a similar demographic; they tended to be males aged 18 to 25.

Senator CORMANN—That pilot report has been released, hasn't it?

Ms Paul—We thought there was a very high deadweight cost, in other words—that is, that these people would have, on the whole, got jobs back east, at any rate. I think that is what you are saying.

Ms Parker—That is right; they had been working in the previous six months—

Ms Paul—I said it was a high cost.

Senator CORMANN—This was a pilot, of course. It did not become an official departmental program as a result of the pilot. Is it fair to say that some of the higher costs of running it related to the fact that it was a pilot?

Mr Griew—It does not sound like it.

Ms Paul—No, it was just part of the approach. It is a bit hard to answer that. I do not think there were any additional costs for it being a pilot.

Senator CORMANN—It was very small numbers. You talk about a high cost; the cost is \$5,000, essentially, plus an administration cost of running it, and then whatever—

Ms Paul—I do not think that is in the \$5,000s. The answer to your question is: no, there were no other economies of scale to be found.

Mr Griew—The cost figures that you quoted are the costs of service to the client, not of the evaluation.

Senator CORMANN—I have to move very quickly now because I think I have only 20 minutes left on this. I will put some more questions relating to local employment coordinators on notice. By the way, I think that Dr Morehead was there with the numbers before, was she? Have we got the 31 March 2009 figures?

Senator Arbib—The only thing I was going to put on record was just in terms of the use of the EPF, the Employment Pathway Fund, because that is an issue you have obviously raised. I think it is worth saying that job providers are actually constrained by what is practical and reasonable—

Senator CORMANN—Did somebody send you through some facts?

Senator Arbib—What is on your computer?

Senator CORMANN—Nothing; it is a blank screen.

Senator Arbib—Okay. Job providers are constrained by what is practical and reasonable. They have a budget, as you know. In terms of the budget, obviously, if you spend at one end then it affects other aspects—

Senator CORMANN—Do not worry about it. I was not going to—

Senator Arbib—No, I am just making sure you understand how it works.

Senator CORMANN—Sure. Dr Morehead, have you got those figures for 31 March 2009 in terms of young people in those age brackets in neither work nor training?

Dr Morehead—I have them for May 2009. I hope that is okay. It is just that we have drawn them off May for the previous years. We could do it for March, but we would have to go back and do a run, but I have this with me now.

Senator CORMANN—As long as people do not tell me it is not comparable, I am all right.

Dr Morehead—It is comparable.

Senator CORMANN—This is one point in time, isn't it?

Dr Morehead—Yes.

Senator CORMANN—It is comparable? Okay.

Dr Morehead—As I said, for March 2010, for the 15- to 24-year-old age group, there were 313,160 young people not in employment, education or training. Obviously that is your basic income support population who are with Job Services Australia. In May 2009, that figure was 315,700, which represented 10.7 per cent of the total youth population of that age range back then. In May 2008—do you want to go back?

Senator CORMANN—Yes.

Dr Morehead—In May 2008 it was 249,200 not in employment, education or training.

Senator CORMANN—Which was pre global economic downturn?

Dr Morehead—Yes, so that is the effects of the global recession.

Senator CORMANN—Thanks very much. Not meaning to rush, but I am conscious of the clock. Can we go to the local employment coordinators, or LECs. The contract value for the local employment coordinators is \$517,000 over two years?

Ms Kidd—It is a maximum potential value of contract.

Senator CORMANN—How many of them get the maximum potential? There are 20 of them.

Ms Kidd—There are 21. The amount we pay is commercial in confidence.

Senator CORMANN—Commercial in confidence? I am not asking you for specifics. I am not asking you to tell me, ‘Mr X is getting this and Mr Y or Mrs Z is getting that.’ I am asking you: of the 21, how many are getting \$517,000? How many of them are getting the top value?

Mr Griew—While Ms Kidd gets that figure, it is worth pointing out that this is a contract figure, not a salary figure.

Senator CORMANN—We are going to get to that. I understand that that is what you are going to say, but we are working our way through it.

Ms Paul—In other words, we are not paying an individual person that amount of money.

Senator CORMANN—While Ms Kidd is looking at how many are getting the full \$517,000 contract value, what is the salary? What is the wages component of that?

Ms Kidd—There is not a wages component. It is a fee for service. They are engaged as coordinators and they bill us on a monthly basis in accordance with their contract.

Senator CORMANN—So you would not know what the wages component is, then?

Mr Griew—No, there would be costs in running whatever arrangement they contract with us through. They would need insurances; they would need to pay accountants; they would need to settle their own tax arrangements.

Senator CORMANN—Sure, but up to \$517,000 is what you would pay? How many of them are getting the full contract value? Do we know yet?

Ms Kidd—No, I do not have the figure here.

Senator CORMANN—Can you please provide us with that on notice. Some of them are individuals, some of them are trusts and some of them are companies. How do you select them? How do they get identified?

Ms Kidd—We ran a recruitment process. We used Hudsons to help us select local coordinators in each of the priority areas. It was pretty much just like a general staffing recruitment process that you would run. We have employed individuals, but some of them just have company set-ups behind them. In the main, the local employment coordinator is an individual that we have contracted.

Senator CORMANN—How many applications have you received for each region? Can you provide us with that on notice?

Ms Kidd—I can provide it now if you like?

Senator CORMANN—No, I do not want to waste too much time; provide it on notice. How do you measure their performance? I am assuming that all of them are getting \$517,000 unless you tell me otherwise.

Ms Kidd—No.

Senator CORMANN—You cannot say no unless you can explain which ones are not.

Mr Griew—Sorry, I think the officer has said that that is not the case.

Senator CORMANN—You have not got any data to substantiate it, which is a bit surprising. How do you—

Ms Paul—I think this simply means that, from experience, Ms Kidd is saying that her recollection will be that there is not a contractor that is taking the full amount in terms of fee-for-service, including—

Senator CORMANN—Not one?

Ms Paul—I suspect that is what she is saying—that this is an outer-envelope. However, we have taken it on notice to confirm it.

Senator CORMANN—What have they achieved so far as local employment coordinators?

Ms Kidd—There is a whole range of achievements of the local employment coordinators. There are 21 of them engaged, so obviously each area has different achievements. We have asked them to focus on certain things in their priority areas. They tend to be around maximising the job creation opportunities out of the stimulus package. We have asked them to focus on retrenched workers and to re-engage them in other occupations within their areas. That often involves retraining, connecting with employers and working with JSA providers. They also focus on specific target and disadvantaged groups such as the Indigenous, where they have specific initiatives. They have done a lot of work with skills, particularly in promoting the Apprentice Kickstart package and linking up people through them. They have a key role in running Keep Australia Working jobs expos and there have been some really good examples of them identifying job seekers at the expos and linking them up, for example, with Apprenticeship Kickstart funding to get people started in new careers.

Senator Arbib—As an example, we had a situation in Wollongong of a company that was shutting down and a great deal of the workforce were mature age. The coordinator was able to go in there and work with those employees, and also Job Services Australia training organisations, to make sure they moved into a sector where there were jobs.

They coordinated and pulled together the workers, the company, the job providers and the training, and got an outcome which I thought was—

Senator CORMANN—You are talking through a lot of process there but has there actually been any improvement in terms of job outcomes? Are there more people now finding jobs in these high priority employment areas? The indications that I am looking at would suggest that things are actually worse than they were before in those 21 high priority employment areas where you have those Local Employment Coordinators. Can you talk us through outcomes rather than process?

Ms Kidd—It is very difficult to come up with macro level outcomes. These are very disadvantaged areas in which they are working. There are a whole range of indicators to say why they are disadvantaged. Some of it goes to the unemployment rate. Some of it goes to the level of skill of people in the area. Some of it goes to the number of people that have been on income support for quite a period of time. It would be difficult for a Local Employment Coordinator to significantly shift the headline economic indicators in an area. Rather than use those to measure performance, we look at actual specifics like examples where retrenched workers have been shifted into other jobs, and where we have really facilitated things.

Ms Paul—We can give you some examples of that, if you like.

Senator CORMANN—Presumably there is a relationship there between Local Employment Coordinators and the department. These Local Employment Coordinators have hosted these Keep Australia Working breakfasts around the country, haven't they?

Senator Arbib—No, Centrelink do that. The forums or the expos?

Senator CORMANN—The forums.

Senator Arbib—The forums, sorry.

Mr Griew—They are a key player in the forum, the Local Employment Coordinator.

Senator CORMANN—Do they invite the local member of parliament along?

Mr Griew—I would like to make an observation here, having observed the work of these 21 Local Employment Coordinators. They were specifically selected because of their experience in local business development.

Senator CORMANN—We went through that last time so we do not have to go through it again. We talked about that in February.

Mr Griew—The implication, though, that they have not had a strong impact—I guess that I would just make the observation that each one of them have had a—

Senator CORMANN—The data stands for itself. They have not had a strong impact.

Ms Paul—We can get you lots of examples of where the Local Employment Coordinator has matched people who have been recently retrenched into jobs somewhere else in the local community. That is what counts here. We can offer that.

Senator CORMANN—We have Job Services Australia who can do that. We have Local Employment Coordinators who are now doing this, and then we have got a one-stop shop who is going to do this. I understand.

Senator Arbib—Just to remind you where unemployment is now, at 5.4 per cent, where it was estimated at 8.5 per cent.

Senator CORMANN—I do not think that is because of the Local Employment Coordinators.

Senator Arbib—I think it is a coordinated effort.

Senator CORMANN—I asked a specific question.

Ms Paul—That is actually the answer, and we can get you examples.

Senator CORMANN—No, those Local Area Coordinators are hosting Keep Australia Working breakfasts, aren't they?

Ms Kidd—We have a range of Keep Australia Working products, if you like. We have run Keep Australia Working forums, we have Keep Australia Working jobs expos that Centrelink run on our behalf, and some of the Local Employment Coordinators run their own individual things.

Senator CORMANN—Do they have to fund that out of the \$517,000 contract value, or up to, or is that something that the department funds on top of that contract value?

Ms Kidd—Their contract value is to cover a salary component, travel, all of their own costs—

Senator CORMANN—But not the breakfasts, though?

Ms Kidd—No. Generally when they run a breakfast they will negotiate with stakeholders in the priority area and usually manage to get a venue donated, or someone will provide morning tea, or whatever. Often they do that through—

Senator CORMANN—Who covers any additional costs? Is it the department? Who?

Ms Kidd—We have covered some minor additional costs, but generally they negotiate—

Senator CORMANN—So the sky is not the limit here?

Ms Kidd—The sky is not the limit here.

Senator CORMANN—Can you provide on notice how much you have spent?

Ms Kidd—Sure. It is a very small amount.

Senator CORMANN—All these LECs had to submit regional employment plans in February; is that correct?

Ms Kidd—Yes.

Senator CORMANN—So you have now got 21 of these plans, do you?

Ms Kidd—We have got 20 plans. The 21st Local Employment Coordinator works across two regions, tying them together, so we have 20 local employment plans.

Senator CORMANN—What is their status? Are they ready for implementation?

Ms Kidd—Actually, implementation is underway. The plans have not been formally published yet, but certainly they have been developed, they have been worked up with the Keep Australia Working advisory committees that are in each priority employment area, and the Local Employment Coordinators are implementing the plans already.

Senator CORMANN—They were supposed to be published by the end of March, weren't they?

Ms Kidd—At this stage we are looking at publishing in June. I think we might have had some indicative dates, but June is what we are looking at.

Senator CORMANN—Let me just very quickly ask: the \$41 million job package for insulation installers, how much of that was new money and how much of that was a redirection of existing funds out of existing programs?

Ms Kidd—I think \$11.5 million is new money.

CHAIR—I am going to have to ask you to wind up on this.

Senator CORMANN—I was told that I had until 10 minutes to 12. We are still going.

CHAIR—I do not want it to come as an abrupt surprise to you, Senator.

Senator CORMANN—How many people to date are out of work as a result of the home insulation fiasco?

Ms Kidd—We know that about 3,500 job seekers have identified themselves and presented to Centrelink as redundant insulation workers and have registered for employment services. At the moment we have 2,763 job seekers in streamed services or in the disability services.

Senator CORMANN—What services are these 3,500 job seekers able to access that other job seekers are not able to access?

Ms Kidd—These job seekers get services under the Compact with Retrenched Workers, which means they get stream 2 employment services through Job Services Australia.

Senator CORMANN—That is what other job seekers get too, isn't it, if they qualify for stream 2?

Ms Paul—These get stream 2 or higher if they qualify for higher, but the thing under the Compact with Retrenched Workers is you go straight into stream 2; you do not go into stream 1.

Senator CORMANN—You do not just get help with your CV, you actually straight away get into the—

Ms Paul—Correct.

Senator CORMANN—Essentially, anybody in a similar circumstance would get the same support, wouldn't they? Any other retrenched worker would—

Senator Arbib—Under the redundancy compact, yes.

Senator CORMANN—So this is not specific to the home insulation sector?

Mr Griew—That element is not, but there are other elements in that package.

Senator CORMANN—Which element is specific to the home insulation workers?

Ms Kidd—Stream 2 services, as we say, is the standard. Also in the package were 7,000 training places, 3,000 of those—

Senator CORMANN—Which came out of the Productivity Places Program?

Ms Kidd—Three thousand of those did, through the structural adjustment places through the Productivity Places Program.

Senator CORMANN—Which is also available to others, isn't it?

Ms Kidd—That is right, yes.

Senator CORMANN—Non home insulation workers?

CHAIR—I am going to have to ask you to put more questions on notice.

Senator SIEWERT—I want to go back to the Job Capacity Assessment and Job Capacity Account. On the Job Capacity Account, am I correct in understanding that the budget has been reduced by \$8 million for 2011-12?

Mr Pigram—Could I ask you to repeat the question?

Senator SIEWERT—Regarding the Job Capacity Account, do I understand that the budget for that has been reduced by \$8 million for the next financial year?

Mr Pigram—I think you may be referring to the recent budget announcement where we have \$17 million in the first year, which is 2011-12, and that it increases to \$25 million in the following two years. The \$17 million allows us to maintain Job Capacity Account services—that is allied health professional services such as psychological counselling, pain management and so forth—at its current level, the same level it has been at historically. Then we are looking to increase it in the following two years based on a first ever evaluation of those types of services in the context of Job Capacity Assessment.

Senator SIEWERT—When you say the evaluation, this evaluation will occur?

Mr Pigram—Yes, there will be an evaluation in the first year. That will inform expansion in the second and third years.

Senator SIEWERT—Am I wrong in saying there has been a decrease? It is being maintained?

Mr Pigram—It is being maintained, yes.

Senator SIEWERT—Is there a proposal for it to go up next financial year though instead of in the following financial year? Was that the original proposal?

Ms Paul—I am not sure where you are going. If you are actually taking us towards advice to government, we cannot go there. It would have been part of budget. I am not sure what you are asking.

Ms Parker—We just have the previous figures.

Senator SIEWERT—That is \$17 million for this year?

Mr Griew—And then \$25 million, as Mr Pigram just explained.

Senator SIEWERT—And then \$25 million for the following financial year. How many people—you may need to take this on notice—have you supported through the job capacity account so far?

Mr Pigram—I can tell you that. Just bear with me while I turn to the correct page. Referrals to the job capacity account so far this financial year are 20,736.

Senator SIEWERT—That is from 1 July?

Mr Pigram—That is from 1 July to 31 March.

Senator SIEWERT—When do you intend starting the evaluation for the program?

Mr Pigram—It will start very early after 1 July 2011. The initial focus of the evaluation will be on job capacity account services. The evaluation will look at job seeker assessment services more broadly but the first focus will be on job capacity account.

Senator SIEWERT—You have not started the process of evaluation?

Mr Pigram—No.

Ms Parker—No.

Senator SIEWERT—When you do the evaluation, will that process be peer reviewed and externally developed or do you do that internally?

Mr Pigram—I do not think we have made a determination.

Ms Parker—We have not made a decision on that yet.

Senator SIEWERT—I know I am very short on time, so I would like to go please to the—and I am told this is where I am supposed to be asking this—issues around the changes to job capacity assessment for those with a disability. Am I asking in the right place?

Mr Griew—Yes, that is the same program.

Ms Parker—Yes.

Senator SIEWERT—In terms of the new process that is going to be undertaken, could you quickly tell us how many people you think are going to be affected?

Mr Pigram—I can tell you that—

Senator SIEWERT—I know you cannot tell me down to specific details but do you have any estimates for the process?

Mr Pigram—We are expecting that referrals to assessment will be roughly at the same levels they are this year. So far this year we have had 495,000 referrals to job capacity assessment as at 31 March, again.

Senator SIEWERT—In terms of the proposal that the government is intending to save around \$388 million over the four years, how are you going to make the changes that you are implementing through that process?

Mr Pigram—The current job capacity assessment contract will cease to operate on 30 June 2011 and then new services will be implemented from 1 July. Rather than having job capacity assessment delivered by 18 different organisations, including Centrelink, which currently completes around 51 per cent of assessments Australia-wide, assessments will be completed exclusively by Centrelink with some assistance from CRS Australia. CRS currently delivers around eight per cent of assessments nationally, and we are yet to determine whether their share would stay at that level. It may be higher; it may be lower. A decision needs to be made within the next three months to determine how much business CRS will take.

Senator SIEWERT—That is where you believe you will be making your savings?

Mr Pigram—There are savings in the efficiency of the process from not needing to manage 18 separate organisations in service delivery, and there are savings in terms of not having commercial contracts operating, so there is greater efficiency for Centrelink to deliver it. There is also the fact that we do not need to run tenders. Also, as part of the overall measure, there would be some savings relating to the disability support pension.

Senator SIEWERT—Do I ask that here or do I need to go to FaHCSIA to ask that?

Mr Pigram—You would need to ask FaHCSIA about the disability support pension.

Senator SIEWERT—I will go back to FaHCSIA about that.

Ms Parker—There will be a streamlining, so the new assessments will be more tailored.

Senator SIEWERT—Okay, I will ask FaHCSIA that. In terms of how that then interacts with the job capacity account, will that be the same process as Centrelink?

Mr Pigram—Yes.

Ms Parker—The account will still exist as it has done. So Centrelink, or the other providers—

Senator SIEWERT—So the other providers can still refer for job capacity assessment and Centrelink will be able to, too, for those that are dealing with the disability—

Mr Pigram—Centrelink and CRS would be making the referrals for those allied health interventions along the same guidelines as currently. We would be supporting diversity of service provision for job capacity account services. Currently any job capacity assessment provider will make referrals with a cap on the number of referrals they can make to their own organisation, and we would continue that under the new arrangements.

Senator SIEWERT—There will not be much change under that process?

Ms Parker—Not to the actual assessments, but—

Senator SIEWERT—But who refers will go back to Centrelink?

Ms Parker—Just the change that will be Centrelink and CRS from 1 July 2011.

Senator SIEWERT—Can I be really clear: anything for job capacity account Centrelink and CRS will be doing after 2011?

Mr Pigram—They will make the referral.

Senator SIEWERT—Yes, I beg your pardon; they will be making the referral.

Mr Pigram—Yes.

Senator SIEWERT—Job providers will ask Centrelink to make those referrals? They will ask them to check, will they?

Mr Pigram—No. The way the process works is that job seekers are referred for job capacity assessment, those assessments are made by allied health professionals, and the assessor makes a referral out to appropriate services for eligible job seekers. Those are people who are referred for employment services to Job Services Australia streams 1 to 3, and it is an additional assistance for those particular people to help them overcome their barriers. It is the job capacity assessor who will make the referral, rather than the employment service provider.

Senator SIEWERT—Sorry, there are so many assessors involved in the process. When you do the assessment, will that process be assessed as well? Will the whole referral process be assessed as part of the assessment process, is that the idea, or is it just the effectiveness of the program?

Mr Pigram—The evaluation will cover the full process.

Ms Parker—It will need to cover the full process, not just how the account is being used, but also how the referrals are happening and whether they are effective or not. Is that what you mean?

Senator SIEWERT—Yes, thank you.

CHAIR—I think we are done with Outcome 4.1 right on time, and we will now move to Outcome 4.2.

Senator SCULLION—I would just like to ask some questions regarding the Indigenous Employment Program—IEP. What is the total budget allocation for the Indigenous Employment Program?

Ms Wood—The total budget allocation for the program for this financial year is \$139,460,000. That is on page 115 of the PBS.

Senator SCULLION—How many Indigenous specific employment service providers are accredited or registered?

Ms Wood—With JSA?

Senator SCULLION—Which Indigenous-specific employment service providers are accredited or registered?

Ms Wood—There are different ways that we contract under the program. There are two panels under the program: an employment panel and an economic and business development panel. Then there are some projects that are with other organisations, where there is a direct contract with those organisations. The Aboriginal Employment Strategy is a direct funding agreement for that service. There is a range of other projects that will be delivered by panel members. I will find you the numbers of panel members. I will find you the exact figure, but across the two panels it is approximately 250 providers. Some of them are on both panels; some of them are only on the employment panel.

Senator SCULLION—Perhaps on notice, it would be useful if you could divide those up for me.

Ms Wood—Yes.

Senator SCULLION—How many job seekers have been placed into employment through the program?

Ms Wood—From 1 July to 31 March, there have been 12,777 commencements under the program; that will be both employment commencements and training commencements. Some of it is for pre-employment training; some of it is directly into employment.

Senator SCULLION—How many have been placed into direct employment?

Ms Wood—A total of 7,593 of those were employment placements.

Senator SCULLION—How many of those people who have been placed into employment still remain in the workforce?

Ms Wood—I am not sure that I have that figure with me right now, but we will get that figure for you. The projects differ as to when they measure the outcomes they are focused on, whether they are 13-week or 26-week, but we will get some figures for you on that.

Senator SCULLION—What you are going to get for me now is the group of people who are not commencing a training program, those people who are starting a job for which you have already given me the answer. How many of the people—

Mr Griew—Sorry, Senator; the figure that is accessible is the number of 13-week and 26-week outcomes from the point of placement. The question you asked was the proportion still in employment, which is a slightly different figure. Bearing in mind that this contract has been

going for nine months, there will be a lot of people who are in employment but have not made 13 or 26 weeks simply because they started in the second half of the contract so far.

Senator SCULLION—Okay. You have provided me the number of those people who have actually commenced employment?

Mr Griew—Yes.

Senator SCULLION—What I am looking for principally is: how many are still employed and, for those people who are no longer employed, how long did they stay employed?

Mr Griew—Yes. The other set of figures that might complement that are the number of job placements under the mainstream Job Services Australia providers. The figures we would be talking about are under the Indigenous Employment Program, but there is also the mainstream Job Services Australia providers, as you are aware, and they have achieved 25,800 Indigenous job placements. What we might do is give you a table that includes both of those sets of figures.

Senator SCULLION—Okay. That may be useful; I was hoping to get some indications today, and perhaps you will be able to provide that for me. So some 700 people have started under the Indigenous Employment Program specifically, and I want to know how many of that number are still employed?

Mr Griew—Yes, I appreciate that.

Senator SCULLION—Would you be able to provide that for me now?

Ms Stevenson—We can provide it today, but we do not have it right now.

Ms Wood—We are getting it, but we do not have it right in front of us.

Mr Griew—We could certainly get it by Friday when we have the whole of government Indigenous—

Senator SCULLION—I was not sure whether or not this particular department was appearing again on Friday.

Senator Arbib—I am pretty sure that employment is on the agenda for Friday as well.

Senator SCULLION—Okay, but if you are undertaking to provide that on Friday in any event—

Senator SIEWERT—CDEP is, but general employment we are doing here now. I am pretty certain; I will double check that.

Senator Arbib—Can we check that? I thought we were coming back on Friday for this one too.

Mr Griew—I can give you 13-week outcomes out of those 25,000 placed under Job Services Australia. We have already achieved 5,500 13-week outcomes.

Senator SCULLION—Sorry, I am finding it a bit difficult to translate that; so out of 25,800—

Mr Griew—No, 25, 600.

Senator SCULLION—Sorry, I thought it was 25,800. So, out of that, are you telling me that 5,530 are still on the books?

Mr Griew—No, sorry; that is what I was trying to explain before. The figure that we can give you, because of the way the contract works, is the number who have passed 13 weeks of employment. So there will be some at 12 weeks, 11 weeks, 10 weeks and so on. You have asked a slightly different question, which we will have to go and look up and calculate.

Senator SCULLION—Because the question I am going to is what I thought was a fundamental question: how many people have come into the system, have been employed? You have given me the mainstream number of 25,800. Out of those, I want to know who is currently still employed. I understand that it is staggered as they did not all start on the same day. So the two figures I am looking for are: firstly, how many went into the system and are still there and, secondly, how long were those people who are no longer there employed?

Mr Griew—We will have to take that on notice.

Senator SCULLION—Okay. I know that you are providing me with two areas—one is the percentage of the overall content and the other one is specifically to do with the Indigenous Employment Program. Starting with the Indigenous Employment Program, what sort of mentoring support is funded through the Indigenous Employment Program?

Ms Wood—There can be a range of different types of mentoring support. There will be some pre-employment programs that include mentoring of the participants as they go through that pre-employment phase. There is also mentoring on the job. Sometimes that will be an external provider working with that employer to mentor the employees as they are inducted and settle down into employment. Some of the projects under the program are direct funding to the employer to establish their own arrangements, so some of the employers will establish their own buddy arrangements or their own mentoring arrangements using their own employees to support the Indigenous employees.

Senator SCULLION—So there is a pre-employment component which is part of the training component, not the actual employed component?

Ms Wood—Yes.

Senator SCULLION—There is a component that is early on the job, I take it?

Ms Wood—Yes.

Senator SCULLION—Is there anything that is longer term? When you talk about them being employed but receiving assistance whilst they are starting off, how long is that for?

Ms Wood—We fund on a project basis. It is tailored to the needs of the workplace and the individual employees. It would depend very much on the circumstances, but generally we fund projects with an outcome payment at the 26-week mark, so after six months of employment. There are definitely incentives to ensure that the mentoring continues for that period. Some employers might decide that they want a longer term arrangement, and it is up to them to ensure that they are supporting employees in a sustainable way.

Senator SCULLION—I am very keen to focus on the actual people who have been employed rather than the pre-training, although it is equally important. When they are actually employed, what is the nature of the accreditation or certification of the mentors? For example,

does this assist the existing employee to give a bloke a hand, to be there to assist them? Is the funding for those sorts of purposes or is it specifically to employ an additional employee in the workplace that acts specifically as a mentor? What is the range of skills that these mentors have?

Ms Wood—Again, it depends on the workplace and the company as to what they think they need. There are different models. Some do have external providers, and they might take a provider off our employment panel. Some of the providers on that panel specialise in mentoring, they might separately train their own employees to be workplace buddies and mentors, and some of them use both. Some case studies suggest that both is actually quite a good mix. By just having an Indigenous mentor for the employees without that kind of workplace buddy, you miss some of the opportunities of having someone who knows the workplace. It is very much project based, and it is very much tailored to what that particular workplace and those particular employees need. It is open to the employers to decide what sort of model they want to use.

Senator SCULLION—On the short notice that we are doing, and I am sure Senator Siewert will give us a bit of a heads up on that in a moment, would you be able to provide the pre-on-the-job mentoring costs, and the on-the-job and beyond that mentoring costs?

Senator SIEWERT—While Ms Wood is just confirming that, I just checked with Community Affairs, and for cross-portfolio, we are doing CDEP and that is it; no other employment stuff, just CDEP with FaHCSIA.

Senator SCULLION—Okay. As I understand from that, perhaps these answers can be—

Senator Arbib—I know that is probably what you have been advised, but the agenda actually has employment and economic development and has DEEWR attending, and the CDEP are separate.

Senator SIEWERT—It just has it down as CDEP, none of the other programs. That is our understanding. We were told we had to do all of the other employment stuff here.

Senator SCULLION—If it is simply to provide answers to the questions today, since you will have DEEWR arriving at the Senate, perhaps if you can arrive with those answers to the questions on notice, that would be useful.

Mr Griew—We will do our best.

Senator SCULLION—If that is okay with you, Minister?

Senator Arbib—Yes, that is fine. We will do our best.

Senator SCULLION—With employers that are not necessarily a part of a formalised agreement or an arrangement with employment service providers, either the mainstream or the Indigenous specific ones, just mining companies who employ people, what sort of funding is available to support people into employment in that particular circumstance?

Ms Wood—Are you asking about employers who do not have, for example, a contract with us under the Indigenous employment program?

Senator SCULLION—I might have employed someone who just turns up and says, ‘Obviously I have got a few challenges; where would I get hold of a mentor?’ Do you have capacity for that sort of thing?

Ms Wood—There are providers on our employment panel who specialise in mentoring. We could quite quickly connect an employer who contacted DEEWR with someone who could provide mentoring.

Senator SCULLION—What level of detail do you think you would be able to provide on that? I know it might be difficult because you have sort of come in late into the process.

Mr Griew—And some would be private arrangements. There are employers who, off their own bat, will pay and employ—

Senator SCULLION—How would that employer in that circumstance get access to funding to assist him?

Mr Griew—What I am saying is some do not, but others will contact Indigenous Employment Program panel members.

Senator SCULLION—I am only interested in the ones who access or otherwise, or made application for assistance for mentoring, after they already have someone on board or they intend to do it, that is outside of the normal process.

Ms Wood—I think we can look at what information we can provide about how much of the funding is directed to mentoring. Often it will be part of the bigger project. It will be one of the things that we are funding employers to actually do.

Senator SCULLION—Okay. In regard to the Indigenous employment service providers, what are the breaching requirements that are observed and to be complied with?

Ms Wood—When you talk about Indigenous employment service providers, are you referring to providers in the job services system?

Senator SCULLION—Indeed I am.

Ms Wood—The compliance arrangements are the same for all job seekers in receipt of income support. There are not particular compliance arrangements for Indigenous job seekers or Indigenous providers.

Senator SCULLION—Basically are you telling me that there is no difference at all for the compliance arrangements under the Indigenous employment service process as well as the mainstream processes?

Ms Wood—Yes.

Senator SCULLION—What sorts of statistics are required and kept by the department in regard to the number and the reason for breaches?

Mr Griew—Do you mean specifically for Indigenous people?

Senator SCULLION—The answer you have just given means that it is not broken up. The breaching conditions are the same across the board.

Mr Griew—That is right.

Senator SCULLION—Because you have two separate systems, one being the Indigenous employment process and the other the mainstream process, if we are able to keep separate the breaching conditions and the reasons for those conditions, I thought it might be informative, particularly in that one demographic of Indigenous employment.

Mr Griew—It might be worth just going one step back and identifying that the Indigenous employment program is one that complements the Job Services Australia providers. So these will all be JSA clients. Their compliance behaviour will be monitored in the same way through the JSA data as are all JSA clients. There is not a specific set of IEP compliance data, it is JSA compliance data.

Senator SCULLION—Indeed. Are you able to differentiate and pull from your information those particular clients—

Mr Griew—I would imagine we could probably interrogate our data by Indigenous status.

Senator SCULLION—Clearly that would be very useful to see the difference in the circumstances under which the breach arose; the circumstance in which it came up might be of use.

Mr Griew—We will take that on notice.

Senator SCULLION—If you could, and I look forward to seeing that on Friday. You have a process for the Indigenous public sector employment. I see there was \$1.6 million for improving Indigenous employment, recruiting and retention practices, and that is outside the Public Service Act. Which Commonwealth Public Service organisations who employ staff outside of the Public Service Act are actually targeted by that measure?

Ms Wood—This measure supports the government's commitment under the National Partnership Agreement on Indigenous Economic Participation with all other governments to increase Indigenous employment in the public sector broadly to 2.6 per cent by 2015. For the Commonwealth, the broad public sector does include, obviously, the Public Service agencies, of which there are approximately 100. But there are 70 agencies that are not Public Service agencies but are part of the Commonwealth public sector. This includes Medicare, AusAID, the defence forces—there is a whole range and a great variety of agencies outside the Public Service in the public sector. Up to this point, the role of the Public Service Commission and its monitoring, data collection and support has been limited to Public Service agencies. So this measure is about expanding some support to the non-APS public sector, and support primarily with building their capacity around developing their own Indigenous employment strategies, recruitment and retention, and career development strategies for Indigenous public sector employees. It is also about providing them with some toolkits, some resource packs, to enable them to do that, and giving us some capacity as well to start monitoring performance across the non-APS public sector, because at the moment the data collection and databases are focused on the Public Service.

Senator SCULLION—This is principally to assist the Public Service or those areas of the Public Service that have not been covered before to add value to their existing processes to ensure that they can then have particular strategies to increase the—

Ms Wood—Yes, that is right.

Senator SCULLION—But that will predict an increase of some 2.6 per cent by 2015; how did you calculate that?

Ms Paul—Up to 2.7 per cent by then is the idea.

Senator SCULLION—Okay. So the intention is that the outcomes from this process duplication will lift it up to 2.7 per cent?

Ms Paul—Yes.

Senator SCULLION—How did you calculate that this particular investment would lift the employment by up to 2.7 per cent in the public sector?

Ms Wood—The measure was designed around looking at the scale in terms of how many agencies were not currently getting some direct assistance, recognising that some of them are already quite active. Australia Post is an example of a non-APS agency that is already very active in Indigenous employment. Obviously it is still a responsibility of each agency as an employer to be investing in their own strategies. This is more facilitative support, helping them understand best practice, helping them do some analysis of their own employment data that shows the trends in their own recruitment and their own workforce so they can ensure that their Indigenous employment strategies marry well with actually where their workforce development is heading.

Mr Griew—It is a population shared measure.

Senator SCULLION—I acknowledge that there are different departments or sectors at different stages. How do you actually manage the expenditure? How do you pay it? What initiatives will be funded through these particularly targeted organisations that I assume are not doing as well as others?

Ms Wood—Primarily the funding is for development of resources to support agencies, and some work around best practice more so than actually funding them directly. It is expected that they will continue to invest in their own strategies, so it is not subsidising employment or anything like that. It is really some support giving us capacity to actually work across those 70 agencies and work with them on their strategies.

Senator SCULLION—Without verballing you, I am just trying to get this clear. The \$1.6 million is actually an investment by your own organisation to provide extra capacity to lift capacity in these targeted organisations rather than actually paying them anything?

Ms Wood—Yes, that is correct.

Senator SCULLION—About how many more staff would you have? I am assuming it is staff in terms of the resources.

Ms Wood—I do not have those numbers right in front of me, but we can get those quite quickly.

Senator SCULLION—Perhaps you could include those with the others. The Commonwealth, state and territory governments have agreed to raise the level of Indigenous employment to at least this 2.6 or 2.7 per cent, and we are providing \$6 million over three years for the entire Indigenous employment strategy, which we have discussed. What is the current employment rate in the APS at the moment?

Ms Wood—In the APS, the latest figure we have from the Public Service Commission is that Indigenous employment is around 2.1 per cent. We actually saw a slight increase from June 2008 to June 2009 from 3,148 employees in the Public Service who identify as Aboriginal and Torres Strait Islanders to 3,176. This is the first time that we have seen an increase since 2005-06, but it is still sitting at around 2.1 per cent.

Senator SCULLION—Okay. I understood that this particular program started in July 2009. Is that right?

Ms Wood—I think the program you are referring to is managed by the Public Service Commission. It is the APS Employment and Capability Strategy for Aboriginal and Torres Strait Islander Employees. It was extended in last year's budget. It is an extension, but the new program would have commenced from July last year.

Senator SCULLION—When would you expect to have some figures from July 2009 to currently? It is not a figure you have to look for; they are actual employees that you have. What are the indications at the moment?

Ms Wood—As I said, from the Public Service Commission, who monitor that program and monitor across the Public Service agencies, the last figures they had were to the end of June 2009. I imagine they would be looking at collecting on a financial year basis, so I would expect they would have figures from July up to the end of this financial year.

Senator SCULLION—We know that in 2008 it increased from 3,148 to 3,176. Whilst you quote the APS at 2.1 per cent, would you be able to give me an actual figure of how many people who see themselves as Aboriginal and Torres Strait Islanders work for the Australian Public Service today?

Ms Wood—We would have to ask the Public Service Commission if they have an update from June 2009, because they are the ones that collect that data across the whole Public Service.

Senator SCULLION—I would have thought, this being an Australian Public Service Commission, but it is an Indigenous Employment Strategy, that obviously the trends are that, and you have been following that closely. The only time you would sort of look at it is annually. You would not look at any trend patterns?

Ms Wood—I think the Public Service Commission relies on reporting from agencies to actually collect that data. We can check with them how often they actually collect that.

Ms Paul—I have been reminded that I have also written out under the national partnership strategy asking all of my secretarial colleagues what their strategies are and how they are placed. They have all responded. So, in terms of what you are talking about—data in the between times, if you like—many of them did come in with data, and on behalf of their agencies too, so there may well be something we can pull together for you in a summary form, on notice, which goes to that and which gets between the July to July sort of numbers. The responses were really good. They were really comprehensive and very positive, and they went through both where they are situated now as well as what their plans are for the development of their own workforce and encouraging and supporting Indigenous Australians to apply for jobs, and then also to stay.

Senator SCULLION—I know there is no mischief, but if you tell me that you have 2.1 per cent, and then I get a figure of 3,700, if it is in the same sort of currency it is just easier to understand. For us, certainly for myself, because the differential is fairly small in percentage terms, I do not think it would really show up, so it would be very useful if we could actually get the number.

Ms Paul—There will be more than just my department that has a Reconciliation Action Plan with some targets about recruitment too. So we have a Reconciliation Action Plan for DEEWR which is very well regarded by Reconciliation Australia and has a target in it of 330 employees by the end of June who are Indigenous Australians. We are not quite there, but we are hoping to get there by the end of June.

Senator SCULLION—How close are you?

Ms Paul—I think we are at about 314.

Senator SCULLION—Are they full time employees?

Ms Paul—I think so. Yes, I am sure most of them are.

Senator SCULLION—If you can add that answer to those other answers, it will be very useful.

Ms Paul—Yes, sure.

Senator Arbib—In terms of APS, we have a long way to go. Like you, I share the frustration, and we are doing everything possible to encourage across the portfolios action on the issue. I recently wrote to all ministers and requested meetings to discuss their Reconciliation Action Plans and also what steps they are taking. We have already started having those meetings. It is not just about more effort; it is also about innovation in terms of making sure that we are undertaking similar AES type traineeships. We are working towards that. When you talk about the level of funding going on, not just in our portfolio but across the portfolios, the departments are actually acting.

Senator SCULLION—Which is why you would appreciate the importance of trying to have the currency so that we have a better understanding with it all in the same vernacular.

Senator Arbib—I think we are all on the same page about that.

Ms Paul—I think the information that I received was coming in as at about the end of April, or perhaps a bit earlier, but it is very current. We should be able to help you out there. An interesting thing is that my own strong view on this is that to support both recruitment and retention of Indigenous Australians in our workplaces requires a range of strategies. It is not just going out and recruiting in a certain way, it is also a whole layering of support and encouragement. For example, I have an Indigenous leader in DEEWR who is one of my senior Indigenous staff and reports directly to me in that role of supporting all our other Indigenous staff. You can do a range of things. It is interesting to see across the board what is being done.

Senator SCULLION—I look forward to the answers you have taken on notice for Friday. Again, my concern is that if I say, ‘How are we going?’ we are pretty close to the end of July. There is no point at the end of a year in almost anything we do, particularly this area, to look back and say, ‘Oh well, it did not go too well; we are sort of a year too late.’ It is the sort of

thing we should be picking up and being able to provide quarterly, but I hope that your answer deals with that. It might be useful.

Ms Paul—Yes.

Senator SCULLION—I can probably make an assumption that in regard to the \$2 million a year, this is the \$6 million right across the Australian Public Service Commission's Indigenous Employment Strategy, your previous answer specifically talked about this as internal funds. Perhaps I will ask the same question about the \$2 million a year that is being spent across this strategy. How is that actually getting spent and invested?

Ms Wood—The details of that would be with the commission, but some of that would be their own internal capacity to work with agencies. Some of it is also supporting some of the centralised recruitment programs. There is an Indigenous graduate program, Indigenous cadetships, traineeship programs. There is a range of centralised programs that place candidates in APS agencies. It is a way of a targeted approach to attract Indigenous Australian graduates and candidates to APS as a whole.

CHAIR—Thank you for that. We will now have to suspend for lunch, and we will resume at 1.30 pm on program 4.3, Disability employment services.

Proceedings suspended from 12.30 pm to 1.29 pm

CHAIR—We will resume this estimates hearing. We are now up to program 4.3, Disability Employment Services. Senator Cormann.

Senator CORMANN—Can you give us a breakdown of the \$752 million that should be expended in the next year? What are you expecting?

Ms Parker—On Disability Employment Services?

Senator CORMANN—Yes, administrative expenses, key performance indicators for program 4.3, which is what I think we are talking about.

Ms Parker—Yes, that is right.

Senator CORMANN—You have \$752 million, with \$783 million allocated for 2010-11. What does that cover?

Ms Parker—The measure provides funding similar to Job Services Australia. We fund Disability Employment Services. The government funds a range of providers. We have 260 providers.

Senator CORMANN—How much of this is going into service provision? Is it all of it?

Ms Parker—Yes. It is Disability Employment Services. It is \$752 million and \$783 million.

Senator CORMANN—So the \$752 million is what is spread across the 260 providers in the way of contracts?

Ms Parker—Yes, that is right.

Senator CORMANN—Did that start on 1 March this year?

Ms Parker—Yes, that is right.

Senator CORMANN—It is probably a bit early to tell, but I assume that you have measures in place to ensure the program is meeting its objectives.

Ms Parker—That is right, yes. Similar to Job Services Australia, we have a range of performance measures. As per Job Services Australia, there are star ratings and we also have key performance indicators similar to Job Services Australia.

Senator CORMANN—Do you track which programs are the most effective for disabled Australians?

Ms Parker—Yes, in the sense of measuring each of the providers against those ratings and performance measures. As you said, it is quite early days for this contract. There will be some star ratings developed soon, but it is very early.

Senator CORMANN—What is the level of support available to individual businesses to take up the workplace modification scheme? Does that come out of this program?

Ms Parker—Yes, it does. Are you asking what the service is?

Senator CORMANN—What can people access? My next question is: how many of them are accessing it?

Ms Parker—The services basically assist employers to modify workplaces so that they can take on a worker or a job seeker who may have a disability. The employment services providers can claim reimbursement for modifying their workplace to enable a job seeker with a disability to work there. Examples of assistance that we have had include 29 panel members who provide that service. In 2009-10, up to the end of March, they assisted 1,363 job seekers in terms of modifying the workplace.

Senator CORMANN—Can you run through the figures of how many businesses have taken this up?

Ms Durbin—We do not have information on the number of employers that have taken advantage of workplace modifications. The figures that Ms Parker gave are the number of job seekers who have benefited.

Senator CORMANN—Does the level of support that businesses can access depend on whether they are small, medium or large businesses? Do you categorise?

Ms Durbin—No. The 29 organisations that Ms Parker mentioned are the assessors. They will go into a workplace, talk to the potential jobseeker and the employer and they will work out what is needed to help that person either maintain or take up employment. As that person is a professional assessor, they are best placed to put the package together, but it does not depend on the size of the business.

Ms Parker—For example, building modifications are on average around \$30,000. They provide things like Auslan interpreting.

Ms Durbin—It is the same fund. It is part of the changes from 1 March 2010, but currently under the employer assistance fund they can access the kinds of things that Ms Parker is talking about.

Senator CORMANN—I note from the budget papers that the government will provide \$7.4 million to fund a two-year trial of a 70 per cent loading on selected service fees and

placement fees and on an outcome of disability employment service providers. Do you know what I am talking about?

Ms Parker—Yes.

Senator CORMANN—How did you come up with the 70 per cent loading figure?

Ms Durbin—There are existing loadings within the Disability Employment Services payment structure. For example, organisations in remote parts of Australia are already eligible for a 70 per cent loading on their service fees. The 70 per cent was developed through industry consultation through the Disability Employment Services review for those particular mechanisms, and it was deemed that under this trial it was a good benchmark.

Senator CORMANN—What service fees are covered?

Ms Durbin—Under the trial it will be the first two employment assistance service fees that are payable to an organisation when they first receive a referral of a jobseeker, in this case with a moderate intellectual disability, and that will help them to do assessments, establish a return to work plan and look at the kinds of interventions that person needs to be able to take up and then retain employment.

Senator CORMANN—Is that a recognition that funding has been a barrier to success in the past?

Ms Durbin—No, I do not believe that it is. This particular budget measure is a trial. It is specifically looking at two mechanisms.

Senator CORMANN—Presumably if you are providing a 70 per cent loading it must be because you think that more funding will make it more successful. A different way of putting it is that the lack of that loading may have made it more difficult to achieve.

Ms Parker—There is evidence that people with moderate intellectual disability have significant difficulties in learning and maintaining skills they need to get a job and to keep a job. The measure is designed to try to address that. The providers who are managing people with moderate intellectual disability presented evidence that these people require additional assistance. Whilst the model that we have works for the vast majority of providers and jobseekers, this group is believed to warrant a trial where they have additional loading.

Senator CORMANN—Why specifically intellectual disabilities? Why did you pick people with intellectual disabilities for this trial?

Ms Parker—We did not actually pick them. The group of providers and the industry that represents or looks after these jobseekers presented evidence that they faced particularly severe barriers to the workplace, and in fact presented evidence that only a small proportion of them are in open employment. This is requiring those jobseekers to work for at least 15 hours a week, which is higher than the general requirement of eight hours per week. It is quite a lot of work for that group of jobseekers.

Senator CORMANN—What is the success in terms of employment outcomes when comparing people with a physical or intellectual disability? Is that something that you can talk to us about?

Ms Durbin—I can talk about it in general terms, but I am happy to provide more information on notice. There was an evaluation done of the previous Disability Employment Network Services which looked at outcomes for particular disability categories. In general, people with intellectual disability do quite well under the old Disability Employment Network Service. The issue with the trial is that it is specifically targeted to those people with a moderate intellectual disability, who are quite a small subset of the overall intellectual disability population. In terms of the people with a physical disability, I do not have the particular outcome figures here, but I am happy to take it on notice.

Senator CORMANN—Moving to the National Disability Recruitment Coordinator, how many coordinators are currently in place?

Ms Durbin—That is a national contract. There is only one organisation as the National Disability Recruitment Coordinator.

Senator CORMANN—There is one contract. Are you saying that there is only one coordinator across the nation?

Ms Durbin—There is one organisation that fulfils the contractual requirements across the country, but it is a contractual obligation that the organisation has representation right across Australia. It would have representatives in various locations across the country.

Senator CORMANN—How many representatives across the country do they have?

Ms Durbin—We would have to take that on notice.

Senator CORMANN—So you do not know?

Ms Durbin—We certainly would know. We are the account manager for that organisation; we just do not have that information with us.

Senator CORMANN—Is it more than one per state?

Ms Durbin—One person or one organisation?

Senator CORMANN—You have already told me there is only one organisation nationally.

Ms Parker—They are required to deliver the service in each state and territory.

Senator CORMANN—Are you saying that they could subcontract other organisations?

Ms Durbin—They could. They could provide a range of outreach services.

Senator CORMANN—Given the interest that the department takes in subcontracting, you would know.

Ms Durbin—Absolutely. We just do not have that information.

Senator CORMANN—Is there any subcontracting going on?

Ms Parker—We will take it on notice.

Senator CORMANN—So you do not know whether there is any subcontracting? You cannot tell me.

Ms Paul—We will know. We just do not have the information to hand. We will take it on notice.

Senator CORMANN—This is outcome 4.3 where we are dealing with this.

Ms Paul—Yes, but you are asking us for quite a lot of detail in terms of state by state.

Senator CORMANN—That is not difficult. There is one contract across the country. Surely you would be able to tell me whether it is delivered by direct employees of that contract.

Ms Paul—Yes, we will be able to tell you.

Senator CORMANN—Why are you not able to tell me today?

Ms Paul—We may be able to tell you today, but we do not have it right here to hand. We will do our best to get it as fast as possible.

Senator CORMANN—This is the specific section to deal with this. Are you able to tell me whether the National Disability Recruitment Coordinators—

Mr Griew—Just going back to your question, we have the officer who can answer your previous question.

Ms Stuart—There is one organisation that delivers this contract around the country. It is WorkFocus Australia. They have offices in all states and territories and they also deliver the JobAccess service on behalf of the department, as well as a range of other employment services. We will check for you, on notice, but my understanding is that they do not subcontract the National Disability Recruitment Coordinator service. They have staff in states and territories to deliver that.

Senator CORMANN—Thank you. Do those national disability recruitment coordinators have quotas that they have to meet?

Ms Stuart—Yes.

Ms Parker—To provide 1,000 job placements a year with large private employers.

Senator CORMANN—Is that 1,000 job placements nationally?

Ms Stuart—That is right.

Senator CORMANN—How is that broken down by state and territory? Can you provide that to us on notice?

Ms Parker—Do you mean how many they have delivered?

Senator CORMANN—How many have they delivered on a state by state basis? Have they met the overall quota of 1,000?

Ms Stuart—The new provider only started the service delivery on 1 March this year, so the quota of 1,000 has not yet been met around the country. In the request for tender for this service there was a notional split of where the job placements should be around the country. That notional split by percentage was roughly based on where the disability support pension clients are by population in different states and territories.

Senator CORMANN—Let us say that we had X amount of disabled people that would be eligible for this, with seven per cent in WA and six per cent in South Australia. Is that how you split it?

Ms Stuart—That is right. There is a table in the request for tender.

Senator CORMANN—Can you provide us with a copy of the notional split?

Ms Stuart—Certainly.

Senator CORMANN—Are you on track for the quotas to be met?

Ms Stuart—It is very early days. The service has only been operating for a couple of months.

Senator CORMANN—Three. It is a quarter.

Ms Stuart—Yes. There was an acknowledge in the starting up of this contract that initial work was required to be done obviously before job placements can be sourced from large employers. The role of the National Disability Recruitment Coordinator is to sign those employers up to a memorandum of understanding, work with them to put in place disability employment strategies within their organisation and then work with them on identifying job placements.

Senator CORMANN—You now have one contract. Was there only one contract before 1 March or were there several?

Ms Stuart—Yes, only one.

Senator CORMANN—Is it the same provider?

Ms Stuart—No. The provider changed as a result of the Disability Employment Services purchasing round that was conducted last year.

Senator CORMANN—Has the department changed the way the contract is managed since 1 March? Let me explain. It has been put to me that in the past the contract management functions were performed at a state office level and now it is being performed at a head office level in Canberra. Is that a fair observation?

Ms Stuart—The best way to characterise the way the account management role was conducted previously was that it was a shared responsibility between the department's office in Adelaide, which is where the head office of the previous provider is, and national office.

Senator CORMANN—Before it was Adelaide and head office and now it is head office; is that right?

Ms Stuart—The head office of the new provider is in Perth.

Senator CORMANN—Is it now a shared responsibility between Perth and head office?

Ms Stuart—Yes.

Senator CORMANN—Is that essentially a change given the geographical location of the contract?

Ms Stuart—Yes.

Senator CORMANN—There is no contract management being done in any of the other state offices then as there was not before, from what you were saying?

Ms Stuart—That is right.

Senator BILYK—Can you explain to us how the transition to the new Disability Employment Services has gone in general?

Ms Parker—There are some specifics we can provide but in general the feedback we have is that it has gone very well. We have an industry reference group that has been established. It is made up of consumers, employers and representatives of job seekers, and we have had the first meeting of that group. The specific question we put to them was how—

Senator BILYK—Sorry, when was that meeting held?

Ms Parker—Last month.

Ms Durbin—In April.

Ms Parker—It was 27 April. We asked them specifically about the transition at that meeting. The minister actually attended that meeting and they were very positive about the transition and how it had occurred and how it had been managed. There was a view that it was very smooth.

Senator BILYK—What is the significance of the new system? Can you just clarify that for me?

Ms Paul—Of course. One of the main advantages of the new system is the uncapping of support. In the past, support was limited. There were caps. So people could actually miss out and we had long waiting lists and so on. One of the most significant changes which we really are very delighted about is the uncapping of assistance.

Senator BILYK—When you say it was capped, do you mean as to the number of people who could participate?

Ms Paul—That is right, so you would end up with queues of people with a disability not able to access support for themselves to get a job and be supported. Now we do not have queues any more. Anyone who needs assistance is able to get assistance and that is a very, very good thing indeed in terms of supporting people with a disability into employment.

Senator JACINTA COLLINS—How big was the queue?

Ms Paul—I am not sure.

Ms Parker—It is very difficult to estimate because a lot of it was hidden.

Ms Durbin—That is right. Because the new Disability Employment Services basically collapsed the four programs into two streamlined programs and some of the previous programs had formal wait lists and others did not, it has been difficult to actually put a figure on the unmet need, as it is called. Even though we are only three months into the new arrangements, we are already seeing more referrals to the new services than we were to the previous services in a comparable period last year. We are very confident that the design feature is seeing more people access assistance more quickly.

Senator JACINTA COLLINS—By the end of, say, 12 months the case load comparison might give you some sense of that, though?

Ms Durbin—That is right. We will be able to look across the full range of disability characteristics and locations to be able to see where there may be pockets that previously were not able to access assistance as quickly as they currently can.

Senator BILYK—Who makes the references you just mentioned?

Ms Durbin—There are two main ways that a client can access Disability Employment Services. The first would be through the job capacity assessments that my colleagues talked about this morning. Because we are a specialist disability program, clients would need a specialist assessment to be able to enter the services. That certainly applies for the vast majority of people. There are however other people who can go directly to a provider. Some of those still require a specialist assessment and others do not. An example would be, if you are a young person going from a special school or from a school situation where you needed extra assistance because of the nature of your disability, you can have direct access to a program of ours without having to go through a job capacity assessment because the school has already assessed that you need extra intervention because of the nature of your disability. Again, that is another streamlined entry point that we give those people.

Senator BILYK—If I were a person with a disability, how would I know about the program? How would I find out about it?

Ms Durbin—The majority of our people do come through Centrelink, so they would be referred for a job capacity assessment. In addition however those organisations that we contract, particularly our specialists, who provide specialist services to people with a vision impairment or, say, with an intellectual disability have very well-established connections to the other community organisations, the schools, and the other state education or state or Commonwealth government services that deal exclusively with those groups. A lot of it is about those local connections, but we also provide material through the DEEWR internet site and other promotion material displayed through our providers.

Senator FIFIELD—In answer to Senator Bilyk's questions before about the Disability Employment Services, you indicated that there had been some feedback received over the three months. I was momentarily distracted. Were there any complaints that were received or any dissatisfaction from service providers or clients over that time?

Ms Durbin—In terms of the transition arrangements that were put in place for participants, the department did establish a dedicated hotline or contact number for people to call through our existing facilities if they had any queries. People could use that process to change a provider if they wanted to go to a new disability employment services provider and they could also ask general questions; so we can provide some figures on those. In addition to that there is also a dedicated complaints mechanism which is run independently from the department. That is run by the Complaints and Resolution and Referral Service and there were fewer than 100 calls to that service.

Senator FIFIELD—Fewer than 100?

Ms Durbin—Yes. Again, a lot of them were about seeking information and clarification of the arrangements rather than making complaints.

Mr Griew—I think it is also worth making the point that Ms Durbin and her colleagues also ran a process where every client who was the client of a service that was not continuing or where a business was changing was individually contacted by phone calls made to those clients. There was a great effort put in by the staff to make sure that nobody was lost in transition, which is why I think we have had such a positive response.

Ms Durbin—Just for the record, there were around 3,700 calls from people contacting the departmental hotline. This is of a transition case load of around 114,000, so we were pleased with that. In addition to support those small number of clients that were changing provider, the department actually initiated an outbound call for those people and tried to talk to them to see whether they had any extra information, whether they required any extra information and whether they were happy with the arrangement, and there were about 6,700 of those outbound calls that the department initiated.

Senator FIFIELD—As to the Disability Employment Services's information technology, the measure reads that the government will provide \$26.2 million over four years from 2009-10 to fully implement information technology arrangements to support the delivery of a new DES announced in the 2009-10 budget. As part of the measure the government is committing \$0.4 million over two years to fund a gateway review of the implementation. Forgive me, but what actually is a gateway review?

Mr Moore—A gateway review is a standard process that the Department of Finance and Deregulation runs for all major projects. The gateway review is actually for the whole procurement process for Disability Employment Services, which included the IT project but was not confined to just the IT process.

Senator FIFIELD—That \$400,000 is not just for the IT?

Mr Moore—The \$400,000 is the funding for the gateway reviewers to come in and review the program of work at various stages during the program.

Senator FIFIELD—The \$400,000 is specifically for reviewing the IT but the \$400,000 is—

Mr Moore—No. The department of finance have a gateway review unit. They create a team to do a gateway review of all major projects—

Senator FIFIELD—What actually is a gateway review? That was my first question. Let us start with that. What is a gateway review?

Mr Moore—A gateway review is in effect a series of health checks on major projects. Gates range from gate zero to gate 5. Gate zero is a look at the business case and then it steps through the various phases of the project from development or from readiness for commencement. If there is procurement involved it will review procurement arrangements. If there are IT developments then it will review the IT project at various stages. It provides information back to the department about how the project is going as to the health of the project at these various stages,—they call them 'gates'. That information is for the use of the department to rectify any issues and to see whether our processes are working properly.

Senator FIFIELD—Does the \$400,000 over two years relate specifically to the IT or not?

Mr Moore—It is not specific for the IT. This gateway review was for the whole Disability Employment Services program, which included the procurement, the tender and the IT. That funding goes to the department of finance to pay for the gateway reviewers, who typically come from other government agencies or are private consultants.

Senator FIFIELD—In relation to the proposed changes to the job capacity assessment, has the department projected how many more people are expected to be accessing Disability Employment Services as a result of those changes?

Mr Griew—As a result of the job capacity assessment changes or of the new Disability Employment Services contract?

Senator FIFIELD—Of the job capacity assessment changes.

Mr Pigram—The changes to job capacity assessment services would not have an impact on eligibility for employment services, so there is no change.

Senator FIFIELD—With the streamlined access to employment service measures, how many people are expected to enter Disability Employment Services without undergoing a job capacity assessment?

Ms Parker—That is done with the early school leaving measures, so just those early school leavers who will be transitioning. I do not think we have numbers, but it is just that cohort.

Mr Griew—Which is a streamlined entry measure.

Ms Parker—Yes, that is right.

CHAIR—That concludes our questioning in program 4.3 and we now move to Program 4.4: Working Age Payments.

Senator FIFIELD—Could the department advise what the numbers are of unemployed and underemployed people under the age of 34 receiving benefits in 2007-08.

Mr Griew—Under 34 may not be data that we have here. We might have to go and look that up.

Senator FIFIELD—If you need to, take that on notice.

Mr Griew—So, it is unemployed and in receipt of benefits?

Senator FIFIELD—Yes, that is right. Could you also take that on notice for 2006-07 and 2005-06? Could I have the youth unemployment rate for 2007-08, 2006-07 and 2005-06?

Ms Paul—We will probably take it on notice to go that far back.

Senator FIFIELD—Also, could you provide the long-term unemployment rate amongst young Australians under 34 years of age for 2006-07 and 2005-06?

Mr Griew—Can I just double check? When you talked about the youth unemployment rate, you mean 15- to 24-year-olds?

Senator FIFIELD—That is right. Also, could you provide by electorate, by collection district or by postcode, data relating to the highest areas of youth unemployment? I know some departments state that they do not correlate any data or information on the basis of electorate, so if that is the case—

Ms Paul—We would always pull it up from collection districts, probably, so we will work it from there. Even that is so small in terms of youth unemployment that it can be misleading. We may well go to employment services areas.

Senator FIFIELD—Also, for what you have taken on notice as well, could you also provide that information for people who are over the age of 50—obviously not youth unemployment rates.

Ms Paul—No, we are onto it.

Senator FIFIELD—Unemployment rates in those same years that I asked for in both—

Mr Griew—You mean all of those breakdowns, yes?

Senator FIFIELD—That is right.

Senator BILYK—Could you also provide that information for people who are studying.

Ms Paul—Sure.

Mr Griew—At the moment?

Senator BILYK—Yes.

Mr Griew—We can do that. We can probably do some of that now.

Ms Paul—We went through a little bit of that this morning.

Senator BILYK—Is that okay, Chair?

Ms Paul—We have done youth allowance.

Senator JACINTA COLLINS—Ms Paul, I think you are right, we went through some of that this morning, but I think the issue is to get the total picture rather than just elements of the youth compact or transition to employment space.

Senator BILYK—That is right; how many are studying, how many are referenced going forward, and the unemployed; would you be able to tell us that?

Mr Griew—So, that was the figures of youth are who studying in the different categories as we started to go through this morning, on income support and not on income support?

Senator BILYK—Yes, that is right.

Dr Morehead—Would you like that for the 15- to 24-year-olds? I have got the 15 to 20, so we have got the two lots there. We can start with the 15- to 24-year-olds, if we are continuing on from this morning. We have around 3.1 million who are 15- to 24-year-old. If we look at that compared to the 15- to 20-year-olds, there are 1.8 million 15- to 20-year-olds in that category. Now, obviously with the 15- to 20-year-olds, most of those young people are at school, so around 85 per cent of the 15- to 20-year-olds are in full-time work or study; most of them are studying. That group is basically still studying or transitioning into full-time work; 85 per cent of them, in fact, have successfully either stayed at school or transitioned into full-time work or further study. We are going back to the 15- to 24-year-olds because there we fit in the university transitions and the VET transitions. There are 1.6 million students—15- to 24-year-olds—who are not on income support and then a further—

Senator BILYK—Sorry, 1.6 that are not?

Dr Morehead—They are not on income support but they are full-time studying. And then there are a further 259,557 who are full-time students and they are receiving government assistance via youth allowance, student, to study. Then we have the youth allowance, new

apprentices that I mentioned before of 4,305 people, and Abstudy of 8,922. So, what you can see there is that the bulk of that population group is moving through the transitions fairly seamlessly and if they need financial help then they get financial help through the student income support system. With the 15- to 20-year-olds in that sort of same stream, there is a higher proportion of 15- to 20-year-olds who are on that, what we call the fully productive pathway, because, of course, they are a younger group and so it is weighted by the people who are still at school.

Senator BILYK—What is the fully productive path one?

Dr Morehead—The fully productive pathway would be full-time work or full-time study, either at school or further study after school. They are fully engaged; they really cannot be engaged any further. In fact, some may possibly be over-engaged doing full-time study and a fairly heavy workload as well. That is why the government support for the students who are feeling financially disadvantaged kicks in there for them, to ease that burden. With the 15- to 20-year-olds you do have a higher proportion who are still at school, hence the 85.3 per cent fully engaged versus for the 15- to 24-year-olds it is 81.5 per cent fully engaged. That is just explaining that difference there. Then, of course, we have talked earlier today about Job Services Australia and the Disability Employment Services and their role in assisting the young people who are not in those fully productive categories but are having some difficulty with making those transitions.

There are other supports for youth other than Job Services Australia and Disability Employment Services. Obviously, there is a whole suite of government programs that start really from early childhood, about trying to maintain an engagement of a child in a sort of fairly productive capacity all the way through. Once they reach the youth age of 15 years and above, there is a lot of programs that this portfolio runs that are about trying to keep children who may be highly disadvantaged or at risk of dropping out of school to try and keep them in school. So we have things like the National Partnership on Youth Attainment and Transitions, which I did mention earlier and which is about trying to help achieve that target of having 90 per cent of Australian students staying at school until they have achieved year 12 or equivalent by 2015. Currently, we are sitting at around 84½ per cent, but the programs are aiming to increase that up to 90 per cent.

Obviously, a lot of effort goes into keeping children at school until they have achieved that because of all the evidence that shows that you can have a better labour market chance if you have actually got year 12 or equivalent. Once you are in the labour market that will see you in better stead, so the first priority really is to keep the young people at school and then come in with Job Services and the other programs for people who have either dropped out early, or once they have achieved that are unable to make that successful transition.

The data very clearly shows that if you have achieved year 12 you will be unlikely to need further government assistance, much less likely than someone who has not achieved year 12. So there is a lot of work done within the school environment through things like the Youth Connections program, the School Business Community Partnership Brokers Program and a lot of effort on mentoring and career development. That is part of a whole package of \$723 million over four years to improve the success of that transitional period for young people in Australia. Then, as part of that National partnership, the government has a compact with

young Australians about being committed to making sure that there are places available for people up until the age of 25 so that they can have government subsidised places for training.

So, a lot of the focus has been on broadening the pathways of training that are available to young people and not keeping just within the very linear go-to-university or go-to-school. There is a lot of other programs there to try and keep young people who might not fit so easily into those environments engaged and at school. There is a lot of work on low SES schools and partnering with businesses at an early stage. There is an awful lot of money most recently in the budget on apprenticeships, so really bolstering up the capacity for young people to choose to be an apprentice and for employers to have much more incentive to take them on. There is a very broad range of pathway commitments to make sure that youth can successfully transition through from that age of 15 to 24 years.

Senator JACINTA COLLINS—Do you have any historical trends on those participation percentages?

Dr Morehead—Obviously, with the newer programs, they are participating in the programs that did not previously exist, so the participation rates are fairly high there. In terms of the participation—

Senator JACINTA COLLINS—No, I mean the figures, for instance, the 85 per cent for 15- to 20-year-olds and the 81.5 per cent for 15- to 24-year-olds.

Dr Morehead—Yes, I could break down those numbers a bit more.

Senator JACINTA COLLINS—No, what I am asking for is historically; going back five years, for instance.

Dr Morehead—Yes.

Senator JACINTA COLLINS—How much growth we have seen in those areas.

Dr Morehead—Historically, going back, you find that it hovers around that rate, depending on the state of the economy. What can happen if you are going through the part of the economic cycle where there are less jobs available, school retention is often a choice. That can actually act as a reason to stay in school, as you are not drawn from the school into a job that is sitting there, so that can act as a buffer. We have seen that with some of the data. For example, if we are looking at the unemployment rate, that is a good example of how that affects things. Back in September 2008, the 15- to 24-year-old unemployment rate was 8.7 per cent, but then it jumped to 12.2 per cent in June 2009 and is now trending a little bit back down to 11.8 per cent in April 2010; they are seasonally adjusted figures.

You can see that what happened with the global recession was that youth unemployment went up very fast, it flattened and now it is just starting to come off from that. Those levers to pull young people in and out of the labour market are operating like that, so the extent to which a proportion of a given population is fully engaged in that young age range is very sensitive to those economic indicators. That is what we are seeing now; the unemployment rate is slightly dropping, so there are more young people now starting to get the jobs as the economy recovers.

Senator FIFIELD—Can you tell us how many recipients are currently on Newstart allowance?

Ms Parker—As at March there were 562,600.

Senator FIFIELD—Would you also happen to have the figure for 2007?

Ms Parker—We can take that on notice.

Senator FIFIELD—Can you tell me the number of recipients on youth allowance?

Ms Parker—Yes. There are 34,898 on youth allowance.

Mr Griew—It should be youth allowance.

Ms Parker—I am sorry, that is the wrong one. I was looking at widow allowance.

Senator FIFIELD—I will write that down. So widow allowance is 34,898.

Ms Parker—Youth allowance, students and apprentices, is 270,124 and youth allowance, other, has 89,747 as at March.

Senator FIFIELD—So you do not have any of these for 2007?

Ms Parker—Not on us, no.

Senator FIFIELD—Can you take that on notice?

Ms Parker—Yes.

Senator FIFIELD—What about Austudy?

Ms Parker—Austudy is 36,200.

Senator FIFIELD—Abstudy?

Ms Parker—There are 11,095. Living allowance Abstudy, other, is 23,756.

Senator FIFIELD—Carer payment?

Mr Millington—Carer payment is FaHCSIA.

Ms Parker—We do not have that with us.

Senator FIFIELD—Sickness allowance?

Ms Parker—It is 6,843.

Senator FIFIELD—Parenting payment?

Ms Parker—Parenting payment, single, is 336,763. Parenting payment, partnered, is 128,672.

Senator FIFIELD—Widow allowance?

Ms Parker—I said that one accidentally. It is 34,898.

Senator FIFIELD—Is special benefit one of yours?

Mr Millington—It is also a FaHCSIA payment.

Senator FIFIELD—Can you take on notice 2007 figures for all of those as well?

Ms Parker—Yes.

Senator FIFIELD—According to the budget related paper, your portfolio budget statement, in relation to working aged payments, says:

The effectiveness of working aged payments is measured by monitoring and analysing payment trends to assess the duration on income support.

How do you measure and monitor that? What are the measures and monitors?

Mr Roddam—We have measures of average duration on unemployment allowances by long-term unemployment, Indigenous Australians, mature age, culturally and linguistically diverse background, single parents, people with disability and young people.

Senator FIFIELD—So they are the categories that you monitor?

Mr Roddam—That is correct, yes.

Senator FIFIELD—How do you measure them?

Mr Roddam—We collect numbers of people in those categories over time.

Ms Paul—We get Centrelink's administrative data.

Senator FIFIELD—What do you do with that? What do you look for? What is the time frame? What is the trend?

Ms Parker—If you are talking about deliverables, the PBS on page 113 talks about the proportion of job seekers in employment for three months for long participation in employment services. We have different measures depending on what stream they enter into. For example, you will see on that page where we measure the proportion of job seekers in employment three months; in stream one it is 55 per cent of them. There is also stream two. We track those, monitor them and provide reports against those deliverables in the annual report. Is that what you were referring to?

Senator FIFIELD—Yes. Let us take up something specific like the mobility allowance. What is the relevant measure?

Ms Parker—It is not a success measure as such. These are things that we track in terms of expenditure and numbers of job seekers. The measures that we use are around job seekers actually getting into employment outcomes rather than whether they are accessing the mobility allowance. They are all mechanisms by which we hope to assist the job seeker.

Senator FIFIELD—So the only meaningful measure for something like the mobility allowance would be how many people are on it or accessing it?

Ms Parker—Yes. It is not a measure of success as such; it is being used to get them into a job or an outcome which we measure in terms of how long it took them to get off the services.

Senator FIFIELD—How many people are on the mobility allowance at the moment?

Ms Parker—In terms of the numbers of people?

Senator FIFIELD—Yes.

Ms Parker—It was around 55,000 in March.

Senator FIFIELD—For something like the Pensioner Education Supplement, what is the relevant measure for that?

Ms Parker—These are not qualitative measures, these are all about whether they assist people to get into work. That is measured on what they are able to access and then whether they are getting into jobs or outcomes.

Senator FIFIELD—How many people are on the pensioner education supplement?

Ms Parker—It was 50,025 in March.

Senator FIFIELD—How many people are currently accessing the utilities allowance?

Ms Parker—I do not have that one.

Mr Millington—In 2009-10 there have been 68,170 recipients. It is an amount paid quarterly, so it is not as at today.

Senator FIFIELD—The widow allowance is being phased out. The figure was 34,898. What are the figures year by year for how you expect that to decrease and at what point do you expect that there will no longer be the widow allowance?

Mr Millington—I do not have that figure in front of me. At the moment access is restricted to women who were born on or before 1 July 1955 who were divorced, separated or widowed once they had turned 40, but I do not have a projected final date for a payment on that.

Senator FIFIELD—Is that something you could take on notice?

Mr Millington—Absolutely.

Senator FIFIELD—Compensation and debt relief provide access for eligible recipients to discretionary payments in special circumstances or financial relief for amounts owing to the Commonwealth. What is the range of circumstances where discretionary payments would be made and financial relief for money owing would be granted?

Mr Storen—That line of funding basically supports any payments that need to be made through either an act of grace payment or a similar payment arrangement. The majority of those payments can be made through the special appropriations or the different allowances that you see spelt out below, but on occasion there could be a determination and a decision through the finance minister or so forth that certain payments need to be made where we do not have a legislative framework for it. That line of funding is to support those sorts of things. In the past it has sometimes been used for payments perhaps in relation to cancer victims and so forth. It is more of a provision for a payment if the need arises. It is a modest sum in the forward estimates just in case.

Senator FIFIELD—What is the modest sum?

Mr Storen—It is \$198,000.

Senator FIFIELD—That is fairly modest.

Mr Storen—It is page 120 of the portfolio budget statements.

Senator FIFIELD—How are those discretionary payments kept in the department? Are they individually itemised or recorded?

Mr Storen—Yes. The act of grace payments and the like are usually very low in numbers. They are individually recorded and there is usually quite a robust approval system for the

payments to be made. From recollection, they are recorded or reported in the annual report for the previous year.

Senator FIFIELD—Is that in your annual report and not the department of finance annual report?

Mr Storen—That is right, yes.

Senator FIFIELD—Thank you for that.

Senator JACINTA COLLINS—Is Dr Morehead still here?

CHAIR—Yes, she is.

Senator JACINTA COLLINS—This relates to some of the issues that she was covering earlier. Earlier you were talking about the last cycle approach in relation to payments or income support. Can you elaborate on what you are covering in describing it as a life cycle approach?

Dr Morehead—Yes. The policy focus with the age ranges that are covered by the DEEWR portfolio lends itself fairly naturally to a life cycle approach. Obviously the policies do not tend to look at just one particular year of someone's life, they look at how people move through their lives. We have fairly seamless policies to match the fairly seamless ways that people move through various age ranges, but really target policies at a transition stage which, for some people in those particular age ranges, can be more difficult than for more advantaged people in the population. For example, there are programs targeted at the very young for when they move out of the home environment into a learning environment, so the early childhood reforms is a transition point for a very young person. There is another transition point going into school and so on. The suite of policies is designed to help particularly those that are less advantaged to move seamlessly through that life cycle approach.

When we get to working aged people and the working aged payments there is the same philosophy of trying to make sure that there are wraparound policies and programs to ensure that there is no wrong door for someone if they front up and say, 'This is the type of person I am, going through this sort of transition.' There will be a program or a policy available for them to help them move back on to a fully productive pathway. If people find that what they are lacking is human capital skills, for example they might be lacking some very simple foundation skills, then the government has put forward quite comprehensive packages to help there. For example, what we find with the older working age Australians, or people who have moved out of the youth categories, is that they might be doing okay in the workforce but their foundation skills, their ability to read and write, might be very poor because back when they were in school they did not have the same support and wraparound servicing that is offered now. So you have for example proportions of the workforce who really are not that well able to read and write, which may be okay for the particular job they are in but it just makes them vulnerable if they need to move jobs or if those jobs where people can get by without having foundation skills historically might be fading out somewhat.

I guess the foundation skills package has quite a strong recognition of a life cycle in that it is focusing on picking up people who in the past did not manage to go through school so they can pick up those skills now. Obviously now in the modern situation we have quite good programs at school to make sure that this will not occur. But there are the adults or people

leaving that youth transition; there is some quite interesting data there on the foundation skills. The government in the budget has released a \$660 million skill package which includes—I will just focus on the one part that is relevant to this debate—\$120 million for language, literacy and numeracy places, so there will be around 140,000 Australians who can use those places. We are taking the approach of making them available to the most disadvantaged. We expect 70,000 job seekers, so people who are looking for jobs at the moment, will benefit from that additional spending.

What we found, for example, with the working-age population is that quite a large number, some 40 per cent, do not actually have the language, literacy and numeracy skills considered necessary to engage actively in working life. They unfortunately do not have the ability to read fairly simple passages of text, for example. We know that those working-age Australians are more vulnerable than others, so they are more vulnerable to becoming unemployed. Once they are unemployed they are certainly more vulnerable to becoming unemployed for a long time. If you do not have those language, literacy and numeracy skills you are in that 40 per cent that are really judged as not being able to complete a cert III qualification.

What a lot of the skills package does, and particularly the language, literacy and numeracy targeted part of that package, is to try to make sure that even those people who have moved through that life cycle approach to that very broad working age can actually pick up those skills there that were not picked up when they were younger. I guess a life cycle approach is not just about targeting very specific age ranges; as people move throughout their life it focuses on transitions but it also makes sure that there is a suite of programs and policies available for people who have moved through and did not pick up those skills along the way.

Senator JACINTA COLLINS—There is another transition I am particularly interested in, and that is the transition to and from caring. How do you see the program supporting those transitions?

Dr Morehead—With someone who has been out of the workforce, for example, caring for a child, we start with the parent carers. If they need government assistance obviously we have the paid parental leave which is going to be coming in. The government has already implemented changes to the childcare rebate which lift the amount of money you will get back on the childcare costs, so there are financial incentives. There are direct financial payments that parents benefit from to ease the financial burden of the caring. But for people who are very disadvantaged—for example, those who are on income support—the approach to the parent carer is not to overburden them while they have a heavy caring load.

So we have parenting payment, single, where you can remain on that income support payment without being forced to look for work and get a job in recognition of your caring for a child who is below school age. You are not required to start looking for work until your youngest child is at school. But it does not just stop there, because then with very disadvantaged women who are on income support and even once their youngest child has started school, they are not required to seek full-time work like someone without a child would be required to. They are then just required to seek 15 hours work a week, so the government would then supplement their 15 hours a week work if they did not get a high enough hourly rate with the remaining portion of income support. When you look at parents on income support who do have the youngest child at school, they are one of the best groups

in terms of having workforce engagement. Some 35 per cent of them are earning money, but then the government will top that up with the income support in recognition of their caring arrangements and in recognition that they might not be available to work full-time.

The support for carers continues from, say, a working parent who is quite financially advantaged but needs to have something like paid parental leave to encourage a commitment to return to the workforce. Those parents are catered for. Parents who have no substitute for their own labour for child care are supported by the childcare rebate and by all the childcare policies and then women who are not using child care or paid parental leave obviously still get payments around the birth of a child. Then there is a comprehensive income support system there for them.

Senator JACINTA COLLINS—I suppose the final category I would add into that scenario would be women—I am sorry; that is a stereotype; we are saying ‘women’—or carers who after caring particularly for children and who are returning to employment have particular skills acquisition issues, sometimes, that also need to be acknowledged and supported.

Dr Morehead—They obviously—like any other carer who would be coming back in; they are not specifically programs for women—have access to the Productivity Places Program that I am sure most people here would know about. That is quite a massive program providing training places to people who need to increase their training or have a desire to get a higher qualification than they already have. As I have mentioned we have language, literacy and numeracy programs for women who may have been out of the workforce for a very long time. If they are with Jobs Services Australia, and indeed if they wish to volunteer for Jobs Services Australia even if they are not actually entitled to get an income support program, then there is help with any sorts of computer skills or things that they might need to ensure that they are attractive in the workforce. There are quite a lot of programs there.

We have the green jobs and green skills package for younger women. There is the Critical Skills Investment Fund of \$200 million and the wide range of apprentice programs that are available, which are also very important for women who might be entering into non-traditional trade areas to ensure that they are actually attractive to employers and so that employers wish to take on apprentices.

Senator JACINTA COLLINS—You also mentioned earlier the youth attainment program. Could you describe that program for me?

Dr Morehead—The youth attainment program is the agreement between the states and the Commonwealth and territories. It really is focused on ensuring that young people have a very solid school experience and come out with as high a level qualification as possible from the school and indeed any higher level of education that they wish to pursue that that is possible. The \$723 million over the four years has \$287 million for Youth Connections, which is for students at risk of not attaining year 12. That is basically like a case management system for children who schools identify as being close to dropping out, and a case manager can come in and help that child on an individual basis.

There is \$183 million for the School Business Community Partnership Brokers Program, which is about getting local schools to have closer relationships with businesses to attract

children who may be more inclined to have a career with their local businesses at an early age. There is \$106 million for states and territories to do mentoring and career development, but that is on top of \$47 million for career development initiatives that are specifically administered by the Commonwealth. There is also \$100 million to be spread amongst the states and territories if targets are achieved under that national partnership, so that is additional money that would be given to states and territories as they work along the way to ensuring that 90 per cent of students achieve year 12 or equivalent by 2015.

Senator JACINTA COLLINS—Have we set specific targets for the states to achieve up to that 90 per cent over the next few years?

Dr Morehead—Yes, they have plans that they have worked out detailing how they will achieve those targets and what they will do along the way, so they are in place now. Under the national partnership there is also the compact with young Australians so that 15- to 24-year-olds, for example, have an entitlement to an educational training place for any government subsidised qualification that would lead to a higher qualification than they already have.

Senator JACINTA COLLINS—Could you describe one of the milestones that a state would need to achieve before it attracted the additional funding?

Dr Morehead—I do not actually have that on me but we can certainly provide that.

Senator JACINTA COLLINS—I am just interested in an example; so the state of Victoria would need to achieve X before it attracted the additional funding?

Ms Paul—Each state and territory has developed an implementation plan on which the Commonwealth signs off. I do not have it in front of me but they would have certain milestones that they would have to meet, which may be different of course depending on where they are coming from. Tasmania, for example, comes off quite a low base in terms of retention to year 12, so we would have to look inside each of those implementation plans to see what the milestones are. But we could take that on notice if you would like, to give you a bit of a sense of it.

Senator JACINTA COLLINS—If you are taking it on notice, I would be quite interested in the full picture of it.

Ms Paul—We can probably give you a bit more of a feel for it, too, on Thursday under that schooling outcome.

Senator JACINTA COLLINS—I do not want to take up too much time at this stage but I am also interested in the mature-age component of the life cycle approach and the programs that are relevant there.

Mr Griew—Obviously one of the life transitions that is very important and one that has changed with the changing nature of work—and a good thing, too, given what the Intergenerational Report tells us about the importance of maintaining participation in productivity—means the government has a strong commitment to ensuring that mature-age Australians remain engaged in the labour market and supporting them also to transfer skills to succeeding generations of workers. There is a \$43.2 million package over four years which has a number of components in it, including a job retention package which was \$18.8 million over four years which provides support to help mature-age people retain their job or transfer

their skills. Under this there are training centre payments for employers of eligible mature-age workers with a specific focus on commencements of jobs in jeopardy. This is kind of career renewal for older workers.

It is under that component also that we provide funding grants for the Golden Gurus organisation, which was an initiative coming out of the 2020 summit. There is also a particular focus through a separate element worth \$23.5 million over four years to support mature-age workers with physically demanding roles for whom transitioning to another industry occupation may be of benefit and could help sustain their engagement in the labour market. This includes, for example, 12 months of stream 2 assistance through Job Services Australia for 8,000 mature-age workers.

Senator JACINTA COLLINS—What sorts of things might that involve?

Mr Griew—For example, somebody who is a very experienced worker might get trained to provide a mentoring assistance training role to teach their skills to younger workers in the same industry.

Senator JACINTA COLLINS—Can it also cover workplace modifications?

Mr Griew—Yes, I guess it could, with the Employment Pathway Fund.

Senator JACINTA COLLINS—No, we are talking about mature-age workers here. You are talking potentially about workers who are acquiring disabilities.

Mr Griew—I guess that would be in terms of career transitions, if somebody is stepping back perhaps from a more physically demanding role than the usual focus of that program. The other part of that is support for 60,000 professional career advice sessions. We tend to think that career advice is something that people get at the beginning of their working life whereas the evidence these days is that people make transitions all through their life including towards the end of career, and that is also important to successful transition.

Senator JACINTA COLLINS—But if you are worker towards the end of your career and you are confronted with a transition, the experience is more significant, isn't it? You are more vulnerable to a difficult transition than a younger worker.

Mr Griew—Or at least there are different kinds of threats.

Senator JACINTA COLLINS—How long does it take for a mature-aged job seeker to find employment in comparison with others?

Mr Griew—Our evidence is that mature-aged workers who become unemployed will spend something like twice as long unemployed, on average, as a younger worker, although at both ends of the career course there are significant dangers in an unsuccessful transition.

Senator Arbib—We really have to focus on employment participation. In terms of areas of skill shortage, we are not making full use of our workforce. In terms of job seekers with a disability, mature-aged job seekers and the long-term unemployed, more work needs to be done to ensure that those cohorts are getting access to employment.

Senator SIEWERT—I would like to go to some of the issues raised this morning in the *Who's missing out?* report. I will ask some questions. You might tell me to go next door. I

have been running between the two. I recognise that the issue is that it is sometimes difficult to know whether to ask questions here or at community affairs.

Mr Griew—That report covers both of us.

Senator SIEWERT—Yes, I know. Do you do any monitoring of people who are taking up entitlements or payments compared with the number that you estimate? I appreciate it is quite a complicated process to estimate the numbers that are entitled to various payments.

Ms Parker—There are targets in the income support payments in the PBS.

Senator SIEWERT—I appreciate that you do the estimates for the budget. Do you do any work looking at what the estimates are and how much is taken up?

Ms Parker—Yes, we do. We monitor how many people are taking up particular payments and we have the numbers. We can tell you exactly how many people are taking up particular payments, if that is what you are asking. The estimates we provide in the PBS are always going to be conjecture, based on history. Things will affect that, such as the global financial crisis and so on. Hence we have some gaps in the PBS around that. At the moment, because of the global financial crisis, we were not able to provide any kinds of targets for 2010 onwards because of the Treasury forecasts not being able to be provided.

Senator SIEWERT—I appreciate that you do the estimates. As to the numbers who do take up entitlements: if there is a large difference between the two—and in some areas it appears that there may be—do you look at people who are entitled to payments and are not taking them up and the reason for that?

Ms Paul—It is less likely to be that case than it is simply that there was an overestimate. The estimates come out of Treasury parameters and are based on macro settings. What you are saying could happen, but my judgement would be that because those estimates are set so broadly it will just be a difference between how the estimate was arrived at and what actually happens on the ground. I do not think it is a case of people missing out, particularly.

Ms Parker—We have not had a chance to read the report in detail that you are talking about, but there is always the issue of supposed stigma of people feeling like they do not want to apply for benefits that they are entitled to. There are some who believe it is complicated to apply for those benefits. Centrelink does not market the benefits, but they do let people know when something changes in their benefit, and whether they are better off applying for a different type of benefit, for example. For those people who are already on benefits, if that changes, Centrelink notifies them and says, ‘You may wish to consider a different payment; it may be more generous.’

Mr Griew—To give you the full picture, Centrelink has a work program about making their services available, through mobile services, co-located services and outreach services. That has been quite a focus in Centrelink’s work over the last while. The other point that I would make is: that is one of the strong drivers behind the desire to keep beneficiaries connected to Centrelink.

Senator SIEWERT—I do appreciate that that is one of the positives—one of the few positives, I should say; I will just qualify that, before I get misquoted—that has come out of the NTER. The work that has been done through Centrelink in contacting people and

connecting more people through to their right benefit has been one of the positives of the NTER. Having said that, there are issues that have been brought up around carers and disability payments, which I will obviously ask about next door. There have been comments around bereavement payment—again, that is for next door—but also parenting payment single, which is clearly here. The point is: how do people connect? I appreciate the work that Centrelink is doing, but you have to be already on Centrelink's books, to a certain extent, to know about that.

Mr Griew—Centrelink also would make its services known and available—and DHS would be the place to ask for details—through other forms of human service where people who are eligible for parenting payments would go, say, through community neighbourhood childcare services. The other point to make is that social networks are important. One of the reasons you make sure that agencies such as Centrelink are connected to clients is that those clients are connected to potential clients. Everybody eligible for a parenting payment will know someone else eligible for a parenting payment. It is important not to underestimate the effort to which our colleagues at Centrelink go through the range of other services. I used to work in state government services in the welfare sector; Centrelink was very active in pursuing our outlets as a means of reaching out to possible clients.

Senator SIEWERT—I would like to go back to the process of monitoring and the estimate versus the number that is taken up. Do you do any evaluation to see whether there are people who are missing out because they are not being picked up through the established Centrelink processes?

Ms Parker—No, we do not.

Ms Paul—The human services portfolio might do that.

Mr Griew—I am fairly sure they would.

Senator SIEWERT—They were here last week, before the report came out.

Ms Paul—That is true.

Senator SIEWERT—We can put some questions on notice.

Ms Paul—Yes.

Mr Griew—I would be fairly sure you would find that if you asked—

Senator SIEWERT—So, DHS would be the body that is responsible for making those connections?

Ms Paul—I think so. If it will help you, given that they were here last week, we can take it on notice, follow it up with them as appropriate and come back to you.

Senator SIEWERT—That would be appreciated. Thank you. In terms of some of the recommendations that the Henry tax review made—because they were also looking at transfers, not just at tax—regarding simplification of some of the categories, is there any work being done in that area? Is that being followed up or has there been any work done in the recent past in terms of trying to make the payment processes a bit simpler—because, as you know, they are highly complex?

Mr Griew—The government has given an interim response to the Henry review and has made it clear that some of the issues raised are under consideration. Our work in support of that has been, obviously, for government. We have done work on the various policy options and issues raised, but that is work that we essentially do for government and with Treasury.

Senator SIEWERT—I know; I am pushing the line.

Mr Griew—We may be able to answer the specific questions, but often we will have to take them on notice.

Senator SIEWERT—I would appreciate it if you could take that one on notice to the extent that you can answer it. I want to go to the issue around parenting payment single and principal carers—is this the appropriate place to ask that?

Ms Paul—Yes, it is.

Senator SIEWERT—There are amendments currently before parliament to fix up part of the issues around principal carers. I will remind you what they are, because it has been a little while since I have asked about this one specifically. It concerns payments around Newstart, parenting payment single, and principal carers, as it intersects with family law. Is it correct that you are fixing it up for principle carers for foster parents?

Ms Milliken—Can you continue with your question and I will—

Senator SIEWERT—My perennial question is: when are you going to fix it up for the other principal carers, in terms of the artificial delineation between principal carers as it applies to both parents where there is equal shared custody? When you were looking at the principal carers legislation—

Ms Paul—I do not think we have looked at it since that time.

Senator SIEWERT—I am asking you why, when you have recognised it? I am not criticising the step; I think it is a great step and I am pleased that it has been made, but I am asking: why has it not been fixed for the other principal carers?

Dr Morehead—As you said, under social security law only one parent can be considered the principal carer of a child, and that is generally reflected by a higher rate of payment. That is why, in a separated couple, one would want to be considered the principal carer of the child: there is a higher payment. Also, as the principal carer of the child, you may have different participation requirements. You may have a part-time rather than a full-time participation requirement.

For people who are on very low incomes or where the families are both on income support, it is difficult to do fifty-fifty shared care because they, in effect, have to be running two households—capable of shifting children between the households on a fifty-fifty basis. There are not very many parents in a situation where they are both on income support and sharing the care of the child fifty-fifty. It comes down to that financial reason. When you look at the statistics of who shares care after separation, the higher the income of the original household the more likely they are to share care, quite frankly, because they can afford to run two households. What is happening there is that both parents working part time.

With parents on low income, the rationale is that the child is probably better off if the family is not jobless. Regardless of whether the child is in the fifty-fifty care situation, the aim

is to ensure that the families have an exposure to the labour market where they can try not to be a jobless family. So what happens with the social security law is that there is a recognition of one principal carer, and then the other parent is expected to look for full-time work and have an obligation to try to provide financially for that child, so that you do not have the intergenerational scenario, where both parents are jobless or are unable, through part-time work, to get themselves off income support.

It is a very complicated situation with the way that families arrange their households and the way that they rely on income support, particularly where there is a break-up in the family for those families that are reliant on income support. But, as you know with the shared care arrangements, the changes are such that, say, a father has the full-time participation requirements, which is mostly the case after separation. With parenting payment single something like 92 per cent of the recipients are mothers. I am not sure whether I have that data precisely right, but 92 per cent to 95 per cent of the recipients are mothers.

Senator SIEWERT—In the equation under family law I do not remember—

Dr Morehead—I am not talking about the family law. I am talking about the income support law.

Senator SIEWERT—I know. My point is that at the same time these laws were introduced family law introduced the concept of equal shared parenting. If the court makes a decision of equal shared parenting, with all other issues being equal, that decision is made by the court. I do not think the court takes into account whether they are both principal carers. I understand all the issues you have just been talking about, but my question is: where a court makes a decision under family law for equal shared care, where two parents are unemployed—we are now talking about two families, not one family—why does the Social Security Act not reflect that? I know these are relatively small numbers. How many people are we talking about at this current time? Do we know?

Dr Morehead—Sorry, what was the question?

Senator SIEWERT—Do you know how many people are in the position that have been given equal shared care where only one parent gets principal carer? In other words, you are making it virtually impossible for the other parent to equally care for their child or children.

Dr Morehead—I think the numbers are low. This is a matter for government policy, obviously, but just to keep in mind the data, where there are fifty-fifty shared care arrangements in working families, it is not usually because the father has dropped down to part-time work. I guess what we are saying is that under the income support law principal carer status gives you access to part-time participation requirements and a slightly higher payment to recognise that. The fifty-fifty shared care arrangements for all Australian families do not really have that interplay at work there. You do not often find in a separated family with fifty-fifty care arrangements that all the families are working part time.

Senator SIEWERT—I know, and the reason we might not find that is that they cannot get access to that. I am asking: how many families are in that position?

Dr Morehead—Of the parents who are on income support with full-time participation requirements and who have equal shared care of at least one child—and equal shared care

there means between I think 45 per cent and 55 per cent or something like that—there are fewer than a thousand.

Senator SIEWERT—Currently in that position?

Dr Morehead—Yes.

Senator SIEWERT—Are we monitoring to see how many could be in that position if they could both be principal carers?

Dr Morehead—We are monitoring it. We have been monitoring it for years. Of course, as policies change we monitor the impact even if the policy belongs in another portfolio, and if it has an impact on the people who are receiving income support. We have not noticed a trend of it going up or changing wildly. It is sort of sitting around less than 1,000 most of the time.

Senator SIEWERT—That is for parents who are both on Newstart or where one is on Newstart and the other is on the parenting payment single?

Dr Morehead—It is where there is one parent who does have full-time participation requirements, and so is required to look for full-time work and they have an equal shared care of a child.

Senator SIEWERT—So, whether it is the mother or the father, there are 1,000?

Dr Morehead—Under 1,000, yes. It is quite a bit under 1,000 but it fluctuates obviously.

Senator SIEWERT—To go back to my original question, when the changes were made to enable foster carers to be designated principal carers—which has not gone through yet but it is just about to—was there a policy decision made that that would only deal with foster carers, it would not deal with the other issue we have been talking about in terms of the equal shared arrangements?

Dr Morehead—Those changes to the participation requirements for parents are due to come in on 1 July this year all being well, and as you may remember these came out of the participation task force that was chaired by Patricia Faulkner. That task force did not consider the shared care arrangements. That was not in the terms of reference for the task force.

Senator SIEWERT—That was a policy decision as well?

Dr Morehead—The terms of reference for the task force did not include that issue, yes.

Senator SIEWERT—Going back to the issue of how you target getting information out to people around particular benefits, we have covered that Centrelink does that, but are there other methods that are used particularly? I am thinking of areas, for example, in Aboriginal communities that might be higher. Are there other strategies used?

Mr Griew—I suspect that is the information we will get back from—

Senator SIEWERT—From Centrelink?

Mr Griew—Yes. I know from working in other agencies that the answer to your question will be, yes, but it is probably best to let them answer that.

Senator SIEWERT—Once I have seen that information I will follow it up again.

Mr Griew—They use community agencies and that sort of thing to promote the programs, as do we all.

Senator SIEWERT—When you say ‘community agencies’, you mean NGOs?

Mr Griew—Non-government organisations, yes, community based agencies.

Senator SIEWERT—So, you would be using, for example, emergency relief agencies, et cetera? I presume that is what you mean?

Mr Griew—That is right.

Senator SIEWERT—Could you also tell me on notice how much money is then spent by those agencies in extension of those services? Is that possible?

Mr Griew—We may or may not be able to access that information, because that would essentially be a decision for those non-government agencies, who may or may not have a relationship with us at all.

Senator SIEWERT—I beg your pardon, I do not mean those agencies, I mean going back to the issue around DHS. Is it possible to get a breakdown on what the expenditure is to target those particular areas?

Mr Griew—We will pass that on.

Senator SIEWERT—That would be much appreciated, thank you. I will go back and ask about the other issues around bereavement and carers, but do you work with the other agencies in an interdepartmental way or is it up to each agency?

Ms Parker—No, we often work in an interdepartmental way, so we are happy to take something up if it helps.

Senator SIEWERT—I am sorry, I will clarify that. I understand that, for example, FaHCSIA has a process where there is a small group that looks at progressing these issues. Rather than just a once-off liaison, is there a regular interagency group?

Ms Parker—Yes, we do; with Centrelink.

Ms Paul—We have a formal interagency group with DHS, FaHCSIA and us.

Senator SIEWERT—That would work on these particular types of issues?

Ms Paul—Yes.

Senator SIEWERT—Who takes the responsibility for convening that?

Ms Paul—I think we share it around, actually.

Senator SIEWERT—DHS, for example, is not the lead agency on these issues?

Ms Parker—It depends on the issues. We have a range of mechanisms with DHS. There are some groups, for example, that I am involved in. We have agreements with Centrelink around the work that they do on behalf of the department, and we meet regularly. We have terms of reference in a quite formal process. Depending on the issue we have day-to-day contact with agencies with specific senior officers on particular policy or implementation issues, but we do have ongoing contact, some of which is informal and some of which is quite formal.

Ms Paul—I think normally at the highest level the secretary of DHS chairs.

Senator SIEWERT—Do you remember a couple of years ago that they reduced the period for which you could claim a back payment for the carer's payment, and there was an agreement that the agency, FaHCSIA at the time, put out a leaflet that they were going to make available in doctors surgeries and all sorts of places to let people know that the entitlements were changing? When there is a catastrophic event, carers often do not understand or apply for things until well down the track. Using that as an example, when major changes are made is it a regular process? In that instance we had a Senate inquiry, and it was a commitment made because of some of the issues coming out of that inquiry. Is it a regular occurrence where major changes are made to entitlements that there is a notification campaign through sources where people would get information from? In that case it was doctors' surgeries and hospitals?

Ms Parker—Yes, not necessarily leaflets, but if someone is already on a payment Centrelink would write to them and tell them that there may be a change or they may be entitled to something else.

Senator SIEWERT—It is not the people who are already in contact, because you have already established contact with those people. It is more when entitlements change that people may become eligible—obviously very eligible—for something. Where they may become eligible for a payment, how do you go about doing that? Is there an established process for doing that?

Mr Griew—I think that is in essence the nature of the question that we have offered to ask for some advice from Centrelink.

Ms Parker—When you are next door, FaHCSIA will be able to tell you.

Senator SIEWERT—I am going to ask them about bereavement and things like that.

Mr Griew—But pamphlets in doctors' rooms would be a great example of that sort of thing.

CHAIR—That concludes questioning in outcome 4. Senators will note that under outcome 5 there is program 4.5, which reflects the old departmental structure, but it is now in outcome 5 so we will be taking questions there in outcome 5.

[3.16 pm]

CHAIR—Let us move straight to outcome 5, program 4.5. After that we will go to a period of general questions in outcome 5.

Senator ABETZ—I have a question in relation to 4.5. If I want to ask general questions about safety, rehabilitation and compensation, I should do that under outcome 5 as opposed to 4.5?

Mr Kovacic—Depending on what the questions relate to; it may be that some questions are better directed to Safe Work Australia, given its responsibility for the occupational health and safety harmonisation agenda and the work that is occurring in that space.

Senator ABETZ—The good news is that they are appearing tomorrow. If I do stumble into that, I can then just defer them until tomorrow. What I did not want to have happen was to ask general questions about it and be told, 'No, you should have asked that under 4.5.'

Ms Paul—You can ask them under 4.5 and see how we go.

Senator ABETZ—At the very end of 4.5 I will ask my questions and if it should not have been 4.5 then I can ask them in 5?

Ms Paul—Yes.

Senator ABETZ—Or Safe Work Australia. Thank you very much. I understand that—and I will get this right—the SRCC, the Safety and Rehabilitation Compensation Commission, is looking at or developing a new framework for accreditation of people to educate people in the art of occupational health and safety; is that correct?

Mr Kovacic—That is probably a question that is best directed to Comcare tomorrow.

Senator ABETZ—Comcare and not Safe Work Australia?

Mr Kovacic—Comcare.

Senator ABETZ—We have another taker, but the good news is that that is tomorrow morning as well.

Mr Kovacic—Just by way of background, Comcare is the body that actually services the Safety and Rehabilitation Compensation Commission, and it would be the arm that would be actually doing the work on anything in that area.

Senator ABETZ—Thank you for that. That is where we originally had this stuff, but then we were not sure, but thank you for that. That is very helpful. In that case I do not have any questions in that area.

CHAIR—That has worked out very well for us, because we will now go to general questions for outcome 5.

Senator FISHER—I will ask some questions about the states' referral of powers. Mr Kovacic, how is that working?

Mr Kovacic—It is working extremely well at this stage. The multilateral intergovernmental agreement is being finalised, and discussions have been proceeding with the states in terms of bilateral intergovernmental agreements, and three of those have been signed—with New South Wales, South Australia and Tasmania. We are hopeful of being able to finalise the Queensland one fairly shortly.

Senator FISHER—When was the multilateral IGA finalised and is it public? I thought that was finalised quite some time ago.

Mr Kovacic—It was. It was certainly an issue that was raised in the relevant Senate committee inquiry into the bill, and I think we provided a copy of the IGA to the committee at that time.

Senator FISHER—Has the multilateral IGA been amended since it was signed?

Mr Kovacic—No. And certainly that is consistent with a Senate order as well. Once the bilateral IGAs have been finalised we have tabled them within the sort of timeframe that has been required by the order.

Senator FISHER—When do you expect Queensland to sign off? WA has not. Do you need a bilat from Victoria?

Ms Shelley—There is no bilateral from Victoria; they are party to a multilateral agreement.

Senator FISHER—When do you expect Queensland to sign off?

Mr Kovacic—We would expect that to be relatively shortly.

Senator FISHER—Speculation has been about for some time that the bilateral IGA would be signed for Queensland.

Mr Kovacic—I cannot be any more precise than I have been.

Senator FISHER—The multilateral IGA has provisions in it about consultations with the states in the event of amendment to the Fair Work Act, does it not?

Mr Kovacic—That is correct.

Senator FISHER—Can you update the committee as to whether there has been any activity in that regard?

Ms Shelley—Yes, I can in relation to two instances. One of them relates to the regulations in relation to take-home pay orders. Those regulations have now been made. The other one that I can mention is the Paid Parental Leave Bill. The Deputy Prime Minister wrote referring the states and the territory ministers in April to commence the consultation in relation to proposed amendments to the Fair Work legislation. I can take on notice whether there has been anything further from that, but I am aware of those two.

Senator FISHER—When in April did the Deputy Prime Minister write those letters to the states in respect of paid parental leave?

Ms Shelley—On 20 April.

Senator FISHER—Under the multilateral IGA there is a three-month consult period, is there not? Is that what is required?

Ms Shelley—There is a requirement to commence consultation within three months, yes.

Senator FISHER—Within three months of what?

Ms Shelley—There needs to be that consultation period of three months; 20 April commences the consultation period.

Senator FISHER—What brings it to an end, the efflux of time?

Ms Shelley—There is consultation in relation to two respects. There is consultation on proposals to amend the legislation, and then there is actually consultation on the draft legislative amendments.

Senator FISHER—How does that work? How, for example, will that work in respect of paid parental leave?

Ms Shelley—At this stage we are awaiting discussions with the states on the amendments to the Fair Work legislation, so the letter has gone from the Deputy Prime Minister and there will then be discussions with the states on those amendments.

Senator FISHER—How does it work? You have said there is a two-tier consultation process under the multilateral IGA. So, in respect of paid parental leave the Deputy Prime Minister triggered that on 20 April by writing to the relevant ministers—correct?

Ms Shelley—Yes.

Senator FISHER—What happens from here in terms of the two-tier process?

Ms Shelley—The Deputy Prime Minister has written outlining that there will be consequential amendments to the Fair Work legislation arising out of the Paid Parental Leave Bill. Once there is draft legislation available to provide to the states, we would provide that and move into, if you like, that second stage. It is not really a defined one-stage, two-stage; they can merge into it.

Mr Kovacic—To add to Ms Shelley's answer, it is worth noting that the issue of the government's initiatives in the paid parental leave area have been the subject of discussions with state and territory officials since the government announced its intention to legislate a scheme. It has also been discussed at the Workplace Relations Ministerial Council and other bodies, and so it is not as if we are coming to the discussions with the states and territories cold in this sort of process, in this area in particular.

Senator FISHER—How does that influence the three-month consultation period? How does what Mr Kovacic has just referred to, Ms Shelley, influence the three-month consultation period set down in the multilateral IGA?

Ms Shelley—In some ways it means there is some preliminary work already done with the states and territories in providing them with quite a lot of information in relation to the Paid Parental Leave Bill and the potential Fair Work Act amendments.

Senator FISHER—Yes, but it does not really make any difference to it, does it? You still have to comply with the IGA.

Ms Shelley—Hence the Deputy Prime Minister's letter of 20 April, which made it very clear that this was the official commencement in accordance with the requirements under the IGA.

Senator FISHER—Which clause of the multilateral IGA sets down the three-month requirement? I am just flicking through.

Ms Shelley—Clause 2.13.

Senator FISHER—I have found it, thank you. The Commonwealth is to give the referring states not less than three months notice in writing of its intention to commence consultation regarding proposals and amendments referred to in clause 2.11. You have outlined a two-stage process. The Deputy Prime Minister writes of intention to, and then there may be draft amendments. Does the three-month period have to expire before there can be draft amendments?

Ms Shelley—No.

Senator FISHER—What has to happen in the view of the states that have referred their powers to the Commonwealth to bring to an end those consultations before anything can be done by the government in respect of draft amendments to the Fair Work legislation and, in particular, in respect of paid parental leave?

Ms Shelley—We would be waiting for the states' views and their response to the letter from the Deputy Prime Minister. There may be discussions at officials level as well, and so it

is not just a letter goes and we wait; there are ongoing discussions at officials level with state and territory government officials as well.

Mr Kovacic—It might be helpful to use the example that Ms Shelley cited before in terms of the take-home pay regulations, which are being finalised. In essence, there was the opportunity for state and territory officials to comment on the draft regulations and for the Commonwealth to consider their suggested improvements to the regulations. As a result of those discussions the regulations were finalised and their contribution was valued in terms of enhancing the quality of the draft regs.

Senator FISHER—How long did that take from go to whoa, from letter advising of intention to amend through to completion?

Mr Kovacic—I do not know whether we have that.

Ms Shelley—This consultation was done within the terms of the multilateral agreement that allows for consideration of urgent or unforeseen circumstances. There was an email to referring states on 25 March.

Senator FISHER—Where is the provision about urgent and unforeseen? I see. The second sentence of clause 2.13 in the multilateral IGA states that in the event that urgent or unforeseen amendments are required the Commonwealth will notify referring states and territories as soon as possible—so, take-home pay orders.

Ms Shelley—The email to the referring states outlining the proposed regulations in broad terms was sent on 25 March. There is quite a lengthy time line ending on 30 April.

Mr Bohn—I can supplement that by noting that we flagged at one of these high-level official group meetings that have been mentioned before the possibility of regulations in this area at the end of February.

Senator FISHER—Did that constitute notification required under clause 2.13 of the multilateral IGA?

Ms Shelley—No.

Senator FISHER—In respect of take-home pay orders, clause 2.13, the commencement of consultation was triggered by the Deputy Prime Minister on 26 March. What was that under the auspices of? Were urgent and unforeseen amendments required, and that came to an end 30 April? It is basically four or five weeks, a month and a bit, instead of three months?

Ms Shelley—Yes, except that the email that I referred to that started the process on 26 March was actually sent by the department.

Senator FISHER—Did that constitute triggering the consultation period?

Ms Shelley—Yes, it did.

Senator FISHER—So, in respect of take-home pay orders, the three-month period was effectively abridged to a month and a bit due to, in the view of the government, urgent or unforeseen amendments—is that right?

Ms Shelley—Yes, that is correct.

Senator FISHER—However, in respect of paid parental leave, how has the government seen fit to categorise those amendments? Is it as urgent and unforeseen or routine?

Ms Shelley—They are consequential amendments. The government views that the provisions under the IGA for consultation with three months notice in writing is the appropriate way to go.

Senator FISHER—I would like to go back to the amendments in respect of paid parental leave. Have any of the states responded to the Deputy Prime Minister's letter?

Ms Shelley—No, not that we are aware of.

Senator FISHER—What has happened with the multilateral IGA? All that has happened is that the Deputy Prime Minister has written to the states on 20 April in respect of paid parental leave consequential amendments—is that right?

Ms Shelley—Writing to referring state and territory ministers, yes. There was a meeting of the high-level officials group, comprising state and territory officials and Commonwealth officials, on 30 April where paid parental leave was discussed at that meeting.

Senator FISHER—Does that affect the time frame that we have already established?

Ms Shelley—No. The Deputy Prime Minister had already written at that stage.

Senator FISHER—What are the amendments being contemplated by the government in respect of paid parental leave?

Mr Kovacic—I should make it clear that this is a further consequential amendment bill that will be introduced into the parliament later this year.

Senator FISHER—When?

Mr Kovacic—Ultimately that—the usual response—is a matter for a government decision.

Senator FISHER—We will go back to that in a moment.

Mr Kovacic—We anticipate later this year.

Senator FISHER—What is the nature of the amendments being contemplated?

Ms Shelley—We have answered this on notice to the committee inquiring into the Paid Parental Leave Bill.

Senator FISHER—Thank you. I think the answers have only recently been received.

Ms Shelley—Yes.

Senator FISHER—I have not had the opportunity to fully acquaint myself with them yet.

Ms Shelley—I am referring to that document. It is the inclusion of a keeping in touch provision in the National Employment Standards, which will be comparable to what will be included in the Paid Parental Leave Bill, and also an inclusion of a note—

Senator FISHER—So, that is for mums when they are at home to keep in touch with the workplace?

Ms Shelley—That is right. It is essentially to ensure that use of the keeping in touch provision does not break the employee's single continuous period of leave under the National Employment Standards—unpaid parental leave. The other proposed amendment is the

inclusion of a note in section 5.36 of the Fair Work Act in relation to pay slips. This note will refer employers to their obligations to provide written notice of parental leave pay under the paid parental leave legislation.

Senator FISHER—When does the process under clause 2.13 of the multilateral IGA have to conclude in order for the government to be able to implement the paid parental leave legislation within its proposed time frame?

Ms Shelley—The consequential amendments to the Fair Work Act do not have to be made before the paid parental leave legislation can come into effect.

Senator FISHER—Nonetheless, obviously the government considers these consequential amendments should be made, otherwise the Deputy Prime Minister would not be proposing them.

Ms Shelley—Yes.

Senator FISHER—It would mean that the Paid Parental Leave Bill may come into effect before the Fair Work legislation has been amended in respect of mums at home keeping in touch, ensuring continuity of service for mums at home and clarification of employers' obligations to notify employees in respect of pay slips where parental leave is concerned—is that right?

Mr Kovacic—I think the intention is for the legislation to be introduced later this year and subject to parliamentary consideration of the second consequential bill. I think the intention would be for that to be enacted to enable it to commence in accord with the paid parental leave legislation.

Senator FISHER—I would have thought so.

Mr Kovacic—Ms Shelley indicated that it was not essential for that to occur.

Senator FISHER—I would have thought that would be the aim, nonetheless. How practical is that aim, given the parliamentary timetable?

Mr Kovacic—That is a hard call to make. I would be speculating there.

Senator FISHER—In respect of those amendments that the government is proposing to make thus far for paid parental leave, we are effectively some six months into the three-month consultation period and you have not heard back from even one of the referring states yet.

Mr Kovacic—It would be true to say, as I characterised before, that paid parental leave has been an issue of discussion with states and territories through high-level officials.

Senator FISHER—We are looking for outcomes, not fluffy chat.

Mr Kovacic—The other issue is that, once we have draft provisions that will bring the discussions to a head, if I can put it that way.

Senator FISHER—Are you able to provide the committee with a copy of the Deputy Prime Minister's correspondence to states?

Mr Kovacic—I can take that on notice.

Senator FISHER—Thank you. What is the progress in respect of draft amendments? Has the government asked the department to start drafting?

Ms Shelley—I understand drafting has commenced.

Senator FISHER—It is without the states at this stage, because we do not know what they think, do we?

Mr Kovacic—That is not to pre-empt the discussions that we would have with the states around the provisions once they are drafted.

Ms Shelley—As I mentioned, we have had discussions at officials level at a meeting on 30 April surrounding these issues.

Senator FISHER—What else are you able to tell the committee about the progress of the draft amendments?

Mr Kovacic—I do not think we have anything else to add.

Senator ABETZ—I am finding it somewhat difficult to hear Mr Kovacic. Can you speak up or can the mic be turned up?

Mr Kovacic—Yes.

Senator ABETZ—Thank you.

CHAIR—Senator Fisher, you are far too close to the witnesses. That is the problem.

Senator FISHER—They are impartial as always. How does the referral of powers work and the machinery thereunder if the government sees fit to propose further amendments consequential to a bill beyond those that they have initially notified the states about? For example, Ms Shelley has outlined the three amendments the Deputy Prime Minister has written to the states about in respect of paid parental leave, and the three amendments that the government considers to be consequential to and in preparation for the Paid Parental Leave Bill. What if the government were to propose further amendments consequential to the Paid Parental Leave Bill?

Ms Paul—I think that is speculation. I am not sure we can comment on a particular bill.

Senator FISHER—How does the multilateral IGA work in that respect? Does the 30-day consultation period start off again?

Ms Paul—Perhaps we can just take a general case rather than a particular hypothetical.

Senator FISHER—Yes. Let us start with that.

Mr Kovacic—It would be true to say that in the process of drafting legislation quite often issues will emerge where drafters will raise questions or there will be a need to tweak or deal with other issues as they arise. I would envisage that the consultation provisions that would have been commenced under the multilateral IGA are broad enough to capture those sorts of issues as part of the dialogue with states and territories.

Senator FISHER—In respect of paid parental leave in particular?

Mr Kovacic—The comments are equally applicable. It is a general sort of comment. Clearly it would depend on the nature of amendments that might be considered, and I really cannot speculate beyond the general process that I have outlined a moment ago.

Ms Shelley—I could mention again that there is that provision in the IGA in relation to unforeseen amendments where the Commonwealth can notify the referring states as soon as possible.

Senator FISHER—Is there a prospect that the Commonwealth would do that in respect of any further paid parental leave amendments?

Mr Kovacic—That is hypothetical.

Senator FISHER—Has the government sought any advice from the department or had any discussions with the department to that end?

Mr Kovacic—Beyond the issues that Ms Shelley has identified that the government has raised with government—

Senator FISHER—So, keeping in touch, service of notice and pay slips?

Mr Kovacic—There are two amendments.

Ms Paul—It is not three.

Senator FISHER—The second is a subset of the first?

Ms Paul—That is right.

Senator FISHER—Continuity of service is a subset of the staying in touch provisions?

Ms Shelley—Yes.

Mr Kovacic—That is correct.

Senator FISHER—So, there is nothing beyond the two thus far?

Ms Shelley—No.

CHAIR—That might be a good question to pause on. We will take our afternoon break and resume at 4 o'clock, which will be the halfway mark.

Proceedings suspended from 3.44 pm to 3.59 pm

CHAIR—The committee will resume. Just before we go back into questions, I can advise that there will be a small change to the program. We will now do program 5, effectively, as a job lot for the rest of the evening. While we will try to keep some structure and order to it, effectively, we will do program 5 as a whole. I will advise all senators by email, through the secretary, just so that they know there has been a change of program. I will ask them to advise us if they have questions so that we can let them know and make sure that no-one misses out. It is over to you, Senator Fisher.

Senator FISHER—Thank you. Moving now to the Paid Parental Leave Bill, I want to discuss two aspects that were the subject of evidence to the Senate committee. The first is evidence from the likes of Professor Andrew Stewart that the Paid Parental Leave Bill could be called the 'paid parenting bill' because, whilst it provides for payment, it does not provide for workers to be able to take the required leave that they need to, under the bill, before being able to access the payment. That is correct, isn't it?

Ms Shelley—That is correct.

Senator FISHER—So the PPL Bill—the Paid Parental Leave Bill—requires a worker to be not at work or on leave to be able to access the parenting payment, yet it has nothing in it to ensure that a worker who may be eligible for a PPL payment is able to take the required leave from work. That is right, isn't it?

Ms Shelley—Access to existing leave entitlements is provided for through the Fair Work Act.

Senator FISHER—Can you answer my question, which was about the Paid Parental Leave Bill?

Ms Paul—No, there is nothing in that bill that does that.

Senator FISHER—Thank you; hence the evidence to the Senate committee that some workers will be eligible for a payment under the Paid Parental Leave Bill but will not be able to get it without resigning from their employment.

Mr Kovacic—I think that is speculation. I think the intent of the bill is clearly to provide a payment to eligible employees—sorry, eligible persons, because it is not restricted to employees. Those persons may be entitled to leave, whether it is under the National Employment Standards or their contract of employment. Indeed, if they are not entitled to leave, they may be able to negotiate unpaid leave with their particular employer.

Senator FISHER—They 'may', but there is nothing to ensure that they 'must'.

Mr Kovacic—As I have said, I think—

Senator FISHER—In the Paid Parental Leave Bill there is nothing to ensure that they must; and in the fair work legislation there is nothing to ensure that they must.

Mr Kovacic—As I have said, they will be entitled to leave under the normal arrangements in terms of either their contract of employment or the Fair Work Act. In terms of the qualification period, that is—

Senator FISHER—I think that is a no.

Ms Paul—I think he has answered the question, Senator.

Senator FISHER—Actually, Mr Kovacic, this is a genuine request: your dulcet tones are beautiful, but I would like my colleagues and Hansard to enjoy them more.

Mr Kovacic—I am sorry.

Senator FISHER—Hansard is trying to hear. You are very good but very quiet.

Mr Kovacic—I am sorry; I will try to speak up.

Senator FISHER—I think that is a no, Mr Kovacic, to workers being protected.

Ms Paul—That is not what he said.

Mr Kovacic—That is not what I said.

Ms Paul—He has answered the question, Senator.

Senator FISHER—Then why did Professor Andrew Stewart give evidence to the committee that certain workers who are eligible for payments under the Paid Parental Leave

Bill may be in the invidious position of having to resign or take leave from their job with no guarantee of a job to come back to?

Mr Kovacic—I think that question is probably more appropriately directed to Professor Stewart.

Senator FISHER—The answer is: because there is nothing in the Paid Parental Leave Bill or the Fair Work Act that protects them in that circumstance.

Ms Paul—I think we have answered the question, Senator.

Senator FISHER—There is nothing, is there?

Mr Kovacic—In terms of the question about a right to return to work?

Senator FISHER—No.

Mr Kovacic—Sorry?

Senator FISHER—No. It is the question about protecting a worker who is not, as of right, entitled to the leave that they need in order to be able to access a payment under the Paid Parental Leave Bill. There is nothing in the Paid Parental Leave Bill, as it stands, or indeed in terms of the amendments forecast by the Deputy Prime Minister to the states, or in the Fair Work Act that protects a worker in that scenario, is there?

Mr Kovacic—That is not to say that an employee or, I should say, a worker may not be able to negotiate a period of unpaid leave with their employer or principal and—

Senator FISHER—Yes, they may—

Mr Kovacic—in terms of how they return.

Senator FISHER—but that is ‘may’ and not ‘must’ and it is not protection.

Mr Kovacic—I really do not have anything to add.

Senator FISHER—I would not have thought it was one of the fundamental workplace relations principles that the government has postulated as part of the referral of powers.

Ms Paul—I do not think we can take it any further.

Senator FISHER—Fair enough. Is it correct that the government has said that it will not amend the Paid Parental Leave Bill in that respect?

Mr Kovacic—I think the committee that was inquiring into the bill is yet to report; it is not due to report until Thursday. As with all committee reports, I am sure that the government will consider closely any recommendations that the committee might make.

Senator FISHER—Can an amendment of that sort be made to the Paid Parental Leave Bill, if the government were so minded? Can the Paid Parental Leave Bill be amended to protect a worker who is eligible for payments but not eligible, as of right, to leave from their job, which they need in order to be able to access the payments? Can an amendment to that end be effected through the Paid Parental Leave Bill?

Mr Kovacic—I would need to take that on notice rather than speculate and give an impromptu response.

Senator FISHER—Would an amendment to that end to the Paid Parental Leave Bill violate the referral of workplace relations powers from the state to the Commonwealth?

Ms Paul—I think that sort of question is why Mr Kovacic might want to take it on notice just to cover off all the bases.

Senator FISHER—I would have thought you would know the answer. Let me put it another way. Is it consistent with the states' referral of powers to the Commonwealth for a workplace relations matter to be legislated by the Commonwealth anywhere other than in connection with the Fair Work Act?

Mr Kovacic—The multilateral IGA relates to amendments to the Fair Work Act and fair work framework. As Ms Shelley outlined before, there are provisions in the multilateral IGA that provide, in circumstances where there is a degree of urgency around particular proposed amendments to that framework, for those to be progressed without having to go through the three-month consultation period.

Senator FISHER—That was not my question. My question was: can a bit of legislation, other than the fair work legislation, provide as to a workplace relations matter; and would that be consistent with the states' referral of their workplace relations powers to Commonwealth?

Mr Kovacic—I would need to take that on notice in order to give a considered response.

Senator FISHER—I am surprised that you do not know the answer.

Mr Kovacic—I have said that the multilateral IGA relates to proposed amendments to the fair work framework. I will take your question on notice and provide a considered response.

Senator FISHER—Do you have legal counsel in the room who are able to opine on that? I would have thought they would know.

CHAIR—Minister, the department is not in the business of providing the advice—

Ms Paul—This was a question taken on notice at the Senate inquiry.

Senator FISHER—Yes; and your answer—

CHAIR—Senator Fisher, I just need to interpose a little bit. While I do not want to get precious about these things, there is advice from the Clerk that questions about legislation—

Senator FISHER—Yes, thank you; at your indulgence, Chair.

CHAIR—which is before a committee for inquiry are not supposed to be asked. I have been fairly flexible, but are you winding up here soon?

Senator FISHER—Yes. Ms Shelley, I have an answer, but which question are you referring to?

Ms Shelley—I do not have a reference to the question number, but it was a question that you asked during the inquiry.

Senator FISHER—Yes. The final bit of your answer, if this is the one, suggests that state references that support the Fair Work Act—and I think there are you talking about the referral of powers—

Ms Shelley—That is correct.

Senator FISHER—would not be involved, except to the extent necessary to support amendments to the Fair Work Act that are consequential to the Paid Parental Leave Bill. My question is whether an amendment to this end would need to be dealt with under and, therefore, consequential to the Paid Parental Leave Bill and whether an amendment of this nature would need to be done through the fair work legislation and, in fact, could not be done through the paid parental leave legislation. That is my question.

Mr Kovacic—I will take that on notice.

Senator FISHER—If your answer is, ‘Yes, it can be,’ what then is there to prevent the Commonwealth from circumventing the referral of powers legislation to make workplace relations amendments other than through the Fair Work Act? With the referral of powers, what is to stop the Commonwealth from getting around the consultation period or anything else that it may consider undesirable by legislating workplace relations matters elsewhere?

Mr Kovacic—You have asked the primary question and I have taken that question on notice.

Senator FISHER—And you will take that further question on notice—

Mr Kovacic—That further question is a contention on the second answer and—

Senator FISHER—please, Mr Kovacic?

Mr Kovacic—Certainly. I was going to come to that.

Senator FISHER—My final question on this issue is: would the Commonwealth have constitutional power to amend the Paid Parental Leave Bill in this respect?

Mr Kovacic—I will take that question on notice as well.

Senator FISHER—You may choose to answer the same series of questions on notice in respect of the second issue raised by Professor Stewart regarding the Paid Parental Leave Bill. Let me ask first: can you confirm that there is nothing in the Paid Parental Leave Bill that keeps the government’s promise that parental leave payments will be in addition to any parental leave obligations that an employer already has to a worker? There is nothing that achieves that promise in the Paid Parental Leave Bill, is there?

Mr Kovacic—This, again, is a matter that is dealt with in the questions that were taken on notice from the Senate committee’s inquiry into the bill. I would refer you to the department’s response to what are shown here as questions 21 and 22. It states: ‘The Paid Parental Leave Bill establishes a separate statutory obligation on an employer to pay an instalment where the relevant conditions are satisfied. An employer must pay an instalment of parental leave if required under the PPL Bill. Meeting this obligation under the Paid Parental Leave Bill does not offset an obligation under an existing industrial instrument.’

Senator FISHER—What ensures that?

Mr Kovacic—The provisions under which a provision in an industrial instrument is established would give that entitlement the legal standing.

Senator FISHER—Is there anything in the Paid Parental Leave Bill or the Fair Work Act that prevents an employer from offsetting the PPL payment in part or full discharge of a parental leave obligation that the employer has—

Mr Kovacic—All I can—

Senator FISHER—Under existing workplace relations legislation?

Mr Kovacic—All I can do is—

Senator FISHER—The answer is no.

Mr Kovacic—All I can do is reiterate what I have said the department has indicated in its response to the question on notice: ‘The Paid Parental Leave Bill establishes a separate statutory obligation on an employer to pay an instalment where the relevant conditions are satisfied. An employer must pay an instalment of parental leave pay if required under the PPL Bill. Meeting this obligation under the parental leave bill does not offset an obligation under an existing industrial instrument.’

Senator FISHER—I agree that it is clear that, under the Paid Parental Leave Bill, an employer must pass on the payment; I am not disputing that. I am questioning, however, the extent to which the last statement in your answer is true. I would like to know the legislative basis upon which the department considers that answer can be provided.

Mr Kovacic—I refer you to the earlier passages in our response to that particular question on notice taken from the Senate committee inquiry. If you will bear with me, I will go from top to bottom: ‘Parental leave pay is in addition to any existing entitlement under an enterprise agreement or contract of employment. Where an employee has an existing entitlement to paid parental leave under an industrial instrument, it is enforceable in its terms as provided for by the instrument. This includes entitlements to paid leave that are contained in enterprise agreements made under the Fair Work Act 2009, agreements made under old federal or state workplace relations law, laws that remain in force and common law contracts. In the case of where a company policy for paid parental leave has been incorporated as part of a contract of employment, then a common law action may be available to the employee. The Paid Parental Leave Bill ...’—and they are those passages that I have just referred to on a couple of occasions.

Senator FISHER—So existing instruments are enforceable, according to their terms—

Mr Kovacic—Exactly.

Senator FISHER—As you have said. What if those terms do not preclude part or full satisfaction of the relevant obligations by something else—and, in this case, by a payment under the Paid Parental Leave Bill?

Mr Kovacic—All I can say is that the provisions relating to paid parental leave under an industrial instrument are not undermined by virtue of the operation of the paid parental leave. The intention is for the entitlements under the Paid Parental Leave scheme to be in addition to any existing entitlement under an enterprise agreement or contract of employment.

Senator FISHER—What ensures they are ‘in addition’—particularly when Minister Macklin, if I am not incorrect, indicated in the House, I think last week, that the government would not be amending the Paid Parental Leave Bill to clarify, to underpin, the government’s promise that the PPL payments will be in addition to an employer’s existing workplace obligations?

Mr Kovacic—All I can reiterate is the response that we provided, in particular: ‘Where an employee has an existing entitlement to paid parental leave under an industrial instrument, it is enforceable in its terms as provided for by the instrument.’

Senator FISHER—Are you suggesting that Minister Macklin made a confession she did not need to make?

CHAIR—That is not fair, Senator Fisher.

Ms Paul—We cannot answer that, of course.

CHAIR—That is not appropriate.

Senator FISHER—Okay. Thank you. In respect of either the leave issue or the set-off issue—and I hear the department’s views differing from mine—could the government, under the referral of powers, the multilateral IGA, characterise either one or both of those amendments, as necessary and unforeseen circumstances that justify abridging the three-month notice period?

Mr Kovacic—Senator, you are asking me to speculate.

Senator FISHER—Has the government sought any advice from the department to one or both of those ends?

Ms Paul—I think you are going a bit close to the content of advice which would be informing cabinet considerations.

Senator FISHER—I will ask about machinery rather than content.

Ms Paul—We have advised on a large range of things, as you can imagine, and I do not think we can take these any further. Mr Kovacic has already taken on notice your general thrust here; I think that is probably where we should leave it.

Senator FISHER—All right. The Deputy Prime Minister, as I understand it, has ruled out any further amendments to the Fair Work Act this side of the election, in any event, hasn’t she?

Mr Kovacic—I am aware of some general comments that the Deputy Prime Minister may have made to that effect; in terms of the precise terms of those comments I cannot say because I have not got them with me.

Ms Paul—That is a matter for her, obviously.

Senator FISHER—Obviously, the concern is that if—

Senator ABETZ—We have got a minister at the table, representing the minister.

Senator FISHER—Good point, Senator Abetz. Minister Arbib?

Senator ABETZ—Wake-up, Senator Arbib!

Senator Arbib—I am happy to check that for you.

Senator FISHER—Thank you. If either of these two issues were to require amendment to the fair work legislation, if the Deputy Prime Minister’s statement is accurately reflected then she has basically said she will not do it anyway, this side of the election.

Ms Paul—I think it is a matter for her. As Mr Kovacic said, we do not have the words in front of us, so I think that is a matter for her.

Senator FISHER—Thank you, Chair; that is all for now.

Senator ABETZ—Just to keep the minister awake, I will ask whether the government agrees with the view that there is widespread confusion over the application of the Fair Work Act.

Senator Arbib—No. My understanding is: given the large-scale changes, especially in regard to award modernisation, going from something like 3,700 agreements and instruments down to 121, it has been a relatively smooth transition. When you undertake a reform as large as that there are obviously issues and challenges, but I think the department has managed it extremely well and will continue to do so.

Senator ABETZ—Do you agree that there are alarmingly low levels of understanding in relation to the application of the Fair Work Act and award modernisation in the marketplace?

Senator Arbib—That is probably a question best answered by the department because I have not been made aware of those.

Ms Paul—Sure.

Senator ABETZ—I am asking for the government's view at this stage.

Senator Arbib—I think I have given you a view: that the transition has been remarkably smooth, given the scale of the changes. Moving away from Work Choices and some of the contracts that were in place under the former government was always going to be a big reform process.

Ms Paul—That certainly has been our perspective arising from representations and so on. Perhaps Mr Kovacic can offer you a bit more detail.

Senator ABETZ—Yes. I appreciate that and, if we may, we will move there. But it would be interesting if the minister is telling us that the government's sole source of advice—as to whether there are alarmingly low levels of understanding or whether there is widespread confusion over the application of the Fair Work Act—about that is from the department.

Senator Arbib—No, and I think, as you are well aware, there is a large-scale education campaign underway through all sites. All industry stakeholders are involved in ensuring that information gets out across the board.

Senator ABETZ—Why would that be necessary? Is it because there are no low levels of understanding or no confusion out in the marketplace?

Senator Arbib—I did not say that. I said that this is a large-scale reform, moving from Work Choices to the new fair work system, and at the same time there will always be the need for information, and that is being undertaken; it is part of the government's and the department's processes.

Ms Paul—Yes.

Senator ABETZ—All right. Now the department: what is your assessment?

Mr Kovacic—This is an issue that was touched on at our last estimates hearing as well, where I think you may have asked a similar question.

Senator ABETZ—That is right. I am just wanting to see what has transpired in the last few months.

Mr Kovacic—Indeed, I think the response remains the same as it was on that occasion—and that is that there is not a degree of uncertainty or confusion around the reforms. That is largely for a range of reasons: one is the range and breadth of information that has been provided to employers and employees, primarily through the Fair Work Ombudsman but also through the fair work education information program. Certainly the intelligence that we are continuing to receive from the Fair Work Ombudsman is that the questions coming through its Fair Work information line are well-informed, considered questions. Indeed, the Fair Work Ombudsman has continued to develop materials to inform employers and employees about the new system and, collectively, they are providing information around the new system to a wide range of stakeholders.

Senator ABETZ—These well-informed and considered questions: is this a new development—

Mr Kovacic—No.

Senator ABETZ—or have all questions to the Fair Work Ombudsman been well informed and considered?

Mr Kovacic—No. I think I made the comment along those lines in the sense that they are educated questions. They are not questions that convey a sense of complete lack of awareness; they are questions that are more targeted and demonstrate an awareness of the provisions of modern awards and the new framework.

Senator ABETZ—Yet I think we could be agreed that they would not be ringing up the Fair Work Ombudsman or Fair Work Australia if there were absolutely no awareness; I think we could be agreed on that.

Senator Arbib—Senator, are you telling me that there was not confusion and there were not phone calls coming into the department when you brought into place the Work Choices legislation and bills?

Senator ABETZ—You might be trying to pre-empt the decision of the Australian people later on this year—

Senator Arbib—No; I am actually asking you a question.

Senator ABETZ—but I am not as bold as to make such a pre-emption.

Senator Arbib—I am sorry; how am I doing that?

Senator ABETZ—Usually you would be not asking the questions but answering them. If you want a role reversal, I would be more than happy to oblige you—

Senator Arbib—Senator, I am making a point—

Senator ABETZ—but the Australian people have not made that decision as yet.

Senator Arbib—about the pain and confusion that was caused by Work Choices. In comparison, this transition has been largely smooth.

Senator ABETZ—Believe it or not, you are actually in government. You promised a fairer and simpler system, and we are asking questions about your system. No amount of obfuscation about previous systems will overcome the difficulties that workers and small business and other employers are having today with your system, Minister. That is what I am seeking to explore.

Senator Arbib—We promised a fairer system and we have a fairer system than Work Choices. If we promised a simpler system and took over 3,700 down to 120, then we have a much simpler system—and now Work Choices has gone.

Senator ABETZ—You are now on the record and this is going to be great *Hansard*—

Senator Arbib—I know. I have read some of your speeches where I get quoted by you.

Senator ABETZ—and it is going to be very good to circulate it.

Senator Arbib—I am very happy to have that happen. If you want to talk about Work Choices and Fair Work, there is no comparison.

Senator ABETZ—Can I ask the department: in relation to these well-informed and considered questions that you understand the Fair Work Ombudsman has received, are they of the same sort of quality as the questions that were being asked in January this year, or are they becoming more concise and more detailed, suggesting that there is a lesser rate of confusion and there are higher levels of understanding?

Mr Kovacic—That question should really be directed to the representatives of the Fair Work Ombudsman when they appear tomorrow. In the discussions that I have had with the Fair Work Ombudsman, the general comment or general observation is that the sorts of questions they are getting on their info line are the educated ones that I have alluded to; that is, I suppose, the information that they have been providing us with. We have not gone down to the specifics of what the questions are around and how they may have changed since we last appeared before estimates.

Ms Paul—To my recollection, we made a similar comment at the last estimates; that is, that the questions to the Fair Work Ombudsman seemed to be informed questions. But, of course, the Fair Work Ombudsman can offer more detail tomorrow.

Senator ABETZ—Yes, of course. But, if the education campaign were working—and that is why the minister's response was a bit too defensive, with respect to him—one would expect the sort of response that you have just given, Ms Paul.

Ms Paul—The Fair Work Ombudsman will be able to give you that detail.

Senator ABETZ—We can explore that with the Fair Work Ombudsman tomorrow.

Ms Paul—Yes.

Senator ABETZ—What input did the department have, if any, in relation to the government now determining that full employment is 4.75 per cent as opposed to four per cent?

Ms Paul—That is not a question for us. They are the macro settings that Treasury concerns itself with, and I do not think we can answer that.

Senator ABETZ—Did you have any input? Were you consulted by Treasury?

Ms Paul—Not that I know of. Certainly it would not be the workplace relations people; it would be people who were here before. I am happy to take it on notice; however, from my own perspective, the answer is no.

Senator ABETZ—Please take that on notice. Basically, by saying that full-time employment has shifted from four per cent to 4.75 per cent, the government has given up on 75,000 Australians, so I just want to know whether you were consulted in relation to that. If you would take that on notice, Ms Paul, I would be most obliged. I will move on and ask about your department's GPO box number. Is it 9879?

Ms Paul—I am sorry?

Senator ABETZ—Your GPO box number—who knows that off by heart? Is it 9879?

Mr Kovacic—I think it is 9880. I think 9879 used to be the former DEWR's GPO box number.

Senator ABETZ—The former DEWR—you are right. Thank you. This catering bill that has sort of bounced around between the Prime Minister and the Deputy Prime Minister was originally sent to that GPO box number.

Ms Paul—I am not aware of that.

Senator ABETZ—I was just wondering whose actual GPO box number that was. That was the former departmental one. I understand that this account has now been paid personally by the Deputy Prime Minister. Is that correct?

Ms Paul—That is correct.

Senator ABETZ—Earlier in the year, the Deputy Prime Minister was in Tasmania launching her much vaunted Fair Work Week. During the course of that, she was interviewed—Minister, this is a question for you—in relation to a supposed flight into the Southern Ocean supporting Japanese whaling activities. Ms Gillard said that she would bring the 'full force of the law' to bear regarding this flight; as I understand it, it was one flight. Could you take on notice exactly what follow-up Ms Gillard took after making that announcement?

Senator Arbib—Can you tell me when the statement was made?

Senator ABETZ—First week of January, during Fair Work Week; I know that much.

Mr Kovacic—Can I just add something here?

Senator ABETZ—It was 6 January, in fact.

Mr Kovacic—I think Ms Gillard may have been Acting Prime Minister and made that statement in that capacity at the time.

Ms Paul—Yes. It is probably outside this portfolio. I doubt that it would be our legislation.

Senator ABETZ—That is why I am not asking the department; I am asking the minister's office specifically. They have tried Mr Garrett and they have tried Mr Albanese's department.

They have gone quite overboard, I must say, in relation to this. But the media story does say 'Deputy Prime Minister Julia Gillard has criticised'. It was the AAP who on 6 January described her as 'Deputy Prime Minister' and not 'Acting Prime Minister'. Either way, whether she was acting or deputy, perhaps you could let me—

Ms Paul—It is probably our first question ever on whaling.

Senator ABETZ—Yes, and this is not for the department but for the minister. Possibly you are right because I think the Prime Minister may have been off writing his book about the dog and the cat at Kirribilli or something at that stage—dealing with matters of great moment! But, Minister, if you could find that out for us, it would be very helpful. Can I ask you, Minister—and the department might have knowledge of this—whether Mrs Gillard issued a media release regarding Mr Lloyd's non-reappointment?

Mr Kovacic—I am not aware of the Deputy Prime Minister issuing a media release in terms of her decision to advertise the position and not automatically reappoint Mr Lloyd.

Ms Paul—The decision is to advertise, which has been the case for every other body in the portfolio and is as per the rules that this government has adopted for itself on statutory appointments.

Senator ABETZ—So no media release was issued. One would assume, therefore, that Mr Lloyd was written to about this.

Mr Kovacic—The Deputy Prime Minister wrote to Mr Lloyd on 21 May.

Senator ABETZ—Can we get a copy of that letter?

Mr Kovacic—I can take that on notice and, if we can provide it this evening, we will certainly endeavour to do so. But can I just indicate that the tenor of the letter was along the lines of one where the Deputy Prime Minister had made a decision not to automatically appoint Mr Lloyd but rather test the market through advertising. In that letter, she also indicated that it would be open to Mr Lloyd to apply for the position once it was advertised. He has since publicly announced that his intention is not to do so, and that is his call, of course.

Senator ABETZ—You know a fair bit about this letter, so allow me to test you. It was, did you say, open to him to reapply?

Mr Kovacic—That is correct.

Ms Paul—Absolutely.

Senator ABETZ—Was there any suggestion that he might like to reapply, that he should reapply or encouraging him to reapply?

Mr Kovacic—I think the letter was along the lines that it would be open to him to reapply, should he choose to do so.

Senator ABETZ—I am sorry?

Mr Kovacic—It would be open to him to apply when it was advertised—

Senator ABETZ—If he chose to do so.

Mr Kovacic—if he chose to do so. That may not be the precise wording, but that was certainly, I think, the spirit, if I can put it that way.

Ms Paul—As I said before, that is the same approach that has been taken in every case in the portfolio.

Senator ABETZ—In that letter, was there any hint of encouragement for him to reapply?

Ms Paul—Why don't we just get the letter for you and then you can draw your own conclusion.

Senator ABETZ—Yes, that would be very good. I have a funny feeling that it is going to take some time to get the letter, but we will see.

Ms Paul—As I said before, it is exactly the same process that has been applied in every other case in the portfolio and every other body, and it is a requirement now under this government for how these appointments get filled. That requires advertisement, in the first instance, and for me to do certain things. There is quite a detailed work flow of what has to happen, and basically the requirement to advertise is step 1.

Senator ABETZ—There has been some community debate as to the alleged number of jobs saved by stimulus spending. Has the department itself been consulted or done any work in relation to determining those figures—or any figures? I know that Treasury and the minister might make assertions about this and there is a lot of political banter. Tonight I do not want to go into that political banter; I just want to know whether or not the department was consulted or whether it helped provide any information in relation to that.

Ms Paul—That the stimulus measures have prevented the unemployment of 200,000 Australians is something that has come from Treasury. It is not something that we are part of; it is the macro settings of Treasury.

Senator ABETZ—Yes, but did you have any input into that?

Ms Paul—Not that I am aware of. It would not be this outcome. Once again, I am happy to take that on notice.

Senator ABETZ—If you could.

Ms Paul—Sure.

Senator ABETZ—Also whether the 200,000 is full time, part time or full-time equivalent.

Ms Paul—That is probably a matter for Treasury, but I am happy to take it on in that regard and refer it.

Senator ABETZ—Thank you for that. In relation to the modern awards—just so that I can get a handle on this—an employer is not breaking the law if they pay according to the modern award. Is that correct?

Mr Kovacic—In terms of the wage provisions of modern awards and the transitional arrangements that may be necessary coming into effect on 1 July and in terms of the specifics of your question, it would depend on what the pre-existing instrument might be and how the rate of pay in that particular pre-existing instrument compares with the rate of pay in a relevant modern award.

Senator ABETZ—Let us make this easy. If the pre-existing award said \$10 an hour, all things being equal, and the new modern award now says \$9 an hour, what would stop me as an employer from paying at the lower rate of \$9 an hour?

Mr Kovacic—Until 1 July, when that provision relating to wage rates comes into effect, the fact is that the \$10 will continue to apply.

Senator ABETZ—Yes. Then, after 1 July, what stops me from reducing the pay to \$9 an hour?

Mr Kovacic—It depends on the contract of employment that the employer may have with the individual. It may actually specify a particular rate of pay.

Senator ABETZ—As in a common-law contract?

Mr Kovacic—A letter of engagement may say, ‘Your rate of pay will be X dollars per hour.’

Senator ABETZ—But if it said, for example, ‘I will be paying you according to the applicable award’—

Mr Kovacic—Yes. In terms of it being the relevant award—

Senator ABETZ—then I could reduce it down to \$9.

Mr Kovacic—There are also the provisions for take-home pay orders.

Senator ABETZ—But they only apply if an application is made.

Mr Kovacic—Certainly; but they are there to protect the employee in terms of avoiding any sort of reduction in their pay; they are there protecting their take-home pay.

Senator ABETZ—But, if a worker does not know about those orders and does not apply for one and the employer does pay at \$9 per hour, there would be no illegality on the part of the employer.

Mr Kovacic—I think there are also provisions in all modern awards that go to the impact on take-home pay. I do not have those particular provisions in front of me at the moment; I would certainly want to have a close look at the wording of those provisions.

Senator ABETZ—But wait a minute: if there are provisions in all modern awards dealing with this, why would you need take-home pay orders?

Mr Kovacic—I would want to double check what the effect of those provisions might be. But the take-home pay orders are definitely there to protect employees.

Senator ABETZ—I know what they are designed to do. It is unfortunate that such a mechanism has become necessary; but I fully agree that it is important, because no worker should be faced with a reduction in their take-home pay as a result of this process. But I want to get nailed down and clear what the situation is as of 1 July 2010. Say that there is the going rate of \$10 an hour. A modern award says that in this area I can now start paying \$9 an hour; my previous state award was above the national average and modern awards deem it to be \$9 an hour. There is nothing to stop me from doing that, is there?

Mr Kovacic—It would also go to the effect of any transitional provisions, their operations and how they are applied in respect of the modern award as well.

Ms Paul—In other words, we cannot give you any final answer on that. It really comes down to these issues.

Senator ABETZ—So it will depend on ‘award by award’, will it?

Mr Kovacic—In essence, I am saying that the ‘calculation’—if I can put it that way in terms of what the rate of pay may be—would depend on the pre-existing rate of pay and the transitional provisions, whether a take-home pay order were sought and made in respect of the employee. But also, as you would be aware, all modern awards include transitional provisions, which take full advantage of the five-year transitional period to move either up or down from the rates of pay in the pre-existing instruments. So that would be another factor that would come into effect.

Senator ABETZ—Undoubtedly you would be aware of the concerns in the transport sector in New South Wales in relation to modern awards.

Mr Kovacic—I am aware of some general concerns about issues but, in terms of the specific ones that you may be alluding to—

Senator ABETZ—All right. The only general one in the transport sector that I am aware of is the rate of pay. For whatever reason, in New South Wales they used to enjoy a higher rate of pay than elsewhere and chances are that current transport operators will be subjected to take-home pay orders to maintain the level of pay for their workers. But, if I were a new entrant into the field on 1 July, I could pay all my brand new employees in my brand new business at the level of the new modern award and, therefore, undercut the competition.

Mr Kovacic—The point that I have made is that transitional provisions would also have an impact in this particular area in terms of the rate of pay.

Senator ABETZ—How would this transition apply in that case: a brand new business with brand new employees and no history?

Mr Kovacic—In circumstances where you have, for instance, a pre-existing rate of pay that is higher than the rate in the modern award, there is a step-down process over the five years, which—

Senator ABETZ—Yes; but there is no pre-existing rate for a new employer with a brand new business. Say that it is a new business with a new employer and new employees—brand spanking new, with no pre-existence of anything. That new employer in that new business would be entitled to pay at the modern award rate, would he or she not?

Senator ABETZ—And the transitional provisions would not apply.

Mr Kovacic—I would want to confirm that. I would take that on notice, just in terms of the precise operation of transitional provisions in that relevant modern award.

Senator ABETZ—I want to ask you again: in relation to existing businesses, would there be no illegality until such time as a take-home pay order was issued?

Ms Paul—I think Mr Kovacic has talked about the agreed transitional arrangements as well, so there are—

Senator ABETZ—No, this is another question. We have gone off the new employer, new business and new employee.

Ms Paul—I appreciate that.

Mr Kovacic—The transitional provisions are equally relevant where you are talking about an existing business with existing employees.

Senator ABETZ—Why do take-home pay orders need to be made if an employer could not in any event be paying people less?

Ms Paul—But there are multiple protections here and Mr Kovacic has named most of them.

Senator ABETZ—So this is belts and braces now, is it? Is that the argument?

Ms Paul—We have take-home pay, transition arrangements and so on which we have been through, and we are happy to do it again. We were picking up off your New South Wales case in talking about transitional provisions.

Senator ABETZ—Are we now saying that these take-home pay orders are somehow an extra safety provision?

Ms Paul—No, I did not say that; I just said that it is part of a suite of arrangements.

Senator ABETZ—All right. What are the arrangements that protect people's take-home pay, other than the take-home pay order?

Mr Kovacic—Clearly, take-home pay orders would be the primary mechanism.

Senator ABETZ—What are the other mechanisms?

Mr Kovacic—While I do not have the precise wording of the clauses that have been included in modern awards, they may be more in terms of a statement of spirit or intent; without checking them, I really would want to take that on notice. But I want to note that in all modern awards there are provisions which the Industrial Relations Commission included that go to the issue of take-home pay as well.

Senator ABETZ—If that were the case and that provided all the protection that workers needed, you would not need a provision for a take-home pay order and the new regulations that Ms Gillard put in place—and I think that was done earlier this month, wasn't it?

Mr Kovacic—That is correct; and I come back to where I started off in responding to that question: certainly take-home pay orders are very much the primary mechanism for protecting take-home pay for employees.

Senator ABETZ—That is the primary.

Mr Kovacic—Yes.

Senator ABETZ—I just want to know how a take home order can be applied to a brand new business where there is no pre-existing history as of 1 July.

Ms Paul—I think we have just taken that on notice.

Mr Kovacic—That is right. But the question I have taken on notice is: to what extent may transitional provisions also apply to that particular business?

Senator ABETZ—All right. You may also wish to take this on notice; given your previous answer, I assume that you will have to do so. Can you then check whether it is permissible to

reduce the take-home pay of an employee just because the underlying minimum conditions of the award have changed?

Mr Kovacic—I will take that on notice.

Senator ABETZ—Thank you very much for that.

Senator Arbib—I think you have raised the issue of truck drivers in New South Wales.

Senator ABETZ—Yes.

Senator Arbib—The only other point I want to make is that in December Minister Gillard announced the Safe Rates Advisory Group, which is looking at payment methods and safety in the heavy vehicle sector; so it will get caught up in that process as well.

Senator ABETZ—‘Safe rates of pay’ is now going to determine this.

Senator Arbib—There is a group now looking at this.

Mr Kovacic—An advisory group has been established by the Deputy Prime Minister and—

Senator CORMANN—Another advisory board.

Senator STERLE—That is what you lot tried to do, and you voted for it too.

Mr Kovacic—I will go back a step. The National Transport Commission commissioned some work by Professor Quinlan and Mr Lance Wright, who is the former head of the New South Wales Industrial Commission, to look at the extent to which safety in the trucking industry was impacted by rates of pay. That particular report made a number of recommendations and, late last year, the government established the Safe Rates Advisory Group to provide advice to it in the development of an options paper which would become the basis for wider consultation around the issue itself.

Senator ABETZ—Can you tell us about this safe rates group? I think you may have told us who is on it.

Mr Kovacic—We have. Bear with me and I will just find the detail. It is chaired by Scott Chamberlain, who is the former industrial relations adviser at the Housing Industry Association. It involves representatives from employer organisations and the Australian Logistics Council. Those employer representatives are drawn from Victoria, New South Wales, Queensland and South Australia. It also has members of the Transport Workers Union.

Senator ABETZ—Why does that not surprise me? Please take on notice at this stage the full list—

Mr Kovacic—Certainly.

Senator ABETZ—what their background is, who appointed them, what they are currently doing, when they have met and when they hope to have these issues finalised. Is there a deadline for this?

Mr Kovacic—I can answer some of those questions quite quickly. They were appointed by the Deputy Prime Minister. They have met on three occasions, I think, at this stage. A further meeting is scheduled for 7 June. Depending on discussions at that meeting, their contribution

to the options paper may be fairly well concluded, but there may be the need for another meeting.

Senator ABETZ—I am sorry—there will be an options paper? What will happen with that options paper?

Mr Kovacic—It will be released for wider consultation and feedback.

Senator ABETZ—Then what?

Mr Kovacic—That feedback will be considered and it will be a matter for government to consider what, if any, initiatives it may wish to take in this sort of area. In terms of the dates on which the group has met, it met on 16 December last year and 15 April and 12 May this year.

Senator ABETZ—How long were these people appointed for?

Mr Kovacic—In essence, they were appointed to undertake the work of the advisory group, so there was not a specified period per se.

Senator ABETZ—So there was no date by which they had to have things finalised.

Mr Kovacic—No, but the intention was to progress the issues and the work of the group expeditiously, given that it is a matter that is of some concern not only to government but more broadly to the community.

Senator ABETZ—When this options paper is released, to whom do people make their submissions about it? Would that be back to this group?

Mr Kovacic—It will be back to the department.

Senator ABETZ—To the department.

Mr Kovacic—That is correct.

Senator ABETZ—How long have you given for people to be able to respond to this options paper?

Mr Kovacic—Those matters are yet to be settled and that is a matter for the Deputy Prime Minister to agree.

Senator ABETZ—So it is still not determined?

Mr Kovacic—That is correct.

Senator ABETZ—We might have to declare a national emergency on this one, Minister, to get it through pretty quickly. If the release of the options paper will be 7 June at the earliest, people will then be able to provide feedback, the government then has to make a decision and the new modern award situation, which we were canvassing just before, starts on 1 July. So all this will have to be put to bed within three weeks of the release of the options paper—

Mr Kovacic—If I can clarify, this is a separate process from award modernisation. It is not—

Senator ABETZ—Thank you very much.

Senator Arbib—Sorry, it is not award modernisation—

Senator ABETZ—We will go back to the *Hansard* of the minister in relation to what he said about this safe rates group—

Senator JACINTA COLLINS—It is about transport workers, not award modernisation.

Senator Arbib—It is about transport workers and safety issues that have been raised in the sector.

Senator ABETZ—But it was in the context of the take-home pay and their lower rates.

Senator Arbib—I am sorry, Senator. Given that you were concerned about the rates of pay of truck drivers, I was making sure that that was on—

Senator ABETZ—You were trying to obfuscate and you got pinged, Minister.

Senator Arbib—No, no, Senator. That is—

Senator ABETZ—That is the point. You tried to obfuscate and you got pinged.

Senator Arbib—Senator, that is absolutely untrue. Given that you showed some concern for truck drivers, I was trying to make sure that you had the full picture. I was not making that comment in relation to take-home pay orders.

Senator ABETZ—Thank you very much for that.

Senator Arbib—If that helps you, it is—

Senator ABETZ—It was of no relevance, therefore—thank you—to the line of questioning that I was following about take-home pay orders.

Senator Arbib—You showed an interest in the lot of truck drivers—

Senator ABETZ—But that is not a licence for you—

Senator Arbib—so I was giving you some information on the issue.

Senator ABETZ—No. I talked about take-home pay orders—

CHAIR—Let us get back to questions.

Senator ABETZ—I asked a question about take-home pay orders—

Senator Arbib—Obviously you were not concerned about the welfare of truck drivers; it was a political point.

Senator ABETZ—No. I was concerned about take-home pay orders, and you deliberately tried to inject into that argument safe rates of pay. The *Hansard* will disclose what you actually said.

Senator Arbib—I would have thought—

Senator ABETZ—The *Hansard* will disclose what you actually said—

Senator Arbib—And the *Hansard* will show that you had no interest in the—

Senator ABETZ—and we now know that these safe rates will do nothing in relation to the take-home pay orders. So can I come back to that issue—

Senator Arbib—Senator, perhaps I can just say in response to that: you obviously showed no interest in the welfare of the transport workers. This was just a political point-scoring issue for you.

Senator ABETZ—No. I was asking about their take-home pay orders, and you still refuse to answer that because you know that your system fails them—

Senator Arbib—But you raised the issue of truck drivers.

Senator ABETZ—in the case of a new business starting up—

Senator Arbib—But you raised the issue of truck drivers, Senator.

Senator ABETZ—in competition with existing businesses. I know you are sensitive—

Senator Arbib—So you have said that it is irrelevant—

Senator ABETZ—especially coming from New South Wales.

Senator JACINTA COLLINS—No. The transitional arrangements deal with that.

Senator ABETZ—Can I ask this then? If modern awards cover the take-home pay situation, can the department give us an example of where a take-home pay order might be needed, given that the modern awards cover off on this? Why do we have this mechanism?

Mr Kovacic—I have taken that question on notice, in terms of the extent to which provisions in modern awards impact on take-home pay and sort of mitigate against take-home pay orders. So, until I have answered that, I would not go beyond that.

Senator ABETZ—But the minister has just announced and we have just had promulgated these new take-home pay regulations, and the department cannot give me one example where one might actually be required and used by a worker.

Ms Paul—Mr Kovacic has just said that we took on notice your question about the use of take-home pay and modern awards, and the interactions. That is about where we are. You are now onto something slightly different.

Mr Kovacic—Those regulations that you referred to in terms of take-home pay were about providing greater certainty with the scope and operation of take-home pay orders that could be made by Fair Work Australia. The regulations address issues raised by stakeholders about aspects of the scheme for take-home pay orders. In particular, they make clear that an employee or outworker may apply for a take-home pay order before suffering a reduction in pay where a reduction is likely to occur, and they provide examples of the types of take-home pay orders that Fair Work Australia may make, including orders to prevent a reduction occurring.

Senator ABETZ—What sort of an example? If that is what the regulations deal with, give us an example.

Ms Paul—I think that is the example. These are giving the cases for which these would apply.

Senator ABETZ—Because I am so terribly slow, can you just assist me then with what the regulation tells us in relation to—

Mr Kovacic—I am sorry—I just missed the first—

Senator ABETZ—Look, let us get right to it. The regulations in division 4, ‘Matters relating to reduction in take-home pay’, state:

(2A) Without limiting the kind of take-home pay order that may be made under subitems (1) and (2), one or more of the following orders may be made:

(a) an order compensating a reduction in take-home pay that has already been suffered ...

Are we saying, in fact, that suffering this is illegal? No, it is not, is it? This is to overcome that which would be illegal but for the application.

Mr Kovacic—And certainly, as I mentioned a moment ago, the purpose of the regulations was to make it clear that an employee or an outworker may apply for a take-home pay order before suffering a reduction in pay—

Senator ABETZ—That is right.

Mr Kovacic—where a reduction is likely to occur. So, in essence, it is to avoid a reduction actually occurring, in effect.

Senator ABETZ—But that is only if they apply. You know very well what the point is here—and I like the dancing around the issue. The reality is that, in 2AC, you can make an order preventing a reduction in take-home pay from occurring; we agree on that. But, if an order is not so made, is it illegal for the employer to so pay a reduced rate of take-home pay?

Mr Kovacic—I have taken that question on notice previously because it really goes to—

Senator ABETZ—And you know the answer. With great respect, I would be gobsmacked if, given all this—the brand new regulations—you actually need to take this on notice.

Ms Paul—We are not taking the new regulations on notice, but the question that you have gone to there we have taken on notice and we cannot take it any further. We have said this several times now.

Senator ABETZ—Was your department involved in writing these regulations?

Mr Kovacic—Yes.

Senator ABETZ—You know the public policy issues that these regulations were designed to address. It wasn't some academic exercise; there were real live issues that needed to be addressed which occasioned the making of these regulations. Am I right on that?

Ms Paul—Sure.

Mr Kovacic—Senator, there was—

Senator ABETZ—There were real live issues at stake here?

Mr Kovacic—It was very clearly consistent with the objectives of the whole award modernisation process from the government's perspective, and take-home pay orders were included in there to ensure that employees were not disadvantaged or existing employees did not have their take-home pay affected by award modernisation.

Senator ABETZ—So it was countenanced that this may well occur; therefore, these regulations were promulgated some time in May or April—I think it may have been April.

Mr Bohn—They were made by the Governor-General on 6 May.

Senator ABETZ—Thank you. So these regulations were promulgated on 6 May, after a bit of experience with the Fair Work Act to tighten up these take-home pay provisions. Would that be a correct assessment?

Ms Paul—No, it would not. It does not tighten; it clarifies. Basically, it was a request from a range of stakeholders.

Senator ABETZ—Was it designed to clarify anything?

Mr Kovacic—It was certainly to provide greater certainty in terms of the scope—

Senator ABETZ—Was there any confusion about this?

Mr Kovacic—Some of the concerns were in terms of whether an application for an order could be made before an actual reduction in take-home pay had been effected and whether there was the capacity to make an application for a class of employees. All these issues are addressed by the changes to the regulations made in early May.

Senator ABETZ—We at least agree that these regulations were made to provide some clarity.

Mr Kovacic—‘Greater certainty’ is the terminology that I would use.

Senator ABETZ—In that case, congratulations: you disagree with the minister, whose own media release said ‘take-home pay rules clarified’. So thank you for being so certain about making that distinction. The language that I used was, in fact, the language employed by the minister herself, and the department cannot even bring themselves to use it, because they think there is a huge trick somewhere.

Ms Paul—Both Mr Kovacic and I have used both words and I think that both words will stand on the *Hansard*, Senator.

Senator ABETZ—Really, that is not impressive. Chair, as it is now five o’clock, I need to leave, as I indicated earlier. I understand that Senator Fisher will take over the questioning and I will resume at about 5.30, if I may. There might be a few more ‘take-home pay’ questions. Thank you.

Senator FISHER—Chair, I am wondering whether other senators have questions at this point in time.

CHAIR—I am not sure whether they do. Are you saying that you are not quite ready yet?

Senator FISHER—I do not have particular questions at the moment, Chair, but there may need to be a transfer of information.

CHAIR—Some senators have indicated that they have questions but they are not here right now. We might take a five minute suspension to allow us to sort ourselves out.

Proceedings suspended from 5.03 pm to 5.09 pm

CHAIR—We will resume. Senator Collins has some questions in outcome 5.

Senator JACINTA COLLINS—These are just at the general questions level. We have heard claims by some in this place and by certain employer associations that the Fair Work system would result in a wages break-out. What data do we have on whether this has occurred to date?

Mr Kovacic—Based on Australian Bureau of Statistics data there is no evidence of a wages break-out. The latest wage price index data shows that wages increased by three per cent in seasonally adjusted terms over the year to the March quarter 2010. That is up slightly

from an increase of 2.9 per cent over the year to the December quarter 2009, but is well below the increase of 4.1 per cent a year earlier. The March quarter figure is the fourth lowest annual growth on record. The lowest was way back in the March quarter of 2007. The private sector annual increase of 2.6 per cent is the second lowest annual growth rate since the data series commenced in 1997.

Senator JACINTA COLLINS—How about the break-out of industrial action? How are we on the measures there?

Mr Kovacic—Again, as senators would be aware, there is a long-term trend which is showing a continued decline in the level of industrial disputes. The most recent figures, which relate to the December quarter 2009, show that the industrial dispute rate fell to 14 working days per 1,000 employees for the year ending that quarter. That is down from 20.7 working days lost over the year to the December quarter 2007. When you look at quarterly figures, the quarterly figure for December, which was 4.7 working days lost per 1,000 employees, is lower than the June quarter figure for 2009, which was five working days, and which was the last quarter of the operation of the Workplace Relations Act.

Senator JACINTA COLLINS—That is a fairly significant lack of break-out of industrial action, I would have thought.

Mr Kovacic—As I said in opening up, certainly it is a continuation of the long-term downward trend in terms of industrial disputation.

Senator JACINTA COLLINS—As it is certainly relevant in terms of discussions in other areas around the resources sector, could you tell me how the wages growth in that sector under Fair Work compares to the period when AWAs were available?

Mr Kovacic—In terms of growth in the mining sector, the wage price index for that industry increased at an averaged annualised rate of 3.2 per cent between the June quarter 2009 and the March quarter 2010, and that is in original terms. That compares with an averaged annualised rate of 5.8 per cent per annum between the March quarter 2006 and the June quarter 2009.

Senator JACINTA COLLINS—It was more characteristic of a wage break-out back in that period, then.

Mr Kovacic—I think it certainly reflects the impact of a global financial crisis on the sector, but certainly there is no evidence that wages have grown beyond those that were occurring previously. If anything, it indicates that the level of wage increase has declined.

Senator JACINTA COLLINS—Could you take us through the key differences between AWAs and individual flexibility arrangements?

Mr Kovacic—There is, I suppose, a range of differences. First, individual flexibility arrangements must result in an employee being better off overall when compared to their existing conditions. When AWAs were first enacted, the only sort of requirement was to comply with the Australian Fair Pay and Conditions Standard, and subsequently to that, when the fairness test was introduced, there was a bit of a test against certain protected award conditions but those protected award conditions were certainly not comprehensive—for instance, redundancy was not included in the protected award conditions.

Secondly, individual flexibility arrangements are limited to matters that are set out in the terms of the flexibility clause in either a modern award or the relevant enterprise agreement. There were certainly no restrictions in terms of the matters that an AWA could cover.

Thirdly, individual flexibility arrangements cannot be made with a prospective employee, whereas AWAs could be offered on a take it or leave it basis in terms of employment being made contingent on the acceptance of an AWA.

Fourthly, individual flexibility arrangements can be terminated by either party with a maximum of 28 days notice, whereas AWAs could not be unilaterally terminated before their normal expiry date and could operate for up to five years. In circumstances where they were terminated, the employee fell back onto the Fair Pay and Conditions Standard; the underpinning award had no application to the employee.

Senator JACINTA COLLINS—There is a range of factors to prevent coercion, the first one being they cannot apply in the prospective sense, so it cannot be a condition of engagement.

Mr Kovacic—Condition of employment, yes.

Senator JACINTA COLLINS—Secondly, they need to be genuinely agreed to; survive that test.

Mr Kovacic—That is correct.

Senator JACINTA COLLINS—Thirdly, if it does become a matter of disputation, there is the 28-day notice capacity to opt out.

Mr Kovacic—Exactly. That is correct.

Senator JACINTA COLLINS—I am happy for someone else to ask questions now, if you like.

CHAIR—I think Senator Cash might have some questions.

Senator CASH—Some were to be asked by Senator Abetz, but I will commence in his absence. Initially, could we turn to GEERS. Mr Kovacic, can you provide me with an overview of how the scheme has been operating since we last met in February?

Mr Hart—I can give you an update on how we are meeting our key performance indicators under the portfolio budget statements. There are three key performance indicators that relate to timeliness and accuracy of GEERS payments. They are the timeliness of processing GEERS claims—that is, that the indicator is 90 per cent processed within 16 weeks of the receipt of the GEERS claims form. In the financial year ending 30 April, the measure was 91.79 per cent, so that measure was exceeded. The second is the timeliness of processing GEERS claims—that is, that 98 per cent are processed within four weeks of verified entitlement data. That relates to within four weeks of the appointed insolvency practitioner providing that data to the department. The aim is 98 per cent, and 99.43 per cent was recorded for the period 1 July to 30 April. There is an accuracy measure that over 98 per cent of payments are not varied after the appeal, and in the period 1 July to 30 April the outcome was 99.62 per cent.

Senator CASH—At the February estimates, Mr Kovacic was kind enough to provide, on a month-by-month basis, the number of claims that were being made. Can you bring me up to date as of today's date, the end of May?

Mr Hart—The figures I have are to the end of April—that is, the GEERS claims received in the period 1 July 2009 to 30 April 2010 were 15,622.

Senator CASH—Are you able to provide a month-by-month breakdown?

Mr Hart—I do not have a month-by-month breakdown. I can take that on notice.

Senator CASH—That would be greatly appreciated. Are you able to provide an update of the sectors these claims originate from?

Mr Hart—I can provide you with that update. The four key industry sectors from which we are receiving GEERS claims—

Senator CASH—This is based on what?

Mr Hart—ANZSIC classification.

Senator CASH—And what time period are we looking at?

Mr Hart—We are looking at 1 July to 30 April. They are manufacturing, construction, retail trade and education and training. The percentage of claims from manufacturing was 21 per cent; in construction, it was 14 per cent; and for retail trade and education and training they were nine per cent. In the comparable period in 2008-09 and also 2007-08, they have also been the four top sectors and the proportions have been similar, so there is no significant change in the sector from which we are seeing GEERS claims.

Senator CASH—In terms of the nature of the entitlements claimed by the employees, what are they actually claiming under each of those heads?

Mr Hart—Again, for the period 1 July to 30 April where we received 15,622 claims, there were 6,502 claims for unpaid wages, 8,819 claims for unpaid annual leave, 2,382 claims for unpaid long service leave, 7,358 claims for pay in lieu of notice, and 5,495 claims for redundancy. Again, the percentages that they represent of the claims received are comparable to the preceding year and the year before that.

Senator CASH—Has there been an increase or a decrease in the number of claims that are being received since we last met?

Mr Hart—Is this to the entitlement category?

Senator CASH—Correct.

Mr Hart—Those figures were 1 July to 30 April. I can give you a comparison of 1 July 2008 to 30 April 2009.

Senator CASH—Yes.

Mr Hart—The first figure I give will be for 1 July 2008 to 30 April 2009. For unpaid wages, it was 45.6 per cent. For the same period in the current financial year, it was 41.6 per cent. Annual leave was 63.3 per cent. These figures are as a percentage of the claims received, that is why it is not going to—

Senator CASH—No, that is not a problem at all.

Mr Hart—It is 56.5 per cent for the current financial year for annual leave; long service leave, 12.9 per cent for the previous financial year, 15.2 per cent for the current financial year; pay in lieu of notice, 40.4 per cent for previous financial year, 47.1 per cent for the current financial year; and redundancy, 27.9 per cent for previous financial year, 35.2 per cent for current financial year.

Senator CASH—The current number of staff working on the processing of GEERS claims?

Mr Hart—As at 30 April, the branch has 86 staff engaged.

Senator CASH—Is that an increase or a decrease, or it is being maintained?

Mr Hart—Since the last estimates, the figure was 88, so there has been a slight decrease because we have some ons and offs from time to time. Of the 86 staff, there are 66 directly involved in the assessment of GEERS claims.

Senator CASH—What is your prediction for the general expectation of access to the scheme over the next financial year?

Mr Hart—We are unable to really make significant predictions about demand. As a demand-driven scheme, the amount paid out to GEERS will depend on a variety of factors and that will be the number of insolvencies, the award or condition of employment of which the person was working, their outstanding entitlements and their years of service; a lot of things. It is difficult to predict exactly what that figure will be.

Senator CASH—As you say, it is a demand related scheme.

Mr Hart—That is correct.

Senator CASH—The average amount of a claim paid out by GEERS?

Mr Hart—In the period 1 July 2009 to 30 April 2010, the average amount of assistance per claim was \$9,926.57.

Senator CASH—Thank you very much. On page 135 of the PBS, in table 2.5C under the heading ‘Performance information for outcome 5 departmental outputs’, it states:

Satisfaction of stakeholders (insolvency practitioners) with the management of the General Employee Entitlements and Redundancy Scheme

Satisfied or above.

How does that rate? What is above satisfied?

Senator JACINTA COLLINS—Very satisfied.

Senator CASH—No, that is what I am saying; what comes above it exactly? Is it ‘satisfied’ and ‘very satisfied’?

Mr Hart—It is ‘satisfied’ or ‘very satisfied’.

Senator CASH—Satisfied or above.

Mr Hart—It relates, effectively, to a score of seven out of 10 or better.

Senator CASH—It is a seven out of 10, is it?

Mr Kovacic—We undertake a survey of our clients and insolvency practitioners to actually inform our measurement against that particular performance indicator.

CHAIR—Mr Hart, are there any outstanding issues in relation to the Ansett collapse?

Mr Hart—The advice from the Ansett administrator is that there may still be dividends to be paid. There are amounts owing to both employees and the Commonwealth in relation to Ansett. With the government scheme, SEESA, that was set up, all employees have received 100 per cent of their entitlements available through that measure and I think they have received further amounts from the Ansett administrator as a result of dividend payments from sale assets and so on, which I think brings the average to approximately 94.9c in the dollar.

CHAIR—Any idea when that administration is due to finish?

Mr Hart—The best advice that the administrator has provided is that it will be wrapped up in the next 18 months to two years and there may be another one to two dividends payable during that time, subject to asset sales and the like.

CHAIR—All the planes are gone?

Mr Hart—As far as I am aware, they have, but there are still parts available.

CHAIR—Senator Abetz.

Senator FISHER—I have just one question, and, because I was not here for the duration of Senator's Cash's question, she may have touched on it, but have there been any claims under the GEERS program from workers of employers in the insulation industry?

Mr Hart—We classify our claims based on the ANZSIC classification, so where the insulation would fit in would be under construction services. We can break it down to a second layer which is the construction services industry. We have done a bit of an assessment on the claims that have been received. Since 19 February 2010 the department has received 303 claims from employees of 30 businesses in the construction services industry.

Senator FISHER—How many?

Mr Hart—There have been 303 claims from 30 businesses. This is from 19 February to 30 April. In the corresponding period in the previous financial year we received 27 per cent fewer claims. We have received in the period 10 March to 30 April of this year eight calls and one email from potentially affected people in relation to the insulation industry, and they were referred to the 1800 number set up by the Department of the Environment, Water, Heritage and the Arts which was established to provide advice relating to payment for work undertaken relating to the insulation program. They called our hotline but they did not have specific inquiries in relation to GEERS.

Senator FISHER—How many phone calls was that?

Mr Hart—Eight phone calls and one email.

Senator FISHER—Those were from employers in the industry who had claims for insulation laid but unmet, were they?

Mr Hart—I do not have that level of detail. I would have to take that on notice, but they certainly were not from employees seeking assistance through GEERS.

Senator FISHER—Is it on that basis that you referred it to the department of environment?

Mr Hart—That is correct.

Senator FISHER—So getting back to your numbers, there were 303 claims. That is 303 workers since February this year making payments in respect of 30 businesses—

Mr Hart—And that is under—

Ms Paul—That is in construction, not—

Senator FISHER—That is what I am about to ask. That is right. So, of those, how many are from the insulation sector?

Mr Hart—I do not have a breakdown to be able to provide that. There are a number of subclassifications, and even the construction services industry is a first subclassification of construction industry, so it is not possible to drill down to that level of detail.

Senator FISHER—Has the government sought any advice from the department about expectations of claims in respect of the insulation sector?

Mr Hart—The employee entitlements branch, which manages GEERS, has not received any advice from the government in relation to that.

Senator FISHER—There were no requests for advice from the government?

Mr Hart—I think we have provided statistics to the minister's office in relation to phone calls that we have received.

Senator FISHER—Which would have been about as helpful, as Ms Paul helpfully pointed out, with respect. The figures are not enlightening at all, are they?

Ms Paul—That is because we use the industry standard—

Senator FISHER—I understand that, but the bottom line is they are not enlightening at all, are they?

Ms Paul—They do not help you go to how many were for insulation specifically because of the nature of the categorisation.

Senator FISHER—No, that is right.

Mr Hart—Just to clarify, the minister's office sought how many calls we have received to our hotline, not in relation to the breakdown of payments in accordance with these ANZSIC classifications. So with the figure I told you in relation to eight phone calls and one email, the Deputy Prime Minister's office asked us to provide advice on how many calls that we had received, and that is the level of the advice we have been asked to provide.

Senator FISHER—The Deputy Prime Minister's office asked you about the number of calls your helpline had received in respect of the insulation industry; is that what you are saying?

Mr Hart—That is correct.

Senator FISHER—Having provided the information that you have just provided to the committee to the Deputy Prime Minister’s office, has there been any follow-up from the Deputy Prime Minister or her office?

Mr Hart—There has not.

Senator FISHER—Is the department doing any preparatory work in respect of GEERS and potential claims from workers affected by insolvency and unpaid entitlements in the insulation industry?

Ms Paul—I do not think we would need to do special work because the GEERS system is extremely well set up to cater for all circumstances.

Senator FISHER—The department would not advise the government as to the potential level of claims, for example?

Mr Kovacic—If I could just go back to a question that Mr Hart answered from Senator Cash about being able to predict demand for the scheme; because it is a demand-driven scheme it is nigh on impossible to project where the demand will come from. Against that background, and particularly which sectors claims may come from or how many claims may indeed be made under the scheme, we cannot project that.

Ms Paul—But we know the scheme is well set up to be able to respond to whatever the circumstance is at the time and we have seen that time and time again.

Senator FISHER—The government must have sought some numbers about something in respect of the insulation sector from the bureaucracy, including yours, presumably in order to underpin the other measures that the good minister sitting beside you has indeed announced in respect of workers in the sector.

Ms Paul—I think I have already answered that. The piece relevant to that for us is GEERS, and we have answered that question. The other numbers would have been—

Senator FISHER—I heard the department say there is no basis for advising as to numbers on the one hand in respect of GEERS, and you are trying to say it does not matter anyway because it is demand driven. Yet on the other hand, I would hope the government has based its rescue packages in the insulation sector on some worker numbers.

Ms Paul—In this area the relevant numbers are about GEERS. This morning we answered questions about worker numbers in quite some detail, actually. I do not have them with me but we did that under the employment outcome. Then, no doubt, the departments that were actually responsible for it have answered more but—

Senator FISHER—Is the left hand talking to the right hand? Are the department of environment and the department of climate change talking to your department—the environment department and the department of climate change who supposedly have a handle on what is happening to the insulation businesses?

Ms Paul—Yes, I think we went there this morning.

CHAIR—Senator—

Senator FISHER—Yes. We are hearing lots from Minister Combet—

CHAIR—Get to your question.

Senator FISHER—about shonks in the industry who are supposedly to blame—

CHAIR—Yes, can we get to a question?

Senator FISHER—for all that is bad about the government's program when it is not so. It is unduly tarnishing a reputable industry. Notwithstanding that, there will be some employers in this industry who vanish, leaving unpaid entitlements of their workers. I am just trying to find out if the government has sought from this department any handle on that.

Ms Paul—I think we have just answered that—

Senator FISHER—Which is no.

Ms Paul—No, we did say we were asked for some things which we offered—

Senator FISHER—So you have provided some phone numbers—

Ms Paul—And the other numbers were this morning, so probably we cannot take it too much further, I would imagine.

Senator FISHER—You have provided some phone numbers, which was eight plus one email?

Mr Hart—That is correct.

Senator FISHER—And, just to confirm, there has been no further follow-up from the Deputy Prime Minister or anyone else seeking further information?

Mr Hart—That is right.

Senator FISHER—All care, no responsibility.

Senator ABETZ—If I can just follow-up on Senator Fisher's line of questioning, I think you indicated to us that there were a number of claims. Was it 303 or something in relation to the construction sector?

Mr Hart—From the construction services industry, that is correct.

Senator ABETZ—Are we able to break that figure down at all, as to whether they may have emanated from the insulation sector, because the construction services sector is pretty broad? Are we able to break that down further?

Mr Hart—As I explained to Senator Fisher, I think breaking it down further into sub ANZSIC classifications is problematic, but I could take that on notice and if we are able to answer it we will provide it through that mechanism.

Senator ABETZ—Is more money being made available to GEERS in this budget?

Mr Kovacic—There certainly is.

Senator ABETZ—How much more?

Mr Kovacic—In terms of the amount for 2010-11, the appropriation is \$178.4 million—

Senator ABETZ—That is the appropriation. What is the increase?

Mr Hart—That is an increase of \$88 million.

Senator ABETZ—The note I had said \$70 million, but that is a substantial increase. What considerations went into that what, in anybody's language, is a substantial increase? Did the

insulation program fit into that as well, in anticipation that there might be some substantial claims?

Mr Kovacic—It would be largely as a result of expenditure during this current financial year. In terms of the second component of your question, that would not have been a consideration.

Ms Paul—We tried to base our estimates on—

Senator ABETZ—The large expenditure this financial year may well have been as a result of the insulation program, and I understand we are getting details on that.

Mr Kovacic—We have taken on notice whether we can actually provide details.

Senator ABETZ—Therefore that may well be a consideration of the insulation program once we get the answer that Mr Hart has kindly agreed to give us on notice.

Mr Kovacic—Just to give you a sense, in the first six months of the 2009-10 financial year there was a 117 per cent increase in demand and expenditure under the scheme, so it is a significant increase and to some extent that is not surprising, given the global financial crisis. It would be a reasonable expectation as a flow-on from that.

Senator ABETZ—It would also be a reasonable expectation that there be a flow-on from the home insulation debacle. I fully agree that the global financial crisis would clearly have led to more difficulties but, just as it would be an objective comment to make, as you just have, I think it could also be asserted that chances are the insulation program may well have caused an extra hit on the fund. But we will find out courtesy of Mr Hart.

Ms Paul—We have been clear that it is not easy to break that down, so our estimates for GEERS—GEERS is always very hard to predict and we have already said that—must be based on our best estimate from recent experience. Recent experience actually goes before the insulation program. We would have been making these estimates for budget papers quite a while ago actually. So as Mr Kovacic has said, there was a 117 per cent increase in demand in the first six months of the financial year. It is that sort of thing which would have told on our estimation for 2010-11.

Mr Hart—I can further add that this financial year the appropriation started off at \$106 million and we did actually seek an additional \$40 million around October of last year. That was based on the increased demand that we were witnessing in the first four to five months of that financial year, so it was quite early—

Senator ABETZ—Were you granted the lot?

Mr Hart—Yes, the appropriation is at \$146.49 million—

Ms Paul—It is a demand-driven program. The bottom line is that it is a demand-driven program.

Senator ABETZ—Of course, that is a very proper point to make. It is demand driven so the figure that is budgeted is your best guesstimate—

Ms Paul—It is an estimate.

Senator ABETZ—and if a greater demand is made on the scheme then that funding will be provided, yes. You tried an educated guess as to how much money, or the degree of call on that scheme?

Ms Paul—Yes, it is an estimate.

Senator ABETZ—What happens to superannuation in GEERS?

Mr Kovacic—That is not covered by the scheme.

Senator ABETZ—I fully acknowledge it was a scheme introduced by the previous coalition government but, given its longevity now, Minister, can you tell us if any consideration been given to including workers' superannuation entitlements for GEERS?

Ms Paul—I do not think we can comment on that.

Senator ABETZ—That is why I am asking the minister.

Senator Arbib—I am unaware.

Senator ABETZ—Could you take on notice whether the government has given any consideration to that? That would be helpful. I understand that the department has a debt recovery section; is that right?

Mr Hart—We do. When we advance GEERS we stand as a subrogated creditor under the Corporations Act, so we do recover advances of those funds where there are assets available in those insolvent companies.

Senator ABETZ—My apologies, that was out of the wrong file. I should be asking more questions about GEERS and not generally. I might wait for that one later. I understand this is the way we constructed the scheme whilst in government, but does the company have to go into liquidation?

Mr Hart—Yes, that is correct.

Senator ABETZ—So, if a company limps on in administration, as some have, that delays the payments to the affected employees?

Mr Hart—It can. Where we become aware of a company that is in administration or receivership for a protracted period and there are concerns expressed to us, we have the option to refer those matters to ASIC to investigate or possibly even the Fair Work Ombudsman in relation to unpaid entitlements.

Senator ABETZ—There is an employee who lost his job with a company going into liquidation and he has since got another job, albeit at a lower rate, but he is complaining about the fact that it takes quite some time for entitlements to come through. Is the government looking at any way to enhance the scheme or to try to make it so that the worker might be able to be paid, let us say, from government sources, and then, if need be, have that reimbursed by the company at a later date? Is that a possible mechanism? There have been a few complaints coming into my office about the delays, which put the workers into financial embarrassment. Is there any way that this can be looked at to assist these workers?

Senator Arbib—Not that I have been involved in. I am happy to pass on your comments.

Mr Kovacic—The department is quite often reliant on the advice of the insolvency practitioner for details about employee records, and there are some circumstances where there are delays in obtaining that information from the insolvency practitioner. We clearly do everything we possibly can to obtain that information as quickly as possible. The key performance indicator sets a very high benchmark in terms of the processing of claims within 16 weeks and, as Mr Hart alluded to previously, we continue to meet that KPI this current financial year, but we have done that consistently over a long period. That is not to say there are not circumstances beyond our control where we do not get the information that we need to be able to process the claim as quickly as some employees might like.

Senator ABETZ—I am sure you do your best, but you are constrained by the legislative parameters. I accept that. Mr Hart, in relation to your getting money and asking for extra money, were ABC Learning Centres and Drivetrain two big-ticket items that you thought needed extra funding?

Mr Hart—Is that in relation to the \$40 million that we sought this financial year?

Senator ABETZ—Yes.

Mr Hart—No. Drivetrain was paid in the previous financial year. In relation to ABC Learning, we are continuing to assess those claims as they come in. I understand that we have received over 1,300 claims and paid over 1,100 people \$3.5 million, and so the quantum of the payment there was not of a volume to specifically require us to go back and seek funds. It was just the general demand of the scheme that necessitated that.

Senator ABETZ—Are you able to take on notice for us which company collapses you have paid out the most over the previous calendar year?

Mr Hart—Absolutely.

Mr Kovacic—Would you like to limit that to a certain number, whether it is six or 10?

Senator ABETZ—That is a very good point. Can we have the top 10?

Mr Kovacic—Yes.

Senator ABETZ—Thank you very much. I understand there have been union demands for a GEERS loophole to be fixed. How effective is Michael O'Connor these days in lobbying the Australian government in relation to these matters?

Senator Arbib—The unions have many views on GEERS and other issues.

Senator ABETZ—He has publicly called for—as he described it—a legal loophole in relation to Harwood Resources in Tumut, which has allegedly left 11 employees in legal limbo. Is the department aware of that call?

Mr Hart—We have not been contacted specifically in relation to that call.

Senator ABETZ—Can you take on notice the government's response to that request?

Senator Arbib—Yes.

Ms Paul—What if we do not have a request?

Senator ABETZ—I am sorry?

Ms Paul—You have asked us to take that on notice.

Senator ABETZ—I have asked the minister to take it on notice, but there is the ABC Online story, 10 May 2010, titled ‘Union demands GEERS loophole fix’, which states that the forestry union says the federal government’s General Employee Entitlements and Redundancy Scheme, GEERS, for displaced workers needs to be fixed to address a legal loophole. I would be obliged if you could tell us whether that has been drawn to the government’s attention and whether it has any response to it?

Senator Arbib—Yes.

Senator ABETZ—Going through media stories, on 15 April, as reported in the *Warwick Daily News*, 130 meat workers were stood down when the owner suspended operations at his three meat entities on the Darling Downs. When people are stood down, and just suspended, which in this case has left people without an income for two months, GEERS does not come into those circumstances, does it?

Mr Kovacic—For GEERS the company would need to go into liquidation. There may be an interaction with welfare payments in those sorts of circumstances, but that is a question that might be best directed to Centrelink.

Senator ABETZ—Yes. Even the *Sunshine Coast Daily* talks about GEERS from time to time. Has any claim been made in relation to Forest Enterprises Australia? I think they are only in administration. Is that correct?

Mr Hart—I would have to take that on notice. I do not have those details.

Senator ABETZ—If you could, and let us know whether claims have been made and the timeliness of being able to respond to them, that would be helpful.

Mr Hart—Yes.

Senator ABETZ—Whilst we are on Michael O’Connor from the forestry union, he thought the system needed to be tweaked. The AMWU believes that doubling of the GEERS budget confirms the need for a new system. I would like to ask the minister whether the government is giving active consideration to a new system, in response to David Oliver’s call for such a new system?

Senator Arbib—I do not think that is the case, but I am happy to check.

Senator ABETZ—If you could, thank you. I understand the Australian Taxation Office put out an interpretative decision on GEERS on 29 April this year. Are you aware of that?

Mr Hart—The ATO routinely puts out interpretative decisions on its website. Some of them are in relation to superannuation and other payments. They do not directly impact on our assessment of GEERS claims.

Senator ABETZ—That is helpful. That is all the questions I have around GEERS. Can I go into general again?

CHAIR—Yes.

Senator ABETZ—Back to the DEWR debt recovery section that I was going to ask under GEERS. Who runs the DEWR debt recovery section or is there such a creature?

Mr Kovacic—I will just clarify because it may be an issue in terms of corporate cross-portfolio.

Ms Paul—Yes. I am not sure. Can you give us more detail?

Senator ABETZ—This is a complaint in relation to a compensation claim emanating in Queensland. I was told that under the legislation there has to be a guarantee or satisfaction that all outstanding debts to various government departments are paid out. DEWR was contacted and it took over two months to get a clearance for this particular person to be able to finalise their compensation payment. Supposedly contact was made—

Ms Paul—I am not aware of the case. I am happy to take it on notice to see what we can find out.

Senator ABETZ—I do not want to name the person.

Ms Paul—No, I appreciate that.

Senator ABETZ—Can you let us know, on notice, how long it takes DEWR's debt recovery section or a similar body within the department to provide clearances?

Ms Paul—Can you give me the category of person?

Senator ABETZ—It was a work injury.

Ms Paul—I am sorry if I am confused, but were they working in DEWR?

Senator ABETZ—No. If I can remember back to the dim dark days when I practised—I do not think I ever had the potential of a DEWR debt—if there were debts owing to various departments you needed clearances.

Mr Kovacic—I am just thinking out aloud here. Was it a workers compensation claim?

Senator ABETZ—Yes, it was.

Mr Kovacic—Comcare may have been involved in terms of the body to which the request was directed to.

Ms Paul—I wonder. It does not sound like the situation we would face.

Mr Kovacic—It is highly unusual.

Senator ABETZ—You told me to put something else to Comcare tomorrow. I will put this one to Comcare as well.

Ms Paul—I think it is worth a try. If it does not ring any bells there, I am quite happy to take it on notice.

Senator ABETZ—I will ring this person, get the exact details and put it on notice.

Ms Paul—Of course, if at any stage you would like to give us more detail privately, then that is fine too.

Senator ABETZ—All is well because finally the clearance was given, but by the looks of things everything else was locked away other than the clearance and it took another eight weeks.

Ms Paul—That just does not sound like an activity that we undertake. I suspect Mr Kovacic is correct. It is probably Comcare.

Senator ABETZ—I accept that. Under the national procurement code we are told that unregistered agreements are not compliant. Is that correct?

Mr Kovacic—Is that the building construction industry code of conduct?

Senator ABETZ—It is the Commonwealth Procurement Guidelines. You will tell me that is in Finance.

Mr Kovacic—That is correct, yes.

Senator ABETZ—I thought you might do that, but are there Fair Work principle requirements in the Commonwealth Procurement Guidelines—in the building and construction sector?

Mr Kovacic—That is the national code of practice.

Senator ABETZ—Yes. Let me ask that question again in relation to the Commonwealth building and construction procurement guidelines.

Mr Kovacic—By way of background, it is the National Code of Practice for the Building and Construction Industry and then underpinning that code is a document called the Australian Government Implementation Guidelines for the National Code of Practice for the Construction Industry.

Senator ABETZ—For the purposes of our discussion this evening can we agree to ‘the code’?

Mr Kovacic—Yes, the code and guidelines.

Senator ABETZ—Excellent. Are unregistered agreements compliant under the code?

Mr Willing—Under section 6.13 of the code the use of unregistered written agreements, other than common law agreements, made between the employer and an individual employee are inconsistent with the code and guidelines.

Senator ABETZ—Thank you. That is what I thought it said. Are individual flexibility agreements, or IFAs, allowable? Let us go back to basics. Are we agreed that individual flexibility agreements are not registered anywhere?

Mr Kovacic—There is not a requirement for individual flexibility arrangements to be lodged with Fair Work Australia.

Senator ABETZ—If I wanted to I could not lodge it anywhere to be registered; is that correct?

Mr Kovacic—Lodge it anywhere?

Senator ABETZ—There is no place to lodge it?

Mr Kovacic—No, the requirement with IFAs is that they are held by the employer and the employee. They both need to have a copy.

Senator ABETZ—So, it is not registered. Therefore, are IFAs allowed under the code?

Mr Kovacic—My sense would be, yes, because the guidelines require under section 6.11 compliance with all applicable legislation, court and tribunal orders, directions and decisions, and industrial instruments. Given that IFAs are negotiated and agreed in accordance with either a flexibility clause in a modern award or the relevant enterprise agreement, then it would be broad enough to capture that.

Senator ABETZ—So, these unregistered agreements are only referring to enterprise collective and those sorts of agreements?

Mr Kovacic—The sorts of instruments that would be captured would be unregistered site agreements. For instance, in the Victorian building construction industry several years ago there was a Victorian building construction industry agreement, which from memory was unregistered. It is that type of arrangement.

Senator ABETZ—It looks like IFAs are okay?

Mr Kovacic—Yes.

Senator ABETZ—Minister, what instructions, if any, were given to the Fair Work Ombudsman by the minister or indeed the Prime Minister's Office in relation to the young people employed at the Terang hardware store? If I recall correctly, the Prime Minister was on the Neil Mitchell program indicating that he or the government had asked the Fair Work Ombudsman to get involved in the Terang matter.

Ms Paul—We can probably give you an update on that.

Senator ABETZ—It is now 6 o'clock. Can you give that to us straight after dinner?

Mr Kovacic—Yes.

CHAIR—We will now suspend for the dinner break.

Proceedings suspended from 6.00 pm to 7.30 pm

CHAIR—We will resume these estimates hearings. We are in outcome 5.

Mr Kovacic—Perhaps if I could seek your indulgence.

CHAIR—Yes.

Mr Kovacic—Earlier this evening I took on notice a question from Senator Abetz as to whether we would be able to provide a copy of the letter that the Deputy Prime Minister sent to John Lloyd, the Australian Building Construction Commissioner. I am now able to provide that.

CHAIR—Is there any objection from the committee to tabling that letter? No. Thank you. Where were we?

Senator ABETZ—I think I asked a question.

Ms Paul—It was about Terang.

Senator ABETZ—What instructions were given to the Fair Work Ombudsman by the minister's office or the Prime Minister?

Senator Arbib—My understanding is that the department contacted the business as was requested and then the department arranged for the Fair Work Ombudsman to attend.

Mr Kovacic—On the day that the story appeared in the media and following the comments that the Prime Minister made on Melbourne radio, the department contacted Mr Charlie Duynhoven of the Terang and District Cooperative Ltd and indicated that the Fair Work Ombudsman would be visiting the business. That happened either the following week or shortly thereafter. In terms of the interaction that the Fair Work Ombudsman had with the

business, any questions around that are probably more appropriately directed to the Fair Work Ombudsman.

Senator ABETZ—As you understand it, what is the role of the Fair Work Ombudsman? Is it to resolve these types of issues?

Mr Kovacic—There were two issues at the centre of the issue of Terang. One was the provision relating to periods of minimum engagement in the relevant award, and on that particular issue, as I mentioned at the last estimates hearing, the modern award provided for a minimum engagement period of three hours. That was the overwhelming practice in the pre-existing industrial instruments. I think I mentioned there were two exceptions to that. One was in Victoria, which provided for a minimum payment of two hours, and there was also an exception in the relevant South Australian award, which provided for a minimum engagement of 1½ hours each afternoon Monday to Friday for school students. Consistent with the commission's practice in respect of modern awards, it simply applied the provision that most commonly applied in pre-existing instruments. In the course of the award modernisation process, to the best of our knowledge employer organisations did not raise any concerns with the three-hour minimum engagement period. However, subsequently there have been a number of employer organisations that have made application to vary that particular provision of the modern award. There have been two days of hearings and a further day of hearings set down for Thursday of this week.

Senator ABETZ—Who brought that application? It would not have been the Fair Work Ombudsman, would it?

Mr Kovacic—It was not the Fair Work Ombudsman. Indeed, I do not think the Fair Work Ombudsman has standing to bring such an application under that.

Senator ABETZ—That is exactly right.

Mr Kovacic—The other issue was the question of compliance with the pre-existing industrial instrument. The students were being employed for 1½ hours. As I mentioned before, the minimum engagement period under the pre-existing Victorian award provided for a minimum payment of two hours, but any further questions around that aspect are more appropriately directed to the Fair Work Ombudsman.

Senator ABETZ—As a result of the Prime Minister's offer to help on Victorian radio with Neil Mitchell, the small business gets the benefit of an audit by the Fair Work Ombudsman. Is that the totality of what happened in relation to that?

Mr Kovacic—In terms of the basis of the article that appeared in the media, not all of the facts of the matter can be drawn from the media article. Clearly the intention was for the department to make contact, and the Fair Work Ombudsman subsequently made contact with the business to establish the facts of the matter and to assist to the extent that it could. In the course of that contact it became obvious that the business had not been complying with the pre-existing arrangements.

Senator ABETZ—Did the department refer the matter to the Fair Work Ombudsman?

Mr Kovacic—After speaking to the business, we indicated to the Fair Work Ombudsman that we had indicated that someone from the Fair Work Ombudsman’s office would be in touch with the business and then left it to the Fair Work Ombudsman to make contact.

Senator ABETZ—So you alerted the Fair Work Ombudsman to the situation at Terang hardware?

Mr Kovacic—There were two elements. One is clearly the Prime Minister’s comments. Whilst I do not have them in front of me at the moment—

Senator ABETZ—Which were very helpful.

Mr Kovacic—Yes. They certainly indicated that someone from either Fair Work Australia or Fair Work Ombudsman would be in touch with the business. The department followed up on that and indicated to the owner of the business that the Fair Work Ombudsman would be in touch.

Senator ABETZ—I think the exact words were ‘Julia’s office’ or something like that was mentioned by the Prime Minister. Why did you or your department contact Terang hardware? I assume you were not listening in to the Neil Mitchell program on the morning. Were you notified by the minister’s office?

Mr Kovacic—We became aware by way of a combination of the minister’s office and also various workplace relations newsletters and email alerts.

Senator ABETZ—That you had been called upon or would be called upon to assist in resolving this matter?

Ms Paul—That there was an issue with Terang.

Senator Arbib—It was also on the front page of the *Australian*.

Ms Paul—Yes, that day.

Senator ABETZ—What I am trying to find out is why—and it seems from the answer—the minister’s office specifically raised the issue with you. Is that correct?

Mr Kovacic—They alerted us to the issue. We were aware of it as a result of the article on the front page of the *Australian* on that particular morning.

Senator ABETZ—Nobody told you that the Prime Minister had made a promise on the Neil Mitchell program that Julia’s office or department would be in touch?

Mr Kovacic—We were certainly alerted to the fact that the Prime Minister had made some comments on radio that morning. Strangely enough, we do not pick up 3AW in Canberra.

Senator ABETZ—Exactly, and that is why, being the super sleuth that I am, I thought rather than listening to 3AW somebody may have actually told you what the Prime Minister had said. I was assuming that might have been the Prime Minister’s office itself or the Deputy Prime Minister’s office.

Mr Kovacic—It was the Deputy Prime Minister’s office.

Senator ABETZ—It was the Deputy Prime Minister’s office that alerted you to the comments made by the Prime Minister on the Neil Mitchell program that morning?

Mr Kovacic—That is correct.

Senator ABETZ—Were you told that same day?

Mr Kovacic—Yes, that is correct.

Senator ABETZ—And the issues developed as you have outlined.

Mr Kovacic—That is correct.

Senator ABETZ—Somebody from your department rang the Terang hardware store.

Mr Kovacic—That is correct.

Senator ABETZ—After which somebody from your department alerted the Fair Work Ombudsman that it might be an idea if they took themselves down there.

Mr Kovacic—In terms of the workplace relations component of the department, we are centred here in Canberra. Clearly it is much more practical for someone from the Fair Work Ombudsman to assist, and it is consistent with their role in terms of education and advice as well. It is against that background that we got in touch with the Fair Work Ombudsman and asked them to get in touch with the company.

Senator ABETZ—You had already made a determination or had a suspicion at that stage that the previous award may not have been complied with?

Mr Kovacic—No.

Ms Paul—That is not right. This would have been the Fair Work Ombudsman in its education role at that stage.

Senator ABETZ—When Fair Work Australia made contact with Terang hardware I thought the evidence was that certain things became apparent, that they had not been paying the two hours according to the old award, and as a result of that the Fair Work Ombudsman was alerted to that.

Ms Paul—You just asked us whether we knew that when we referred the Fair Work Ombudsman there, and we just said we did not. We did not know that at the time.

Senator ABETZ—When did you find out about that?

Mr Kovacic—In terms of the record of conversation, we spoke with Mr Duynhoven. He indicated the instrument that he employed his employees under. He stated that six employees mentioned in the media articles worked every day after school and worked alternately on Sundays. He also indicated that the arrangement was supported by the young people and their parents, and that he had also contacted his relevant employer organisation to get some advice on the matter but had not been able to get any advice from them. We had no sense that there may be a breach of the relevant award based on the discussions that we had with Mr Duynhoven on that day. We were following up on the comments that the Prime Minister made that someone would be in touch with the business, and we made that initial contact consistent with the Prime Minister's comments. We arranged for the Fair Work Ombudsman to visit the business in the week as soon as possible thereafter. We indicated to him that someone would contact him in the week beginning 8 February to discuss the issue.

Senator ABETZ—From the Fair Work Ombudsman?

Mr Kovacic—That is correct, yes.

Senator ABETZ—You may have been quoting from a diary note.

Mr Kovacic—It is a note for file.

Senator ABETZ—Was there any comment on that note for file indicating that the young workers were employed for 1½ hours?

Mr Kovacic—No. All the note says is:

Mr Duynhoven stated that he paid his employees according to the Shop Distributive and Allied Employees Association Victorian Shops Interim Award 1994. Mr Duynhoven stated that the six employees mentioned in the media articles worked after school, but not every day, and worked alternately on Sundays. These employees are still employed for their Sunday shifts, but not their after school shifts. Mr Duynhoven stated the arrangement where these employees worked after school was supported by both the young employees and their parents. Mr Duynhoven did not think he was doing anything wrong by employing these students. Around one month ago Mr Duynhoven contacted the Australian Retailers' Association seeking advice on the matter. They had not got back to him. Therefore, Mr Duynhoven terminated the after school shifts for the employees. Mr Duynhoven stated that he did not want to do anything that broke the law. Mr Roddam advised Mr Duynhoven that the department and FWO were looking into the matter and someone would contact him early in the week beginning 8 February 2010 to discuss any potential solutions.

Senator ABETZ—To discuss potential solutions. I will ask the Fair Work Ombudsman tomorrow as to what solutions they offered, other than going through and auditing the books of Terang hardware. We will leave that for tomorrow. Thank you. You are right; it is part-heard, as I understand the matter. I have a question for you, Minister. Do you agree with this, and this is part of the transcript of a cross-examination: 'The essential question or what I am putting to you is: is a two-hour minimum engagement a better situation than having no hours at all as an employee?' The answer was no. Does the government agree with that proposition?

Senator Arbib—At the moment the matter is being heard by Fair Work Australia, so I do not think I will be making any comment on it until we get a decision.

Senator ABETZ—So the government cannot make up its mind whether it agrees with that proposition until Fair Work Australia tells them what to believe?

Senator Arbib—You were asking me for a comment?

Senator ABETZ—That is right, as to what the government's policy position is as to what is desirable.

Senator Arbib—There is a case at the moment and there is an independent umpire looking at it. I think we should wait and see what the independent umpire comes up with.

Senator ABETZ—So the government is vacating the ground in this area completely, as is its right, and whatever Fair Work Australia determines will be government policy?

Senator Arbib—I would expect that, unlike in the previous government, we have a fair and independent umpire. We set it up for the very reason that it can make decisions like this. I do not think that I will be making any comment until we see what decision comes back.

Senator ABETZ—That is your prerogative and you are entitled to do so. I thank you for that. I would like to ask the department, in relation to the modern awards: did the department

have any input into those awards? Were there any policy propositions that were made available to the AIRC as they were making their determinations?

Mr Kovacic—A combination of probably two, perhaps three, strands, if I can describe it that way. The process was undertaken by the Australian Industrial Relations Commission in accordance with the award modernisation request, which the Deputy Prime Minister made.

Senator ABETZ—Yes, I know that.

Mr Kovacic—I think we discussed that. There were subsequently a number of award modernisation request variations that the Deputy Prime Minister made, which were in response to ensuring that the policy intent of the award modernisation process was adhered to. Then, in respect of a number of proceedings relating to award modernisation, the Commonwealth would have made submissions in respect of applications, and there were four such cases where the Commonwealth made applications. One related to an application by the Australian Nursing Federation for the Nurses Award 2010 to depart from model transitional provisions. The Commonwealth submission supported that application. The commission's decision was handed down on 22 December last year and did not grant the application.

The second was a government submission on 20 November 2009 in support of an application by the Construction, Forestry, Mining and Energy Union to vary the coverage clauses in the Joinery and Building Trades Award 2010 and the manufacturing award 2010 to ensure that all downstream glass work is covered by the former award. The commission decided on 30 December 2009 to make an order that clarified the coverage clause to ensure that all downstream glass work is covered by the Joinery and Building Trades Award 2010. There were subsequently government submissions on both 14 December and 17 December 2009 related to increased annual leave in Western Australia and weekend penalty rates for casuals in the aged-care sector.

In that matter, the Liquor, Hospitality and Miscellaneous Union applied. Its application related to a number of issues. The government generally supported the union's application on the two issues I have mentioned. Fair Work Australia published its decision on the union's application on 23 March 2010, rejecting the majority of the application. However, Fair Work Australia did agree to include one additional week of annual leave for both shiftworkers and non-shiftworkers for aged-care employees in Western Australia for the full transitional period.

The final matter related to a government submission on 21 December in support of a CEPU application to vary the transitional provisions in the Electrical, Electronic and Communications Contracting Award 2010, to delay the reductions in minimum wages for apprentices. The commission decision of 30 December 2009 rejected the application, citing the availability of take-home pay orders.

Senator ABETZ—Sorry, citing?

Mr Kovacic—The availability of take-home pay orders. They are the four instances where the Commonwealth made submissions in respect of applications relating to modern awards.

Senator ABETZ—Just on that last one, what did the AIRC reject?

Mr Kovacic—Bear with me. The application sought to delay the reductions in minimum wages for apprentices. The commission's decision rejected the application, citing the availability of take-home pay orders.

Senator ABETZ—There you go. That might be a good example as to why we need take-home pay orders, because the modern award did not address the issue.

Ms Paul—We have already said that—

Senator ABETZ—Thank you very much. At least we have one example and we now know why there was a need for take-home pay orders. Can I take you to the letter that Ms Gillard wrote to Mr Lloyd? It is about as clinical as they get, is it not? I do not expect you to comment on that. I withdraw that. There was no—what?—statement of thanks for services?

Mr Kovacic—At the time that the letter was written there was not any indication as to whether Mr Lloyd might take up the invitation to apply for the position.

Ms Paul—It would have been inappropriate to guess what his actions might be.

Senator ABETZ—So, it would be inappropriate to say, 'Thank you for your services to date and we would look forward to your application,' or, 'This letter should in no way be construed as being interpreted as suggesting thanks but no thanks'? There was nothing in this letter, now that I read it, in any way, shape or form that could indicate that a reapplication might in fact be welcome.

Ms Paul—I think it does invite a reapplication and says that the process will be on the basis of merit, which is exactly the same process that happens for every agency in the portfolio, as I said before.

Senator Arbib—I think it is exactly the same process for the general manager of Fair Work Australia and also the Fair Work Ombudsman.

Senator ABETZ—'Of course it is open to you to apply'?

Ms Paul—It is exactly the same process that the general manager of Fair Work Australia went through and the ombudsman went through.

Senator ABETZ—If ever there was a 'thanks, but no thanks', I do not know what is. 'We will consider it on merit but, of course, you are entitled to apply.' Come on, Minister, this is about—

Senator Arbib—If she put in there, 'Please apply, please apply,' you would be sitting here going, 'You are showing favouritism.'

Senator ABETZ—There are numbers between one and 10, and this is on zero and what you have just suggested is ten, but I would have thought there should be some sense of decency. I thought this was a government that always talked about how to look after employees and people that are in your employ, and I can tell you this letter is about as clinical as it gets. I note in this letter, which I was not aware of before, that Mr Ross Dalglish has also been written to in similar terms—I assume in similar clinical terms—as a result of which we will have both the commissioner and deputy commissioner possibly being vacated at around the same time. Do their terms expire at the same time?

Mr Kovacic—I think Mr Dalglish's appointment is about a month to perhaps six weeks later than Mr Lloyd's.

Senator ABETZ—So, we will at least have corporate knowledge for another six weeks before they both go. I will take a punt as to what happens in relation to this. Thank you for making that letter available. Can I move on and ask whether the government agrees that an increase in the superannuation guarantee levy ultimately means lower wages for workers?

Senator Arbib—No, I do not think it does.

Senator ABETZ—Thank you. That is all I need to know. This may well be a cross-portfolio question and if it is it will have to be asked tomorrow morning. It is in relation to the number of staff. As I read it, there are quite a number of employees to depart from the department; is that right?

Ms Paul—Yes, that is correct. Well, no, that is not correct actually.

Senator ABETZ—No?

Ms Paul—You said there are a number of employees to depart from the department. No, that is not the case. However, there is a budget decrease and the portfolio budget statements mention a number of 525, or about an eight per cent impact. Our natural attrition is about nine per cent, so we will not actually be asking any employees to leave. We think that we can manage in terms of managing non-ongoing contracts, and through natural attrition, as our top priority, we can meet those targets. Indeed, we have known about these targets for some time and have had work well underway. This is actually more a matter for cross-portfolio tomorrow morning. Nonetheless, I am happy to take it here instead.

Senator ABETZ—Thank you for that. I thought it might be.

Ms Paul—No, we are not asking people to leave.

Senator ABETZ—So, what is the natural attrition rate that you are expecting?

Ms Paul—Currently, it is nine per cent.

Senator ABETZ—And the department will be able to deal with that natural attrition rate and still undertake its essential services?

Ms Paul—Absolutely.

Senator ABETZ—Thank you for that. Was there, in one of the budget papers, an indication that there would be 525?

Ms Paul—Somewhere; I cannot recall where it actually is, but that is not necessarily the precise figure and, as I said, our natural attrition is above that at any rate.

Senator JACINTA COLLINS—Will you still be undertaking a recruitment round?

Ms Paul—I think we will be able to do some recruitment, yes. Of course, we have got a lot of non-ongoing staff, too, and the budget reductions relate to things which have been well known. For example, we were staffed up to implement the Job Services Australia tender—a huge job—and the Disability Employment Services tender, and those resources go. Many of those resources were actually non-ongoing, precisely because we knew that the resources would go. We have known about this for some time. Indeed, most of these figures, I think—or

some of them at least—were actually in MYEFO, so we have had plans underway since the turn of the calendar year and those will keep going. Natural attrition will be a first port of call.

Senator JACINTA COLLINS—But you will still have a graduate intake?

Ms Paul—Yes, absolutely. Sorry, I did not hear you say ‘graduate’; I thought you said, ‘Would we still be doing recruitment?’ Yes to both questions, in short. We took 100 graduates this year, actually. We are quite proud of our graduate intake, because it is probably highest in the APS or thereabouts.

Senator ABETZ—As to the absenteeism rate and things of that nature, that should be asked tomorrow morning?

Ms Paul—Yes, you probably should. I could answer it now if you want.

Senator ABETZ—No, I accept that. Did I promise to come back to take-home pay orders? If I did not, I am. When were the drafting instructions sent?

Mr Kovacic—Perhaps, just before you go there, if I can revisit one of the issues that you asked earlier?

Senator ABETZ—Yes.

Mr Kovacic—In terms of a new business, if I can clarify that the modern award transitional provisions do apply to a new business.

Senator ABETZ—The modern award—

Mr Kovacic—The transitional provisions do apply to a new business. That is by virtue of clause A2.1c of the model provisions relating to transitioning up, and clause A3.1c, which relates to transitioning down. I also refer you to paragraph 31 of the AIRC’s decision on transitional provisions of 2 September 2009, which outlines the intention that transitional provisions do apply to new businesses..

Senator ABETZ—Wait a minute. If that applies, I start a new business and I employ one of those apprentices that we were talking about that the AIRC ruled against, saying they could be looked after by a take-home pay order. How are they going to be transitioned when the AIRC has specifically ruled against that?

Mr Kovacic—In terms of that particular group of employees in circumstances where a take-home pay order exists, it would be the take-home pay order that would apply. But clearly—

Senator ABETZ—Only if it is made.

Mr Kovacic—Just bear with me. You also need to recognise that the wage rates applying to apprentices also increase as they progress through their apprenticeship.

Senator ABETZ—Of course they do, yes.

Mr Kovacic—The extent to which a take-home pay order may be required would depend on the specifics of how they transition out of that. I cannot recall all of the details of that particular CEPU application, but that would also be a relevant consideration.

Senator ABETZ—It is not, is it? That is for further down the track. For the immediate here and now on 1 July, those apprentices to whom we referred before will be allowed to be

paid a lower rate under the modern award until such time, if ever, the take-home pay order kicks in. That is correct, is it not?

Mr Kovacic—As I said before, a take-home pay order can be made in advance of those provisions coming into effect, and that was certainly one of the intentions of the changes to the regulations that were made recently.

Senator ABETZ—But it is only if the take-home pay order is made. If no such take-home pay order is made, a worker—an apprentice in this case—can be paid less if they work for a new business than if they are working for an existing business?

Ms Paul—I think we already took on notice some of the more complex hypotheses by you.

Senator ABETZ—Wait a minute, Ms Paul, you cannot have it both ways. You cannot say, when I have got you in a corner, ‘We are taking it on notice,’ and then seek to assert the exact opposite, that there is no need for take-home pay orders.

Ms Paul—Not at all. You have gone now to a different scenario than Mr Kovacic is describing.

Mr Kovacic—What I was clarifying, in terms of my remarks, was that transitional provisions under the model clauses apply to new businesses.

Senator JACINTA COLLINS—There is no take-home pay order for new businesses. It is a new business. You are talking about the transitional arrangements.

Senator ABETZ—That is right.

Senator JACINTA COLLINS—You are at cross-purposes. It is not that she is backed into a corner or—

Senator ABETZ—No, the point is that you cannot have take-home pay orders for new businesses.

Mr Bohn—Actually, the provisions of the award do provide for take-home pay orders that sort of—

Senator ABETZ—I am sorry? I confused myself.

Mr Bohn—The provisions in the award do cover that scenario. It is just the statutory based ones that are not.

Senator ABETZ—But with the take-home pay order in this particular case where the apprentice is not sought, the apprentice will not get pay equity with others of his or her year.

Ms Paul—I think in the case you are referring to it clearly has been sought. It is a well-known case, is it not?

Mr Kovacic—In that particular case there would be take-home pay orders eligible to the apprentices employed under the award at that time.

Ms Paul—Otherwise it would just be speculation—

Senator ABETZ—It could be rectified.

Mr Kovacic—It could be a class. That is one of the other sorts of changes that were made to the regulations, to enable a take-home pay order to be made in respect of a class of

employees, in which case the scenario that you are pointing to would be automatically dealt with through such a class order.

Senator ABETZ—I am still at a loss to understand how a take-home pay order can be made for a new business when there is no history of take-home pay.

Mr Bohn—As Mr Kovacic said, the transitional provisions apply to new businesses. The starting point is to notionally say if that business had been in operation immediately before the modern award started you would start from the point of the awards that would have applied at that time. You do a notional start as it was immediately before the modern award started and then the transition sort of goes from that point, so there is a notional starting point.

Senator ABETZ—Can you understand why a lot of small businesses are confused about this new system where questions such as this need to be taken on notice by very experienced officials of the department as to why there is now a new term—a notional starting point or date—

Mr Bohn—That is my terminology. That is not a term at all.

Senator ABETZ—What is the terminology in the legislation?

Ms Paul—The case we are describing is quite clear, actually. I think the case we are describing is—

Senator ABETZ—I will be emailing out the *Hansard* to all the small businesses. They will be doing cartwheels because of the simplicity of the answers provided.

CHAIR—I thought they were actually quite simple.

Ms Paul—All they need to find out is what the transitional arrangements are and what the arrangements are for their modern award and that is really about it.

Senator Arbib—Under Work Choices he has got rid of the awards.

Senator FISHER—The refuge of scoundrels.

Senator ABETZ—With a new business, tell us what would be the rate they would have to pay on 1 July if there is no existing payment situation?

Mr Bohn—The starting point for the transition would be the rate that would have applied if the employer had been in existence immediately before the modern award had started. Then from 1 July the first step in the transition would occur either up or down depending on what that transition is.

Mr Kovacic—In essence, the way the transitional provisions apply—and let us assume you need to move up to the rate in the modern award—you have a period of five years and it is stepped in five equal steps of 20 per cent, and the starting point is that you have the modern award rate, the pre-existing award rate and, let us say, the differential is \$10 just for ease of mathematics—

Senator ABETZ—That is \$2 a year.

Mr Kovacic—then the initial rate would be the pre-existing rate plus \$2. Then the following year it would be the pre-existing rate plus \$4 and so on.

Senator ABETZ—That is right. That is for the new entrant into the marketplace, the modern award plus the transition of \$2, in your example?

Mr Kovacic—In circumstances where it is moving up to the modern award, yes.

Senator ABETZ—But the existing employer in the field who is trying to compete with this new competitor who is subjected to the take-home pay order will have to pay an extra \$8 a week in the first year, an extra \$6 a week in the second year, an extra \$4 a week more than his competitor who has just started? That is the reality, is it not?

Mr Kovacic—No, the transitional provisions will also apply to the new business as well. That is the point I was making as to the starting point. The transitional provisions under the terms of the clause in modern awards apply equally to existing businesses and pre-existing businesses.

Ms Paul—In other words, both would be applying the \$2 increase, in this example.

Senator ABETZ—I am sorry?

Ms Paul—In other words, both the new and existing business would be applying in effect a \$2 increase in this example.

Senator ABETZ—Let us try to make this simple. If the existing award requires the employer to pay \$20 per hour, but the modern award says \$10 per hour, the new entrant into the market would have to start paying at what rate?

Mr Kovacic—Is the modern award rate \$20?

Senator ABETZ—No, \$10.

Mr Kovacic—And the pre-existing rate is \$20?

Senator ABETZ—Yes.

Mr Kovacic—The new entrant would be paying \$18.

Mr Bohn—If the new business started after 1 July.

Senator ABETZ—Why is it only \$2 less if it is going to take five years to transition?

Mr Kovacic—The difference is \$10, and 20 per cent is one-fifth, so it is a \$2 step down over the course of the five years.

Ms Paul—Both of them are the same.

Senator ABETZ—Under the modern award system, even with the transitional arrangements as you are explaining, we can have employees that are legally being paid less than the competitor who was in existence before modern awards were made? On our maths—and we may disagree but we have agreed to the extent of this—the existing employee has to pay \$20 an hour whereas the new entrant into the marketplace has to pay only \$18 an hour. That is right, is it not?

Mr Kovacic—It assumes that everything else is static. Clearly in terms of—

Senator ABETZ—Why would it not be?

Mr Kovacic—You have a minimum wage adjustment that is likely to come into effect on—

Senator ABETZ—And that would not apply to the existing award?

Mr Kovacic—In terms of a take-home pay order, it would be to the—

Senator ABETZ—No, let us stop there. The minimum wage case—would that not apply to the existing case as well, the existing employer?

Mr Kovacic—It would indeed but—

Senator ABETZ—So that is a red herring. Let us move on to your next example.

Mr Kovacic—I am not so sure that it is a red herring as you describe it.

Senator ABETZ—Are you saying that where you have a wage differential of \$2 the minimum wage case will say, 'Existing employer, because you have to pay \$20 an hour we will give you no increase in your minimum, but we will only apply it to the new entrant into the market'? That is not going to happen, is it?

Mr Bohn—Our explanation might not have been as clear as it might have been. In your example of the \$20 starting point and the \$10 end point, obviously the point at which you are doing the calculation of how many steps and adjustments there are depends on, for instance, is it 1 July; is it 1 July the year after; 1 July the year after that? For an existing business and a new business at the same point in time the rate of pay will be the same under the modern award.

Senator ABETZ—I was just told it was going to be \$18 as opposed to \$20.

Mr Bohn—I think Mr Kovacic was working on the basis that you were talking about from 1 July. That is how I understood what he was saying.

Senator ABETZ—It is so simple, isn't it? Here we are and I would like to think that—

CHAIR—The problem is we are pulling examples out of the air and it is very difficult—

Mr Kovacic—That is the difficulty.

Senator ABETZ—Can I tell you these examples are a lot easier than trying to look through awards where you are dealing with dollars and cents and loadings for particular weekends and other things. This is in fact about as simple an example as the two of us could arrange for the purposes of this exercise.

CHAIR—I just pulled out a modern award and looked at the model clause, and it is pretty easy to understand. If I understood it, you would have to agree that it is simple.

Senator ABETZ—I do not know which modern award you randomly picked. If this is the case then that under the modern award you have to pay the same as an existing employer and a new entrant, if it is all going to be the same can you remind me why there is a need for a take-home pay order?

Mr Kovacic—In terms of the take-home pay order that would be to ensure that existing employees' pay is not reduced as a result of—

Senator ABETZ—The modern award.

Mr Kovacic—the award modernisation process.

Senator ABETZ—If the modern award by its own virtue required the new entrant into the market to pay exactly the same as the existing entrant there would be no reduction in the pay and therefore there would be no need for these take-home pay orders.

Mr Kovacic—But in terms of existing employees, to use the number that you used, \$20, if he or she were covered by a take-home pay order it would be to protect that \$20 per hour wage rate.

Senator ABETZ—From being reduced to \$18 or \$10; that is right.

Mr Kovacic—That is correct.

Senator ABETZ—Why would it need protection if the modern award, as I have just been told, requires the employer to pay the same amount as that under the existing award? That is what I have been told.

Ms Paul—I do not think we can take this further.

Mr Bohn—That is the starting point for the transitional process. That is right.

Senator ABETZ—As the starting point for the transitional process? This is a very simple proposition. There is a new entrant into the market, a new business, a new employer getting new employees. They open up the modern award and say, ‘This applies to me as of 1 July 2010. This is the rate of pay I have to pay’ and they do so. As I understand it, in those circumstances in some cases, not all cases, they will be paying less than existing businesses in the comparative marketplace.

Ms Paul—I am not sure we can take this much further. I would like to take it away and try to work out exactly where the clauses lead you and so on, because I think it is now just getting a bit too complex. I would like to take it away and work it through on paper.

Senator ABETZ—That is your prerogative, but I think the case has been made pretty well that this is not a simple system and when the head of the department, with due respect, needs to take it away to consider and cannot give us a definitive answer on some of these things, I think we can understand why there is a degree of confusion and concern in the marketplace.

Ms Paul—In return, I think we have been through so many examples and they keep changing, I would prefer to take away your final one and try to work it through for you.

Senator ABETZ—As I understand it with the take-home pay orders they can in fact be made retrospective; is that right?

Mr Kovacic—That is correct.

Senator ABETZ—Why would you need a retrospective take-home pay order unless somebody had changed their rate of pay, given the modern award? Say, in the past I was paying \$20 an hour, the new modern award tells me it is now \$10 an hour, so I say, ‘I am going to start paying you \$10 an hour.’ The worker quite rightly says, ‘This is wrong. I can get a take-home pay order.’ They get a take-home pay order and the order is that I should repay that worker at the rate of \$20 per hour from the date I changed that worker’s rate of pay? Is that right?

Mr Kovacic—It could be as simple as a scheduling thing in terms of when an application would be heard by Fair Work Australia or there could be other factors. I am happy to take the question on notice in terms of where there are other factors.

Senator ABETZ—You can talk about all the other factors you like. Please just concentrate on the one I gave you, which is—and I am more than happy to repeat it again—make the minister the employer. The minister used to employ somebody at \$20 an hour. The modern award comes along and says you can now pay people at \$10 an hour, so the minister then—

Senator Arbib—We have taken this—

Senator ABETZ—No, this is about retrospectivity. And then the take-home pay order comes; not surprisingly, Minister, you have to pay at the rate of \$20 per hour and, what is more, from the date that you changed your worker's pay, we will make that retrospective to ensure that the worker has had no loss of take-home pay from the time the minister changed the rate of pay.

Ms Paul—The point is you are making an implication from the fact that there is that power. Mr Kovacic is saying that you cannot necessarily draw that implication; the implication could simply be about scheduling. That is how it is; we are not going to speculate on the implication of just that power being an enabling power.

Senator ABETZ—Is there a time limit on retrospectivity in relation to these regulations?

Mr Kovacic—No.

Senator ABETZ—So, one assumes that the regulations did not just have a very narrow focus, as is being kindly suggested to try to get me off the point. I repeat, if there is no time limit on an order for retrospectivity, it must have had in mind the possibility of an employer adopting the payments allowable under a modern award, which are less, and that would be legal until such time as the employee, or somebody on behalf of the employee, took an action for a take-home pay order.

Ms Paul—But you are implying some motive in drafting legislation on which we just simply cannot comment.

Senator ABETZ—Sorry?

Ms Paul—You are implying a motive about drafting some legislation, which we simply cannot comment on. It is simply an enabling power; it rests there for reasons like the one that Mr Kovacic described.

Senator ABETZ—But, we studiously avoid the possibility that I am countenancing. It is interesting, Ms Paul, you are willing to subscribe a motive to the regulation to cover that which Mr Kovacic just indicated to us, but you are not willing to cover the motive that I have just bounced up. So, why is it that you can choose—

Mr Kovacic—Senator, can I just give you—

Senator ABETZ—No, excuse me. Why, Ms Paul, do you think that you can subscribe and accept motives of regulations on the one side, but then when I bounce a proposal, reject it because you cannot read the motives into the regulations?

Ms Paul—I do not think I am subscribing to a motive in any direction, actually, and I think Mr Kovacic has got something to say.

Senator ABETZ—Well, we will read the *Hansard* and it will be interesting.

Mr Kovacic—I can give you an example where there has been an application for a take-home pay order and it is in respect of the Australian Nursing Federation. There was a subject of directions hearing before Fair Work Australia recently and the substantive hearings of its application have been scheduled for September of this year. So, that is the sort of example—

Senator ABETZ—That is a prospective one?

Mr Kovacic—In the sense that modern award provisions come into effect on 1 July, in terms of the rates of pay, clearly there is a scheduling issue there as to whether the application should ultimately be granted. Clearly, it could possibly take effect from 1 July.

Senator ABETZ—Yes, but that is prospective. I am talking about—

Mr Kovacic—Sorry, 1 July 2010. The application is to be heard substantively in September of this year, so it is clearly looking backwards for—

Senator ABETZ—Sorry, I am with you now; apologies for misunderstanding that. If any employer would be paying between 1 July and whatever date in September under the modern award, they would not be in breach of any law, would they?

Mr Kovacic—In terms of if the order had not been made at that stage, and clearly that if the order was subsequently made and they continued to pay at a lower rate than the award—

Senator ABETZ—No. I think we can all be agreed that once an order is made they would be in breach of that order, but before that order is made, between July and September 2010, if a hospital or an aged-care facility were to say, ‘Well, I’m not sure whether Fair Work Australia is going to grant this take-home pay order, so I am going to pay you on the basis of what the modern award says and we will see whether an order is made,’ would they be in breach in those two or three months of any law?

Mr Kovacic—If they were relying solely on the modern award for their pay and conditions, I cannot see that they would be in breach of the provisions of the modern award, but clearly that would depend on other factors that I alluded to earlier, potentially in terms of how the letter of offer of employment may have been constructed—

Senator ABETZ—We can hope for all sorts of things—and I think we finally got there after a lengthy period of questioning—but you are now countenancing that employers can pay less than the existing award, pursuant to the provisions of the modern award, until such time as a take-home pay order is made—is that correct?

Mr Kovacic—I think that is, in a technical sense, correct, but certainly that is not the expectation in terms of what practical—

Senator ABETZ—What Ms Gillard’s expectations are may be different. Technically—

Mr Kovacic—Senator, no, if you will let me continue. Certainly the advice from employer organisations—certainly the ones that I have spoken to—is to encourage their members to continue to pay existing rates of pay. Clearly, in an environment where people are wishing to retain their employees, that is an important strategy that they may choose to use.

Senator ABETZ—I fully agree that it makes very good business practice, ethical practice and moral practice not to take advantage of the lower wages that may be allowed to be paid pursuant to the modern award. There is no argument with me on that and, indeed, I was the first one to come out asking employers not to take advantage of the modern awards and that they should keep paying the existing rates. It took Ms Gillard quite some time to make a similar request. By making that request of employers, it was an admission by her that under her new modern award system some employees could legally be paid less until such time as a take-home pay order was obtained—is that correct?

Mr Kovacic—Once that take-home pay order is obtained, clearly it will be made retrospective to cover any—

Senator ABETZ—That is right.

Mr Kovacic—So, the employee will not be disadvantaged for that period at all.

Senator ABETZ—Other than they will not be getting their back pay with interest and, of course, that is countenancing that every single employee will somehow, if they are in this category, be provided with a benefit of a take-home pay order, and you cannot guarantee that, can you?

Ms Paul—I think what Mr Kovacic said, too, is that the contact that we have had with industry groups so far is that they appear to be very positive about the concept of maintaining pay rates. I think that is important to note as well.

Senator ABETZ—These industry groups, Ms Paul—and I have said this publicly before—labour under the same difficulties as the trade union movement. They would be lucky to have, what, a 20 per cent membership rate of potential members. Whilst an industry group may well say, ‘This is what our members should be doing’, they do not cover 80 per cent of the small businesses or the medium enterprises out there. I agree with them that they will not have cut-through with people that are their non-members, so where is the guarantee, Minister, for workers who might not get the benefit of a take-home pay order?

Senator Arbib—That is why we have been running an education campaign—one of the reasons we have been running an education campaign.

Senator ABETZ—To ensure that these workers that might be worse off are told how they can overcome being worse off courtesy of Ms Gillard and Labor’s modern award system.

Senator Arbib—No, to ensure that everyone understands that the take-home pay orders are there.

Senator ABETZ—Everybody understands that.

Senator Arbib—‘To ensure’, not ‘ensure’.

Senator ABETZ—Sorry, to ensure. You will not stop this campaign then until you have got 100 per cent cut-through?

Senator Arbib—I am not saying that. What I am saying is there is a campaign and later on you may criticise the campaign—and I am sure you will because you do not agree that union representatives should be paid to do it—but there are people out there on all different fronts

actually trying to inform employers and employees of what their rights and obligations are under the new act.

Senator ABETZ—An employer can rightfully go to an employee and say, ‘Look, 1 July, sorry, a new modern award has come in and here it is; here are the provisions; here is the hourly rate; I am going to pay you according to that hourly rate’, and if the employee does not avail himself or herself of seeking advice and just accepts that this is the new modern award, it is the global financial crisis, times are tough and pay rates might be decreasing, they just have to cop it sweet. That is a real possibility.

Senator Arbib—We are attempting to inform workers and, obviously, businesses about their rights and obligations and the role of take-home pay orders. There have been a number of changes to make sure that they can be accessed. Compare that to Work Choices and the fact that new employers could make AWAs with only five conditions, no penalty rates and no allowances. So if you want to talk about undercutting, what happened under Work Choices is a pretty terrible story. We have these take-home pay orders to protect workers.

Senator ABETZ—The only person talking about Work Choices is you, Minister, to try to avoid scrutiny of your system—

Senator Arbib—I am not trying to avoid scrutiny.

Senator ABETZ—where Ms Gillard gave yet another one of these solemn promises that no worker would be worse off.

Senator Arbib—But there are take-home pay orders.

Senator ABETZ—If they avail themselves of it, and if a worker out there does not know about it—

Senator Arbib—I hope you do not criticise the education package like that.

Mr Kovacic—Can I come back to the point I made previously? The capacity under the regulations for an application to be made on behalf of a class of employees does not necessarily require each individual employee to make the application.

Senator ABETZ—I accept that.

Mr Kovacic—So, in essence, the scenario that you allude to may be addressed through unions that are covered by one of the awards, being able to make an application on behalf of a class of employees. And indeed, the number of applications for take-home pay orders that have been made to date which total 19 does not suggest that there is a major issue out there—a flood of take-home pay applications.

Ms Paul—There have been thousands and thousands of education sessions about the whole system.

Senator ABETZ—Are any of those 19 applications multiple?

Mr Kovacic—I do not have that level of detail but Fair Work Australia will be able to provide that for you.

Senator ABETZ—Well, then do not try to come here, with great respect, to say only 19 applications have been made as though they are 19 individual ones, when one of those might be for literally thousands of nurses.

Senator Arbib—It was not that—

CHAIR—Mr Kovacic was just providing this information to answer your question, Senator Abetz.

Senator Arbib—That was the whole point, though, Senator.

Senator ABETZ—If take-home pay orders are not really that sought after, why the need for these regulations on 16 May— to ‘clarify’, was the term in fact, by the minister—to provide clarification if it is not an issue out there in workplaces?

Ms Paul—I think we have been through this before. Some of the stakeholders raised with us a desire to see more certainty, so the changes were made.

Senator ABETZ—Certainty, not clarification, Ms Paul?

Ms Paul—We have both used both words and so did the Deputy Prime Minister in her media release, I noticed when I read it, after we had spoken about this before.

Senator ABETZ—The heading was ‘clarification’ yet we have—

Ms Paul—The next sentence I think said ‘certainty’, and we are back to that debate again.

Senator ABETZ—Obstinacy in relation to clarification. So, a new worker can seek a take-home pay order; is that what the evidence is, although there is no employment history?

Mr Bohn—Under the award based provisions, an employee can seek a take-home pay order to sort of ensure the rate of pay that they sort of started on sort of during the course of the transition process. After a year, they can sort of—

Senator ABETZ—This is a new employee.

Senator FISHER—There are lots of ‘sorts of’ in that answer.

Senator JACINTA COLLINS—That is not relevant.

Mr Bohn—Sorry, that is my poor grammar, Senator. I apologise.

CHAIR—Senator Fisher, you would be the last to want to criticise that, I think.

Ms Paul—I think we have already taken this question on notice, and I think I said I wanted us to take away how the clauses interacted with each other in terms of a new employee. I can see that we are about to get into all different scenarios which are hard to explain because they keep shifting, so I am happy to take it away and work it through.

CHAIR—Can we use an example of a real situation where there is a modern award that has a different award rate to the existing award and work through that in a real way, so we can see how that operates?

Ms Paul—That is what we will probably take away.

Senator ABETZ—The very first example I used was transport workers in New South Wales. We can go back there if you like.

CHAIR—We were just pulling rates of pay out of the air. I think it is good to take that real example and work through it.

Mr Kovacic—We will take the question on notice and respond to it using the road transport industry in New South Wales as the example against which we frame our response.

Senator ABETZ—I will not be holding my breath in relation to that. What about the waste contractors?

Ms Paul—What about the waste contractors?

Senator ABETZ—Would you like to have a look at their award and tell us how it would apply to them?

Ms Paul—We can do so if you wish.

Senator ABETZ—That would be very helpful, along with the transport workers.

Ms Paul—Sure.

Mr Kovacic—Do you have any particular pre-existing instruments that you wish us to compare with the relevant modern award?

Senator ABETZ—I am sure you would have them available to you. I would like to come back to this. We had the New South Wales Nurses Association General Secretary Brett Holmes saying that nurses in New South Wales and Queensland—and I accept this is only a potential at this stage—were facing pay cuts of \$120 week, but for bringing this take-home pay order.

Ms Paul—We cannot comment on that. I have not seen those comments.

Senator ABETZ—You have not seen those comments. There was a lot of media on 7 May in relation to the Deputy Prime Minister issuing her new rules to ensure that nurses, cooks, airline and community workers do not lose hundreds of dollars in pay when new workplace awards come in on 1 July and, sure, there are now these applications being taken which hopefully will protect a lot of these workers. But for the take-home pay order being sought, the new modern award system could have left workers worse off with the employer being entitled to pay that lesser sum and they would not have been in breach of any industrial laws.

Ms Paul—I think we have dealt with all of these matters. There is an application for take-home pay orders.

Senator ABETZ—I know there is for the nurses, but we are talking about other workers that might not be the beneficiaries of such applications. I suppose you would not be aware of the comments of Professor Andrew Stewart who, on 7 May, in relation to this announcement on take-home pay orders and those regulations said:

The intent seems to be to dissuade employers from reducing pay through the threat of a take-home pay order being made.

This is all sensible. He then said:

Why not just tell employers directly you can't reduce employees' take-home pay. I am still unclear why we need this now extremely elaborate set of provisions for take-home pay orders.

Are you aware of those comments? Minister, what is the public policy reason as to why we need all these regulations in relation to take-home pay orders rather than just saying to employers direct, 'You can't reduce employees' take-home pay'?

Senator Arbib—I am not aware of those comments.

Senator ABETZ—What is the public policy reason for doing that?

Senator Arbib—I was aware of your predecessor's comments, Mr Keenan, who said, in terms of take-home pay orders:

This is reasonable and it gives effect to one of the minister's promises in undertaking that no employees will be disadvantaged under the changes.

That was from one predecessor, Mr Keenan, in the other place.

Senator ABETZ—And the point is?

Senator FISHER—Were the take-home pay regulations made after you took the portfolio, Senator Abetz?

Senator ABETZ—That is funny. I have never criticised the take-home pay order regime and I think I said that it was morally, ethically and for other reasons good business sense for employers not to reduce pay. Surprisingly, I think I even beat the trade union movement in coming out in relation to this matter because they, themselves, were embarrassed that they had championed a system that actually countenanced and allowed employers to pay less under the so-called new modern award. You are not aware of Professor Stewart's comments.

Senator Arbib—I am not aware of that. I have been advised that if you said you could not reduce take-home pay then you would have to enforce it in a court because of the separation of powers and the government wanted to keep it as low cost as possible in Fair Work Australia.

Senator ABETZ—Separation of powers—this poor old professor of law needs a tutorial 101 on separation of powers. I will tell Professor Stewart that.

Senator Arbib—Maybe that was not taken into account.

CHAIR—There are plenty of lawyers in the Senate. I am sure we can get more than one opinion.

Senator BACK—There are 22.

Senator ABETZ—There could be 22 opinions.

Senator FISHER—It is part of the gobbledegook about how Fair Work Australia cannot adjudicate; they can only conciliate. Is Professor Stewart's reference to the extremely elaborate take-home pay provisions more the reason for the low take-up of take-home pay provisions, to which the department referred earlier? There has been a take-up of some 19. Is not Professor Stewart's description of the take-home pay orders as 'extremely elaborate provisions' more the reason for the low take-up than evidence that the laws are somehow working?

Ms Paul—I think it is the education approach that accounts for the low take-up. We do not expect every person affected to read the legislation, so that is why there has been thousands and thousands of education sessions right around the country on the whole Fair Work system.

Senator ABETZ—And millions of dollars.

Ms Paul—And a considerable amount of resource dedicated to ensuring that broadly workers and employers know what their rights and responsibilities are under the new system.

Senator Arbib—One minute we are in trouble for people not knowing what is going on and there is confusion and now we are in trouble for trying to inform people. There is no way to win with you. How do you expect us to act in that circumstance?

Senator ABETZ—You should not have such a complicated system where you have to spend millions of dollars trying to explain the inexplicable, which we have heard for the last 40 minutes here.

Senator FISHER—And keep your promises.

Senator Arbib—How much did you spend selling Work Choices and trying to explain Work Choices?

Senator ABETZ—This is always the retreat of those that do not have an argument.

Senator Arbib—It is the truth. You spent over \$100 million and you were the architect of it.

Senator ABETZ—It is the retreat of those that do not have an argument, to try to point to something in the past.

Senator Arbib—You would like us to forget Work Choices, but we never will.

Senator ABETZ—You are in government and you need to justify your position. I think that it is a very good point that workers are protected in this way so, at least financially, they are not worse off. I have always supported that. But they can be worse off in relation to other conditions where they cannot get an order to have restored; is that correct?

Mr Kovacic—Take-home pay orders relate to monetary entitlements, allowances and penalty provisions—those sorts of issues. Factors such as changes to the pattern of work are factors that are potentially part of the normal course of business.

Senator ABETZ—For example, the number of days of compassionate leave and things like that?

Senator JACINTA COLLINS—That is what you were complaining about last estimates.

Mr Kovacic—I am not sure I understand the point there.

Senator ABETZ—I would have thought that it was obvious. If your existing award gave you 20 days compassionate leave and the modern award only gives you 10 days, can you go to Fair Work Australia and say, 'Fair cop! This was a very important part of my total package. I want that restored.'

Mr Kovacic—As I mentioned, in terms of take-home pay orders, they relate to monetary provisions.

Senator ABETZ—I know that. What about other conditions, other than take-home pay? Can they be restored, yes or no?

Senator JACINTA COLLINS—Compassionate leave is not in modern awards.

Ms Paul—That is right. I am not sure we can answer that. We would need to look at it on a case-by-case basis. It depends on what the modern award is covering.

Senator ABETZ—If a previous award had compassionate leave above the national employment standard—

Ms Paul—There may be no award that has the scenario you are painting. The problem is that you are speculating about something and I do not think we are prepared to go there.

Senator ABETZ—You have no idea, Ms Paul?

Ms Paul—I am saying that I do not know of an award that has that precise change. If you have a case, I am happy to take it on notice, but I am not happy to speculate about changes.

Senator JACINTA COLLINS—You spoke about 20 days compassionate leave.

Senator ABETZ—Of a similar nature?

Ms Paul—I am saying that I am not comfortable with speculating on it.

Senator ABETZ—Are you saying no worker in Australia has lost any conditions by moving to modern awards, other than potentially take-home pay, which can be restored by a take-home pay order?

Ms Paul—I am not aware of any cases and I am not happy to speculate.

Senator ABETZ—You are not aware of any cases.

Ms Paul—I am happy to take it on notice, but I am not happy to speculate on a hypothesis that I am not sure exists.

Senator ABETZ—You are not sure. This is on the record. You are not sure that workers—

Senator Arbib—Ms Paul said that she is happy to take it on notice. Do not put words in her mouth. She said she is happy to take the question on notice.

Senator ABETZ—She also said she is not sure that there may be circumstances in which workers have lost conditions by going to a modern award other than in relation to take-home pay.

Ms Paul—I said that I am not happy to speculate on cases that I do not know about. I am happy to take particular cases on notice.

Senator ABETZ—Are you aware of that being a real, live issue out there in workplaces?

Ms Paul—No. I am not aware of that. I am happy to take cases on notice. I am happy to tell my people about that, but I am not happy to speculate.

Senator ABETZ—That tells it all. What about you, Minister? Are you aware that workers have lost some conditions in relation to the modern award system, apart from the actual take-home pay?

Senator Arbib—None of those examples have been raised with me, but I am happy to say—

Senator ABETZ—Thank you. This is on the record. This is great.

Senator Arbib—No-one has raised that issue with me personally. I have heard of instances where people would be interested in taking a take-home pay order.

Senator ABETZ—Mr Kovacic, are you aware of that?

Mr Kovacic—I am not aware of any specific examples.

Senator ABETZ—You are not aware of any specific examples. Mr Bohn, are you aware?

Mr Bohn—Mr Kovacic has answered. I do not have anything to add.

Senator ABETZ—I am asking you: are you aware?

Ms Paul—He just said that he does not have anything to add.

Mr Bohn—I do not have anything to add.

Senator ABETZ—You have not added anything. I have asked you whether you are aware. The answer is either yes or no. You are either aware or not aware.

Mr Bohn—I am reluctant to comment without an actual case. Mr Kovacic has answered on behalf of the outcome and I do not have anything to add to what he has said.

Ms Paul—If you want us to take on a particular case then I am happy to do so.

Senator JACINTA COLLINS—Senator Abetz asked about 20 days compassionate leave. That condition does not exist.

Mr Bohn—I am not aware of that.

Ms Paul—I am happy to take a particular case on notice and have a look at it, but I am not willing to speculate.

Senator FISHER—Rostered hours.

Senator ABETZ—What about this:

I am being forced to use a new award because of Fair Work Australia. My old award was Teachers (Non-Government Early Childhood Service Centres Other Than Pre-Schools) (State) Award 2006. The new award is Educational Services (Teachers) Award 2010. The new award, section 24, says personal leave is provided for in the NES, That is days paid personal leave per year. The old award, section 7.1, says 15 days paid personal leave in the first year of employment and 25 days paid personal leave for the second and subsequent years of employment.

That has now been reduced to 10, has it not?

Ms Paul—You have given us a particular case. I am happy to take that on notice and look at it.

Senator ABETZ—Why is it that the shadow minister has these sorts of examples available, but the minister, the head of department—I am sorry, deputy secretary—and others at the very highest levels of the department claim that they have no knowledge of these sorts of examples?

Senator Arbib—Just to clarify, I am not the minister for workplace relations. I just wanted to make sure you understood that.

Senator ABETZ—Just as well. I accept that correction.

Senator JACINTA COLLINS—But you're the shadow, aren't you, Eric?

Senator ABETZ—I am indeed.

Senator Arbib—He wrote the book on Work Choices.

Senator ABETZ—People are in the awards because undoubtedly—

Senator JACINTA COLLINS—No, it is in the NES, mate.

Senator BACK—Chair, you are not going to accept this sort of use of the term ‘mate’ in relation to another senator, are you, for consistency? I know how upset you were the other day in a Senate hearing at the use of that term.

Senator ABETZ—She didn’t call me ‘mate’ like Kevin Rudd called Kerry O’Brien ‘mate’, so I’m more than happy!

CHAIR—It is nice always to have a slight jovial break!

Senator ABETZ—The person that has provided this information is now losing a non-remunerative condition, or a non-pay condition, which will impact something that I thought the government was very strong on, and that is work-life balance.

Ms Paul—I just said that you have given us a case and I am happy to go and have a look at it.

Senator ABETZ—Next time I ask, you can say, ‘I am aware of one case, courtesy of the opposition.’

Ms Paul—It depends on what the finding is.

Senator Arbib—I am on the Senator Eric Abetz website, on ‘Labor’s IR shame file’, and I have not found an example yet of what you are saying.

Senator ABETZ—Try the second one, if you have not got that far.

Senator Arbib—I note that since the last estimates you changed the format of the website. Now there are quotes that do not have any attribution.

Senator ABETZ—That was a home goal. Thanks for that. We are not looking after workers in relation to conditions, other than take-home pay.

Senator JACINTA COLLINS—There are things such as improvements to personal leave under the NES. That is a significant improvement.

Senator ABETZ—What are we doing for employers who were promised that they would not face increased labour costs as a result of award modernisation?

Mr Kovacic—As we discussed before, the Fair Work Framework provides for transitional provisions. The government consistently encourages the Australian Industrial Relation Commission to take full advantage of the five-year maximum provided for transitional provisions. The commission has done that and included transitional provisions in all modern awards.

Senator ABETZ—Just answer the question.

Mr Kovacic—I just did.

Senator ABETZ—No. You are telling us that they can now face this increased cost over five years step by step when a solemn promise was given that they would not face increased costs. That is something that the then president of the AIRC, now head of Fair Work Australia, made some comment on. I am sure you will recall the impossibility of that proposition. I want to know what the government is doing about not increasing the cost for employers.

Mr Kovacic—As I said a moment ago and as I have said consistently before this committee, the government provided for transitional provisions to deal with those

circumstances where there may be a potential for cost increases for business. In submissions to the Australian Industrial Relations Commission, as part of the award modernisation process, it encouraged the Australian Industrial Relations Commission to take full advantage of the five-year transition period. The Australian Industrial Relations Commission has done so and included transitional provisions in all modern awards that take effect over the full five-year period.

Senator ABETZ—Do you accept that any employer will face increased labour costs from the modern award overhaul?

Mr Kovacic—What I have said, and what I will say again, is that the transitional provisions provide a mechanism to do with those circumstances where there is a potential cost increase as a result of the award modernisation process.

Senator ABETZ—A potential?

Mr Kovacic—Cost increase.

Senator ABETZ—Right. So we are now countenancing cost increases. Thank you for that. What did the government promise in relation to cost increases for employers? Minister, you might be able to help me on this one, given that it was a Labor Party promise before 2007.

Ms Paul—I think Mr Kovacic has already answered this question.

Senator Arbib—You have raised this in question time, and I will give you the same answer. We have gone from 4,000 outdated awards and instruments down to 122.

Senator ABETZ—That really helps employers to pay wages bills!

Senator Arbib—It is a benefit to the economy and benefit to business in terms of simplification.

Senator ABETZ—It is now the big picture stuff or the general stuff, is it?

Senator Arbib—This is the point I made to you previously in the Senate chamber. This is something that has been called upon by business group after business group.

Senator ABETZ—Like the resources tax. The mining industry called for that. How dumb of us!

Senator Arbib—The previous government talked about doing it but never got around to undertaking the reform, and this government did. As has been answered, the five-year transition period—

Senator ABETZ—I will ask you again, Minister. All the obfuscating will not overcome the fact that this is a breach of an election promise. Even the president of the AIRC commented on the impossibility of marrying the two promises that were made—that no worker would be worse off and that no employer would be worse off. He said it was an impossibility. You, Minister, are now saying that the former president of the AIRC was wrong.

Senator Arbib—That is not what I said. I talked about the benefits to the economy and the benefits to business from the simplification, and Mr Kovacic has talked about the transition period.

Senator ABETZ—No. The promise was that no employer would be worse off, not that there would somehow be some amorphous benefits somewhere out in the ether to the economy, this was a promise to each individual employer that they would not be worse off. Are you asserting that there is no employer that is worse off under these new modern awards?

Senator Arbib—No. Mr Kovacic has answered the first part of the question and I have also talked about the benefits to the economy and business. This was a reform that had long been preached by the previous government, the Howard government, and you failed to take action on it. At the same time, peak industry groups and organisations have called upon the government to do it and we have done that. It is a big reform. You know that and we know that. We had the courage to do it. You shirked it.

Senator ABETZ—Even if all that is true, why did you make the promise—

Senator Arbib—It is true.

Senator ABETZ—I am willing to accept all that. Let us put a line under that.

Senator Arbib—I am glad that you are willing to admit on the record that you shirked it.

Senator ABETZ—For the sake of the argument, let us put a line under all that.

Senator Arbib—You admitted it.

Senator ABETZ—All the hyperbole will not answer the question for the individual employer or the individual small business that is saying, ‘I voted Labor because they said there would be no increased cost to the employer and as of 1 July 2010 I am going to be facing an increased cost.’

Senator Arbib—I think I have answered the question.

Senator ABETZ—You have not.

Senator Arbib—Mr Kovacic has also answered the question.

Senator ABETZ—This *Hansard* will be beneficial.

Senator Arbib—It might not be the answer that you were after, but we have answered the question.

Senator ABETZ—It was just a direct answer, which we clearly have not got. In relation to the small business person who is faced with higher labour costs, their take-home pay is going to be reduced because of that. Are they able to go to Fair Work Australia and say: ‘This award modernisation process has changed my financial situation because I now have to pay higher wages; therefore, will Fair Work Australia somehow restore my take-home pay from my business’? There is no such provision, is there, Minister? Your laptop will not help you, either.

Senator Arbib—I am seeking advice.

Mr Kovacic—The transitional provisions would be of benefit to those employers.

Senator ABETZ—It might be of benefit and it might lessen the burden, but it does not remove the burden and it does not disprove the fact that there are extra costs that were promised would not be there. You are making the point that there will be extra costs: ‘But, aren’t we good, having promised no extra costs, we are going to be really kind to you and

give it to you in five instalments. Having promised no extra costs, we are going to give it to you in five instalments.’ Somehow that is an honouring of an election promise.

Senator FISHER—Business death by five cuts.

Senator ABETZ—I do not know why the department is involving itself in this political debate, because this is something directly for the minister to answer.

Senator Arbib—Again, you have never accepted and factored in the benefit to the economy and businesses from the simplification in the process.

Senator ABETZ—All the small businesses are doing cartwheels because of the great efficiencies.

Ms Paul—It is estimated to be more than \$4 billion, to my recollection.

Senator ABETZ—Thank you for that.

Senator Arbib—I am glad you put on the record that you shirked the chance to reform the system.

Senator ABETZ—I did not. I said, for the sake of the argument, we will draw a line under it. If your little brain cannot cogitate that, Minister, then that is for you to deal with and not us.

Senator JACINTA COLLINS—Eric, you’re actually getting a bit nasty now.

Senator Arbib—If that is the best line that you have got, then I think it says more about yourself, Senator Abetz.

Senator ABETZ—I think you are right and I withdraw that. It is very silly. I will not say ‘little brain’, but it is very immature of you to try to make that assertion in the context of the *Hansard*.

CHAIR—We could do without all the name calling.

Senator Arbib—We could go all night.

Senator ABETZ—I am more than happy to. We have two hours to go.

CHAIR—It is getting late. Let us all settle down.

Senator ABETZ—In relation to questions on notice from our additional estimates EW1060_10, I have been told that the department has provided advice to the minister regarding the options available in relation to actual or proposed industrial action in respect of four matters. In how many cases has the minister intervened, as at the time of this answer?

Mr Kovacic—I would need to check the precise date that this answer was tabled. I can give you an answer in terms of recent interventions involving the Commonwealth in proceeding to—

Senator ABETZ—No. If you could take on notice the examples.

Mr Kovacic—If you are asking in respect of these four matters that are referred to in the answer, I would need to take that on notice, but if it is more general—

Senator ABETZ—What I asked is: have there been other cases where active consideration has been given to her intervening? In how many cases has the minister been provided with advice about intervening and on how many occasions has the minister actually intervened?

So, you, for example, might give advice to the minister, saying, 'This might be a worthy one to intervene in', and the minister says, 'Thanks, but no thanks' to your advice, or the minister might think, 'This is a case I should be intervening in,' get some advice from the department, after which she says, 'Well, that mightn't have been such a good idea after all,' and therefore she does not intervene. Both scenarios are perfectly legitimate, I think, for a minister to make decisions on. This is no criticisms of that. All I want to know is those two numbers.

Mr Kovacic—I need to take that on notice.

Senator ABETZ—If you can provide that in relation to EW1060_10 and then, also an updated figure, please do so. EW1061_10—in the question I asked, 'All right. If the minister can take that on notice', and Senator Arbib said, 'I am happy to check with the Deputy Prime Minister.' That was in relation to the government being 'comfortable with a decision, or is the government of the view that this is an interpretation that it had not anticipated?' That was in relation to a Fair Work decision. The answer came back, 'The department considers the full bench decision is consistent.' Now, once again, here we have the department involving itself in a matter that I specifically asked of the minister. I thought, in relation to these matters, to a certain extent the department may not necessarily have opinions, because at the end of the day it is the government that sets policy, albeit with advice from the department. Minister, can we have another go at this question.

Senator Arbib—We will have it checked out for you.

Senator ABETZ—Tell me what the government's view is. Nice to know what the department's view is, but I would like to know what the minister's view is, please. When do we break, Chair?

CHAIR—Not until 9.30 pm. I am happy to go early.

Senator ABETZ—No, I will try and come back to that later on; there is some further information I need on another matter. In relation to the Safety, Rehabilitation and Compensation Amendment Bill, why did it take so long to send this bill to the drafters?

Mr Kovacic—I would have to take that on notice.

Senator ABETZ—In relation to EW1063_10 you told me that the drafting instructions were sent on 26 August 2009, so if you could advise on that. Then in EW1064_10, we are told that 'Legal advice was obtained before and after the announcement of the moratorium on 11 December 2007.' Did the second lot of advice alter anything?

Mr Kovacic—I would have to take that on notice.

Senator ABETZ—All right. Do you have EW1066_10 in front of you? You provided three dot points in the answer in relation to new rights allegedly provided to employers by the Fair Work Act. The third dot point said, 'The right not to be coerced to engage a particular person or independent contractor, or give a particular person or independent contractor particular duties or responsibilities.' Is it not the case that these matters can in fact be subjected to bargaining, whereas previously, rightly or wrongly, they were not allowed at all? How does this now become a new right?

Mr Kovacic—Just bear with us and an officer will come to the table.

Mr Cully—I do not think you would be able to bargain over something where there is a provision that prevents you from including anything in agreements that requires or permits you to breach an element of the general protections where that relevant protection is contained. I do not know that there would be circumstances in which you could bargain to say a particular person must be given a particular job.

Senator ABETZ—So, these matters cannot be subjected to bargaining in relation to the use of ‘to engage a particular person or independent contractor or to give a particular person or independent contractor particular duties or responsibilities’?

Mr Cully—I suppose it would depend on the form that the bargaining takes. The provision is a protection against being coerced, so an actual intent to coerce someone, and so there may be situations in which you could bargain which fall short of coercion.

Senator ABETZ—I framed the question poorly and I accept that. You can bargain about ‘a particular person or independent contractor or to give a particular person or independent contractor particular duties or responsibilities’. That is permitted as a bargaining issue?

Mr Cully—Provided it falls within the matters that can be bargained under the act, yes.

Senator ABETZ—Are these matters that can be bargained for under the act? If you do not know, take it on notice.

Mr Kovacic—We will take it on notice, because it is not clear. We think that to take the opportunity to read the question and consider it in detail would be more appropriate.

Senator ABETZ—Because, as I understand it, previously to even seek to bargain about these things was not a permitted matter, and therefore to start describing the right not to be coerced as somehow a new right, when before it was not a permissible matter at all, did raise some eyebrows. I will leave that with you to take on notice and reconsider the answer. I will not take it further tonight. When I flip the page you know that the answer that was provided was satisfactory.

Mr Kovacic—You must have more pages than I have.

Senator ABETZ—It is with a *Hansard* as well, just to contextualise it in case we needed to. I am going backwards here, I think. EW1058_10—this was the letter in which Ms Gillard gave my predecessor all of four working hours notice in relation to the appointment of certain people to Fair Work Australia. When was the advice regarding the appointments given to the minister’s office from the department?

Mr Kovacic—I would have to take that on notice and check the precise date.

Senator ABETZ—It is amazing things could not be changed for the shadow minister, and he had to be limited to four hours, but the executive council could be shifted not by four hours but by four days—four days—so we can clearly see what ‘consultation’ now means in relation to this government. If the department—

Senator Arbib—I do not think you would have been consulted.

Mr Kovacic—In terms of the checking of the executive council date, from memory, it actually related to a clash in the Governor-General’s diary, not one that was generated by—

Senator ABETZ—Yes, so we can shift these things for other people, but not for the opposition—

Ms Paul—I think she might have shifted it for herself.

Senator ABETZ—and four hours consultation is a wonderful thing and really conducive to that wonderful promise that was made by Ms Gillard.

Mr Kovacic—Perhaps the other point that is not reflected in the answer is that at the time the Deputy Prime Minister and Chief of Staff would have written to the shadow minister, the shifting of the exco was not known. We were still working towards that 10 December time frame and, from memory again, it only became apparent that it was going to be shifted either on the day or very late the day before.

Senator ABETZ—I accept all that, but every now and then you can schedule executive council meetings to deal with issues that arise and it is quite clear that inconvenience to Her Excellency the Governor-General was not considered at all, but four hours consultation in relation to six appointments to Fair Work Australia was seen as a fair cop. It is just indicative of the way this government does business.

CHAIR—Well, let us try and expect a question.

Senator ABETZ—I do not expect the department to comment on that, but that is the reality of what occurred.

Senator Arbib—That was compared to the zero consultation that we got when you were in government.

Senator ABETZ—I happen to believe that a government is appointed to make these decisions, but what I object to is the high and mighty promises and self-righteous bleatings, be it on government advertising, carbon pollution reduction schemes or this. ‘We will consult with the other side.’ ‘This is what just has to happen.’ It is a wonder it was not described—

CHAIR—I think there was at one stage consultation about the CPRS, actually, with the opposition.

Senator Arbib—I take—

Senator JACINTA COLLINS—We do have a very, very long—

CHAIR—Let us just stick with this estimates.

Senator Arbib—What about the hypocrisy, though?

Senator ABETZ—No.

Senator JACINTA COLLINS—He reckons it is—

Senator Arbib—That does not worry you?

Senator ABETZ—We did not go to the Australian people—

Senator Arbib—Work Choices advertising, taking away the working conditions and rights of—

CHAIR—Too many speeches are being made. Let us just—

Senator Arbib—You did not tell workers that they were going to get stripped of conditions through agreeing; you did not tell them that.

Senator ABETZ—We did not go to the Australian people making these hyperbolic promises that are now being diabolically revisited upon you.

Senator JACINTA COLLINS—No IR policy and then Work Choices.

Senator Arbib—And as you said, you stand by every word you have said in terms of industrial relations and you wrote the book on it—Work Choices.

CHAIR—Maybe we should go to the break now.

Senator ABETZ—You really are ill informed.

Senator Arbib—I have got the book. It says, ‘Written by Eric Abetz’ on it.

Senator JACINTA COLLINS—The newspaper article said that.

Senator Arbib—Is that wrong? It says, ‘Written by Eric Abetz, authorised by the Australian government.’

Senator ABETZ—You really do not understand, do you?

Senator Arbib—I have seen the book. I have a copy of the book.

Senator ABETZ—You do not understand the machinery of government at all.

Senator Arbib—Sorry, I bow to you—

Senator ABETZ—Instead of reading a Work Choices book you should have been looking after the pink batts and you would not have 120 roofing incidents under your belt and going up as we speak.

Senator Arbib—We could go on all night. What about the computers?

CHAIR—Can we come back to questions?

Senator ABETZ—The laptop computers in schools? I would be happy to engage on that one as well.

CHAIR—Not today.

Senator ABETZ—That is tomorrow.

CHAIR—No, the next day, Wednesday.

Senator ABETZ—At least it is in this committee.

Senator BILYK—I want to know what is going to happen with Work Choices 2.

Senator ABETZ—I dare say that is a question for the minister. Have you got a plan to introduce Work Choices?

Senator Arbib—No, but I think you do.

CHAIR—If that was a question I will let the minister answer it, if he wants to.

Senator JACINTA COLLINS—We did say no individual contracts. I wonder if he has authority for that.

Senator ABETZ—With these appointees, can you confirm whether it was six or seven appointees, five of whom were from a trade union background? Is that correct?

Mr Kovacic—There were six primary appointments made in December.

Senator ABETZ—Thank you for the terminology. Five of them were from a former union background—is that correct?

Mr Kovacic—Yes.

Senator JACINTA COLLINS—You asked this last time.

Mr Kovacic—Certainly one was from a public sector background together with an employer background. One had a legal background but with some prior union background as well. Another was from the public sector in Western Australia, but again with a prior union background.

Senator ABETZ—So five with a union background?

Mr Kovacic—That is correct.

Senator ABETZ—Minister, did the Prime Minister say, ‘I will not be the PM of this country and appoint some endless tribe of trade union officials or ex-trade union officials to staff the key positions in this body,’ when talking about Fair Work Australia? Was that an election promise or not?

Senator Arbib—I will go through the 19 appointments. Three of those have a legal background. Four of those have employer backgrounds. Three have government backgrounds and nine have union backgrounds. That seems pretty balanced to me, compared with under the former Howard government’s 20 appointments to the AIRC—four were former Liberal staffers, one with a government background, two union backgrounds and the rest employer backgrounds. There does not seem to be much balance in that one.

Ms Paul—I remember Mr Kovacic going into some detail the last time we were here in February about the fact that these were merit based appointments, and the calibre of the applicants themselves is reflected in the result.

Senator ABETZ—There are just no good employer advocates out there.

Ms Paul—As it happens, as I said, we did not get the calibre—

Mr Kovacic—As I said last time, the quality of the merit selection process depends on the quality of the field that you attract.

Senator ABETZ—That is right.

Mr Kovacic—On this occasion clearly the calibre of people from an employer background was not there.

Senator ABETZ—And we had a shortlist provided of 25 for the minister from which she chose the six that we are talking about. Is that correct?

Mr Kovacic—We had a shortlist provided and that was consistent with the policy that was announced in Forward with Fairness, that there would be a merit selection process and a committee headed by a senior officer from the Department of Education, Employment and Workplace Relations together with a representative of the Public Service Commissioner.

There would be consultation with the state jurisdictions, which occurred on that occasion. There would also be consultation with the opposition spokesperson.

Senator ABETZ—All four hours of it, thank you. That was greatly appreciated.

Mr Kovacic—Also we would be—

CHAIR—Just wait for the president.

Mr Kovacic—And that a shortlist would be provided to the minister for consideration.

Senator ABETZ—A list of 25 from which she then chose six. The question, of course, was whether the government stands by the promise of the then Leader of the Opposition on 30 April on *The 7.30 Report*: ‘I will not be PM of this country and appoint some endless tribe of trade union officials or ex-trade union officials to staff the key positions in this body.’ We had those six appointments in December, five of whom were—surprise, surprise!—trade union officials. At least it is not an endless tribe. I do not know what an endless tribe is, but five out of six ain’t bad.

CHAIR—Is there going to a question?

Senator ABETZ—I will move on to the latest appointment, on which in fairness I did get a bit more time. That was Mr Simpson’s appointment. He was clearly appointed on merit and I looked though his antecedents and, surprise, surprise—Senator Fisher, I think you might have guessed this—he was a trade union official.

Senator Arbib—Senator Fisher is amused. At least someone is amused.

Senator ABETZ—That is the way it goes. That one was answered and there are no supplementaries arising.

Senator Arbib—While you are doing that, I will just put on record again 19 appointments have been made so far and nine with a union background.

Senator ABETZ—Did that include the reappointment of certain AIRC people on to Fair Work Australia?

Senator Arbib—Twelve are dual appointments.

Senator ABETZ—I am sorry?

Mr Kovacic—They would be dual appointments as a result of the national system. At the time—

Senator ABETZ—They are dual appointments.

Senator JACINTA COLLINS—But still part of the—

Senator Arbib—Yes, compared to under the former government again, 20 appointments, two with union backgrounds, four who were former Liberal staffers, one with a government background and the rest had employer backgrounds. That is 13 with employer backgrounds.

Senator ABETZ—We will get to that again later with another question on notice, but at this stage can I look at question on notice 1052_10. That was in relation to the legislation that may or may not have been before the parliament on 20 March 2008. Do you have the answer there?

Mr Kovacic—I have.

Senator ABETZ—Given that the Workplace Relations Amendment (Transition to Forward With Fairness) Bill was not before the parliament on 20 March because it had passed the parliament on 19 March, which I accept, can the department now tell us what legislation was before the parliament on 20 March? Was there any workplace relations legislation before the parliament on 20 March?

Mr Kovacic—I would have to take that on notice.

Senator ABETZ—The Prime Minister's defence in relation to no worker being worse off was that he tried to claim he was only talking about the legislation that was currently before the parliament. That was on 20 March. Of course, the legislation that had been before the parliament that week had been the transition to forward with fairness bill, which included a section 10, was it, for the—

Mr Kovacic—Commencement of the award modernisation process.

Senator ABETZ—Yes. Was that section 10?

Mr Kovacic—It was a schedule.

Senator ABETZ—Schedule 10. Anyway, it had the part in it which allowed the award modernisation to commence and it was from that which Ms Gillard wrote to the AIRC asking them to undertake award modernisation.

Mr Kovacic—She issued the award modernisation request once the legislation had come into effect.

Senator ABETZ—Yes, pursuant to that legislation. The argument that the Prime Minister tried to put at the time was that he was only specifically referring to the legislation currently before the parliament. I thought it was that legislation. We now get an answer that in fact this bill was not the one before the parliament. Can you tell me if it was not this legislation? Minister, you might be able to take this on notice: what legislation was the Prime Minister actually referring to?

Senator Arbib—I think we have already taken that on notice.

Senator ABETZ—Because if this legislation had already passed through the parliament and therefore it was not the one the Prime Minister was relying on for his statement, I would be very interested to know what bill or legislation was lying before the parliament to which the Prime Minister was referring, because there was none. But I might be wrong on that, so we will get the departmental advice on that.

Senator Arbib—You may be wrong about that, so we will take it on notice.

Senator ABETZ—I may well be. I suspect I will not be getting an answer to this one in a rush. But surprise me, Minister, surprise me.

Senator Arbib—I will try.

Senator ABETZ—Now you know that is not right; you will not be trying to at all. Can I move to EW1059, in relation to the shortlist that was provided to the minister, the shortlist of 25 from which the minister just miraculously chose five former trade union officials. At the bottom of the answer and over the page we are given a number of categories. Just to assist me

with my maths, Ms Paul or whoever the responsible officer is, can we go through the dot points? If I go nine plus 10 plus one plus three plus one, what is that?

Ms Paul—That is 24.

Senator ABETZ—Exactly—that makes 24.

Mr Kovacic—If you look at the paragraph just above that paragraph, the last sentence of that paragraph reads, ‘A shortlisted applicant withdrew from the process prior to the list being provided to the minister,’ which is where 25 became 24.

Senator ABETZ—A shortlist of only 24 was provided to the minister. Is that right?

Mr Kovacic—Yes.

Senator ABETZ—That is a correction. So it is 24. Thank you for that. Out of these categories we have nine trade union officials. We have 10 employed in the legal field, of which seven have some previous trade union background, one employed in the academic field with some previous background in the trade union movement. So, moving along, I go nine plus seven plus one, and that makes, what, 16? Seventeen out of the 24 had a trade union background—is that right?

Mr Kovacic—Seventeen—that is correct.

Senator ABETZ—Seventeen out of 24 had a union background and we had, out of the 10, two with an employer background and three with government background, plus one with previous employer background and one with a business and employer background. So we had four with an employer background?

Mr Kovacic—That is correct.

Senator ABETZ—So there were at least four employer candidates who made it to this shortlist of 24. Is that correct?

Mr Kovacic—With either an employer background or some employer background in the past.

CHAIR—We will pause here for the evening break.

Proceedings suspended from 9.30 pm to 9.43 pm

CHAIR—We will recommence the estimates hearings. We are still in Outcome 5.

Senator FISHER—I have a couple of areas of questioning. One is just to return, very quickly, to parental leave. What are the categories of workers to whom unpaid parental leave does not extend under the Fair Work Act or the National Employment Standards?

Mr Kovacic—It would cover employees in the traditional sense of the word.

Senator FISHER—I am asking about employees. Which employees are not covered by the unpaid parental leave provisions of the Fair Work Act, either under the National Employment Standards or otherwise?

Mr Bohn—The provisions do apply, if I can put it that way. It applies to employees with 12 months service and casual employees with an equivalent amount of service, so long-term casual employees.

Senator FISHER—So an employee who has not done 12 months services would not be eligible for unpaid parental leave under the Fair Work Act, would they?

Mr Bohn—No.

Senator FISHER—What about casual workers?

Mr Bohn—Long-term casuals, those with 12 months regular and systematic service, are also entitled to parental leave.

Senator FISHER—They would be entitled to it, but casual employees with no such pattern would not be entitled to it?

Mr Bohn—Casual employees who do not meet that definition are not entitled.

Senator FISHER—I presume that the department is familiar with Professor Andrew Stewart's evidence. He said:

There will be a number of employees who are entitled to parental leave pay—

under the Paid Parental Leave Bill—

but who do not have an existing entitlement to parental leave.

Mr Bohn has just explained that that would be an employee who has done less than 12 months service for an employer. You have given an example of the sorts of employees to whom Professor Stewart was referring. Does the department know how many employees there would be at any one point in time in that overlapping category who would be entitled to payments under the Paid Parental Leave Bill, were it to be law, but are not entitled to unpaid leave under the fair work legislation?

Mr Kovacic—We would have to take that on notice.

Senator FISHER—Has the government sought your advice as to how many workers might be in that category?

Mr Kovacic—I am not aware, but I can take that on notice.

Senator FISHER—So you do not know whether the government has or has not?

Mr Kovacic—I said I am not aware of it, but I will take it on notice.

Senator FISHER—Have they asked for that advice—for example, following the committee's inquiry into the bill? Would you know about it?

Mr Kovacic—I am not aware that we would have the numbers, but I have taken the question on notice and we will do our best to answer it.

Senator FISHER—Had the government asked for advice as to the numbers would you know about it?

Ms Paul—I think Mr Kovacic has answered the question.

Senator FISHER—He said he is not aware of it.

Ms Paul—That is right, and that he is going to take it on notice for you. I do not think we can go any further.

Mr Kovacic—That is right.

Senator FISHER—My other question is: had the government sought the department's advice as to the number of employees who would be entitled to payments under the provisions of the Paid Parental Leave Bill but are not entitled to unpaid leave under the Fair Work legislation, at any point in time, would Mr Kovacic know about it?

Mr Kovacic—Possibly, but not necessarily.

Senator FISHER—I look forward to you answering that question on notice. Senator Abetz was asking about the Terang hardware store. I have a few more questions around that. Some of this may overlap with what Senator Abetz was referring to, but I would ask you to consider it again. The Prime Minister on the Neil Mitchell show on 2 February said:

... the Office of Fair Work will have their officers speak with the employer and the young people later today. We'll try and work it through ...

When the Prime Minister or the Deputy Prime Minister makes references to the Office of Fair Work, to whom are they referring—which bits of the agencies?

Mr Kovacic—As I indicated in response to the questions from Senator Abetz earlier this evening and indeed in terms of quoting from the note that reflected the discussions that one of the officers from the department had with the owner of the business, we interpreted that to be the Fair Work Ombudsman.

Senator FISHER—So the job of the Fair Work Ombudsman is to enforce the existing law?

Mr Kovacic—It is also to provide education and information.

Senator FISHER—And to educate. Is it the job of the Fair Work Ombudsman to resolve disputes for the future?

Mr Kovacic—I am not sure that the functions of the Fair Work Ombudsman extend to that.

Senator FISHER—No. It would not, would it?

Mr Kovacic—I need to check the specific provisions.

Senator FISHER—You might be able to do that while I proceed to ask some further questions. The Prime Minister went on to say, according to my quotes from the same interview on 2 February:

... we also want to have a fair and balanced system which has got flexibility attached to it. That's why Julia's office, the Office of Fair Work, will have its officers deal with these folk, employer, employees, and see what we can work out.

I want to explore a bit more to whom the Prime Minister would have been referring to and what could have been his expectations in seeing 'what we can work out'? Earlier in your response to Senator Abetz, as I understand it, you indicated that the department alerted the Fair Work Ombudsman and the Fair Work Ombudsman contacted the business; is that correct?

Mr Kovacic—The department initially spoke to the business directly and indicated that the Fair Work Ombudsman would be in touch with the business in the week beginning 8 February. We also spoke with the Fair Work Ombudsman around our discussion with the

business and assured ourselves that they would be getting somebody out there to talk to the business owner. I would like to come back to where you started, in terms of the question.

Senator FISHER—Yes, the job of the Fair Work Ombudsman.

Mr Kovacic—There are several functions. The first one is:

(a) to promote:

- (i) harmonious, productive and cooperative workplace relations; and
- (ii) compliance with this Act and fair work instruments;

including by providing education, assistance and advice to employees, employers, outworkers, outworker entities and organisations and producing best practice guides to workplace relations or workplace practices;

It goes on:

(b) to monitor compliance with this Act and fair work instruments;

(c) to inquire into, and investigate, any act or practice that may be contrary to this Act, a fair work instrument or a safety net contractual entitlement;

(d) to commence proceedings in a court, or to make applications to FWA, to enforce this Act, fair work instruments and safety net contractual entitlements;

(e) to refer matters to relevant authorities;

(f) to represent employees or outworkers who are, or may become, a party to proceedings in a court, or a party to a matter before FWA, under this Act or a fair work instrument, if the Fair Work Ombudsman considers that representing the employees or outworkers will promote compliance with this Act or the fair work instrument;

(g) any other functions conferred on the Fair Work Ombudsman by any Act.

Senator FISHER—To the extent that the Prime Minister said ‘... the Office of Fair Work will have its officers deal with these folk, employer, employees, and see what we can work out,’ are you aware of any contact between the Fair Work Ombudsman and the employees?

Mr Kovacic—That is a question that you need to direct to the Fair Work Ombudsman.

Senator FISHER—If it is not part of the role of the Fair Work Ombudsman to ‘see what we can work out’ as to the future, then which other part of Fair Work, however it be described, could the Prime Minister have been expecting to talk to the workers about their future?

Mr Kovacic—Again, I would go back to the first of the functions that I mentioned, in terms of promoting ‘harmonious, productive and cooperative workplace relations and compliance with this act and fair work instruments, including by providing education, assistance and advice ...’ It could be that the sorts of comments that you allude to could have been interpreted as just informing the employer as to the flexibilities that may be available under the relevant modern award and/or, depending on whether there were provisions in the capacity to negotiate an agreement, the opportunities that would exist under the Fair Work framework for the business to deal with the issues. Again, that is a question that I think is probably best directed to the Fair Work Ombudsman.

Senator FISHER—The Prime Minister said:

... we will have its officers deal with these folk, employer, employees ...’

On 8 February, some six days later, a spokesman for the Deputy Prime Minister was quoted in the *Australian* as saying that attempts were being made to come to an arrangement that suited both the employer and the teenagers. To your knowledge was there any communication with the teenagers?

Mr Kovacic—I would have to take that on notice. I do not know.

Senator FISHER—So to your knowledge there was not, because you would not be taking it on notice.

Ms Paul—We just do not know.

Mr Kovacic—We do not know.

Senator FISHER—I am asking the department because you will tell me to ask the Fair Work Ombudsman.

Ms Paul—We are happy to take it on notice.

Senator FISHER—Did the Deputy Prime Minister ask your department for any advice as to attempts that were being made to come to an arrangement that suited both the employer and the teenagers at or around 8 February?

Mr Kovacic—Not that I am aware of.

Senator FISHER—Is it news to the department that in four months since this incident first captured media attention in February no-one from government—not the Prime Minister, the Deputy Prime Minister, the officers, my understanding is not the Fair Work Ombudsman, not anybody—has spoken to the teenagers concerned? Would that be news to the department, despite the Prime Minister's assurances that the Office of Fair Work would work it through with the employer and young people, that they would deal with these folk, employer and employees, and the Deputy Prime Minister being reported as saying '... an arrangement that suits both employer and the teenagers ...'? How can that be so if no-one has spoken to the teenagers? Would that be news to the department?

Ms Paul—We should take that on notice.

Mr Kovacic—I am aware that the individuals, the employees, have written to the Deputy Prime Minister and the Deputy Prime Minister has responded to their representations.

Senator FISHER—I am aware of two of them having so written with a petition signed by some 1,500 people locally.

Mr Kovacic—I think they provided that to—

Senator FISHER—This is out of a population of some 2,000, as Senator Abetz has informed me. I have a copy of the Deputy Prime Minister's response to that letter and, according to her response, Mr Matthew Spencer and his workmate Leticia Harrison wrote on 23 March and she has responded to that, attaching the submission. Have you read that letter?

Mr Kovacic—I have seen the correspondence.

Senator FISHER—Was the department involved in drafting that letter in any way?

Mr Kovacic—In the normal course of events the department would assist in the drafting of correspondence, but to what extent it may have changed, I do not know.

Senator ABETZ—Is this letter part of the normal course of events?

Senator FISHER—It went on 12 May from the Deputy Prime Minister.

Mr Kovacic—What do you mean by ‘the normal course of events’?

Senator FISHER—You used the term first off.

Senator ABETZ—It was your terminology in saying that the normal course of events would be that a letter from the Deputy Prime Minister would somewhere along the way find its way through your department, but not necessarily all letters go that way. Therefore, we want to know whether that letter did take the normal course of events or did not.

Ms Paul—I am happy to take that on notice. I imagine it did. It is a piece of ministerial correspondence, so you would have to guess that we had some responsibility for drafting the first draft response. I am happy to take it on the notice.

Senator ABETZ—I accept the guess, but you will take it on notice. Thank you.

Senator FISHER—So two of the teenagers have got this letter from the Deputy Prime Minister because they presented her with a petition from some 1,500 of the, as Senator Abetz points out, 2,000 or so people who live in the surrounding community. The letter makes no mention of the government’s supposed commitment to work the issue through, nor does it make any mention of why the students have not been contacted in the last four months, even though the Prime Minister and the Deputy Prime Minister said they would be. There has been an audit of the business, but these kids want to know whether they have a job. Who is talking to these kids about whether they have a job in the future?

Mr Kovacic—I cannot answer for the Fair Work Ombudsman about whether they have had any discussions with the kids.

Senator FISHER—Whether or not the kids have a job in the future is not part of the province of the Fair Work Ombudsman, is it?

CHAIR—Is there a question for the department, Senator Fisher?

Senator FISHER—I just asked it: whether or not the kids have a job in the future is not part of the province of the Fair Work Ombudsman, is it?

Ms Paul—We have already answered earlier in the session about the applications made. Mr Kovacic can go through that again if you would like.

Senator FISHER—Have you answered that question? Because I did not hear it asked until I did just then.

Mr Kovacic—At the core of the issue of the arrangements at Terang is the minimum engagement periods in the modern award.

Senator FISHER—And the enforcement of past obligations.

Mr Kovacic—As I indicated before, the award modernisation process saw the Australian Industrial Relations Commission apply those provisions, including modern award, that had the most common application in the pre-existing awards. With the exception of two awards—one is the Victorian retail award, which provided for a minimum payment period of two hours; the other is a South Australian award which, in respect of school students, provided for

a minimum engagement period of 1½ hours Monday to Friday—all pre-existing industrial instruments provided for a minimum engagement period of three hours. That was included in the modern award. To the best of my knowledge of the majority of employer organisations, only one, very early on the process, raised the issue of minimum engagement periods. Subsequent to that all employer organisations were comfortable with the three-hour minimum engagement period. Subsequent to the Terang issue becoming a public issue, a number of employer organisations have applied to Fair Work Australia to vary the minimum engagement period of modern award. There have been two hearing dates and there is another scheduled for Thursday. The matter is before Fair Work Australia.

Senator FISHER—To your knowledge, has anyone from government contacted one or more of the teenagers concerned? If so, who, when—

Senator Arbib—Senate, this question has already been taken on notice.

CHAIR—Senator Fisher—

Senator FISHER—Can I continue asking my questions, Chair?

CHAIR—No, the question has been taken on notice. You cannot just keep asking the same question.

Ms Paul—We will take it on notice. If there have been, we will take on notice when as well.

Senator FISHER—If not, why not?

Ms Paul—Sure. We have taken that on notice at least twice. We are happy to extend it to the times, reasons and so on.

Senator Arbib—The Fair Work Ombudsman is here again tomorrow. I am sure you will have questions to follow up.

Senator FISHER—In respect of modern awards and the transitional provisions—and Senator Abetz raised those issues with you—for non-constitutional corporations that were exempted from the effect of modern awards, when the rest of the world commenced for constitutional corporations in January 2010, it is correct that non-constitutional corporations were exempted from the impact of modern awards, weren't they? There has got to be a simple answer, Mr Kovacic.

Mr Kovacic—While non-constitutional corporations came into the national system as a result of the referral of powers, there were also provisions that their existing rates of pay continued to operate for a period of 12 months. During that time Fair Work Australia was obliged to consider whether there needed to be transitional arrangements in respect of that group of businesses to facilitate their transition to the modern award.

Senator FISHER—Will non-constitutional corporations be covered by modern awards? If so, when?

Mr Kovacic—As I said a moment ago, those businesses that came into the national system have their existing arrangements protected for a period of 12 months, during which Fair Work Australia is required to consider whether there is a need for transitional arrangements. After that time they will move to the relevant modern award.

Senator FISHER—Can it not be said that non-constitutional corporations will be covered by a relevant modern award with effect from January 2011? That would be a simple statement if it were so.

Mr Kovacic—I think that they will be covered but I just wanted to confirm that they will be covered by modern awards from 1 January 2011.

Senator FISHER—That was my understanding.

Ms Perdikogiannis—Generally speaking, non-constitutional corporations which are currently covered by division 2B state awards will be covered by modern awards from 1 January 2011. The exception to that are division 2B enterprise awards.

Senator FISHER—So in a sense I guess it can be said that those non-constitutional corporations that will be covered by 1 January 2011 have had a 12-month period to get used to the idea.

Mr Kovacic—And during which Fair Work Australia considers whether there is a need for transitional arrangements.

Ms Perdikogiannis—That is the process that is underway at the moment.

Senator FISHER—So it is a process that is still underway and due for commencement in about six months time?

Ms Perdikogiannis—That is correct.

Senator FISHER—What process has the government got in place to educate and prepare those employers, which may be as high as some 20 per cent of employers in some states, to ensure that they are ready for what will hit the deck on 1 January 2011?

Mr Kovacic—Earlier this year the government announced a commitment to the Fair Work Ombudsman undertaking in the order of about 50,000 education visits to those small businesses that have come into the national system as a result of the referrals. There is also an additional \$2.7 million that was made available to the Fair Work Ombudsman to assist particularly small businesses in the transition to modern awards. On those particular initiatives I think it is also worthwhile asking the Fair Work Ombudsman about the details of those issues tomorrow. In addition, there is the general guidance material that the Fair Work Ombudsman provides around workplace relations issues and modern awards more specifically.

Senator FISHER—Is it the case that non-constitutional corporations, if and when they are covered by a modern award on 1 January 2011, will not have a phase-in period prior to being covered by the first stage of increased wages? This is unlike constitutional corporations who were hit with it in theory on 1 January 2010 but they had until July 2010 before the first pay increase started. Is it not the case that non-constitutional corporations, if they are covered by a modern award, will be hit with the first stage of wage increases if and when the modern award applies to them on 1 January 2011?

Mr Kovacic—That is really subject to what, if any, transitional arrangements Fair Work Australia determines are necessary to assist those businesses.

Senator FISHER—Can you rule that out as an outcome?

Mr Kovacic—It would be asking me to speculate. It really depends on decisions that are yet to be made by Fair Work Australia.

Senator FISHER—So you are saying that no decisions have been made to that end?

Mr Kovacic—What I have said before is that Fair Work Australia is required during this year to consider whether there is a need for transitional arrangements to assist these businesses in making the transition to modern awards. That is a matter before Fair Work Australia and it is yet to make its final decision.

Senator ABETZ—I am going to follow up on those excellent questions by Senator Fisher and ask whether the vehicle award in Victoria, and now the modern award, has any minimum hours of engagement and what they are? You can take that on notice.

Mr Kovacic—We will take that on notice.

Senator ABETZ—Also, you indicated to us that an employer group mentioned student wages or student hours—

Mr Kovacic—No, minimum engagement.

Senator ABETZ—Or minimum engagement during the award modernisation process.

Mr Kovacic—My understanding is that it was at an early stage.

Senator ABETZ—Do you know which award that was in relation to?

Mr Kovacic—It was in respect of the retail award.

Senator ABETZ—And was it in the context of employing young people?

Mr Kovacic—I would have to take it on notice in terms of the specifics, but my understanding is that the general comment was probably at the consultation phase, which is at a very early stage of a modern award process, but subsequently the issue was not raised by any employer organisation as part of the award modernisation process.

Senator ABETZ—Thank you for that. Coming back to where we were before the supper break, out of the 25 that were short-listed, one withdrew. What category did that one withdrawal fit into? Was that a trade union official or—

Mr Kovacic—Government.

Senator ABETZ—Thank you. Why could that position not be backfilled? I would assume you had more than 25 applications.

Mr Kovacic—No, that was a merit process and the intention was to provide a short list to the Deputy Prime Minister of the meritorious applicants.

Senator ABETZ—But if this person had not applied in the first place, a short list of 25 would still have been provided to the minister.

Mr Kovacic—Not necessarily. There was no requirement to provide a short list of X. The intention of the merit selection process was—

Senator ABETZ—So it was serendipitous that it happened to be a round figure of 25 and not 24 or 26.

Mr Kovacic—That is correct. It was a reflection of the merit process.

Senator ABETZ—All right. If that is your evidence we cannot take it any further, but a figure of 25 just seems to be a convenient figure. Going to the numbers on Fair Work Australia at the moment, how many are there? Is it 38?

Mr Kovacic—There are 37 primary appointments at the moment, as Commissioner Whelan recently resigned to take up an appointment to the Federal Magistrates Court. There are also 13 dual appointments.

Senator ABETZ—Out of the 38 how many were previous AIRC appointments?

Mr Kovacic—Of the total of 50, 17 have a trade union background.

Senator ABETZ—No, sorry, I am asking—

Mr Kovacic—Of the 37 solely?

Senator ABETZ—No. I thought I had asked how many of them had previously been in the AIRC or other bodies.

Mr Kovacic—Sorry. All AIRC members have been appointed to Fair Work Australia.

Senator ABETZ—Yes, but how many? How many of the 50 then were on the AIRC? I suppose that is what I am asking.

Mr Kovacic—If you take off the seven primary appointments it would be 30, but I can take that on notice to confirm it.

Senator ABETZ—All right. How many appointments has Ms Gillard made apart from those that transferred?

Mr Kovacic—It would be the seven primary appointments—the six primary appointments that were made in December and Mr Simpson recently, plus the 13 dual appointments that were also made in December.

Senator ABETZ—Right. So the seven extra primary appointments—is that what I called them?

Mr Kovacic—That is correct.

Senator ABETZ—We know the make-up of those seven primary appointments because that is the first six plus Mr Simpson. How many applicants were there for Fair Work Australia?

Mr Kovacic—Bear with me for a moment. I think it was 149.

Senator ABETZ—One hundred and—

Mr Kovacic—One hundred and forty-nine.

Senator ABETZ—That is not too long a list. Could you provide us with a breakdown of that list in relation to the categorisations that you provided in EW1059_10 please?

Mr Kovacic—Certainly.

Senator ABETZ—Thank you for that. Could you also provide us with the state or territory from which they originate?

Mr Kovacic—Certainly.

Senator ABETZ—Just quickly, whilst I am on this, was Mr Simpson one of the remaining 24?

Mr Kovacic—Yes he was.

Senator ABETZ—Right. That was what I wanted to clear up.

Senator Arbib—I just want to clear up one thing. I said before that 14 out of 20 Howard government appointments were from an employer background. In fact it was 17 out of 20. Four of those were Liberal staffers. I thought I would correct the record.

Senator ABETZ—We made no promise like ‘I will not be prime minister of this country and appoint some endless tribe of trade union officials’. With the seven primary appointments today, six just happen to be of that—

Senator Arbib—And four Liberal staffers—

Senator ABETZ—It is one thing to do what governments do; it is a completely different thing to engage in hyperbole, dress yourself in self-righteousness and then do exactly what you so heavily criticised the other mob for doing.

Senator Arbib—Of 19 appointments, there are nine with a union background compared to 17 out of 20 with employer backgrounds.

Senator ABETZ—No, of the seven primary appointments we have just heard from the officials that six have a trade union background, despite the promise of not appointing a tribe. I suppose, in fairness, a tribe is more than seven people. So it is just a family at this stage but we will see what transpires.

Senator Arbib—Apparently, only one of the 20 was a woman; the remainder were all male. Those were the Liberal Party’s appointments.

Senator CASH—At least we do not have a quota system.

Senator BILYK—They don’t have any women from Tasmania in the Senate.

Senator ABETZ—Your team this time around is just as sexist as ours. You have got three women; we have got three blokes.

Senator BILYK—Not overall. Overall, you have got five blokes.

Senator Arbib—Of the 19 appointments, there are 13 men and six women. You had one woman out of 20.

Senator ABETZ—Where do I ask about the Shared Industry Assistance Projects?

Mr Kovacic—The Fair Work Ombudsman.

Senator ABETZ—The Fair Work Ombudsman does it all?

Mr Kovacic—That is the \$2.7 million program that I alluded to a moment ago.

Senator ABETZ—So they are in full control of the selection process and decide who gets funded. Is there no departmental input?

Mr Kovacic—No.

Senator ABETZ—What about these wonderful postcards? It nearly matches mouse pads.

Senator BILYK—You can talk about mouse pads!

Senator ABETZ—I would have thought you would have learned your lesson. So I need to ask the Fair Work Ombudsman about the Fair Work Ombudsman postcards?

Mr Kovacic—Certainly.

Senator JACINTA COLLINS—Can we have a look at that, Senator?

Senator Arbib—If it is a postcard it is degradable, compared to the mouse pads that we are still storing as a government and paying for.

Senator BILYK—That is right. You cannot even use them as landfill.

Senator ABETZ—Take this on notice: how many has Ms Gillard personally taken out of the store and autographed? She is having a lot of fun with these mouse pads and then attacks us for having spent money for items that she is now using for her own personal enjoyment. I think it is just terribly unfair.

CHAIR—I think the enjoyment goes further than her personal enjoyment—I think we are all enjoying it.

Senator ABETZ—What about the \$12.9 million for the Fair Work information campaign?

Mr Kovacic—The Fair Work Education and Information program is for the department.

Senator ABETZ—That is here?

Mr Kovacic—Yes.

Senator ABETZ—I might put a lot of these on notice. The portfolio got some extra funding of \$72.5 million. Is that correct? Unfortunately, I do not have the page number of the budget paper.

Mr Kovacic—There is a small amount for the department. That was an amount I think in the order of \$85.7 million—bear with me on the figure—the bulk of which goes to the Fair Work Ombudsman for their additional compliance activities associated with the move to the national system. That also includes the funding for the education visits that I alluded to. There is a small amount for Fair Work Australia for the additional appointments and dual appointees. And there is a small component for the department as well, as part of that amount of money.

Senator ABETZ—At page 146 of budget paper 2, there was a reference to \$72.5 million over four years. Ought questions in relation to that go to the Fair Work Ombudsman?

Mr Kovacic—There is a small amount for the department, as I mentioned.

Senator ABETZ—How much is that? Is it \$1.4 million?

Mr Kovacic—That is correct. Last year it was \$188,000; next financial year it will be \$377,000; the year after it is \$379,000; and the after that it is \$382,000. The bulk of the funding, as I mentioned, goes to the Fair Work Ombudsman, but there will be some funding for Fair Work Australia.

Senator ABETZ—So I should ask about how that money will be spent at the Fair Work Ombudsman?

Mr Kovacic—Yes.

Senator ABETZ—Can we go to—I am sure somebody has been hanging out for this—the Coal Mining Industry (Long Service Leave Funding) Corporation. Three people have been appointed to this body: Mr Weston, Mr Thompson and Mr Turner. If you could take on notice what their backgrounds are, that would be helpful.

Mr Kovacic—I will take that on notice.

Senator ABETZ—Let me go to the Protected Action Ballots Scheme. How is that all running at the moment? First of all, if I might backtrack on the program, why is the Unlawful Termination Assistance Scheme still on our program? I thought that was done away with.

Mr Kovacic—It was done away with. There was a small residual component that carried over into this financial year just in terms of matters that might have overlapped into the financial year. I think there is a small amount of \$250,000. That is the only reason.

Senator ABETZ—How are workers now provided with assistance about unlawful termination?

Mr Kovacic—If I can go back a step, the Unlawful Termination Assistance Scheme was introduced to coincide with the previous government's Work Choices amendments. It was against the background of the changes to unfair dismissal arrangements, which excluded employees from businesses with fewer than 100 employees, and a recognition that, as a result of that, there may have been an increased number of employees looking to access the unlawful termination jurisdiction under the previous workplace relations act. Clearly with the changes introduced by the Fair Work legislation, which restored unfair dismissal access to employees subject to qualifying periods, the view was that there was no longer a need for that program to continue.

Senator ABETZ—Not at all?

Mr Kovacic—No. I think the other dimension there, in terms of the way that unfair dismissal applications were processed by Fair Work Australia, is that there was an intention for them to be dealt with less formally, certainly more quickly and through conciliation. Those are certainly questions you could direct to Fair Work Australia.

Senator ABETZ—We might traverse that ground tomorrow. When a commissioner has the very smart idea of not applying any law but, when someone is asking for eight weeks and the other person does not want to offer any weeks, just cutting it down the middle he does not need a great judicial mind, I would not have thought. But we will canvass that tomorrow. Can I ask about the Protected Action Ballots Scheme. There seems to be the suggestion anecdotally at least that the number of protected action ballots in fact increasing.

Mr Willing—Yes. We are aware of the suggestion.

Senator ABETZ—Is there any merit to the suggestion? Is it based on evidence or is it just talk about the town that has no basis in evidence?

Mr Willing—Yes, there has been an increase in the current financial year to date. In 2009-10 the number of ballots funded have been 475.

Senator ABETZ—How does that compare to the previous financial year?

Mr Willing—In 2008-09 it was 278. In 2007-08 it was 325. In 2006-07 it was 132.

Senator ABETZ—So on any one of those previous figures, 475 is a substantial increase. Thank you for that. The department has allocated additional money to the scheme; is that correct?

Mr Kovacic—No.

Senator ABETZ—So how do we pay for these extra—

Mr Kovacic—There is a program that has been in existence for quite some time to fund protected action ballots. The funding was initially provided under the previous government for protected action ballots. The budget was last increased in the 2008 budget to reflect the fact that the government had made a decision to fund the full 100 per cent of protected action ballots. Prior to that, the government had funded 80 per cent.

Senator ABETZ—I think some questions may have been asked last time about the scheme. Unfortunately I do not have a *Hansard* quote, but there was a suggestion that there was no expectation of an increase in protected action ballots. Can any official recall that?

Mr Kovacic—I can recall the discussion but I cannot recall a specific comment along those lines.

Senator ABETZ—I was going to ask: given these numbers, is this still the view adopted by the department—that you were not anticipating any increase when we have had a substantial increase? I cannot point you to anywhere where that was actually said, so—

Mr Kovacic—I think the answer I gave to a question earlier this evening from Senator Collins is also relevant in the context of this question, which is that whilst the number of protected action ballots is increasing certainly that is not being reflected in an increase in the level of industrial disputation.

Senator ABETZ—Mr Willing, you gave me a figure of 475. For what period is that figure, again?

Mr Willing—To the end of March.

Senator ABETZ—So that is 1 July 2009 through to 31 March 2010. We still have another three months to add to that. So in theory 475 represents three-quarters of the year. In general terms we could anticipate nearly 600 for the full financial year. Would there be any reason, Mr Willing, why you would not extrapolate that out to roundabout 600? In the last quarter of the year is it anticipated that there would be more or less activity in this area?

Ms Paul—It partly depends on how many agreements are being negotiated at any time. These numbers usually have some connection to the number of agreements being negotiated. We know that there has been a big hump in the agreements negotiated. I am not sure how that stands for these three months.

Senator ABETZ—Historically, is activity in the last quarter of the financial year usually more or less? Indifferent? Don't know?

Mr Kovacic—It tends to fluctuate contingent on bargaining.

Senator ABETZ—The previous figures you provided of 278, 325 and 132 going backwards were all for the full financial years?

Mr Willing—Yes. It is difficult to extrapolate and average out over the next three months because in the July to September quarter there were 61 claims; in October to December there were 261; and in January to March there were 195. So it does vary quarter to quarter, and going on previous years, the last quarter ranges from being the lowest to the highest depending on bargaining for the quarter.

Senator ABETZ—Fair enough. We will have to wait until next time to see what the final figure is for the current financial year. What is the average cost per ballot? Has it varied over the past 12 months or so?

Mr Willing—It has been fairly standard. We have the figures for those financial years. To date the average cost of the ballots for 2009-10 has been \$1641.74; for 2008-09 the average cost per ballot was \$1,556.57; for 2007-08 it was \$1,381.30; and for 2006-07 the average cost was \$1,5034.

Jim Senator ABETZ—What are the main factors that determine the costs of the ballot?

Mr Kovacic—The size of the workplace, spread in terms of disparity—

Senator ABETZ—Just in general terms the cost per ballot does not seem to have varied that much.

Mr Kovacic—Not on average, no, but from ballot to ballot it can be quite different.

Senator ABETZ—The Australian Electoral Commission makes a charge to the department, does it?

Mr Willing—The current scheme is that the department pays a hundred per cent of the cost of the ballots conducted by the AEC. I would need to check, but the AEC invoice us on a monthly or quarterly basis for their total costs.

Mr Kovacic—This is only where the ballot is conducted by the AEC. In circumstances where a ballot might be conducted by another ballot agent, that needs to be funded by the applicant themselves.

Senator ABETZ—What is the amount allocated in this year's budget to this scheme?

Mr Kovacic—It is \$1.6 million.

Senator ABETZ—Do you think that is enough?

Mr Kovacic—Yes.

Senator ABETZ—We will wait and see about that. The Fair Work Education and Information program: how much has been spent on it thus far?

Mr Kovacic—Nineteen organisations have received \$10.7 million to date. Final instalments of 10 per cent of the agreed funding levels will be paid before the end of the financial year. That is where we are right at the moment.

Senator ABETZ—Is there any more funding being made available?

Mr Kovacic—Under that particular program, no.

Senator ABETZ—Did I see somewhere in the budget papers that \$10 million was being made available to the trade union movement for education purposes?

Mr Kovacic—That was a measure that was announced earlier this year and which we touched on at the last estimates. That is a \$10 million grant to the Trade Union Education Foundation.

Senator ABETZ—How do we acquit against that? How much do they spend on TV advertising?

Mr Kovacic—The objective of that particular grant is to create a cooperative workplace relations environment by improving the skills and knowledge of employee representatives in the workplace with respect to the Fair Work system. The requirements of the funding agreement, which was only signed last Thursday, are that each year the Trade Union Education Foundation will need to provide a project plan to the department six weeks before the end of the calendar year at least. There are also reporting obligations under that funding agreement. There are also auditing requirements et cetera which are consistent with the sorts of normal funding arrangements that apply.

Senator ABETZ—Can we get a copy of that funding agreement?

Mr Kovacic—Yes, we can provide that to the committee.

Senator ABETZ—If you could, thank you. Going back to the Fair Work education information and campaign, the money was given to 19 organisations—is that right?

Mr Kovacic—That is correct.

Senator ABETZ—Undoubtedly it was by contract and with reporting obligations.

Mr Kovacic—There was a funding agreement. I think at the last estimates we actually took on notice a question which, in responding to, we provided copies of all those funding agreements.

Senator ABETZ—Thank you for that. How has the acquittal against those organisations gone?

Mr Kovacic—In terms of the program itself, all the organisations have met their reporting requirements under the funding agreements.

Senator ABETZ—Were there any hiccups or speed humps or whatever you might call it with particular organisations in them being able to deliver that which they had been contracted to deliver?

Mr Kovacic—No. Indeed, the providers delivered over 3½ thousand activities, of which 2,400 were workshops or seminars.

Senator ABETZ—How many people do we believe were reached?

Mr Kovacic—I would have to take that on notice.

Senator ABETZ—This campaign is virtually at an end—is that right?

Mr Kovacic—That is correct. All the activities concluded at the end of April, I think. The final reports are now coming in from the providers. Following that, there will be an evaluation undertaken of the program.

Senator ABETZ—How are we educating people now and how will we be educating them in the future—through what fund?

Mr Kovacic—There is a range of material that continues to be available on the Fair Work Ombudsman's site—a range of best practice guides, general guidelines, guidance material. There is the Fair Work Infoline, which receives calls. In addition, as I alluded to previously, there are the 50,000 education visits that the Fair Work Ombudsman is undertaking for those businesses that came into the national system and the \$2.7 million program in terms of new initiatives for small business, which you alluded to previously.

Senator ABETZ—Who is going to be administering that \$2.7 million?

Mr Kovacic—The Fair Work Ombudsman.

Senator ABETZ—That is right. You told me that before. What about engaging with industry employer organisations?

Mr Kovacic—All of those activities are capable of occurring through the Fair Work Ombudsman's activities. In addition, the Fair Work Ombudsman runs a range of educative activities that are targeted at particular sectors in the modern awards. The Fair Work Ombudsman has issued a draft guidance on the transitional arrangements relating to modern awards and has put out a consultation draft which, I understand, is going to be finalised shortly. So there is a range of material and the Fair Work Ombudsman consistently engages with stakeholders across a range of those initiatives.

Senator ABETZ—What about the union movement? Is any support being provided to them to help educate workers?

Mr Kovacic—They were a recipient under the Fair Work Education and Information program.

Senator ABETZ—How much did they get under that?

Mr Kovacic—They received just shy of \$1.6 million and there is the \$10 million grant that I alluded to a moment ago. That needs to be seen in the context of the government's investment of the order of \$30 million in educative activities around the implementation of the new Fair Work system. Of that, \$17 million has been directed towards business and a little less than \$12 million directed to employees. There have also been some community organisations funded—such as Job Watch that was funded in Victoria—under the Fair Work Education and Information program.

Senator ABETZ—So the department itself is no longer funding or running any educative programs?

Mr Kovacic—The Fair Work education program was about to conclude. At this stage there are no further programs that the department is going to administer in this area.

Senator ABETZ—Minister, are there any plans to make further funds available in this space for educative purposes?

Ms Paul—That largely rests now with the Fair Work Ombudsman, as we have said.

Senator ABETZ—That is your instruction to date—the department’s—and I accept that.

Ms Paul—Sure.

Senator ABETZ—I am now asking the minister whether some national emergency power might be called upon for an information campaign. Is there anything in the pipeline at all, to your knowledge?

Senator Arbib—Not to my knowledge, but I am happy to check.

Senator ABETZ—Could you take it on notice?

Senator Arbib—Sure. I thought I would add a bit of background about workplace relations education—how much money has been spent and where it has been spent. I am advised that \$30 million has been spent for workplace relations education. Of that, \$17 million was targeted at business—that is, the \$2.7 million that you raised, \$10 million to industry organisations, \$3.7 million—

Senator ABETZ—Sorry, \$17 million for business?

Senator Arbib—Yes, \$17 million targeted at business; \$10 million to industry organisations—

Senator ABETZ—Sorry, how much?

Senator Arbib—Ten million dollars to industry organisations; \$3.7 million, which represents 50,000 education visits by the Fair Work Ombudsman; \$500,000 for a designated small business education unit in the office of the Fair Work Ombudsman; and there has been \$13 million targeted at employees.

Senator ABETZ—As an education program, in rough terms can you tell us how much has been spent per worker?

Ms Paul—We will have to take that on notice.

Senator ABETZ—Yes. It is far too late to try to do those sums in your head. Also, in relation to businesses, can you let us know how much that translates into per business—

Ms Paul—Sure. I think we have already taken on notice that we will try to get across sense of the reach, haven’t we?

Senator ABETZ—the numbers actually reached by the Fair Work Education and Information campaign—

Ms Paul—I think we took that on notice.

Senator ABETZ—and all these other figures that the minister has quite properly referred to as being part of the general educative program. It would be interesting to see how much would have been spent or allocated per business. On that note, I will let everybody go home.

CHAIR—As there are no questions from any other senators, we will adjourn. Thank you, officers and Minister.

Committee adjourned at 10.44 pm