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Official Committee Hansard

SENATE

LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE

ESTIMATES

(Budget Estimates Supplementary Hearings)

TUESDAY, 4 NOVEMBER 2003

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SENATE

LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE

Tuesday, 4 November 2003

Members: Senator Payne (*Chair*), Senator Bolkus (*Deputy Chair*), Senators Greig, Ludwig, Mason and Scullion

Senators in attendance: Senator Payne (*Chair*), Senators Allison, Bartlett, Bishop, Collins, Crossin, Kirk, Ludwig, Marshall, Scullion, Sherry, Vanstone and Wong

Committee met at 9.05 a.m.

**IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS
PORTFOLIO**

In Attendance

Senator Vanstone, Minister for Immigration and Multicultural and Indigenous Affairs

Department of Immigration, Multicultural and Indigenous Affairs

Mr Bill Farmer, Secretary

Mr Ed Killesteyn, Deputy Secretary

Ms Philippa Godwin, Deputy Secretary

Outcome 1—Contributing to Australia's society and its economic advancement through the lawful and orderly entry and stay of people

Mr Robert Illingworth, Acting First Assistant Secretary, Refugee, Humanitarian and International Division

Ms Janine Murfet, Acting Assistant Secretary, Onshore Protection Branch

Output 1.1—Non-humanitarian entry and stay

Mr Abul Rizvi, First Assistant Secretary, Migration and Temporary Entry Division

Mr Noel Barnsley, Acting Assistant Secretary, Migration Branch

Ms Arja Keski-Nummi, Assistant Secretary, Temporary Entry Branch

Mr Bernie Waters, Assistant Secretary, Business Branch

Output 1.2—Refugee and humanitarian entry and stay

Mr Robert Illingworth, Acting First Assistant Secretary, Refugee, Humanitarian and International Division

Ms Janine Murfet, Acting Assistant Secretary, Onshore Protection Branch

Ms Robyn Bicket, Assistant Secretary, Humanitarian Branch

Ms Rosemary Greaves, Assistant Secretary, International Cooperation Branch

Output 1.3—Enforcement of immigration law

Mr Vincent McMahon PSM, Executive Coordinator, Border Control and Compliance Division

Ms Janette Haughton, Assistant Secretary, Identity Fraud and Biometrics Branch

Ms Yole Daniels, Assistant Secretary, Compliance and Analysis Branch

Mr Graham Hanna, Acting Assistant Secretary, Entry Policy and Systems Branch

Mr Steve Davis, First Assistant Secretary, Unauthorised Arrivals and Detention Division

Mr Jim Williams, Assistant Secretary, Unauthorised Arrivals and Detention Operations Branch

Mr Des Storer, First Assistant Secretary, Parliamentary and Legal Division

Mr John Eyers, Assistant Secretary, Legal Services and Litigation Branch

Output 1.4—Safe Haven

Mr Robert Illingworth, Acting First Assistant Secretary, Refugee, Humanitarian and International Division

Ms Robyn Bicket, Assistant Secretary, Humanitarian Branch

Output 1.5—Offshore asylum seeker management

Mr Vincent McMahon PSM, Executive Coordinator, Border Control and Compliance Division

Mr John Okely, Assistant Secretary, Offshore Asylum Seeker Management

Output 1.5.1—Other countries

Output 1.5.2—Offshore territories

Outcome 2—A society which values Australian citizenship, appreciates cultural diversity and enables migrants to participate equitably

Output 2.1—Settlement services

Mr Peter Vardos PSM, First Assistant Secretary, Citizenship and Multicultural Affairs Division

Ms Jennifer Bryant, Senior Assistant Secretary, Settlement Branch

Output 2.2—Translating and interpreting services

Mr Peter Vardos PSM, First Assistant Secretary, Citizenship and Multicultural Affairs Division

Ms Mary-Anne Ellis, Assistant Secretary, Citizenship and Language Services Branch

Output 2.3—Australian citizenship

Mr Peter Vardos PSM, First Assistant Secretary, Citizenship and Multicultural Affairs Division

Ms Mary-Anne Ellis, Assistant Secretary, Citizenship and Language Services Branch

Output 2.4—Appreciation of cultural diversity

Mr Peter Vardos PSM, First Assistant Secretary, Citizenship and Multicultural Affairs Division

Dr Thu Nguyen-Hoan PSM, Assistant Secretary, Multicultural Affairs Branch

Outcome 3—Sound and well-coordinated policies, programs and decision-making processes in relation to indigenous affairs and reconciliation

Output 3.1—Indigenous Policy

Mr Peter Vaughan, Executive Coordinator, Office of Aboriginal and Torres Strait Islander Affairs

Mr Stephen Oxley, Assistant Secretary, Land, Legal and Economic Development Branch

Ms Dianne Hawgood, Executive Director, Indigenous Community Coordination Taskforce
Financial Services

Mr John Moorhouse, First Assistant Secretary, Corporate Governance Division

Ms Louise Gray, Chief Financial Officer, Resource Management Branch
Human Resource Services

Mr John Moorhouse, First Assistant Secretary, Corporate Governance Division
Parliamentary and Legal Services

Mr Des Storer, First Assistant Secretary, Parliamentary and Legal Division

Mr Douglas Walker, Assistant Secretary, Visa Framework Branch

Ms Kate Pope, Assistant Secretary, Ministerial and Communications Branch
Information Technology

Ms Cheryl Hannah, Chief Information Officer, Business Solutions Group
Internal Investigations

Mr John Moorhouse, First Assistant Secretary, Corporate Governance Division
Property

Mr John Moorhouse, First Assistant Secretary, Corporate Governance Division
Office Services

Ms Cheryl Hannah, Chief Information Officer, Business Solutions Group
Aboriginal and Torres Strait Islander Commission

Mr Wayne Gibbons, Chief Executive Officer

Ms Caroline Joske, Manager, Commission and Parliamentary Support

Mr Rod Alfredson, Director, Office of Evaluation and Audit
Aboriginal and Torres Strait Islander Services

Mr Wayne Gibbons, Chief Executive Officer

Mr Bernie Yates, Executive Coordinator
Mr Pat Watson, Group Manager, Corporate
Ms Adrienne Gillam, Acting Group Manager for Economic and Social Participation
Mr Brian McMillan, Investigations and Compliance Branch
Mr Paul Barrett, Chief Finance Officer
Mr Russell Patterson, Group Manager, Social and Physical Wellbeing
Mr Les Turner, Group Manager, Culture Rights and Justice
Mr Doug Pak Poy, Acting Manager, Culture, Rights and Justice
Mr Peter Schnierer, Group Manager, Coordination and Review Policy
Ms Ros Kenway, Legal Counsel
Mr John Kelly, Group Manager, Network
Mr Brian Stacey, Group Manager, Land and Development
Refugee Review Tribunal
Mr Steve Karas, Principal Member
Mr John Blount, Deputy Principal Member
Mr John Lynch, Registrar
Mr Rhys Jones, Deputy Registrar
Migration Review Tribunal
Mr Steve Karas, Principal Member
Mr John Lynch, Registrar
Mr Rhys Jones, Deputy Registrar
Migration Agents Registration Authority
Ms Laurette Chao, Chairman
Mr Ray Brown, Immediate Past Chairman
Mr David Mawson, Executive Officer
Ms Venie-Ann Moser, Deputy Executive Officer

CHAIR—I declare open this public meeting of the Senate Legal and Constitutional Legislation Committee. This is the supplementary round of estimates for the Immigration and Multicultural and Indigenous Affairs and Attorney-General's portfolios. The committee will today commence its examination of the Immigration and Multicultural and Indigenous Affairs portfolio, proceeding according to the order on the circulated agenda. The committee will begin with outcome 3 of the department, which will be followed by related agencies.

The committee has authorised the recording and broadcasting of its proceedings in accordance with the rules contained in the order of the Senate, dated 31 August 1999. The committee has agreed on the date of Friday, 12 December for receipt of answers to questions

taken on notice and any additional information. The committee does request that answers be provided to the secretariat in electronic format, wherever possible.

I welcome Senator the Hon. Amanda Vanstone, Minister for Immigration and Multicultural and Indigenous Affairs. I also welcome Bill Farmer, Secretary to the Department of Immigration and Multicultural and Indigenous Affairs, and other officers of the department and associated agencies.

I remind officers that the Senate has resolved that there are no areas in connection with the expenditure of public funds where any person has discretion to withhold details or explanations from the parliament or its committees, unless the parliament has expressly provided otherwise. I also draw to the attention of witnesses the resolutions agreed to by the Senate on 25 February 1988: procedures to be observed by Senate committees for the protection of witnesses. I refer in particular to resolution 1(10), which states, in part:

Where a witness objects to answering any question put to the witness on any ground, including the ground that the question is not relevant or that the answer may incriminate the witness, the witness shall be invited to state the ground upon which objection to answering the question is taken.

Resolution 1(16) states:

An officer of a department of the Commonwealth or of a state shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister.

Witnesses are reminded that the evidence given to the committee is protected by parliamentary privilege and are reminded that the giving of false or misleading evidence to the committee may constitute a contempt of the Senate. I note that there are no answers outstanding to questions on notice from the budget estimates round, and I thank the minister and the departmental officers for their responses. We are very grateful for that. Minister, welcome to the Senate Legal and Constitutional Legislation Committee. You just cannot stay away, can you, Minister?

Senator Vanstone—No.

CHAIR—Do you have an opening statement?

Senator Vanstone—Other than to say how pleased I am to be here, occupying the seat normally reserved, I understand, for the defence forces. I am pleased to see that this department has been given its appropriate place and what a pleasure it is to be here.

CHAIR—Thank you, Minister. Mr Farmer, do you have an opening statement?

Mr Farmer—I can't top that!

CHAIR—We will turn to the program, as it has been distributed, beginning with outcome 3, as I indicated: Sound and well-coordinated policies, programs and decision-making processes in relation to Indigenous affairs and reconciliation. Welcome, Mr Vaughan and colleagues.

Senator CROSSIN—I will take you to the COAG trials. By way of introduction from me, we have a number of areas we thought we would concentrate on because we have only two hours. There are a limited number of areas we want to ask questions on in depth rather than on

a broad range. I notice that on the COAG trial web site, quite a number of trial sites have been listed. Have these been publicly announced?

Ms Hawgood—All the sites, other than the ACT, have been publicly announced.

Senator CROSSIN—When were each of those sites announced?

Ms Hawgood—They were announced between September last year and the last couple of months.

Senator CROSSIN—On 2 July a question on notice came back and until that stage only four of the sites had been publicly announced. Which ones have been announced since 2 July?

Ms Hawgood—Murdi Paaki in New South Wales; Shepparton in Victoria was announced in July; the East Kimberley COAG site was announced on 2 July; Tasmania was announced on 28 August; and the others were all announced before then.

Senator CROSSIN—That is eight in total. I understand there are 10 COAG sites.

Ms Hawgood—There are eight, Senator.

Senator CROSSIN—Not 10?

Ms Hawgood—No, eight—one in each jurisdiction.

Mr Farmer—The original decision, if I remember correctly, said ‘up to 10 sites’.

Senator CROSSIN—Yes, you are correct, Mr Farmer. So there has been a decision made to have only eight, is that right?

Ms Hawgood—A decision was made quite early in the piece to trial one in each jurisdiction initially, to see how that went, and not to spread ourselves too thinly.

Senator CROSSIN—Have all of the Indigenous communities or organisations involved in the eight trials been informed of when the trials are likely to begin?

Ms Hawgood—Not only have they been informed; there has been quite comprehensive consultation processes in each of the trial sites prior to announcement of the trials. On the ground, preparation for the trials commenced before the sites were publicly announced.

Senator CROSSIN—When they are publicly announced is that done by press release?

Ms Hawgood—Yes, Senator.

Senator CROSSIN—Could we have a copy of those or are they all on the minister’s web site?

Ms Hawgood—I think they are all on the web site, Senator.

Senator CROSSIN—I am not sure that they are, which is why we have led to these questions. We had trouble finding the four remaining sites being publicly listed.

Ms Hawgood—I am happy to provide them to you.

Senator CROSSIN—So all of the eight organisations involved have been given guidelines in how to prepare for the COAG trials, or have you been working with them on what they can expect to gain from the trials?

Ms Hawgood—No, there are no formal guidelines about the trials per se, on the basis that work at each trial site has been somewhat different. There are a lot of commonalities but there are also some different issues and different priorities that people wanted addressed through the trial process. The consultation process leading up to announcement and beyond announcement has been focused on a three-way discussion, sometimes four-way, between all levels of government—Australian government, state or territory government, sometimes local government—and community representatives about the key priorities for Indigenous people in the communities in those trial sites, and then some agreement on how to take those priorities forward. There has also been discussion and agreement about benchmarks for measuring progress towards some of those priorities and some agreement on outcomes. That is at different levels of development in different sites.

Senator CROSSIN—I know FaCS is the lead agency for the Wadeye trial. Which are the lead agencies for the other trials?

Ms Hawgood—The Department of Employment and Workplace Relations is the lead agency for the Cape York trial and the Shepparton trial; the Department of Education, Science and Training is the lead agency for the Murdi Paaki trial in New South Wales; the Department of Health and Ageing is the lead agency for the South Australian trial in the AP lands; the Department of Transport and Regional Services is the lead agency for the East Kimberley trial; the Department of Immigration and Multicultural and Indigenous Affairs is the lead agency for Tasmania; and, Environment Australia is the lead agency for the ACT trial.

Senator CROSSIN—Are there particular people appointed in each of those lead agencies to coordinate those COAG trials?

Ms Hawgood—Generally, there are people within the national offices of those agencies who have some responsibility for the trials at a national level. Where those agencies have state offices, the state managers and a couple of other people in the state offices are also involved in the trial. In many cases the agencies have people on the ground, either at the trial site or located close to the trial site, who are the key people, the key links with Australian government agencies, with state government agencies at the regional level, and they have primary contact with Indigenous community representatives. Those people tend to have a very direct link back to senior people in the national office and the heads of departments who are sponsors.

Senator CROSSIN—We had fairly in-depth discussions about the COAG trials during the May estimates. I understand that the government has agreed to provide \$3 million to DIMIA in the 2004-05 period for the COAG trials. Is that correct?

Ms Hawgood—That is correct. There will be \$3 million in each of those years for what we call a flexible funding pool to promote and model some whole-of-government initiatives within the trial sites and also to support capacity building type activity within the trial sites.

Senator CROSSIN—So all of the eight trials have at least now been established?

Ms Hawgood—Yes.

Senator CROSSIN—Would you say they are up and running?

Ms Hawgood—Yes.

Senator CROSSIN—All right. I notice the PBS does not give any funding allocation beyond the 2004-05 period. Is that correct?

Ms Hawgood—The idea of this flexible funding pool was that it would only be a short-term mechanism to kick-start some whole-of-government activity on the basis that the whole-of-government or joined-up activity had to come from mainstream and big Indigenous specific programs already in operation. The government was not trying to create a superficial mechanism to take the place of joining up existing programs and services, so it was never envisaged that it would be long term. It was a short-term mechanism to kick-start a process.

Senator CROSSIN—So are the COAG trials due to go beyond 2005?

Ms Hawgood—Yes. The Commonwealth government has committed to a five-year process. As you are probably aware, we have bipartisan support from the previous shadow minister.

Senator CROSSIN—How are they to be funded beyond the 2004-05 period if there is no specific allocation of funding for that?

Ms Hawgood—The trials were not about new money. The COAG decision was actually more about effective use of existing government expenditure. So again, it was never envisaged that this would be an initiative that would bring with it a lot of new money; it was more about using what was there more effectively. That was very much in response to comments and suggestions from people in Indigenous communities.

Senator CROSSIN—So the \$3 million for each of the two financial years—\$6 million in total—has been found from existing funds within agencies. Is that correct?

Ms Hawgood—Yes, it has.

Senator CROSSIN—Is that method of allocating funds, finding funds or tagging funds for the COAG trial going to continue beyond 2005?

Ms Hawgood—I hope so, but perhaps in a more informal way.

Senator CROSSIN—What do you mean by ‘a more informal way’?

Ms Hawgood—As well as the flexible funding pool, which was created through an appropriation using existing funding from within portfolios, already in the trial sites other initiatives have been funded from within existing programs but joining up those programs. That is actually what we are about and what the trials are about. Those initiatives have been funded based on the priorities that have been identified by communities. The trial partly started because Indigenous communities had said to governments, ‘You come out in your silos. We need something to be done and we know that that’s what we need.’ Government’s response is often, ‘Well, we can’t do that because we don’t have a program to suit.’ So this process that we have been going through about identifying priorities with communities has been throwing up things that need to be financially supported by government, a bit outside existing prepackaged deals, if you like, or programs. That has been happening already, and not only through the flexible funding pool.

Senator CROSSIN—With regard to those initiatives that have been identified by communities which have required a flexible funding response, is there a view that that sort of mechanism and that process will continue beyond 2005?

Ms Hawgood—Yes.

Senator CROSSIN—Is it envisaged that the 1,000 new CDEP places that have been linked to domestic violence and substance abuse strategies will still be allocated beyond 2005?

Mr Gibbons—Those places are for use this financial year.

Senator CROSSIN—Just this financial year?

Mr Gibbons—In the sense that they are targeted at activity to prevent or reduce the level of violence, the answer is yes.

Senator CROSSIN—So there is no commitment to maintain that specific allocation of those 1,000 places for that purpose beyond next year's budget at this stage?

Mr Gibbons—There are a large pool of places available and, with the intention to put more effort into reducing and eliminating family violence wherever possible, I believe that in the financial year beyond this one there will be included in the CDEP program activities similar to the ones that will be carried out by these 1,000 places. But we are currently in the process of reviewing CDEP.

Senator CROSSIN—We will get to that in a minute. Are there any plans to try and transform any of these 1,000 CDEP places into some sort of either part-time or full-time employment?

Mr Gibbons—The places are designed to employ people to participate in activities to assist remote communities to deal with the issues of family violence—for example, night patrols, which are created by employing people to conduct that activity. They are standard CDEP places.

Senator CROSSIN—Yes, but is there any view to then move any of those places—which will be used, say, by night patrol as CDEP places—on to employment places, rather than CDEP? Or are you interchanging CDEP and employment in the one sentence here?

Mr Gibbons—These places are available in remote communities. Most of these communities operate outside the normal labour market: there is not much employment in the sense in which it is available in urban or major rural areas. The places are part of the CDEP complement that we invest in these communities to keep people actively engaged within their communities.

Senator CROSSIN—My question is: is there going to be any attempt to actually move these CDEP places into employment? When you talk about a night patrol activity, say, having three people on CDEP, is there a plan under the COAG trials to transfer those CDEP places into employment places so that, at the end of the day, there are three jobs created out of this rather than three CDEP places?

Mr Gibbons—You mean, are we going to extend the placements beyond the year?

Senator CROSSIN—No, a bit more than that: are you going to not only extend them but transfer them from CDEP to employment places?

Mr Gibbons—I do not quite understand what you mean by ‘am I going to transfer them from a CDEP to an employment place?’ Are you asking: are we going to recruit people full-time into employment to deal with these issues? If so, the answer is no—we have a CDEP program which will run as a CDEP program. It is a budget measure that extends for four years. We are currently reviewing how we will deliver CDEP in the future. My expectation is that those places or places like them will continue into the future.

Senator CROSSIN—It is a budget measure that extends for four years, but these 1,000 places have been allocated only until the next financial year. Is that correct?

Mr Gibbons—This is the first year that these places have been available to us.

Senator CROSSIN—Can I perhaps just go back and ask if there is going to be a handover period for when or if the trials—at some stage, I am assuming they will no longer be trials—become integrated or stand-alone programs, or whatever name you give them. Is that going to work?

Ms Hawgood—I hope so, Senator. There is an evaluation process scheduled at two years and five years for the trials. Along the way to that, we are already trying to capture and promote some of the lessons out of the trials and look at whether things are happening in the trial sites that can be extended beyond the trial sites. The word ‘trial’ in this case did not denote ‘pilot’. It was a long-term initiative, not a process that was envisaged would start and stop; hence the commitment upfront to five years, initially, and the decision to look during that five-year period for things that could be extended beyond the trial sites. That has already happened, to some extent, in relation to a couple of things.

Senator CROSSIN—What is the time line for the evaluation process at the end of the second year? Is it two years from the day the agreements assigned, or two years from the day the areas are identified? What are your signposts there for the two-year evaluation?

Ms Hawgood—It was more than two years for the whole trial, Senator. It started at about the end of July last year, so the first evaluation would come up probably halfway through next year. In terms of the shared responsibility agreements that have been signed, they have their own review mechanisms built into them, so they happen at a period that is designated within that agreement.

Senator CROSSIN—Who is actually going to participate in the evaluation of the trials? At some point, who will make that judgment that they are no longer trials and that they will now be an ongoing program?

Ms Hawgood—In terms of who will do the evaluation, that has not been decided. In terms of who would participate, I would anticipate that that would be representatives of people from the trial sites—Indigenous peoples from the communities in the trial sites and government people who have been working with them in each trial site—and that, in terms of the Australian government, there would also be a mechanism for having a more national review across all of the trial sites. But, essentially, it would be about each trial site. In terms of who

would make the decision about whether this process continues, that would be up to governments through the COAG process.

Senator CROSSIN—State governments, you mean?

Ms Hawgood—All governments represented on COAG, Senator—so state, territory and federal.

Senator CROSSIN—What is the COAG framework for reporting on Indigenous disadvantage and how does it work?

Mr Vaughan—COAG agreed that the Productivity Commission would produce an annual performance report, if you like, on the Indigenous sector in terms of how government programs were working and their effectiveness. A framework was devised as a result of consultation undertaken by the Productivity Commission and the commission is soon to release its first annual report.

Senator CROSSIN—Can you provide the committee with a copy of that framework? How does it work? Is it the Productivity Commission's responsibility to use that framework as a set of indicators against disadvantage?

Mr Vaughan—That is basically correct.

Senator CROSSIN—When is that report due?

Mr Vaughan—The first report is due within the next few weeks.

Senator CROSSIN—That is over what period of time—the last 12 months?

Mr Vaughan—It is a snapshot of the situation at the moment; essentially the past 12 months, yes.

Senator CROSSIN—That will be the first report under this process, won't it?

Mr Vaughan—That is correct; although, in a separate report that it has been producing for some years, the Productivity Commission has produced data on Indigenous access to mainstream and other programs. But this will be a more focused and structured Indigenous-only document.

Senator CROSSIN—What are the COAG agreed change indicators that are going to be used to measure progress nationally? Are they broadly under education and health headlines?

Mr Vaughan—There is a two-tier level of indicators. The top tier is called the 'headline indicators' and would be life expectancy, for example. While that is obviously a fundamental indicator, the problem with that sort of indicator is that it is not susceptible to measurable change in a short period of time. There is a second-tier set of indicators which reflects the factors that lie behind something like shortened life expectancy—for example, diet, tobacco consumption, alcohol et cetera. The second set of indicators goes to those sorts of background factors, with which you should be able to discern and measure change in a shorter time frame. In due course, those should feed through to a change in the headline indicator over a longer period of time.

Senator CROSSIN—Can you provide the committee with a diagram of the COAG reporting responsibilities under this process?

Mr Vaughan—Yes, I can certainly do that.

Senator CROSSIN—Who reports to whom under this process?

Mr Vaughan—Aside from being part of the Treasurer's portfolio, the Productivity Commission produces the document on behalf of COAG and to that extent it is a report to all Australian governments.

Senator CROSSIN—So the Productivity Commission will be reporting to state and territory governments as well as local governments?

Mr Vaughan—To the state, territory and Commonwealth governments. Local government is not part of COAG per se; obviously, some of the more localised issues arising mean that the report would be of relevance to local government.

Senator CROSSIN—Once the Productivity Commission has reported, who is ultimately responsible for looking at the outcomes in that report and taking any action, or assessing whether there has been success or progress?

Mr Vaughan—All governments and various portfolios within government. For example, if the indicator showed that there had been a decline or a lack of marked improvement in Aboriginal school retention rates in New South Wales, that would be a matter for the New South Wales Department of Education and Training. If it showed that there had been an increase in, say, tobacco consumption nationwide, that would be a matter for public health officials, both state and Commonwealth.

Senator CROSSIN—Is somebody in DIMIA going to be responsible for coordinating the response or the progress when this report comes down?

Mr Vaughan—It is an annual report that will come out to measure progress, so each government—each part of government as well—will be addressing those aspects of the report that relate directly or indirectly to its programs and activities and use the report as a guide as to ways in which they need to refocus their efforts. There will not be an annual government or COAG response to the report; it is an ongoing process.

Senator CROSSIN—I understand that. If there is a section dedicated to health and a section dedicated to education, and it may well reflect on what is happening at the Commonwealth level, is somebody in DIMIA going to be responsible for coordinating each of the Commonwealth departments and agencies to ensure that those agencies respond to that report or is it just going to be left up to each agency and department to do it on its own?

Mr Vaughan—We already have a general role of that kind. The report will provide some extra focus and extra data to help us carry out that role, as well as for the departments themselves. In addition, the Commonwealth-state Ministerial Council for Aboriginal and Torres Strait Islander Affairs has an ongoing monitoring and coordination role and it too will be taking a close look at the report in terms of intergovernmental arrangements.

Senator CROSSIN—So once the report comes down each year—through an estimates process, for example—we could track the progress of at least the Commonwealth government's response to these reports. Is that right?

Mr Vaughan—Yes, in effect.

Senator CROSSIN—The COAG report is due out before Christmas, is it?

Mr Vaughan—That is correct.

Senator CROSSIN—Could a copy of that be provided to the committee or will it be tabled in the parliament?

Mr Vaughan—It will be publicly released.

Senator CROSSIN—Going back to the COAG trials, the web site states that COAG's expectation is that the lessons learned from this initiative will be able to be applied more broadly. What does that mean and how does that work?

Ms Hawgood—What it means is hopefully that, working through this three-way process of state, Commonwealth and community partnership, things that are tried in one site will have relevance in other places.

Senator CROSSIN—How will that be the case if each of the trial sites are coordinated from the bottom up using consultation with Indigenous people? How can you say that what works at Wadeye might be able to be applied at Shepparton, for example?

Ms Hawgood—Because while there are differences there are also a lot of commonalities coming up in the priorities that people are specifying. For example, things like education and young people, which are very important in Wadeye, are also coming up as priorities in Murdi Paaki. Things like strengthening families, which are coming up clearly through the Cape York process, have also been nominated as a priority in Shepparton. So people may want to deal with these things in slightly different ways, but there are a lot of commonalities and we believe that there will be a lot of lessons out of particular trial sites that will be applicable in other sites and in areas beyond the trial sites.

Senator CROSSIN—What are the plans for the rest of the Indigenous communities around the country who are not part of the eight?

Ms Hawgood—There is not a plan to pick them up as a particular trial site at this point, but work is continuing with those areas, if you are talking about remote areas. ATSI and ATSIIC have responsibilities in those areas, as do other Commonwealth and state government portfolios. Normal business and ways of working with those communities are continuing.

Senator Vanstone—Senator, I would like to contribute there. Obviously Ms Hawgood is right across the detail of all of the trials, but I think I can answer from a political perspective on what the hopes are from these trials, and my understanding is that this perspective is shared by the state Labor government, so it is not a Liberal perspective; it is a political, parliamentary perspective. We will learn from these trials especially because they have the differences that Ms Hawgood pointed out. For example, take Cape York. There might be opportunities there in tourism that you might not see coming up in Wadeye. A lesson about how to organise some tourism thing involving Indigenous Australians might not be relevant but the education of young people might be, and that might be easily transferable. I am confident that the hope is that, by trialling sites that have these differences but still have a commonality, we will actually demonstrate that there is a better way we should all be working and that that will take over not by decree but, by the lesson having been learnt, people will

automatically follow these examples and use what is applicable in their area and work together more effectively. That cannot happen unless we give it a go.

Senator CROSSIN—I am assuming that with the eight communities in the trial sites what has essentially happened is that the funding parameters and restrictions have been relinquished. You talked earlier about how certain funding could not occur because you did not have a program—in other words, you had a round peg to fit in a square hole. I am assuming that all of those paradigms have just been set aside and trials are continuing, whether or not you have particular programs that suit that funding. Can we therefore arrive at some conclusion that, if other Indigenous communities outside the eight want a particular program or want particular funding for something, if there are not guidelines or certain measures in place to accommodate that, they will be relaxed and there will be a more flexible way of approaching it?

Ms Hawgood—There are a couple of things. Not everything has just been set aside. Some existing programs and services are relevant and are meeting needs that people are identifying in the trial sites. There is a lot of work to do still in getting the joined up processes working as effectively and flexibly as we would like and as people in communities would like. But, in terms of the other sites, already a spin-off from the trial sites is that Commonwealth agency heads in each state and territory are coming together on a regular basis and more and more frequently drawing in as well their state and territory counterparts to that process initially to deal with coordination in the trial sites. However, through that process it has become obvious that in some of the other areas within their jurisdictions similar principles could be applied. Certainly Indigenous communities are looking at what is happening in the trial sites. They are noting things that are happening in the trial sites that they would like to see happen in their regions, and they are coming forward to relevant government representatives, state and Commonwealth, to seek involvement in that way. So we are already seeing some of those spin-offs coming out of the trial sites, where government people are working better together in areas outside the trial sites as well as inside the trial sites.

Senator CROSSIN—Back in the May estimates, I asked a question about Centrelink paying rent for its premises at the Wadeye community. Can anyone provide me with an update on that or is it a matter I should be asking FaCS about?

Ms Hawgood—I think you should be asking FaCS.

Senator CROSSIN—Someone gave me an answer back then that Wadeye was considering establishing a one-stop shop. I am not too sure whether that was meant to be the RTC or a one-stop shop for Centrelink purposes. Can you clarify what was meant by that and whether it is happening in other communities in other COAG trials?

Ms Hawgood—I cannot. I suspect it is related to the previous issue and you should ask FaCS.

Senator CROSSIN—I have a feeling it is an answer I got back from you, though. In fact, I have it with me. It is an answer I got back from you. It is answer 379. You actually advised that FaCS was aware of the issue and that consideration was being given to a one-stop shop for employment, income support, education and training.

Mr Farmer—I think the dynamics are probably the same in both hearings. You asked the question, we consulted FaCS and provided the answer. We are simply saying now it is still FaCS who would be in a position to give you the answer; hence the suggestion that you might ask them direct. It just cuts us out.

Senator CROSSIN—Your answer suggests to me that the Indigenous Community Coordination Task Force provided this answer.

Mr Farmer—That is the case.

Senator CROSSIN—Is that the task force that has been set up across the departments?

Ms Hawgood—Yes.

Senator CROSSIN—So a one-stop shop is not part of the eight COAG trials for Employment, Education and Training?

Ms Hawgood—It is not something that is happening in each of the trials.

Senator CROSSIN—To finish on this, are there any particularly important insights or positive outcomes that have been generated to date from the COAG trials, or is it still too early to tell?

Ms Hawgood—It is still early days, but I think one of the key issues that has come to the fore in these early days is around governance and leadership in the regions where we are working. There have been some key developments along those lines in a number of regions where Indigenous leadership has come together in a way that it has not done previously—in a more united way, if you like—to work with governments. That is something that governments certainly have not pressured for, but that has come up from the ground through the Indigenous representatives. I think the realisation has been that if governments are getting their act together in this way then the sometimes fairly multilayered Indigenous leadership in various areas needs to come together to be able to respond in an appropriate way.

Senator CROSSIN—Do the outcomes that are being generated, say, by the DEWR sponsored agencies differ from those outcomes generated, say, by FaCS or DEST?

Ms Hawgood—They could do; it depends on the priorities that have been identified through the community process.

Senator CROSSIN—In each of the trials?

Ms Hawgood—Yes.

Senator CROSSIN—Is it possible for coordinating agencies to change? If FaCS had Wadeye, will that actually change or is the sponsoring agency fairly fixed?

Ms Hawgood—It is fairly fixed. It is not something that we envisage changing. That is partly because, again, Indigenous people in these communities have asked us for some continuity in the people that they deal with. That is important over a longish term. So we do not envisage that changing.

Senator CROSSIN—Have there been any complaints by the participants or stakeholders?

Ms Hawgood—Not that I am aware of.

Senator CROSSIN—Everyone is happy, are they?

Ms Hawgood—So far as I know. I am not aware of any complaints.

Senator Vanstone—If you dig deep enough, Senator, you will always find some unhappiness somewhere.

Senator CROSSIN—During the Prime Minister's visit to Cape York, I understand that he promised \$90,000 towards the Cape York credit union. Is that correct?

Ms Hawgood—That is correct.

Senator CROSSIN—Have the funds been provided to them?

Ms Hawgood—I would have to take that on notice. I am not sure what stage the contract process is at.

Senator CROSSIN—That was my other question, whether some conditions will be applied to the money.

Ms Hawgood—Invariably.

Senator CROSSIN—Do you know what they are?

Ms Hawgood—No. I can take that on notice.

Senator CROSSIN—Can you tell me whether money has been allocated to the two Traditional Credit Unions that operate in this country, the one operating out of Darwin or the one operating out of Shepparton?

Ms Hawgood—Not through the trial process.

Senator CROSSIN—I am not talking about that. Following the Prime Minister's visit, \$90,000 was given to the Cape York credit union. Can the Traditional Credit Union in Darwin and the one in Shepparton look forward to a similar receipt of money?

Senator Vanstone—Gee, that is a bit like asking if every artist in Australia could expect to win a Keating? Remember those? They were for 250 grand, and some people got them two years in a row.

Senator CROSSIN—There are only three Traditional Credit Unions. I am wondering whether all three can expect this sort of assistance or whether it is just the one.

Ms Hawgood—The Cape York credit union is a new credit union. It was on that basis the money was allocated.

Senator CROSSIN—So an extension of a gift to the other two credit unions is not likely to be forthcoming?

Mr Stacey—Perhaps I can answer some of those questions. We have finalised the contract with the Cape York credit union with respect to the funds of \$90,000. The funds were released in August this year. Just to clarify, funding for the Traditional Credit Union was announced by the Prime Minister at the Cape York summit, but the funds came from ATSIIS. As for funding for the Traditional Credit Union in Darwin, I am aware of that application. We have been assessing it and meeting with the new CEO. At this stage, it looks reasonably favourable, but we have not made a decision yet.

Senator CROSSIN—And there are no funds expected to go to the credit union in Shepparton?

Mr Stacey—I am not aware of any application from that particular group.

Senator CROSSIN—I bet you were pleased when the Prime Minister arrived in Cape York and promised \$90,000 out of your bucket of funding. From what area of ATSSIS was the \$90,000 taken? I am assuming that \$90,000 was not identified in your budget as going to the Cape York credit union, so where did it come from? What program has it been taken out of?

Mr Stacey—It was already proposed to come out of the business development program. The Prime Minister announced it; he did not make a promise on the spot to provide that funding. He announced that that funding would be made available. In effect, he was confirming a decision that had already been reached—that \$90,000 would be provided to the Cape York credit union. It is from ATSSIS's business development program.

Senator CROSSIN—So it was a reannouncement of an initiative that was in the budget. Is that correct?

Mr Stacey—It was an application funded out of ATSSIS's business development program, which is included in the budget.

Senator CROSSIN—During the estimates process earlier this year, there was some discussion that the budget was not affected by the separation of powers and that the overall quantum of salaries was pretty much the same. However, when I had a close look at the answer provided to the question on notice from Senator Ludwig about total moneys spent on salaries, it shows that the total estimated salaries for 2003-04 will increase by over \$6.5 million from 2001-02. That is an estimated increase of \$3.5 million since 2002-03. Can you provide me with a reason why there has been such a significant increase?

Mr Watson—I am sorry, Senator, I did not catch the last part of your question.

Senator CROSSIN—I am asking whether you can tell me why there has been such a significant increase in the total moneys spent on salaries.

Mr Watson—Is this the total expenditure in 2001-02 of \$79 million to the 2002-03 figure of \$82 million?

Senator CROSSIN—No. This is the estimated salaries for 2003-04, an increase of \$6.5 million since 2001-02.

Mr Watson—There is provision for a slight increase in staff, plus there would be the normal increase that you would expect from the negotiation of a certified agreement, plus anything that might flow on to the AWAs.

Senator CROSSIN—And that is a \$3.5 million increase over two years—a slight increase in staff and an adjustment for a certified agreement?

Mr Watson—Yes, if you have a salaries bill in the order of \$80 million and you have, say, a 3.5 per cent increase. If the bill were \$100 million, that would be \$3½ million in itself. So I am saying that it is not out of the order of magnitude. If there were an increase in staffing, and I do not have that figure in front of me, once salaries and other on-costs were associated you

would be allowing in the order of \$80,000 or \$90,000 per ASL, so it can quickly mount up. I am happy to provide more detail if you want.

Senator CROSSIN—It was estimated that the cost for ATSIIC salaries alone would be nearly \$8 million. You mentioned that a moment ago. Now that ATSIIC only represents the elected arm and their support staff, is that still a correct amount for salaries?

Mr Watson—The \$7.939 million?

Senator CROSSIN—Yes.

Mr Watson—I do not know. I will have to check with one of my colleagues as to whether that is actually a salaries amount or whether it is a budgeted amount. I am advised that the \$7.9 million there includes on-costs; it is not just a salaries amount.

Senator CROSSIN—And that is for ATSIIC, not ATSIIS.

Mr Watson—Yes, that is for ATSIIC.

Senator CROSSIN—So what is the breakdown for the salaries in the on-costs?

Mr Watson—I would have to take the question on notice but, generally, it includes salaries plus superannuation, plus what they call the below the line costs such as overtime and some other factors. We can provide the break-up of that.

Senator CROSSIN—So is it related to the increase in personal staff?

Mr Watson—That \$7.9 million?

Senator CROSSIN—Yes.

Mr Watson—It includes an allowance for the increase in personal staff to regional council chairs.

Senator CROSSIN—Do we know exactly how many staff have been employed and at what salary levels?

Mr Watson—We can provide that information. It will include those staff, plus there is a branch within ATSIIC that provides support to the elected arm, which contains about 20 ASLs or something like that.

Senator CROSSIN—So you do not have with you how many new staff have actually been employed.

Mr Gibbons—The former minister approved the budget estimates to permit commissioners to employ a research officer at the APS6 level.

Senator CROSSIN—Do you mean each of the national commissioners?

Mr Gibbons—Yes, each of the commissioners. There are only national commissioners.

Senator CROSSIN—Not regional council elected arms?

Mr Gibbons—No.

Mr Watson—Senator, the figure of 75 is made up of 20 staff, as I indicated, for a branch within ATSIIC, 18 for commission support and 35 for regional council chairs. The CEO and the Director of the Office of Evaluation and Audit are also part of that 75.

Senator CROSSIN—Are these extra costs that have been generated because of the separation of powers between ATSIC and ATSI? Surely the employment of the research staff has come about because of the separation.

Mr Gibbons—The decision to make available research assistants to commissioners was taken some time before the government announced the separation of powers.

Senator CROSSIN—In other words, the extra costs were not generated by that decision?

Mr Gibbons—That is correct.

Senator CROSSIN—Can you tell me then why, despite having grant/loan mix funding approved by ATSIC on 7 March 2002, the Mee Wee Community Coalition—which is based in Adelaide, I understand—in a meeting with ATSI and the AGS on 12 August 2003 was advised of the separation of powers between ATSIC and ATSI and that ATSIC's functions in relation to existing Business Development Program services no longer exist'. Is that correct?

Mr Gibbons—I think there is a bit of confusion here. The relationship between ATSIC and ATSI in the context of the Business Development Program is that the board of commissioners determine how much money they want to invest in a business development program and establish the policy rules that govern the administration of that program, and ATSI officials, after seeking applications for business funding, assess those applications and make a decision on the applications.

Senator CROSSIN—Are there instances where funds that were available prior to the separation of powers have now been affected? I am talking particularly about funds that were applied for through the Business Development Program. I understand that, for example, the Mee Wee Community Coalition have been told that they are now going to have to reapply for that funding under ATSI, despite the fact that they were granted the funding under ATSIC. Why has that been allowed to happen?

Mr Gibbons—Mr Stacey will add to this, but let me make a general point. The policy that governs the administration of the program was reviewed by the board and a new policy established with the aim of ensuring that the program ran on a sounder basis from September of this year. As part of that, applications will be called for and applicants will be assessed on their merits rather than the old approach, which waited for people to approach ATSIC for funding.

Senator CROSSIN—But if people had applied for funds prior to September this year and had been given approval to have those funds why are they now being told to reapply?

Mr Gibbons—I will ask Mr Stacey to comment on that specific case. I am not aware of the particular details.

Mr Stacey—I think we need to clarify the facts in relation to Mee Wee. I do not think that what has happened is that the organisation's funds have been withdrawn because of the creation of ATSI. Mee Wee received in-principle approval from ATSIC in March 2002 for an amount of \$67,000, which was to be used to assist Mee Wee to purchase a lead-lighting business in Adelaide. Following that, there was no communication from Mee Wee for almost 14 months. It was not until July of this year that ATSIC received a letter of demand from Mee

Wee that \$155,000 be provided immediately, which is over twice as much as the in-principle agreement given in the first instance, for the business that they had purchased.

We have taken the view that no reasonable financier would allow an approval to subsist for 14 months without any communication from the borrower. On the other hand, we have sought to try to resolve this issue with Mee Wee. I am pleased to report that, at the end of last week, my branch manager met with Mee Wee in Adelaide. We have now reached agreement about a process for dealing with in effect a new funding application. They have already submitted it. They have already given us the additional information that we sought, and there is every reason to believe that we will be able to settle the matter. I just want to reinforce that I do not believe these events are connected with the separation of powers or the creation of AT SIS. This is an event that would have occurred with or without AT SIS.

Senator CROSSIN—Thanks for clarifying that. Have other Indigenous organisations been affected by this new policy that has been established from 1 September?

Mr Gibbons—Off the top of my head, I am not aware of any, but that is not to say there are not. I will take that on notice.

Senator CROSSIN—What I am after is organisations that might have been promised funding under AT SIC and have now been told to reapply because AT SIS are evaluating and looking at the grants.

Mr Gibbons—I will take that on notice. A lot is sometimes read into off-the-cuff promises by individuals in the business program funding area. I will take it on notice. I also add that the new Business Development Program does not operate retrospectively. If there were a formal approval of a grant or a loan under the old arrangements, it would be honoured.

Senator CROSSIN—You provided us with a letter to AT SIC commissioners and regional council chairmen, following the estimates round, informing them of the potential impact of the AT SIC-AT SIS separation of powers. The letter also stated that it had been made public knowledge that those who had been made commissioner or chairman on their board would be affected by the decision. Did a similar letter go to other organisations, agencies or communities that had applied or were applying for funding?

Mr Gibbons—If I recall the document you are referring to, I was reminding full-time members of the elected arm of two things: firstly, the former minister's direction that prohibited AT SIC from funding organisations that had on their board full-time members of the elected arm and, secondly, drawing attention to the fact that the directions to me from the minister in my role as CEO of AT SIS effectively maintained that arrangement. Thus, if commissioners or regional council chairs remained on the boards of any organisation, we would not be able to fund them.

Senator CROSSIN—Has that led to regional chairs and commissioners having to resign from particular boards?

Mr Gibbons—Yes. If the organisations wish to continue to receive funding from AT SIC or AT SIS, they cannot have on their boards or in a controlling position full-time members of the elected arm of AT SIC or any staff who are delegates, have decision-making authority, of AT SIS or AT SIC.

Senator CROSSIN—Are there any plans to get commissioners or elected chairs to declare any other sorts of interests?

Mr Gibbons—All commissioners and regional chairs have been asked to declare their involvement in organisations. All commissioners have had a comprehensive briefing on their duties and responsibilities, and there is a protocol approved by the board involving the declaration of conflicts of interest in the context of matters that come before the board or the regional councils.

Senator CROSSIN—Can you tell me where the review of CDEP is at?

Mr Gibbons—The review is proceeding with the aim of presenting a report for consideration by the board at its next meeting in early December.

Senator CROSSIN—Is that the review that is being conducted by a subcommittee of the commissioners?

Mr Gibbons—It is being facilitated by ATSSIS and it involves the board's economic and social participation committee.

Senator CROSSIN—What does the review consist of?

Mr Gibbons—It is an examination of the way CDEP operates. It is looking at how it might be changed to secure better outcomes, reduce the cost of administration, and reduce or remove the burden and complexity of administration from small organisations. It is looking at how we might overcome many of the problems of operating CDEP in remote dysfunctional communities. It is looking to see how we might support monitoring of the performance of CDEPs by the introduction of technology. It is looking at how we might change the methodology of funding from a grants base to a contract base, which is part of the minister's general directions.

Senator CROSSIN—It is not looking at moving CDEP into an employment program?

Mr Gibbons—It is looking at differentiating between those CDEPs that operate in environments where there is a labour market and where the emphasis needs to be on moving people out of CDEPs into the labour market from discrete remote communities where the emphasis is really on community sustainability.

Senator CROSSIN—Can I ask about the 1,000 CDEP places that were announced as part of the COAG trials. Have they been released as places yet?

Ms Gillam—The 1,000 places have called for applications, and submissions have been received. They are in the process of rolling out the 550 that have been approved. The balance of those will go out in the final six months of this financial year.

Senator CROSSIN—When will the 550 actually be approved and allocated?

Ms Gillam—As we speak, letters of offer and contracts are going out for those places.

Senator CROSSIN—So, if these 1,000 places have only been released for a 12-month period, some people will only be on CDEP as part of this program for six months or more and then it will be—

Ms Gillam—The initiative has been funded across four financial years, so those additional 1,000 places are there for the next four years.

Senator CROSSIN—There is a plan to have all 1,000 allocated by a certain date?

Ms Gillam—They have to be rolled out in the next six months, so they have to be all allocated. The 550 are there. Western Australia has an application for 250 on the table at the moment. The remaining 400-odd places are expected to be rolled out quite swiftly. They have taken some time to develop it because of state initiatives like the Gordon inquiry and some Cape York initiatives, so the balance of those numbers are expected to be allocated in larger numbers.

Senator CROSSIN—Has there been some criteria for allocating the 1,000 places?

Ms Gillam—Yes, there are quite clear criteria that were provided to regional offices to inform CDEP organisations on the types of activities and the kinds of linkages that we would expect the 1,000 places to have to existing services such as domestic violence and substance abuse programs that are perhaps ready in place.

Senator CROSSIN—Could you provide that to this committee?

Ms Gillam—Yes, I would be happy to.

Senator CROSSIN—I go back to the May estimates. I understand that we were advised that ATSIC had begun negotiating with DEWR and FaCS around these Commonwealth agencies linking funding to support some formal training opportunities for CDEP participants. Is that occurring? Where is that initiative at?

Ms Gillam—There are two initiatives in regard to training. There is an Australian National Training Authority project that has just been funded by DEWR to do training needs analysis nationally. It is a program designed to do training needs analysis for CDEP participants where there might be viable labour market or economic opportunities to be taken up were training to be available. CDEP in itself is not funded to undertake training, but often CDEPs do link and access DEWR STEP training and other training. Many of them are registered training authorities in themselves. I would be happy to take that question on notice and get further information from DEWR, but CDEP in itself does not fund training outcomes.

Senator CROSSIN—If you could do that, that would be useful. Who is actually funding the ANTA project?

Ms Gillam—The Department of Employment and Workplace Relations.

Senator CROSSIN—They are funding both initiatives?

Ms Gillam—Yes, all the training initiatives. We had quite a degree of input into how that might be undertaken, where the CDEPs are that should be targeted and how they should resource it. They are currently advertising for full-time project managers to undertake those training needs analysis across Australia.

Senator CROSSIN—Will those project managers be based in each state and territory?

Ms Gillam—I understand that that is the plan—with regional people out in each region based in the CDEPs in which the training needs analysis are being undertaken.

Senator CROSSIN—So who will actually pay for the training at the end of the day once the needs analysis has been done?

Ms Gillam—The intention is that DEWR would follow up this project. Having had the training needs identified, they would then set about negotiating with the state based training authorities and state training providers to ensure that the training needs that have been identified are actually met.

Senator CROSSIN—We are talking about training. Is there any discussion then with DEWR about how full-time permanent or part-time employment might be generated following the training or is this some sort of staged process of moving people off CDEP?

Ms Gillam—Beyond the general intention for people to go through CDEP and training and employment, there is no specific strategy to follow up beyond those outputs that are already expected of the program and under the reforms and enhancements expected for next year.

Senator CROSSIN—I want to ask about a question on notice that was received about the number of CDEP participants involved in various state and Commonwealth government agencies. I understand that there are fewer than 20 CDEP participants in total placed with Commonwealth department agencies. Is there a view to reducing the number of CDEP participants within a Commonwealth agency and replacing those people with paid employment?

Ms Gillam—There is a review under the program for next year to be more prescriptive about that. At present the program does not speak specifically about host placements, and there is an intention to make more clear the criteria and conditions under which you would place people out under all host placements. They would be contracted arrangements so that the outcomes are more clearly articulated at the commencement of any agreement. Under the current program guidelines, there are not strict controls or guidelines for host placements. There are not very clear guidelines on when you might or might not enter such an agreement and on what the expected outcomes might be.

Senator CROSSIN—Is that going to be reviewed?

Ms Gillam—Sorry?

Senator CROSSIN—For example, in the Centrelink office at Maningrida there are two people on CDEP. I am wondering why FaCS, for example, are not told—given the budget they have—they could actually employ two people rather than have people on CDEP with top-up. Is there a move to ensure, encourage or even force agencies to employ people rather than make use of CDEP?

Ms Gillam—Yes, by way of the host employer agreement, where it is clear at the commencement of that host placement that there is an employment outcome intended. When we researched your question on notice and found the 20 placements, the Centrelink agencies all reported back to us that the intention was to recruit from that pool of CDEP workers. Anecdotally we hear stories like Maningrida; hence the changes to the program planned for next year to more clearly articulate what the expectation is when they are placed in a host placement.

Senator CROSSIN—How long will people inside Commonwealth agencies be on CDEP? What is the time line for moving them into employment?

Ms Gillam—We have had discussions about this with those other agencies and we would like to see a formal training program with a formal exit where there are milestones and targets so that there is an end date on it and a progression into employment with a Commonwealth agency.

Senator CROSSIN—What are you suggesting? Are you suggesting that Commonwealth agencies would take someone on CDEP, hopefully train them and then offer them employment? Is that what you are saying?

Ms Gillam—Yes.

Senator CROSSIN—I have to say that, if that is the end result, I would welcome that outcome. I hope it is not going to be that they are stuck on CDEP for five years before they get employment but that it is much shorter than that. That is an initiative I will follow up next year, but I think it is quite good. How many Indigenous people are still employed in federal departments or agencies on CDEP? Is it still at 20 or has that number changed?

Ms Gillam—We have not researched it recently, but we do monitor it with regions. They report that that is a fairly constant figure, that there is usually a progression of people in and out of those 20 and that it is the exception that people in Commonwealth agencies are on it long term. They report that they often recruit from those positions. We have not had any information contrary to that.

Senator CROSSIN—Is your new programming aiming to recruit from those positions and turn those positions into paid employment? Is it aiming to convert the same position a CDEP participant holds into an employment position rather than to recruit those people?

Ms Gillam—No. Usually it is into their existing staffing levels—that is, the CDEP placement is seen as an entry level and the person is recruited into their normal staffing level. It is not a creation of new jobs.

Senator CROSSIN—I am a bit unclear now as to how that would work in places like the Centrelink office at Maningrida, for example. There is a non-Indigenous manager and there are two or three Indigenous people working there, but they are on CDEP. There is not a plan that FaCS would create two part-time jobs out of that and simply take those CDEP participants?

Ms Gillam—The new requirements on the host placement would ensure that the arrangement that is in place now in Maningrida would not continue with no end date. There would be a requirement to review staffing in Maningrida so that the intake of CDEP places was targeted towards an employment outcome. If there was not an employment outcome then the host placement would not meet the criteria of there being one.

Senator CROSSIN—I am assuming that AT SIS now has responsibility for CDEP; is that correct?

Mr Gibbons—I think it is best if you put your question and we will—

Senator CROSSIN—Are you just as confused as some of us are on the outside, are you?

Mr Gibbons—No, it is about whether your question is addressing administration or policy.

Senator CROSSIN—I am wanting to know now who is responsible for tracking the number of CDEP participants who have actually moved from CDEP into employment.

Ms Gillam—ATSIS has responsibility for managing and monitoring the program.

Senator CROSSIN—What is happening to ensure that there are statistics kept of this? In the past when we have asked there has been a poor effort in tracking the number of CDEP participants who go into employment. What mechanism is now in place to better track that movement, or is it still difficult?

Ms Gillam—I am pleased to advise you that we have a major systems development project under way within ATSIS at present. It is addressing that very issue. We have long recognised the lack of data, the lack of quality of data and the lack of information available to manage and monitor the program more effectively. We have a major systems development that is aimed not only at improving that but at improving useability at the CDEP organisational end so that we will be online, real-time and broadband enabled and we will have better linkages electronically both with Centrelink and with DEWR. The linkages with DEWR are clearly aimed at access, equity and participation, particularly improving access to existing programs. We have data at the moment that the linkages could be greatly improved and we think electronically we can instigate that. The other side of it is sharing data with Centrelink to address overpayments, duplications and difficulties with ons and offs and to improve the flexibility of the program, whereas at the moment there are some barriers or some disincentives to moving on and off because of very slow administrative paper processes, as you would know, in remote areas. So that is a major project that is under way, and ATSIC has devoted considerable resources to it. It is expected to roll out in 2004-05.

Senator CROSSIN—In the figures that were provided as a result of questions on notice after the estimates process, the number of participants who left the CDEP scheme in 2001-02—and I think these are the latest figures we have—was actually 22,500 people, 9,205 without any reason. I am assuming those figures are correct. But the overall figure was actually 35,908 participants in 2003. Is that correct?

Ms Gillam—I would have to refer you to the annual report. The figures in the annual report are correct.

Senator CROSSIN—If that is correct, if we have 35,908 participants and 22,523 leaving, we actually have a drop-out rate of approximately two-thirds.

Ms Gillam—The progression through CDEP is one of the major systems development priorities. We know that at any one time we have a number of participants. We know that during the period of a year we have around 61,000 participants, but the data is not reliable enough for us to know if it is people who have exited who are coming back on. They are the sorts of business requirements of the new system, and they are the inadequacies that we have been aware of and we are addressing in that project.

Senator CROSSIN—Of those who did provide reasons for dropping out, the percentages you gave us did not add up. Is that because of the inconsistency in the data?

Ms Gillam—I would say so, but I would have to have a look at the figures again to see where it did not add up.

Senator CROSSIN—I am just wondering if you have the 2002-03 CDEP figures. I understand they were tabulated on 7 July.

Ms Gillam—Yes.

Senator CROSSIN—Are they in the annual report?

Ms Gillam—Yes.

Senator CROSSIN—They are for the 2002-03 period?

Ms Gillam—Yes.

Senator CROSSIN—I am after a bit of an update. I understand an award is being developed for CDEP participants. Are you aware of the progress of that award?

Ms Gillam—I am aware that the ACTU had a draft award, but I am not sure that it has progressed. They had a change of personnel, and I am not sure how far that has got. They have an Indigenous advisory committee. I understood that the draft was with them and had gone out to various unions for consultation, but I have not heard of any progress since then.

Senator CROSSIN—Is it correct that CDEP participants do not receive superannuation at this point in time?

Ms Gillam—If they are only on the CDEP entitlement, they are not usually eligible for superannuation.

Senator CROSSIN—Are they covered by WorkCover or workers compensation?

Ms Gillam—Yes, they are. Unlike Work for the Dole participants, their employees are covered by WorkCover under normal award conditions.

Senator CROSSIN—But they do not receive entitlements for annual leave or sick leave. Is that correct?

Ms Gillam—They may, and many do. A requirement of the program is that they need to be covered by the appropriate award conditions. Many of those awards do make provision for leave loading and holiday leave.

Senator CROSSIN—Let me get this right. Per fortnight, the number of hours a participant does should be the award rate per hour divided by the CDEP amount. Is that correct? It is \$340, isn't it?

Ms Gillam—It is about \$226 a week for a single person, but it varies for remotes and non-remotes.

Senator CROSSIN—So it is about \$452 a fortnight?

Ms Gillam—I would have to check the figures.

Senator CROSSIN—If a CDEP participant is working in an area where there is award coverage, they technically should be working the number of hours divided by the award rate. Is that correct?

Ms Gillam—Yes.

Senator CROSSIN—Where there is no award, what is the hourly rate?

Ms Gillam—They default to the state minimum award or a federal award. The CDEP award that was proposed by the ACTU was in fact a safety net, not a catch-all. They would default to whatever the minimum rate was for that jurisdiction.

Senator CROSSIN—CDEP is actually included in ABS and DEWR's employment figures. Is that correct?

Ms Gillam—I understand that it is counted as employment in the census figures.

Senator CROSSIN—They are deemed to be employees?

Ms Gillam—Yes.

Senator CROSSIN—You indicated during the 2003 estimates that a policy review was under way, as well as a number of discussions, audits and reports, in an effort to comprehensively revise CDEP. You probably outlined some of those today, but where are discussions at with regard to the role of regional councils taking a more proactive approach to CDEP?

Ms Gillam—One of the major areas of emphasis in the CDEP, enhancing the program for next year, is to ensure that the program is relevant and responsive to and reflective of regional plans. The former minister's direction said that the program should be responsive to demonstrated need. ATSI has recently refocused on regional plans as the key document that will drive investment into that region. CDEP applies across all ATSI programs, but it is often the major foundational program. One of the flexibilities to be preserved in CDEP is to ensure that it is regionally relevant and that the regional plans clearly articulate the expected and intended outcomes of the program, much more than they do so at present. I will refer to the CEO about the ATSI re-emphasis on regional planning being the driving document behind program delivery.

Senator CROSSIN—Mr Gibbons, do you want to make a comment?

Mr Gibbons—I suppose there are two challenges in making CDEP more relevant to regional plans. One starts with the regional plans themselves. Some of them are very good; others are not well-enough developed to be relevant. So we are putting a good deal of effort into assisting regional councils to develop their planning capabilities. We have had a workshop with all regional council chairs. We have made additional funds available to permit regional councils to have additional meetings to consider their planning needs, and we have made funds available to help them engage assistance with research et cetera.

The other part of the challenge is to reform the process by which CDEPs are managed. Part of the problem we have at the moment is the burden on small remote organisations that manage CDEPs, such that those that survive do so without much feedback. Most of their effort goes into meeting the accountability requirements. Very little focus is on outcomes, the deliverables and the reporting of those. As part of the reform process we are examining at the moment, we are looking at removing as much as possible of the administrative burden—for example, the wages payments and the taxation accounting processes et cetera—and leaving in the hands of the local organisations the controls over the project activity. We are providing simple but effective online technology to enable them to report back on activities that have

been undertaken by the CDEP and the outcomes achieved, not just in terms of the community objectives relevant to the agreement and the regional plans but also in terms of individuals so that we can liaise, using that information more effectively, with Centrelink and DEWR.

Senator CROSSIN—Is the OEA conducting an audit of CDEP?

Mr Gibbons—I think it is on their work plans for next year, but I will have to check with the Director, OEA. I am advised that there is an audit of part of CDEP planned for the end of this financial year.

Senator CROSSIN—When will that commence?

Mr Gibbons—Towards the end of this financial year.

Senator CROSSIN—We will look forward to hearing something. That is all I have on CDEP, but I now want to turn to the ATSIC review. Can you take on notice to provide details of the travel budgets for senior ATSIC bureaucrats.

Mr Gibbons—The senior ATSIC?

Senator CROSSIN—The senior ATSIC officers. How many would that include?

Mr Gibbons—Two.

Senator CROSSIN—Can you provide me with their travel budgets?

Mr Gibbons—We will take that on notice.

Senator CROSSIN—For how long have there been two? Is it since the split?

Mr Gibbons—Since the separation of power. By ‘senior’, I take it that you mean SES level public servants.

Senator CROSSIN—Yes. I have just been given ‘senior’ here, so I am assuming that is correct. Can you provide me with the travel budgets for the bureaucrats and the amount of travel moneys paid to those bureaucrats over the last three years.

Mr Gibbons—If you go back before 1 July, the number is greater than two. Looking at this financial year you will probably find that the amount of money spent by senior ATSIC officials is very low. For example, I do not charge any of my travel to ATSIC; I charge it to ATSI. If you go back before the separation of powers, you would have several hundred people involved.

Senator CROSSIN—We might put some of these questions on notice so they are a bit more tailored to specific outcomes.

CHAIR—Thank you. That would be helpful.

Senator CROSSIN—Has the final report for the ATSIC review been handed to the minister?

Mr Vaughan—The final report is still awaited from the panel.

Senator CROSSIN—You are still waiting to get that final report from the panel?

Mr Vaughan—That is correct.

Senator CROSSIN—So it has not been finalised and signed off by the panel and given to the minister as yet?

Mr Vaughan—That is my understanding.

Senator CROSSIN—Has it been given to the department?

Mr Vaughan—The secretariat showed us an early draft some weeks ago but we have not received a final report.

Senator CROSSIN—Is the intention that the final report will be released for public viewing?

Mr Vaughan—That is a matter for the government. It has not yet announced when, what time or in what format. Presumably, the government, in the first instance, will want to examine the report once it receives it and then decide upon its handling.

Senator CROSSIN—What is the next step for the ATSI review team once the final report is completed?

Mr Vaughan—The task of the review panel is then finished. Then the ball is in the government's court to decide how it will respond to the report.

Senator CROSSIN—When is the contract with the panel members due to be terminated?

Mr Vaughan—Once they have submitted their final invoices.

Senator CROSSIN—When are you expecting that to happen?

Mr Vaughan—Soon after the final report is presented to the minister, I would imagine.

Senator CROSSIN—Who was responsible for managing the overall budget and the financial aspects of the ATSI review?

Mr Vaughan—The costs were borne by ATSI—*or* ATSI, prior to July. The secretariat was managed by a seconded officer from the defence department. The most accurate description would be that it was managed by the secretariat in conjunction with ATSI, *or* ATSI. We also had an involvement.

Senator CROSSIN—So who was responsible for managing the budget?

Mr Vaughan—ATSI made a provisional allocation for the review. In previous questions on notice, I think it was indicated that \$1.2 million was allocated. ATSI was, in a sense, making the budget provision and managing the costs within that framework.

Senator CROSSIN—Who was responsible for purchasing the mediation product that was used during the review, which I understand was the PinPlan?

Mr Vaughan—It was stationery, if I can call it that—a collection of whiteboards and associated stationery.

Senator CROSSIN—Stationery?

Mr Vaughan—However you collectively describe whiteboards, papers, pens and so forth was purchased by ATSI at the time.

Senator CROSSIN—No. I asked who was ultimately responsible for purchasing the product. Was it ATSI?

Mr Gibbons—As I understand it, there was no product as such. It is a methodology that was chosen by the review team that required certain items of equipment: pin boards, coloured cards et cetera.

Senator CROSSIN—But purchased from which company?

Mr Gibbons—The equipment, such as the stationery items and the notice boards, were purchased from standard suppliers of that sort of equipment. There is no particular supplier.

Senator CROSSIN—So the moderation product that was used during the review—

Mr Gibbons—There was no product, Senator; there was a methodology adopted that I understand may have been—

Senator CROSSIN—Was the methodology adopted, developed or formed by a particular company?

Mr Gibbons—I believe so, but I am not the one to give you information on that, Senator. My knowledge is limited on that.

Senator CROSSIN—Who would be able to give me information about that?

Mr Gibbons—I think the panel secretariat.

Mr Vaughan—Senator, my understanding is—

Senator CROSSIN—Who comprises the panel secretariat?

CHAIR—Perhaps Mr Vaughan could at least respond, Senator.

Mr Vaughan—I will just elaborate on what Mr Gibbons said. The PinPlan product is proprietary product, which is, as I understand it, owned or licensed by a firm called Impart, but I will just check. It is jointly operated by two companies: Impart Skills Pty Ltd and Sharpen Pty Ltd. The product was purchased from them. That is my understanding. The decision to purchase the product was made by the review team and its secretariat, and the costs were borne by ATSIC.

Senator CROSSIN—So there is such a product then?

Mr Vaughan—Yes.

Senator CROSSIN—That is different to the advice I was given a moment ago.

Mr Vaughan—It takes the form of whiteboards, coloured cards and so forth, and it requires—

Senator CROSSIN—Who was ultimately responsible for deciding how much the panel members and the secretariat were to be paid during the ATSIC review?

Mr Vaughan—The panel members were engaged under consultancy contracts with the department, which we negotiated with them. The secretariat members were, by and large, seconded at their existing levels from various agencies—Mr Cunliffe from Defence and so forth.

Senator CROSSIN—Who ultimately was responsible for deciding how much the panel members were to be paid?

Mr Vaughan—The department negotiated the daily rates with them, and their travel expenses and so forth were just put on a standardised SES arrangement.

Senator CROSSIN—Their daily rates were done on an individual basis between the three of them. Is that correct?

Mr Vaughan—That is correct.

Senator CROSSIN—So each of the three were not paid the same amount to conduct the review.

Mr Vaughan—The amount that each of them ended up being paid was a product of two things: (a) their daily rate and (b) how many days they spent on the project.

Senator CROSSIN—Is it correct that two of the panel members were paid \$120,000 for their work but Mr Hannaford was paid \$263,000?

Mr Vaughan—Those figures do not correspond with the data I have at the moment. The data I have at the moment is different to that, Senator.

Senator CROSSIN—What was the amount that was paid to each of the three panel members?

Mr Vaughan—The amounts paid to date, excluding, obviously, travel expenses—we are talking about remuneration—are for Mr Hannaford, \$219,775; for Ms Huggins, \$96,000; and for Mr Collins, \$51,000.

Senator CROSSIN—Why were the members paid a different amount if they were expected to do the same sort of work?

Mr Vaughan—It was a matter of negotiation with them individually. They did not have exactly identical roles in respect of the fact that one of them was the chair or convener and it required more of his time than that of the other two.

Senator CROSSIN—I understand in radio interviews I have heard given by all three panel members that all three have said from time to time there was no particular chair. Is that not right?

Mr Vaughan—In going about their business they decided that they would split up at various times and operate as equals but, for organisational purposes, Mr Hannaford was the convener if you like.

Senator CROSSIN—How much has been spent on the review to date?

Mr Vaughan—The original estimate, as I said, indicated \$1.2 million but the final amount will depend on the invoices that come in. It could be more or less than that to some degree. As I said, because ATSIC is meeting the costs, I am not in a position to give you the costs to date.

Senator CROSSIN—Are you not able to provide me with a breakdown of the costs that have been expended towards the review to date?

Mr Vaughan—What happens is that some of the costs come to us because of the consultancy contracts which we pay and then forward to ATSIC for reimbursement. But there are other costs which go directly to ATSIC—the PinPlan purchase, for example. Only ATSIC has the consolidated costing for all the elements of the project.

Senator CROSSIN—Perhaps ATSIK can provide us with a breakdown of exactly what money has been spent and on what that money has been spent.

Mr Gibbons—I will take that on notice.

Senator CROSSIN—Thank you. The *Australian* newspaper reported on 15 September that the cost of the review had blown out to over \$1 million. Is that correct?

Mr Gibbons—I do not know off the top of my head. I will have to look at the accounts.

Senator CROSSIN—Is there no-one here from ATSIK who can answer that?

Mr Gibbons—No, we will have to take that on notice.

Mr Vaughan—We did provide an answer to a question on notice from you at additional estimates where you asked what amount of funding had been allocated against the review. In our answer to that question we said that \$1.2 million had been set aside—that was in May.

Senator CROSSIN—I am now asking how much has actually been spent on the review and whether or not we are now looking at \$1.2 million or \$2.2 million. It seems that you have not brought that information with you.

Mr Vaughan—I think Mr Gibbons has undertaken to extract that information about expenditure to date and to provide it to the committee.

Senator CROSSIN—Did ATSIK enter into two extra contracts worth \$121,000 or thereabouts for a consultancy with Mr Hannaford—on 15 January this year?

Mr Gibbons—ATSIK's or ATSIK's role in this has been as the accountant. We are not controlling the review. We are not determining the expenditure. I will have to get the records checked to answer that. I will take it on notice.

Mr Vaughan—I think I can help you with that question. That consultancy group with Mr Hannaford was with the department and not with ATSIK or ATSIK.

Senator CROSSIN—The two extra contracts?

Mr Vaughan—There was the original contract and an extension of the contract.

Senator CROSSIN—What was the original contract for?

Mr Vaughan—The amount specified in the contract and in the gazetting is an estimate of what the costs might amount to; it is not a fixed contract sum because the nature of the cost depended on how many days would be involved in the task. Necessarily, we made certain assumptions for budgetary purposes and contract publication purposes about how many days might be involved. It was clearly provided for in the contract and understood that the number of days, and therefore the total costs, might be more or less than that calculation suggested.

Senator CROSSIN—The amount of \$263,000 for the employment of Mr Hannaford to conduct the ATSIK review—Mr Vaughan said that that was actually \$219,000—was that published in the government gazette publishing system. Why is there a discrepancy?

Mr Vaughan—Because the \$219,775 is expenditure to date. The figure of \$260,000-odd was an estimate at the time of the contract and its extension as to what the total costs might be. As I indicated, it will presumably be more than \$219,000 because the final invoices are

not in. Whether it goes beyond \$263,000 or is less than \$263,000 we will not know until Mr Hannaford has submitted his final invoice.

Senator CROSSIN—Who made the decision to actually use the PinPlan product that was provided by Impart Skills? Who made the decision to purchase that?

Mr Vaughan—My understanding is that it was Mr Hannaford's suggestion.

Senator CROSSIN—And when was the decision made to use that method?

Mr Vaughan—Without the benefit of Mr Cunliffe's presence to advise on that, I would only be speculating as to how that decision was made. Whether it was made by Mr Hannaford in isolation, whether it was made collectively by the three members of the review panel or whether it was made by the secretariat in consultation with Mr Hannaford, I cannot provide an answer to that.

Senator CROSSIN—So, once a decision was made to purchase this product, ATSIC has just agreed with it without looking at it, evaluating it or questioning it?

Mr Gibbons—ATSIC was not in a position to control or direct the review. We simply provided the funding and handled most of the accounting. If there was a requisition duly approved by the secretariat and presented to us for payment, we would pay it.

Senator CROSSIN—What is the relationship between Mr Hannaford and his suggestion that the PinPlan product be purchased?

Mr Vaughan—We understand that, aside from being an experienced and accredited user of the product, Mr Hannaford has no other commercial interest in it.

Senator CROSSIN—Does Mr Hannaford benefit from any form of resale of the plan?

Mr Vaughan—I do not know what you mean by resale. To my knowledge, to our understanding, Mr Hannaford does not have a financial interest in the product itself.

Senator CROSSIN—Do any benefits accrue to Mr Hannaford in the use of this product?

Mr Vaughan—As far as I understand it, other than the use of the product in the course of his work, there are no such financial benefits to him.

Senator CROSSIN—Are there any other benefits?

Mr Vaughan—I am not aware of any tangible or commercial benefits. I am not sure what the widest possible language is I can use here.

Senator CROSSIN—Does Mr Hannaford have any contractual agreement or agreement of another kind with Impart Skills for this product?

Mr Vaughan—Not to my knowledge. He is a trained and an accredited user of the product.

Senator CROSSIN—And does he, as an accredited trainer, derive a benefit from the purchase of that product?

Senator Vanstone—With respect, Senator—I am just trying to follow this—I think you have asked the same question about four times.

CHAIR—Senator Crossin, the time allocated for consideration of these estimates, as you were advised earlier, concludes at 11 p.m. If you have further questions, are you able to place those on notice?

Senator CROSSIN—Can I at least finish this line of questioning?

CHAIR—How long will that take?

Senator CROSSIN—Probably about five minutes.

CHAIR—Yes.

Senator CROSSIN—I understand that the amount paid to Impart Skills was \$16,933 for this product. Is that correct?

Mr Vaughan—There were two aspects: training in the use of the product, which was approximately \$17,000, and purchase of the materials, which was about \$14,000.

Senator CROSSIN—How many people were trained in the use of this product and who were they?

Mr Vaughan—I do not know the exact answer to that question, but I sat through a couple of sessions where the product was used and it was evident that the members of the secretariat to the review were proficient and had been trained in the use of the product.

Senator CROSSIN—Was there a tendering process for the purchase of this sort of product and, if not, why not?

Mr Vaughan—I would have to defer to the delegate who approved the purchase as to how that decision was made, but if the review team had settled on a proprietary product as their preferred vehicle or device it would not have been an option to go to the marketplace once they had settled on a preferred product.

Senator CROSSIN—I understand your procurement guidelines require that all goods and services valued over \$30,000 must be sought via a public tender process.

Mr Vaughan—I will have to refer to ATSIC to answer the question as to the decision of the delegate and how it related to normal acquisition and procurement policy.

Senator CROSSIN—Why is there nobody here who could answer those questions?

Mr Gibbons—As I said before, ATSIC and ATGIS were acting as the accountant-facilitator in this process. They were not dictating the requirements for the review et cetera. I will take the question on notice, have someone examine the records and provide a response to you.

Senator CROSSIN—Is it correct that goods over the value of \$30,000 must be sought via a public tender process?

Mr Gibbons—In general, but I do not have the rules in front of me, so I will take it on notice.

CHAIR—Does that conclude your questions, Senator Crossin?

Senator CROSSIN—Yes. I will put further questions on notice.

CHAIR—If there are no further questions in this Indigenous affairs area of the portfolio, I thank you all for your assistance this morning.

[11.11 a.m.]

Migration Agents Registration Agency

Senator BARTLETT—Can you give me an indication of what the division is these days between people who are registered as professional agents and those who are not-for-profit advisers, and what the trend is in relation to that?

Mr Mawson—The current trend, as a percentage of the number of commercial agents, is going down. We currently have about 270 non-commercial agents in the scheme, with an overall total of 3,200 agents registered. That decline is attributable to a number of issues. One in particular has been a focus by the authority on ensuring that people who register as non-commercial agents are in fact operating as non-commercial agents. We have had a number of issues with individuals in that area who have been claiming to be non-commercial, but when we have gone behind either their employment or their organisational structures we have found them to be commercial. We then work with them, either through the registration process or through the complaints process, to highlight that to them and take action on it.

Senator BARTLETT—Would you be able to ascertain whether the majority of non-commercial agents give advice through community legal centres and those sorts of places, as opposed to being individuals out on their own?

Mr Mawson—Particularly now that the legislation has changed, as of this year, the authority has asked for some changes to assist in bringing in those individuals to work for not-for-profit organisations. There are a number of major organisations throughout Australia who help the financially disadvantaged, vulnerable client. Certainly either they are employees of those organisations or they do voluntary work for those organisations. There are also a number of people who hook into the state legal aid systems, and they are registered. Some of the legal aid officers are also registered as non-commercial agents.

Senator BARTLETT—Are you able to ascertain whether there is any difficulty with some of those community legal centres or not-for-profit bodies in the cost of registering people to give migration advice on a non-commercial basis? Is the cost of registration proving to be problematic?

Mr Mawson—The cost of registration itself, that being the fee charged for becoming a registered agent or for the ongoing costs of the maintenance of the library et cetera, has not been raised with us. There has been an issue raised in relation to the migration advice profession knowledge entrance examination and the MIA as an organisation has taken it on board to address that. Those matters were mentioned last week. The cost of MAPKE is \$150 for initial registration in the non-commercial area and \$105 for the repeat registration. This compares to \$1,760 for a commercial agent for initial registration and \$1,050 for a repeat registration.

Senator BARTLETT—Obviously with that sort of gap there would be a fair bit of an incentive to try and portray yourself as non-commercial. Are you reasonably confident that you have weeded out or are weeding out people who might be misrepresenting themselves?

Mr Mawson—Certainly. We think we are very close to having most of those individuals weeded out. There are obviously a small number we have some concerns about, but we are

finding the more elaborate schemes that are in place to shield those individuals from our investigations. We seem to be uncovering them slowly but surely because of the number of crosschecks we are doing across the system.

Senator BARTLETT—You folks have appeared before Senate committees a couple of times in recent weeks as well, so I do not want to go over old ground, but the issue which arose last week with the legislation—the name of which I have forgotten—to do with migration agents showed just how tough you are on people who misbehave. Is there either a statutory requirement or an approach that you have settled on as part of your corporate strategy of dealing with agents? There must be a balance between educating agents who are doing the wrong thing to stop them doing it and the going out, hunting them down and breaking heads type of approach. Obviously to some extent it is a case by case situation, but I guess it is more about the priority you see in your role. Is it to identify and punish as hard as possible, or is it to just generally bring up the standards of the industry?

Mr Mawson—We have taken a twofold approach. Where we find an agent has issues around integrity, we have taken the harder approach. Where there seems to have been some sort of oversight or where an educational process could be used, we have used the sanction scheme to try and achieve that. Where it has been a knowledge issue—and sometimes it is simply a knowledge issue—we have used the sanction scheme to achieve that. Unfortunately the sanction scheme as we have it today is very harsh, and that gives us some problems. Certainly the MAIM would resolve some of those issues and would allow us to take a much more educative approach to those issues where it is clear that the agent has somehow misunderstood the process. We would get them to do some educative process to sort it out, keep working on it and improve their knowledge et cetera.

However, where the matter is of integrity, certainly the authority takes a very hard line. An example of that is the agent who had a false high school certificate that he proffered as evidence of English language ability, or there may be agents who make false statutory declarations to the authority. Those individuals are usually towards the harsher end of the sanction regime. The MAIM will allow us to have a lot more flexibility. It has conditions on the cautions. They allow us to give a caution, most probably on the condition that the agents do some educative process. There is another advantage under the MAIM that the notice is not open to the world forever, as currently occurs with, say, a caution. It will come off the register in a very short time, so it can be used as a rehabilitative process rather than a straight disciplinary process.

Senator BARTLETT—Is that in the integrity measures bill?

Mr Mawson—Yes.

Senator BARTLETT—I am just double-checking. The fact that you call it the MAIM has nothing to do with your desire to—

Mr Mawson—I am sorry, Senator. It is the migration agents integrity measures bill and the acronym is MAIM, unfortunately.

Senator BARTLETT—Without wanting to traverse grounds that were covered at the hearing before of a separate committee, there is the issue of not so much the stereotypical shonky migration agent but the far more common shonky non-migration agent holding

themselves out to be a migration agent. Obviously you do not have any scope for doing anything with those people because they are not registered. As I understand it, if you come across those you refer them to DIMIA.

Mr Mawson—That is correct.

Senator BARTLETT—I am not asking you to criticise DIMIA of course, but are you satisfied with the adequacy of mechanisms to identify those people who are falsely portraying themselves to be agents or receiving payments when they should not be?

Mr Mawson—From our perspective, when we identify someone who is holding themselves out to be a registered agent and they are not—and we do that through a number of processes like through advertising or through the complaints we receive—we notify the department. We actually do not do any follow-through on that notification because we are putting all our energy into trying to resolve the issues around the registered agents. We do get notified on occasion of some action that is taken against those individuals and that feeds into some of the other linkages we have to people like the Law Society and so on. We have not had a great deal of focus on the unregistered practice as such. Once we have identified them, we pass it onto the department and let the department manage it from there.

We certainly do want the department to take strong action against unregistered agents. We find that occasionally in an unregistered practice there are registered agents involved. We work very hard to separate the registered agent from the unregistered practice as best as possible. Certainly we would seek to have fairly rapid harsh punishment for individuals who do breach the law in that regard. Again the integrity measures bill, as I understand it, will give the department more flexibility and allow them to act in a much faster way in relation to some unregistered practice issues.

Senator BARTLETT—Do you as part of the training for agents or communications with agents encourage them to report any evidence that they come across of people taking money when they are not agents and those sorts of things? Without going too much through the separate committee, a lot of people would say that someone said, ‘I am good mates with the minister and, if you give me a couple of thousand dollars, I will help you out,’ yet none of them seem to be able to give us anything solid. Is that something that you encourage your agents to do? I imagine that is where a lot of it would come from. People stuffed around by someone who does not know what they are talking about and is just trying to rip them off will eventually go to another agent and tell them about it. Do they pass that on to you?

Mr Mawson—We do actively encourage them. When we see things in the media or in any of the parliamentary hearings where someone has identified those issues, we have asked them to give us some information. Unfortunately, not much information has been forthcoming even when an individual has sat before some of the committees and made the statements. Also for every agent we now distribute a package at the time of the registration, and that includes a complaints form to assist them to encourage their clients to notify us. We also have a brochure about complaints to try to help the clients understand the complaints process. But we have found that most clients have been unwilling to talk about the issue with us.

In addition to that, we actually run training sessions for various course providers. We are not the course provider ourselves but we do presentations at entry level and also as part of the

continuing professional development area. We go into quite a bit of issue about the unregistered practice and encourage agents to be reporting this sort of activity. Mr Brown points out that when the activity is by another agent we also encourage that. Again, there are some difficulties with that and the clients tend not to want to bring it forward. Agents do say to us that the clients are the ones who are reticent rather than the agents. Where the agent can actually put a complaint in, they usually do.

Senator WONG—How many agents in total are registered with MARA at the last count?

Mr Mawson—As of about yesterday, there were about 3,240 or thereabouts.

Senator WONG—Do you have a monthly auditing of the number?

Mr Mawson—No, it is done on a weekly basis because of the processes we have. You have got repeat registration where every agent every year has got to apply for registration and then you have the initial registration, and there are a number of cycles going on at the same time. So basically every week we get an updated number.

Senator WONG—Can you give us an indication of the trend in the numbers of registered agents?

Mr Mawson—Yes. Up to about four or five weeks ago we would have seen an average intake of up to 700 new agents into the system—

Senator WONG—Over what period is that?

Mr Mawson—That is in a 12-month period. However, I would also point out that in the last seven days of the last financial year we had 120 applications in those seven days. The migration agents entrance examination appears to be starting to bite and we have noticed that the notices of intention in the newspaper have dropped significantly from around 25 a week to about eight last weekend. So there has been a significant shift in that. However, there are 77 candidates for the examination next Saturday.

Senator WONG—Yes, I was going to ask you some questions about that in a minute. Is your registration on a financial year basis?

Mr Mawson—No, it is the anniversary of when the applicant applies.

Senator WONG—So far this financial year, of the 3,240, how many were repeat registrations?

Mr Mawson—I can only give you the number at this point in time for this quarter so far. We have received 194 applications for repeat registration. That is from 1 October to yesterday.

Senator WONG—You do not have any further details here?

Mr Mawson—I have just been given some more details. From 1 July 2003 to September 2003 we have had 714 repeat registration applications received.

Senator WONG—And what about this year? I presume all of the 3,240 to last week would be registered within the last 12 months, by definition.

Mr Mawson—Yes.

Senator WONG—Can you give me for the same period how many of them would be repeat registrations?

Mr Mawson—I could not tell you exactly. Something like 2,500 of those agents would be repeat registrations. That is an approximation.

Senator WONG—Perhaps you could take that on notice.

Mr Mawson—Certainly, Senator.

Senator WONG—That would mean that your answer looks about right: 700 new applicants in the last 12 months, if 2,500 are repeat. How many agents were rejected on application for repeat registration out of the 3,240?

Mr Mawson—In the period 2002-03 we refused 29 applicants. Of those, there were 19 applications for repeat registration and 10 for initial registration.

Senator WONG—What about between the end of the financial year and today?

Mr Mawson—As at the beginning of this week, or as at last Friday, there has been a total of three—that is, two repeat registrations and one initial registration.

Senator WONG—The repeat registrations were refused because presumably MARA had come to a view about the competency or the conduct of the practitioner?

Mr Mawson—In the repeat registration area there could be a number of issues. It may be because of their conduct. It may be one of the areas where we have had some difficulties such as their residency. Under the legislation we are required to ensure that an applicant for registration who has permanent resident status is usually resident. There have been a number of applications for repeat registration where we have found that the agent is not operating inside Australia but operating outside of Australia most of the time. So the authority has not been satisfied that they are usually resident, as the legislation requires. Some of them have been refused because of their conduct.

Senator WONG—The 700 new applicants is a reasonably significant expansion of the pool of migration agents.

Mr Mawson—It is.

Senator WONG—How much money do you get from the government?

Mr Mawson—The way the system works is that the agents pay an application for registration fee. That money is paid into consolidated revenue and is then given back to MARA.

Senator WONG—How much is the fee?

Mr Mawson—The fee for repeat registration is \$1,050 and for initial registration at the moment is \$1,780. However, last year it was \$950 or thereabouts and \$1,180. That means that the operation is effectively self-funded.

Senator WONG—If the MAIM legislation—that is a shocking acronym—is passed, would you envisage an increase in the compliance workload of your organisation?

Mr Mawson—There will be some additional compliance workload, yes. However, as some of the sanctions will be easier to administer—because it is easier to caution an agent than to suspend them in terms of the standard of proof et cetera and because it will be easier to work

out whether you are hitting with a sledgehammer or with something much lighter—we expect that the workload will even out somewhat. But it will be slightly heavier.

Senator WONG—Is there any increase in funding to MARA envisaged should that legislation pass?

Mr Mawson—At this point there has been no discussion about an increase in funding. The current fees were only set on 1 July this year. We are watching the impact of those fees first off to see whether the initial registrants are going to continue to come in at that high rate or whether that will affect that, which would mean we would have a change in the funding structure. We will basically wait and see to understand how the agents will behave, given the current fees.

Senator WONG—In exploring reasons why agents might be rejected on either an initial or a repeat application, do I understand that MARA primarily waits for information to come to it by virtue of client complaints or community complaints or, as I think you have indicated in another forum, if you come across advertisements which would appear to advertise services that are contrary to your rules?

Mr Mawson—There is that. There are also a couple of other areas. The staff and the members of the authority do read the newspapers and are aware of different things going on in the community, so we have identified some agents of concern in that area. In addition to that, when an applicant applies for registration there is a series of questions which we tie directly to section 290 of the act. Those questions are fairly far reaching as to whether the person has been investigated by a professional association or a government authority et cetera. Once we have the answers to some of those questions, we may delve into those, and that exposes certain issues for us as well.

Senator WONG—Can you provide a copy of those questions?

Mr Mawson—Certainly.

Senator WONG—Do you have a similar set of questions on repeat registrations?

Mr Mawson—Yes. The way repeat registration works is not necessarily questions; it is presented to the agent as a series of statements based on the information the authority has been provided beforehand. It is a 12-page document which we hand back out to the agent. For initial registration, they are asked a series of questions. We can provide those. They are available on the Web.

Senator WONG—You indicated that you do some proactive tasks such as reading newspapers. Apart from that, do you do any other proactive work to audit your industry or particular agents?

Mr Mawson—Yes. There are a number of things we do. The most recent initiative we have is a process of watching web pages, where a computer is monitoring the web pages of migration agents to ensure that they comply with the code of conduct. There are a number of issues in the code. If you have a web page, you must have a link to the MARA's site for the code of conduct. You also must have your agents registration number on there. As I mentioned in the ministerial intervention inquiry two weeks ago, we also do checks on agents' clients accounts. We ask them for a copy of their contingency plan. We may ask them for a copy of

their current contract and its variants to ensure that it complies to the code of conduct and those sorts of thing. If there are a number of questions, we go down there. If an agent comes to our attention through that process—maybe an agent has a no win, no fee policy—we also ask them to demonstrate where they got the money to satisfy the conditions of their contract.

Senator WONG—In the migration inquiry you mentioned, there were a number of allegations raised regarding conduct of migration agents and also conduct of non-migration agents. What if any additional compliance activity has MARA determined to undertake as a result of those matters becoming public?

Mr Mawson—At the time, as we went through—and as I pointed out to Senator Bartlett—we approached each of the informants before the inquiry and asked them for more information. We have not had any success in getting further information about that. That is all I can say on that particular issue.

Senator WONG—How many applicants did you say were sitting for the first entrance examination?

Mr Mawson—There were 77 applicants sitting for the examination: 54 are in Sydney and the rest are in Melbourne.

Senator WONG—Are any further exams scheduled for the remainder of this year?

Mr Mawson—Not for this calendar year. The examination will be run three times a year in November, March and July. The reason for that timing is to have it linked to the university system. It is basically tied to the whole university process. It is a transitional process for the long term.

Senator WONG—There has been some suggestion in public that registered migration agents ought to have things such as professional indemnity insurance and an audited trust account, as legal practitioners are required to have. What is your view on these proposals?

Mr Mawson—The code of conduct does not require a trust account; it requires a separate bank account which is—

Senator WONG—I understand that it does not require it currently. I am suggesting to you that there have been suggestions that there should be such an audited account and I am asking whether MARA has a view about it?

Mr Mawson—The clients' view of the authority is that they are certainly not opposed to having an audited clients account process in place. That would give more surety to the consumer. However, the process would need to be in line with the code of conduct, where the code of conduct has certain requirements on an agent in relation to no win, no fee policies and those sorts of things, which is very similar to a trust account but not quite the same.

Senator WONG—I think an audited trust account is one that is independently audited where there are greater fiduciary duties on the holder of the trust account in relation to people whose moneys are deposited or transacted through that account, which is a higher level of regulation than is currently in place in the code of conduct.

Ms Chao—Yes, there are more rules around a trust account. However, the code of conduct rules around a client account do reflect a trust account situation. In terms of audited reports,

the MARA is of the view that, as Mr Mawson has pointed out, we would be supportive of that.

Senator WONG—Have there been any steps taken by MARA or by the government towards establishing such a system?

Ms Chao—I cannot answer on the part of the government. However—

Senator WONG—I just thought you might be aware of it, given that you are the—

Ms Chao—But, in terms of the MARA, we have requested audited accounts. I pass on to Mr Mawson on that.

Mr Mawson—We have been doing some work around the clients account trying to make it clearer that it is a bank account. We have asked that it be titled the ‘clients account’ rather than as a general account, as was occurring. We have not asked for those accounts to be audited at this point in time. However, the authority has not been opposed to that at all.

Senator WONG—Has the government had any discussion with you regarding putting in place that additional regulatory requirement of an audited trust account?

Mr Mawson—No.

Ms Chao—No.

Senator WONG—There have been quite a number of allegations, which I am sure you are aware of, of exorbitant fees being charged by non-migration agents and migration agents. Do you think that requiring an audited trust account—with the consequent, more severe penalties which would apply if the rules were breached—is a good idea?

Mr Mawson—Our view would be that, where you have the claims that are made about exorbitant fees, it is unlikely that the clients account or an audited clients account is going to disclose that. On the issue of exorbitant fees—and, again, what you would call exorbitant is relative—I am thinking about where I have seen claims of more than \$10,000, for instance.

Senator WONG—There has been quite a lot of evidence of that.

Mr Mawson—There has been a lot of evidence given. However, there have not been that many instances—although there have been a couple—of such high fees reported to MARA.

Senator WONG—But you can understand why people might be frightened of disclosing that, can’t you, given the context in which such fees are usually paid?

Mr Mawson—I am not sure I can always be aware of the context. We have seen a number of different contexts for large fees to be handed over and they are not necessarily to do with immigration assistance, although it seems that the client may confuse the reason for the large fee being handed over with their immigration assistance. But they are somewhat separate things, from what we have seen.

Senator WONG—What do you say people are handing fees over for?

Mr Mawson—We have seen in a very small number of cases a large sum of money transacted for the purchasing of a house or a business or something like that, which may be separate to the visa application.

Senator WONG—Have you taken any action in respect of those?

Mr Mawson—We have. Where the client has disclosed such things to us, we have done some things about that, yes.

Senator WONG—Has the agent been deregistered as a result?

Mr Mawson—No. Because the fee either has been refunded or is to do with a separate, legitimate transaction, there has been no need to go in and deregister the agent. The agent has to deal with the authority in relation to answering questions and so on, and that is an issue, or they have to go into mediation, and that has happened with another matter we have dealt with. But I cannot give you specifics because, although we know some of the mediations have occurred, mediations are confidential and we are not always told of all the information out of a mediation.

Senator WONG—How can you ensure that a side transaction is not simply a convenient way of the agent obtaining additional funds essentially for migration advice or migration related work? If I am a lawyer and you come to me for assistance and I say, ‘By the way, I’ve got this property. Can you buy it at higher than what the going price is?’ is that appropriate? Do you think it is appropriate that agents engage in related transactions with people on whose behalf they are acting?

Mr Mawson—The conflict of interest provisions were put into the legislation this year and make it clear that an agent is not to go into a situation where they have that conflict. We have had in the past—and I can think of a number of transactions, including one that is still on foot in the AAT and has been for some time—situations where the agent has had shareholdings. In those instances the authority have been able to act, but where the transaction appears to be a legitimate arms-length transaction there is no reason for the authority to take any action. When we have found that there is a financial benefit flowing to the agent which either has not been disclosed to the client or is such that it would be unconscionable for the agent to be involved in such a transaction, the authority have taken cancellation actions.

Senator WONG—How many instances of related transactions have you become aware of?

Mr Mawson—I have a number of agents in mind but, in terms of the total number of transactions, I could not answer that question here. I would have to go and do some research.

Senator WONG—If you could, that would be useful.

Mr Mawson—Certainly.

Senator WONG—Going back to the exam, is it the case that the exam will be on legislation that is in place six months prior to the date of the examination?

Mr Mawson—That is correct. The reason for that is that, given the preparation time for the examination and the questions and the exam process, you need to have a particular point in time for the students to be able to study to make it a fair exam. Whilst there are some issues around that, in that, yes, the legislation has moved on, we believe that the six-month warning is sufficient. The other issue is that once an agent has become registered and gone through the examination they have to upgrade their standard through their ongoing professional development each year—remembering that migration agents, unlike lawyers in many states, have to have ongoing professional development every year. As of July this year, the standards for the ongoing professional development were upgraded, if you like, to the next stage of

transition—and all our education programs are in transition—and that has changed the benchmark significantly. We are now receiving applications from course providers to meet that new standard. That means an agent will come in with a particular standard of knowledge and understanding of how to read the legislation and then will have to have ongoing professional development each year.

Senator WONG—The reality is that you are setting an exam, which is essentially an entrance exam for the industry, that is based on legislation that is six months old—and in the migration environment there can be quite a number of changes in a short period of time—

Mr Mawson—Certainly.

Senator WONG—on the basis that after they have done that exam they are competent, or so they hold themselves out to be and so you hold them out to be as a result of their passing the exam, to give migration advice in the current environment. Can you explain to me how this exam increases the competency levels of your industry? Senator Payne and I were just commenting that we wish we could have done our law exams on such a basis!

Ms Chao—We would all like that. The exam is designed so that the candidate on successful completion will be in a position to read the legislation, apply facts to the legislation and be able to keep themselves apprised of any subsequent change in the six-month period, although it certainly does not substitute for a law degree in applying the law generally; it is very focused on the immigration jurisdiction. Our aim is that, although it may be at that point in time, like many exams are on a practical level, a little behind the legislation, as textbooks often are, the candidate should be able to apply the law to the particular circumstances of their client's situation after the exam.

Senator WONG—So it does not concern you that what you are actually testing is competency of the law as it was half a year before people sit the exam, despite the fact that they are going to go out and be able to advise people immediately in terms of the current law?

Ms Chao—It also covers procedure and we certainly expect the migration agent to have a professional library and be able to read and apply the immigration law after they have graduated. As you would understand, even completing a law degree the law changes so often that one has to apply one's skill to be able to read and apply the legislation rather than remember what it may have been at a prior point in time—unless, of course, it is appeal work, and then it is essential.

Senator WONG—No-one would disagree with that, but you are talking about the exam which is the threshold for entry to an industry and you are setting the exam based on the law as it was six months ago. Is it a multiple-choice exam?

Ms Chao—It is.

Senator WONG—So a multiple-choice exam based on six-month old legislation and procedure?

Mr Mawson—Yes, it is a four-stem multiple-choice examination.

Senator WONG—What is four stem: four parts to it?

Mr Mawson—Four possible answers to any particular question.

Senator WONG—So you could probably get 25 per cent just by ticking A all the time.

Mr Mawson—I do not think so. The examination itself is broken up into four subparts. The applicant must pass each subpart. In addition to that, the examination has a number of psychometrics inside it. It is an area I do not know much about—

Senator WONG—Psychometrics?

Mr Mawson—Yes, there are some psychometrics inside the examination to ensure that from examination to examination you can determine how the candidates have performed and also to determine how the candidates within one particular exam have performed against each other, so that someone going through and ticking As is unlikely to get a pass mark in the exam.

Senator WONG—I did not assert a pass mark; I said 25 per cent on the basis of probability. What is the purpose of the psychometrics?

Mr Mawson—MARA itself is not running the examination. The Australian Council for Education Research is administering the exam. They have quite a lot of experience in this area. They run the entrance to the medical profession as well. They have used their experience to add the psychometrics and other processes within the examination and the authority is being advised by them. They are the people who are actually running the exam and the authority is approving the questions itself.

Senator WONG—Perhaps I can take issue with your saying the people who run the medical entrance exam. There are quite a number of other bodies, including universities and colleges, which deal with entrance into medical specialty. Turning from that issue, I seem to recall that in the *Weekend Australian* recently MARA placed an advertisement referring readers to a detailed response on your web site regarding reports that had been printed in that paper.

Mr Mawson—That is correct.

Senator WONG—What was the cost of that?

Mr Mawson—About \$1,200 or \$1,400.

Senator WONG—Was the action prompted as a result of the refusal of the *Australian* to print a response to the articles concerned?

Mr Mawson—We certainly had a great deal of difficulty in, firstly, having the journalist involved correctly print the material and, secondly, getting the advertisement placed—that took a lot of negotiation. Eventually we were able to get a letter to the editor published—again, with quite significant difficulty.

Senator WONG—What were the issues in the *Australian* reports that you took issue with? I do not want to be here all day—we have a lot of other people to get through, and I am conscious that I have spent a lot of time with you—but are you able to give us a thumbnail sketch of that?

Mr Mawson—The background to the matter was that we were presented with quite a significant tranche of allegations of various types against the authority and members of the authority. Some of the issues you have raised here in relation to the entrance standards were

raised. The issue of the procedures involved by the authority in investigating a complaint was raised. The implication was that the authority did not apply procedural fairness or natural justice in its processes—again, we denied that—and that our decisions were not open to review. Our decisions are all reviewed at the AAT. We publish our decisions on our web site. We also publish a summary of our decisions in the newspaper.

The other allegations were that there were conflicts of interest within the authority and that the authority was targeting a specific group of individuals because of their association with each other. That allegation is totally incorrect, and certainly the authority rebutted that matter. The series of allegations continued at quite a pace, including an allegation that you have raised—the issue of the entrance level examination, including that the authority had plagiarised the entrance examination from another source. What was most astounding about that particular allegation was that when the authority took steps—

Senator WONG—This is the multiple-choice exam we have been talking about?

Mr Mawson—That is correct. The most astounding thing about that was that when we pushed back, particularly on that allegation, an offer was made that the allegation would be dropped if we were to just happen to pass over a copy of the exam. We refused to do that. The whole thing was quite a disgraceful attempt at colouring the consumers' view of the authority, effectively lessening the protection that the authority could give to the consumer.

Senator WONG—If you are correct and the article was incorrect—as much as some of us might doubt journalists generally—one would have thought that they would have been willing to print something. What grounds were given for not printing a response or a correction if they were so incorrect in the assertions that they were making?

Mr Mawson—We could not get that clarified. We sought a number of times to get a letter to the editor published but, as I said, even getting the advertisement placed was an interesting experience—we were pretty much past the deadline when we got agreement between the parties that they would publish the advertisement as it was. It was difficult to get them to do that. We are not sure why that was. We could not get a clarification on that.

Senator WONG—Could I suggest to you that it was because it was perceived that there was some truth in the allegations?

Mr Mawson—I would not think that would be true.

Senator WONG—You do not think so?

Mr Mawson—No.

Senator BARTLETT—I have a question—I know I was around at the time, but it was a while ago—and it might be one for Mr Farmer to answer. Given that MARA is a separate entity to government, what is the rationale for having the pleasure of them appearing before us at Senate estimates? I am not complaining about it, I must say. It is always very helpful. But I am trying to recollect why we have that scenario.

Mr Farmer—Do you mean why MARA appears here? I think it is because the regulation of the industry is conducted by MARA, but it is under legislation and regulations and the thought has always been that we should be answerable to the parliament for the administration of that legislative and regulatory environment.

Senator BARTLETT—And estimates was the most convenient mechanism to do that, even though there is no expenditure by government on MARA.

Mr Farmer—As has already been said, the fees are collected by government and then in effect made available to MARA, so there is an expenditure element there.

Senator BARTLETT—I am just refreshing my memory. Thank you.

Senator WONG—Ms Chao and Mr Mawson, I wonder if you could take it on notice to provide us with a list—obviously you may not want to indicate the people concerned; I do not know if that is public information—of the various grounds of applications for initial or repeat registration in the last financial year and the year to date and of the grounds of rejection.

Mr Mawson—Certainly, Senator.

CHAIR—There is nothing further. Ms Chao, Mr Mawson and Mr Brown, thank you for your assistance. What I would like to do, with the cooperation of the committee, is complete examination of the two tribunals by 12.30 p.m., if that is possible.

[12.02 p.m.]

**Refugee Review Tribunal
Migration Review Tribunal**

CHAIR—Good afternoon, Mr Karas. We will begin with questions from Senator Wong, and then I think Senator Bartlett has a couple.

Senator WONG—How many cases did the RRT finalise in the 2002-03 financial year?

Mr Karas—In relation to the Migration Review Tribunal, up until 30 June last year, it finalised 9,714 cases. In relation to the Refugee Review Tribunal, it finalised 6,254 cases. Both tribunals finalised above their targets for the year.

Senator WONG—Could you give me a breakdown of the visa classes, particularly permanent and temporary protection, of the 6,254 determined finalised by the RRT?

Mr Karas—A break-up of the visa class in relation to the—

Senator WONG—RRT finalisations.

Mr Karas—I do not have those figures before me in relation to TPVs. Is it TPVs you are talking about?

Senator WONG—Temporary and permanent protection visas. Are you able to give those?

Mr Blount—The tribunal does not make decisions about a TPV or a permanent visa as such. We simply make a review of a decision to refuse a protection visa, so I do not think we have that kind of breakdown in those terms.

Senator WONG—Are you able to indicate how many of the finalisation cases related to permanent or temporary protection visas?

Mr Blount—I am not quite clear what you mean. We do not determine whether someone gets a permanent or temporary protection visa.

Senator WONG—I realise that. A decision is made by the case officer—by DIMIA, correct?

Mr Blount—Yes.

Senator WONG—in relation to reject in respect of a class of visa. Is that not right?

Mr Blount—They make a decision not to give a protection visa. I think the question of whether it is a TPV or a protection visa in terms of how it comes to us would really only arise if they decided to give a visa and if there was no review or appeal to us, as against whether someone got one rather than the other.

Senator WONG—I appreciate that. In terms of the 6,254, do you have figures as to the numbers that were affirmed?

Mr Karas—Yes.

Senator WONG—The numbers which were an affirmation of the department's decision.

Mr Karas—About six per cent of the cases finalised for that year were set aside, which is about 359 cases, compared with 710 cases for the previous year.

Senator WONG—I know you have previously provided this information, but can you remind me again of how many referrals were made to the minister to exercise his powers, or her powers now, pursuant to section 417.

Mr Karas—It was 929, from memory.

Senator WONG—My recollection is that you are not able to tell us how many of those resulted in visa grants.

Mr Karas—No. As explained previously, when the minister makes a determination, information is fed back to the tribunals. It is only in relation to the statements that are made to parliament and, as I have said, it might be in a particular year that we made 929 applications over a period of a year but, given the time that the minister might take to determine or come to a final decision in relation to a matter, one cannot say that in a particular year, because X number of cases went or applications went to the minister for him or her to exercise their discretion, the number of decisions made in that year reflects the particular applications for that particular year, because they would undoubtedly be carried over from a period of time.

Senator WONG—At the other inquiry where you appeared I think we established that nobody actually audits what occurs after referral to the minister.

Mr Karas—Yes. As I explained to you during that hearing, the tribunal has only a very indirect role in relation to the exercise of the minister's discretion.

Senator WONG—What is your budget appropriation for 2003-04, and what was it for 2002-03?

Mr Lynch—We have just recently tabled our annual report with that data. I am not sure if you have that available.

Senator WONG—I am not sure that I have that.

Mr Lynch—In that annual report we had an estimated actual for 2002-03 of \$18.78 million in revenue from government. We had an actual for the same period of \$20.987 million. Our estimate for 2003-04 is \$19.726 million.

Senator WONG—So your estimate for 2003-04 is less than the actual that you spent in the previous financial year.

Mr Lynch—Yes.

Senator WONG—How do you envisage that occurring, Mr Lynch?

Mr Lynch—We have embarked on a series of efficiencies and savings, which are happening on a number of fronts in staffing and a restructure, streamlining of members' performance and finalisation activities as well as accommodation strategies, following a government decision in February this year to proceed with efficiencies and savings as far as co-location of the tribunals is concerned and establishing more effective working relationships between the staff of the MRT and the RRT.

Senator WONG—What does streamlining of members' work mean?

Mr Lynch—In the case of the MRT, members' work practices are under review. In order to obtain greater finalisation numbers from them and to improve the rate of decision making, without surrendering anything to quality of course, we have been examining the case officer work practices that supply members of the MRT with the essential facts and relevant law. That review process is benefiting members, who are adopting new practices to ensure that they can maintain the productivity expected of them, which is two finalisations per day, as well as possibly improving on that.

In the case of the RRT, last year there was a major streamlining exercise which engaged the attention of all the members of the RRT to construct methods by which their work practices could be modified, simplified and made more efficient to improve their output. Flowing from that streamlining exercise, which the deputy principal member personally managed, there has been a marked improvement in the finalisation outcomes, as you can see from the figures that Mr Karas mentioned. I think that puts a total of about 600 cases above target. Last year's target was 5,600 cases—

Senator WONG—This is MRT?

Mr Lynch—This is the RRT. The MRT similarly had a record year with finalisations of 9,714. I actually think the figure of 6,254 given earlier is not entirely accurate. I think it is 6,251.

Senator WONG—I think you said that the target for RRT was two finalisations per day.

Mr Lynch—No, for the MRT.

Senator WONG—And what is your target for RRT?

Mr Blount—It is 125 decisions for the year per full-time member in Sydney. It is slightly less in Melbourne because there is a slightly different case load mix. It is 115 in Melbourne and pro rata for part-time members.

Senator WONG—How does that compare with previous years?

Mr Blount—The target has been the same for about three years. What has altered is the extent to which members have reached or exceeded the individual targets. For example, at the end of the last financial year, something like 94 per cent of all members reached, exceeded or came within 10 per cent of their individual target, which is a big improvement in

performance. It was much more uneven in the previous year, although I do not have a precise figure for that, and that was largely as a result of streamlining not so much to push extra decisions but to ensure that people could reach their targets effectively without sacrificing quality.

Senator WONG—But there is obviously a fair bit of pressure on members to meet these targets.

Mr Blount—There is certainly an expectation about them, and people are reminded about targets. As I say, the focus of our efforts over the last couple of years has been not on increasing that numerical target but on improving people's capacity to meet the target without undue pressure and without having to adopt poor work practices in order to meet target. So there has been very much an emphasis on maintaining quantity while consolidating and improving quality.

Senator WONG—You say that people are reminded of the target. I presume that happens regularly. Is it on a monthly basis?

Mr Blount—Each member receives monthly reports generated by the system of the cases they have at hand, the age of cases and where they are in their finalisations for the year compared to the target pro rata. They also get a breakdown of the way they have taken their cases from the structured allocation in different countries and categories. Members have this information in front of them generated by a case management system on a monthly basis.

Mr Lynch—The RRT has recently introduced an innovative approach to mentoring and counselling of senior members being allocated responsibilities to manage a group of members. That practice has been in place in the MRT for some time, but it is a fairly recent innovation in the RRT and it is working out very well. In terms of personal difficulties that members may face in meeting target—sickness and so on—there is somebody that can mentor and assist them, and that is their senior member, who also engages in the formal performance appraisal process.

Senator WONG—Given that, from your evidence, there is obviously a reasonable amount of pressure on members to meet the number of finalisations you require, does that not concern you for maintaining the quality of decision making?

Mr Blount—One of the factors in determining that target each year, which is a fairly detailed process in consultation with members, is to look at what is reasonably achievable. It is not reached simply by plucking a figure out of the air and dividing by the number of members. We know, based on the case mix and so on, what has been able to be done, and that is an important factor in fixing that. With the improvements that have taken place with work methods in support and also as a result of some shift in the case mix, the nominal target at the moment, the 125, actually represents less pressure on individual members than that same number might have represented two years ago.

Senator WONG—You acknowledged two years ago that it did represent a certain pressure on members to perform.

Mr Blount—There is always pressure on members to perform. There is an expectation that they would do that.

Senator WONG—To try to keep us on track, it is a single performance measure, isn't it? It is not quality of decision making; it is how many people you get through the door in a year.

Mr Blount—Yes, and that is why that is not the only matter on which people would be judged. You have asked specifically about the target—there is that numerical target—and, as I said, the pressure involved in achieving that is less now than two years ago because of the measures we have taken. The appraisals system for members certainly goes more broadly than just numbers. We are interested in quality and time lines—all of these things go together. Mr Lynch made reference to the system that was introduced for a more systematic approach at the beginning of this year of responsibility by senior members for the counselling and appraisal and so on.

Senator WONG—Yes, I have heard it.

Mr Blount—It is all part of injecting emphasis on that quality aspect.

Senator WONG—We had evidence on that already. Thank you. How many RRT decisions are then subject to further litigation through either the Federal Court or the High Court?

Mr Blount—It is about a third.

Mr Karas—There were 1,031 applications for judicial review resolved during the year. There were 1,989 applications for judicial review in the last financial year compared to 1,167 for the previous year. Of those 1,031 cases, 66 cases were admitted to the tribunal for reconsideration, 31 by court decision and 35 by consent between the applicant and DIMIA. That is a reduction of some 130 cases remitted for the year before and represents just about one per cent of all of the cases finalised for the year.

Senator WONG—Is the 1,989 the number of cases you dealt with that you gave me before in the RRT, which I think was 6,251.

Mr Karas—Yes, 6,251 cases.

Senator WONG—Was that for the 2002-03 financial year?

Mr Karas—Yes.

Senator WONG—So from that figure about a third were the subject of further—

Mr Karas—Yes, about 1,989 applications for judicial review were made during that financial year.

Senator WONG—I presume that judicial review is the only subsequent litigation that could be taken; there is no other additional litigation.

Mr Karas—An application from the decision of the Refugee Review Tribunal to a court of law, yes.

Senator WONG—Yes, I understand that. You keep saying 'judicial review'. I am assuming that the only further litigation would be in the area of judicial review.

Mr Karas—Yes. In accordance with the act.

Senator WONG—So around a third of the cases you resolved subsequently went on to further consideration?

Mr Karas—Yes.

Senator WONG—Do you know how many of those were remitted to the High Court?

Mr Karas—No. I do not think there were very many. I could take that on notice to get the exact figure. I do know that 31 were remitted by court decision and the other 35 were remitted by consent.

Senator WONG—But that is remitted back to you for a further hearing on the initial decision.

Mr Lynch—It would be no more than 200 or 300. That is a figure that I recall. But I think that we would need to take that on notice.

Mr Blount—One of the phenomena last year was the fact that a number did go to the High Court in its original jurisdiction at the time of the various changes taking place.

Senator WONG—Perhaps you could get us the figures of all the cases from the Refugee Review Tribunal that went to the High Court, by whatever process.

Mr Karas—Okay.

Senator WONG—Are you aware of what percentage they made up the matters considered by the High Court and the financial year they took place?

Mr Karas—No. I do not think there were very many.

Senator WONG—Mr Lynch has said 200 or 300.

Mr Lynch—That was the figure that came to mind from reports I have seen, but we will have to confirm that. We have had the Muin and Lie decisions. There were quite a few involved with that class action. There have been a number of others which are still current.

Senator WONG—I turn to the East Timorese. My recollection is that the previous minister made some announcement about those matters being progressed through the RRT. I think it was suggested that they would be finished around October. What is the status of those applications?

Mr Blount—I do not have the exact figures, but certainly I think that the review applications have effectively ceased. There is a relatively small number of cases still with members awaiting finalisation. At the end of the financial year there were 207 on hand, but that would have been greatly reduced over the last three or four months. I think that there are only a couple of dozen or 30 still at hand, but we can get that figure for you.

Senator WONG—I understood that there were around 1,000.

Mr Karas—For the last financial year from East Timor, 648 cases were lodged. For the same financial year, 457 of those were finalised. That leaves the difference that John just referred to. Since then some others have been finalised. I do not think now that the holding of the East Timorese cases by the tribunal is anywhere near 100.

Mr Blount—No. It would not be more than a couple of dozen—mostly in Melbourne. But we can get an exact figure for you, Senator.

Mr Karas—Would you like the exact figure, Senator?

Senator WONG—Yes. Minister Ruddock said on 4 June to the House that there were around 1,000 cases at that stage with the RRT, that you were moving expeditiously to deal with them and that initial consideration of most of those cases would be undertaken by October this year. You say that only 648 were lodged. Is that correct?

Mr Blount—That sounds about right. I think the difference may well be that, generally when DIMIA refer to cases, they are talking about number of applicants involved. We talk about the number of applications, including combined ones. So there is usually an adjustment. I suspect that that is the difference.

Senator WONG—So the 648 would include what you might call multiple applications that are considered as one case?

Mr Blount—Yes. It would include a family group, which with the East Timorese was fairly significant.

Senator WONG—So you have finalised 457 in total. Is that approximate?

Mr Blount—At the end of that financial year. We would certainly have finalised quite a number since then.

Senator WONG—Would most of those now be with the minister?

Mr Blount—They have certainly passed our process.

Mr Karas—I am not too sure.

Senator WONG—Mr Farmer, would you be aware of that?

Mr Farmer—I am sure that we can give you the details. I am just not sure that the people who have those details are here yet.

Senator WONG—Perhaps we can come back to it this afternoon. What I am interested in is, of the 457 which Mr Blount and Mr Karas have finished with in terms of the RRT's involvement, how many are before the minister and how many have been the subject of a successful 417 grant of visa.

CHAIR—We can deal with that under 1.2 this afternoon.

Senator WONG—Yes. On reassessment of TPV cases, I presume you have started consideration of merits review for people whose TPVs have expired.

Mr Blount—We started receiving those at the very end of August or the beginning of September. It began with a trickle and they are now coming in at the rate of about 20 a week at the moment, but we expect that will pick up quite soon. In September a dozen of those early cases were constituted to me and senior members to work through carefully in consultation with material from our legal people and our country people so that we would get a number of fairly deliberate decisions early on, which, on the material we accessed and the legal issues, would provide some consistency. At the beginning of this week we proceeded to constitute a larger number of cases, about another 50, to other more experienced members generally, and I expect that early next month we will be starting to constitute on a regular basis to all members. So we are at a stage now where we are starting to get the first few finalisations out of that process.

Senator WONG—How many would have been finalised to date? Are we talking about dozens?

Mr Blount—No, about six. And they have not yet been handed down.

Senator WONG—What is the estimated case load as a result of the reassessment of TPVs?

Mr Blount—My understanding is that the total figure that has been spoken about is of the order of 3,800 over perhaps the next 12 months. What that will mean in actual applications for review before the tribunal will depend on a number of factors, including obviously the outcomes at the primary level. We expect that, as these build up over the next couple of months, we might be receiving 200-odd a month over a period of 12 months or so.

Senator WONG—What is your projected increase of the RRT case load as a result of the reassessment of TPVs? If all 3,800 go to you, which is a moot point—

Mr Blount—And how many cases in our terms that represents.

Senator WONG—If all 3,800 went to you, which may or may not be the case, that would be over half the total number of cases you dealt with last year, so it would be 150 per cent of your previous casework.

Mr Blount—Not necessarily. First of all, it depends on how those translate into cases as opposed to persons, although there would be a higher proportion there than with East Timorese because there are more unaccompanied cases. Certainly that will feed into our lodgments very significantly, and we expect that by the end of this financial year it might be accounting for half of our total lodgments. This is happening at the same time that over the last 12 months other lodgments have been trending downwards, so to a certain extent it is picking up the slack to maintain lodgments. Last year we produced, as you have heard, of the order of 6,200 cases. Given the new members that we took on board not long ago, we would be looking at between perhaps 6,500 and 6,800. So there is a capacity there to meet these increased numbers, given that the trendline of other lodgments has been down. Indeed, because that trendline of other lodgments has been down, for the last month the non-further-protection visa cases, the ordinary cases, were only about 200 whereas we are making at the moment in excess of 600 decisions a month.

What we have been doing in fact over the last 18 months is impacting very dramatically on cases at hand. At the end of the previous financial year—that is, in June 2002—we had in excess of 5,000 cases at hand. That is now below 2,600. Since that includes about 1,600 cases that are actually constituted with individual members at various stages of processing, awaiting hearing and so on, that means that actually at hand really waiting to be constituted is less than two months supply of cases. So really the tribunal has been getting ahead of itself in recent times.

Senator WONG—So, despite the fact that you are looking at just under 4,000 TPV reassessments, which is a substantial number if you consider your finalisation was about 6,200 last year, you are assuming, firstly, a reduction in your backlog—

Mr Blount—We have achieved a reduction in our backlog.

Senator WONG—This is in terms of your projections. Secondly, I presume you must have an inbuilt presumption of a percentage of those cases being the subject of successful visa grants at the primary decision level. Is that right?

Mr Blount—We have not made any specific numerical assumption. Apart from everything else, all the figures are rough because we do not know in any event how many cases those DIMIA numbers will translate to exactly.

Senator WONG—You are the one who put forward figures that projected your case load for this financial year, even giving 3,800 TPV reassessments—I appreciate cases may be less because they may be family groups and so forth—would have a marginal increase in finalisation of between 300 and 500. Presumably, you must be assuming that some of these people will be successful at the primary decision level.

Mr Blount—The increase in finalisations does not relate directly to the level of lodgments. That is a question of the capacity of members to produce decisions. But we have to prepare for the situation where most of these will come through to review, yes. One of the variables has been the point at which they have started flowing, which has been later than we originally anticipated, and we are yet to see at what level they stabilise. So it is a fairly shifting calculation at the moment.

Senator WONG—I have been asked to try to finish up, so I would appreciate it if you could assist in your answers.

CHAIR—Brief questions and brief answers would be my personal aim.

Senator WONG—There has been no increase in your budget allocation to deal with the increased case load that you anticipate?

Mr Lynch—We have factored the proposed finalisation figures into our financial planning. We are scheduled to have negotiations with officials from the Department of Finance and Administration in the next month or so to settle our next purchasing agreement which fixes the price per case.

Senator WONG—What is the current price per case?

Mr Lynch—\$3,415 per decision.

Senator WONG—When is that current?

Mr Lynch—That is current from this current financial year.

Senator WONG—Could you on notice give me the price per case over the last three financial years, please?

Mr Lynch—Certainly, Senator.

Senator WONG—You indicated \$19.7-odd million had been allocated in the forward estimates for the 2003-04 year. Do I recall that figure correctly?

Mr Lynch—That is correct.

Senator WONG—Are you going back to have another bite at the cherry, given the number of reassessment TPV cases you are going to have to deal with?

Mr Lynch—We have factored into our financial planning the need to ensure appropriation flow, including our new member complement. So we have factored that into our financial plan.

Senator WONG—How much budget allocation are we talking about above the \$19 million?

Mr Lynch—We anticipate that, with other needs, we would be looking at a maximum for both tribunals of about \$2 million to \$3 million.

Senator WONG—How much of that would be for the RRT?

Mr Lynch—Probably half.

Senator WONG—So are you going to do more if you have two—

Mr Lynch—I should hasten to add that that process is in train at the moment.

Senator WONG—Given that even on your own figures you anticipate a substantial increase to between 6,500 to 6,800 cases finalised, your budget allocation is currently \$1.2 million over what you spent last year. It seems to me that either you are going to have to have more money or something is going to suffer such as the quality of decision making.

Mr Lynch—We have had an operating surplus this year of over \$1 million in the RRT.

Senator WONG—I am a bit confused by that.

Mr Lynch—We have an approved loss situation from the finalisations that we had over the last three years. We have ended up with a cash reserve, which we have been running down. So whilst we have an operating surplus—

Senator WONG—Do not tell DOFA that, Mr Lynch, your negotiations might not go very well.

Mr Lynch—They know very much what we are doing, Senator.

Senator WONG—I am a bit confused. I thought the figure you gave me was that in the 2002-03 year you had allocated \$18.78 million, actual expenditure being \$20.987 million. That to me is not a surplus.

Mr Lynch—The revenues from ordinary activities totalled \$22 million, though—the appropriation from government. I am sorry if I might have misled you there. We have additional fees.

Senator WONG—Of course, thank you. I have some MRT questions. I will put them on notice.

CHAIR—As there are no further questions in this area dealing with the tribunals, you will not need to return after the lunch break.

Proceedings suspended from 12.37 p.m. to 1.36 p.m.

Department of Immigration and Multicultural and Indigenous Affairs

CHAIR—We will now consider output 1.1, Non-humanitarian entry and stay. The questions will relate to migration and temporary entry visas. Protection visas will be dealt with in 1.2. If there are some questions in general, they should be asked now.

Senator WONG—Before we go into any detail, there were a number of questions on notice that were submitted prior to the hearing and that dealt with the number of people, including children, in detention, the length of time in detention and so forth. Have they been provided?

CHAIR—The questions or the answers?

Senator WONG—The answers.

CHAIR—They were only submitted at the end of last week.

Senator WONG—Do we have that information?

Mr Farmer—I would just like to check which questions you are talking about, Senator. I think we received a number from the committee. They said they would like us to be here today, ready to talk to them.

CHAIR—Senator Sherry and Senator Bartlett put questions on notice, but I think it was only at the end of last week.

Senator WONG—If we go through those questions, do you have the information with you?

Mr Farmer—I believe we are in a position to talk to them.

Senator WONG—Chair, it might be appropriate to deal with some questions I have on ministerial discretion. Do you want to deal with them now or under ‘humanitarian’?

CHAIR—On which issue, Senator Wong?

Senator WONG—We put some questions on notice regarding the exercise of powers under 417 and 351 for specified periods. I do not know whether the minister is able to provide that information today. The questions related to how many 417 and 351 exercise of power to grant a visa occurred each month between May and October 2003.

Ms Godwin—Senator, you asked for the answer to be broken down by month for each section of the act for the period 1 May to 7 October 2003. The answers for section 351 are: May, 27; June, 58; July, 36; August, 56; September, 45; 1 October to 6 October, 65; and 7 October to 30 October, 1. That is a total of 288.

Senator WONG—Is there any reason for the very large number in one week, between 1 October and 6 October?

Ms Godwin—Only that I think that was the period where there were a number of them in the minister’s office which were cleared at the changeover.

Senator WONG—Prior to the reshuffle?

Senator Vanstone—Yes. I have not seen these figures, Senator Wong, but that is what occurs to me as being a logical explanation.

Senator WONG—Did you say seven between 7 October and—

Ms Godwin—No, one.

Senator WONG—Senator Vanstone, would that be Ms Ruth Mendoza’s claim, the one, or has that been granted subsequently?

Mr Farmer—We are not in a position to advise the minister and her memory is not over it.

Senator WONG—It was reported in the *Canberra Times* today, Minister, that Ms Mendoza now has a bridging visa—the Tasmanian girl.

Senator Vanstone—That could well be. Mr Ruddock made the Mendoza decision.

Senator WONG—My understanding was he rejected the Mendoza decision.

Senator Vanstone—That is right.

Senator WONG—And you have reversed that. Is that not so?

Senator Vanstone—No. Why do we bother buying novels when we can read the paper? I do wonder. I am reading a good one at the moment which has stood the test of time, written in 1908, a very good read—I will recommend it to you later. Why I bother when I can just read the paper, I do not know. In relation to the Mendoza matter, Mr Ruddock made that decision. I looked at the papers subsequently and agree that on the basis of the advice he was offered he had no choice but to make that decision.

Senator WONG—This is the rejection?

Senator Vanstone—That is right. But at the same time it was made clear that she, through her migration agent, had a number of opportunities to consider and one would be some sort of visa to let her finish her studies this year and that may in fact allow her or her sister to pursue some other matters which may put them in a position later to make a subsequent intervention request.

Senator WONG—Can you explain how the bridging visa came about? Was that your decision?

Senator Vanstone—No, it was not my decision. A migration agent applied and she was given one.

Senator WONG—By the department?

Ms Godwin—It was a departmental decision.

Senator Vanstone—To allow her to finish this year's study.

Senator WONG—Is it correct that you have ordered a review into the processes associated with the operation of sections 417 and 351?

Senator Vanstone—The media get it wrong all the time. Some advice on the operation of it is hardly a review.

Senator WONG—Is it envisaged that the department will have any discussions with any community or other representatives in the context of providing that advice or is it simply internal advice?

Mr Farmer—It is internal advice.

Senator Vanstone—That was my perception of it. It is perfectly reasonable for a new minister to say, 'I'd like some advice on how this works.'

Senator WONG—Have you endorsed or commissioned any review of the ministerial guidelines—the guidelines associated with the exercise of 417?

Senator Vanstone—The guidelines that were in use, as I understand it, for some time were re-presented to see whether I was happy with the guidelines. I decided that I was. That will mean therefore that subsequent to signing off on that, which I think was last week, undoubtedly intervention requests in the various state offices—that is where they tend to happen, rather than coming to Canberra—will begin to flow through.

Senator WONG—These are the guidelines, Ms Godwin, in the context of the other inquiry that you have appeared before. Senator Vanstone said that these guidelines have been in place for some time. You are talking about the updated guidelines that were released only this year?

Ms Godwin—The guidelines in MSI 3576, yes.

Senator WONG—Which were from August?

Ms Godwin—They were re-issued at the time, but as we discussed in that other inquiry, they were amended only slightly. It was the departmental guidelines that were substantially amended at that time.

Senator WONG—Those have since been approved by the new minister?

Ms Godwin—Yes, as I understand it.

Senator WONG—Were there significant changes? Were there any changes to the pre-existing—

Senator Vanstone—No.

Ms Godwin—No.

Senator WONG—Minister, are you intending to review any aspect of the government's policy on asylum seekers or its immigration program? I realise it is early days.

Senator Vanstone—I had a discussion recently with someone who was very interested in politics who was complaining to me about the stature of members of parliament—senators excepted, of course, Senator Wong!—and pointing out how they all had their heads in electorates. It occurred to me that this person may have lost track of the concept of demos. People elect whom they want. Bearing that in mind, I have to say that the government's policies in this area have received pretty warm endorsement from the community. Turning to detention—and I have said this before in the Senate—no-one likes to see children in detention but equally no-one wants to send a flag to these criminals that prey on vulnerable people that if they can just bring a couple of kids with them they will be more successful in their people-smuggling ventures in bringing people in through the back door rather than through our organised program. It is a very difficult balance.

You may not have been in the Senate the other day when I raised the point that, when Gerry Hand—a former minister with a previous Labor government—some time ago opened the detention centre in Port Hedland, he said it was imperative that people who came in illegally were detained, for a whole variety of reasons. While the numbers at that time were lower than they are now, as I am advised, during none of the period that the previous governments were in power was anything done to make it easier for women and children. I am very pleased that we have done that. We have done it in Port Hedland, we have done it in Woomera and we will be some time this month opening another facility associated with Baxter at Port Augusta,

which should provide much better accommodation for up to about 50 women and children. The last advice I have seen is that the combination there has not yet been decided, as you might have a mother who has four kids and you might have a mother who has only one. We do not know the adult-child mix yet, unless there has been an update on that. I will be pleased when that is opened.

As I have said before, we are very pleased that all the kids at Baxter, except for one, apparently, are going to school in Port Augusta. I have anecdotal evidence indirectly through teachers there that the schools are benefiting from that—so much for a community that initially did not want Baxter there!—and from the centre management that the children are much better for that. Now the school facility is being used as a sort of adult education facility. The computers and stuff are available for adults to use.

Senator WONG—I understand Senator Kirk will ask some questions later about the number of women and children in detention, so I do not want to canvass that now.

Senator Vanstone—Okay.

Senator WONG—Do we understand from your answer, Minister, that the government is reviewing at least its policies in relation to detention of women and children or is this simply a flow-through?

Senator Vanstone—No. You understand that the government reviewed the policy of the previous government and decided we could do better, and we have done better.

Senator WONG—I recall Minister Ruddock making an announcement some time ago about the release of women and children. I am not sure how much has been actioned. I presume what you are talking about is the actioning of that some 11 months later.

Senator Vanstone—Yes.

Senator WONG—Minister, can I ask about your seeking of advice on the ministerial discretion process. Are you intending to alter the way in which ministerial discretion, or the processes associated with it, is exercised?

Senator Vanstone—Not necessarily. These things are handled on a case-by-case basis. I think there is a risk you run at any time when you look at statistics. I do understand that, when you are looking at a disaggregated pile of happenings, there is a natural tendency to want to aggregate them in some way that makes them more user friendly for discussion purposes.

Senator WONG—For example, by nationality?

Senator Vanstone—Whatever, yes. That is an example in this context but I am speaking more in generalities. There is a natural tendency to want to do that, but there are always some risks associated with doing that because in the end these things are handled on a case-by-case basis and that is how they should be handled. Ministerial discretion on a particular case should be on a particular case.

Senator WONG—I do not want to open up the whole issue of some of the allegations about ministerial discretion; they have been reasonably well publicised. Have there been any changes, for example, in departmental staff located in your office since the ministerial reshuffle?

Senator Vanstone—No.

Senator WONG—Do you maintain the same DLOs as Minister Ruddock?

Senator Vanstone—Yes. I think it is a very helpful thing to keep people who have had experience of the previous office. I know that one of them is, in the near future, going back to the department by choice. I think that decision was made some time ago. I have not raised it with the others—and I am perfectly happy with them—but, in most departments, there is a turnover of 12 months, 18 months or two years. I managed to keep one DLO for, I think, 3½ years but, in the end, the department won and we had to let the person go. You get used to dealing with someone. It is just convenient.

Senator WONG—So who is the DLO who has left?

Senator Vanstone—No, no-one has left.

Senator WONG—Or who has returned to the department?

Senator Vanstone—No, they are all still there. Someone is going later. That is all.

Senator WONG—Can we just go back to the figures that I was asking you about, Ms Godwin? I think you gave me the section 417 figures. Did you have the 351 figures as well?

Ms Godwin—I gave you 351, Senator.

Senator WONG—Sorry. Can we have 417 then?

Ms Godwin—The 417 figures are: May, 30; June, 28; July, 51; August, 119—

Senator WONG—Was that 119?

Ms Godwin—Yes—September, 87; 1 to 6 October, 138; and 7 to 30 October, nil.

Senator WONG—Nil?

Ms Godwin—Yes.

Senator WONG—That would indicate Minister Vanstone has yet to consider exercising the discretion under 417. Is that right?

Mr Farmer—Sorry, Senator, it is a bit hard to hear you.

Senator WONG—Would that indicate that Minister Vanstone has yet to exercise her discretion under 417, given those dates?

Ms Godwin—It is visa grants. There may well be cases that the minister is turning her mind to—that is clearly a matter for the minister—but there have been no visa grants at this point, apart from 351 that I mentioned. If I could mention, however, that the large numbers in August and October reflect the flow-through of East Timorese cases in large part.

Senator WONG—What proportion of those are East Timorese?

Ms Godwin—I do not have it broken down.

Senator WONG—Could you provide that?

Ms Godwin—I do not know, Senator. I would have to take that on notice.

Senator WONG—They are separately identified, aren't they, through the RRT process—

Ms Godwin—Yes.

Senator WONG—so presumably there would be an internal tracking of the East Timorese through the department as well.

Ms Godwin—I presume so and, yes, I will take it on notice.

Senator WONG—Thank you. It still is quite a substantial increase over the last three months.

Mr Farmer—And that is because of the flow-through of the East Timorese.

Senator WONG—If you do not know how many of them are East Timorese, I wonder how you can make that assertion, Mr Farmer.

Ms Godwin—Just because I know the flow of the cases that have been batched to the minister and also, in terms of the visas granted, there is a very significant proportion of them that reflects the process of the East Timorese.

Senator WONG—Before we get off 417, has there been any further decision on the Samaki family issue?

Senator Vanstone—No.

Senator WONG—I seem to recall there was a commitment given by the Prime Minister to liaise with the then minister regarding the family. Have there been any further discussions as a result?

Senator Vanstone—I am always having discussions with everybody. I cannot stop myself!

Senator WONG—I am sure you are, Minister, but anything about this Samaki family—

Senator Vanstone—I have had a discussions with a number of people about that matter.

Senator WONG—So where is it at?

Senator Vanstone—With me.

Senator WONG—So it is pending decision pursuant to 417. Is that the status of it?

Senator Vanstone—Senator, I need to check. I do not think there is any correspondence in my office at the moment that is seeking any intervention.

Senator WONG—In terms of these children?

Senator Vanstone—Yes, that is right.

Senator WONG—There is no application for a visa?

Mr Rizvi—There have been two sets of visitor visa applications in respect of the children. The initial set that was received more recently was sponsored by a person in South Australia. That particular application was refused by the primary decision maker and that matter is currently being appealed in the courts. A subsequent set of applications on behalf of the children were sponsored by two members—

Senator WONG—Senators.

Mr Rizvi—One senator here and another member of the legislative assembly, I think, in South Australia. Those applications were also refused at the primary stage and are currently on appeal to the MRT.

Senator WONG—Have you considered intervening in this matter, Minister? These are the two children who want to visit their father.

Senator Vanstone—I cannot intervene until there is a decision.

Senator WONG—Your department has refused these children a visa to come and visit their father on the basis that there is a substantial risk of them not being—

Senator Vanstone—Those decisions are being appealed.

Senator WONG—Going back to the East Timorese, are you able to tell us how many of those matters are currently before the minister? We had evidence today from the RRT claiming that the majority of East Timorese applications have been processed—that would be about 680, I think.

Ms Godwin—We probably do have some information. Mr Illingworth has just pointed out to me that so far this calendar year 437 East Timorese have been granted visas following intervention under section 417. The dates are not absolutely matched so that is not necessarily part of the 453. We will break that down as you have asked, but that was just to give you an indication of numbers.

Senator WONG—How many does that leave outstanding?

Mr Illingworth—There are some 963 East Timorese former protection visa applicants who have received adverse decisions from the Refugee Review Tribunal and their cases have not been considered by or put to the minister.

Senator WONG—That is the number that has been processed by the RRT and is before the minister awaiting consideration?

Mr Illingworth—They are at various stages of the administrative processes that we go through in order to prepare matters to put to the minister.

Senator WONG—But they are post RRT?

Mr Illingworth—They are post RRT and pre—

Senator WONG—So they are either with you or with Minister Vanstone?

Mr Illingworth—That is right.

Senator WONG—Before we move on to specific outputs, I have some brief questions on the DIMIA annual report. Have there been any revisions to DIMIA's budget since the budget papers were released in May?

Mr Farmer—I will ask the chief financial officer to answer that.

Senator WONG—Minister, there was a question I forgot to ask in relation to the Samaki family. What was the date of the last rejection of the second visa request?

Mr Rizvi—We can find that out for you.

Senator WONG—Perhaps you can find out and tell us later on in the hearing, Mr Rizvi.

Mr Farmer—Senator, as I understand it, your question to the chief financial officer related to whether there have been any changes to the departmental budget since the PBS.

Senator WONG—Correct. If there have been many, it might be best for them to be taken on notice rather than us sit here for ages.

Ms Gray—There have not been changes to the budget since the 2003-04 budget. We are coming into the additional estimates process, which is where we would be seeking any updates or amendments.

Senator WONG—So does that answer mean no?

Ms Gray—That is right.

Senator WONG—I am sure Senator Vanstone will tell me again that reading newspapers is reading fiction but there was a report, I think in the *Australian*, earlier this year in which it was asserted that there was a link between funding allocated to particular regional sections of DIMIA and your compliance activities. Do you recall the article we are talking about? I think it dealt with raids on illegal workers.

Mr Farmer—I do not remember the article.

Senator WONG—What are your compliance targets? How are they set and what are they set for?

Mr Farmer—I will ask the relevant executive coordinator to come to the table.

Mr McMahon—The underlying targets set and reflected in the portfolio budget statement are the agreements we have reached with the Department of Finance and Administration over activity.

Senator WONG—So you reach an agreement with DOFA regarding how much compliance activity you will engage in.

Mr McMahon—We do. The outcome for a particular year has depended to some degree on the nature of the purchasing agreement in place. For example, from memory, we have a target of something like 17,000 locations. But last year we did 21,500 locations. The reason we were able to do that was that the purchasing agreement provided a mechanism for additional funding for additional activity.

Senator WONG—Is the nature of the compliance activity the number of locations visited by DIMIA to do inspections and so forth? What is the nature of the compliance target? What do you actually have to do?

Mr McMahon—There are various elements of compliance work. In compliance it is generally locations.

Senator WONG—What does ‘locations’ mean, Mr McMahon?

Mr McMahon—In effect, it is finding someone working illegally or someone who has overstayed their visa and regularising or removing that person. We basically have workload and funding around our investigations area. For example, in the last financial year we did around 3,000 investigations.

Senator WONG—Going back to locations, I think you said at the outset that your target was 17,000 locations and that you had exceeded that. Is that correct? That is part of the purchase agreement with DOFA, is it?

Mr McMahon—Indeed.

Senator WONG—They say, ‘We’ll give you this amount of money if you visit 17,000 places and find illegal workers.’

Mr McMahon—Generally, the purchasing agreement has some base levels set in it. The way in which the purchasing agreement had worked up until this financial year was that we could exceed that and basically be financially rewarded for exceeding—in other words, we could be compensated for the additional work that we had undertaken.

Senator WONG—So if you exceeded the target you could then go back to DOFA and say, ‘We did 2,000 more than we anticipated; can we have more money’?

Mr McMahon—Indeed.

Senator WONG—Is that above core funding levels? Is it additional funding?

Mr McMahon—If you are asking whether it is additional money provided in additional estimates, the answer is yes. It is more than the money that is appropriated at the time of the budget.

Senator WONG—Is it more than is in the forward estimates?

Mr McMahon—Yes. Generally, that is the case.

Mr Farmer—It is important to reinforce the point that was made that that was a product of the purchasing agreement arrangements that were in force until 30 June 2003. We do not have a purchasing agreement in force now. We have what you might describe as a more traditional budget arrangement in force for the 2003-04 financial year. The departmental budget, as explained in the portfolio budget statements, is being reviewed during this financial year.

Senator WONG—Why has this interesting method of getting more money out of DOFA—raiding more places and, therefore, coming back to them and saying, ‘We want more dough’—been jettisoned? Why are you no longer operating under that?

Mr Farmer—I think that there are a couple of things to be said about views of purchasing agreements. In some areas of our operation the purchasing agreement works, if you like, very transparently and very well because we are providing a particular service for a particular price. For example, if we issue visa type A for a certain number of cents or dollars and we have a backlog in those visa categories, we are able to say, ‘If we get through that backlog, we are able to generate resources that will permit us to do our job more effectively, reducing waiting times and so on.’ So in some areas the purchasing agreement arrangements work very well.

In other areas of our operations the purchasing agreement arrangements are, if you like, more artificial. The nature of our work in all areas does not permit so easy an adaptation to the purchasing agreement arrangements. For a variety of reasons, at the time of the budget the government decided—bearing in mind a number of points that we were making about our budgetary needs—that it wanted to look at the departmental budget in the broad, have a

review and then take decisions on the nature of our budget. I think it is true to say that that means all elements of the nature of our budget, both the quantum and the way in which the budget is constructed. We had that review this year and we take decisions in the context of the 2004-05 budget.

Senator WONG—Thank you for that answer, Mr Farmer. Do I understand from that that the department's view was that the purchasing arrangement that Mr McMahon described was not appropriate for the compliance activities?

Mr Farmer—No. I did not say that at all.

Senator WONG—But it no longer exists. Is that right? The arrangement that Mr McMahon talked about finished as at the end of last financial year.

Mr Farmer—And, indeed, it has finished for all of our operations. We do not have a purchasing agreement for our visa or other operations during this financial year.

Senator WONG—I think your annual report indicates that there is currently a comprehensive review of the department's business processes and costs, with different arrangements for next year's budget. I presume that that is what you were referring to, Mr Farmer.

Mr Farmer—Yes.

Senator WONG—When is it expected that that review will be available?

Ms Gray—That review will form part of our submission to the budget process.

Senator WONG—Are you able to give the actual figure for detention debts that were written off in the 2002-03 year?

Ms Gray—Detention debts written off for 2002-03 totalled \$89 million.

Senator WONG—Could you also on notice provide details of the consultancies undertaken in the same year, who undertook the work, the purpose of the consultancy and the outcomes of the consultancy, as outlined at page 141 of the annual report. Minister, I wonder if I could turn to you regarding the Samaki children. I understand the Prime Minister—

Senator Vanstone—Have you a new email through?

Senator WONG—I have, Minister. I understand the Prime Minister has answered a question in question time in relation to this issue. He was asked about the Samaki children and it was pointed out that it was raised with him three weeks ago. He indicated as follows:

I have talked to the minister for immigration and she advised that she will be making a statement on this later this week.

Do I understand from that that you are expecting to make a decision with respect to the Samaki children this week?

Senator Vanstone—That is likely to be the case. That is what I have told the Prime Minister, that it is likely I will do that. Can I point out, Senator Wong, I was not trying to take the mickey out of you for getting your questions from someone else by way of laptop. I have been in this place so long that years ago when I was in your position in opposition and I asked the Senate clerks if I could use a mobile with an earpiece attachment and get questions from

people outside because I was being spun such rubbish, I believed, by some of your colleagues—

Senator WONG—You were ahead of the times.

Senator Vanstone—they said it was an outrage, that you have to rely on yourself and you could not bring things in. Now I see these things and I think, ‘I was born just a few years too early.’ I am marvelling at it and in fact approving of it rather than trying to take the mickey. I thought I would make it clear.

Senator WONG—I am pleased. It would be a collective mickey, which would be unhelpful.

CHAIR—Perhaps Senator Wong could finish her questions on the general area.

Senator WONG—So, on the answer you gave earlier, which I think was that you did not want to discuss the Samaki matter because it was before the tribunal, nevertheless you do feel you can make a decision regardless of its status in the tribunal process.

Senator Vanstone—The Prime Minister said I would make a statement—isn’t that what you told me he said?

Senator WONG—That is what I understand.

Senator Vanstone—That is what I am expecting to do.

CHAIR—We have finished general questions from Senator Wong. If there are no other general questions, we can move to the outputs. Output 1.1, Non-humanitarian entry and stay, involves questions that relate to migration and temporary entry and visas. Given the number of senators here, I would appreciate some guidance as to who wishes to ask questions in particular areas. Can I seek some guidance as to who is asking questions on 1.1.

Senator WONG—We have some questions—it might be easier to put them on notice—in relation to skilled and family migration. I would like to turn to 1.1.4.

CHAIR—There are people who have questions on enforcement of immigration law. Senator Marshall has already indicated he does.

Senator WONG—It is 1.1.4, not 1.4.

Senator SHERRY—We are not quite that far yet.

Senator WONG—How many visitor visas were issued last financial year and how does it compare to previous years?

Mr Rizvi—In 2002-03, the total number of visitor visas issued comprised people who were granted an electronic travel authority as a visitor, it included people who were granted what are known as the normal paper based visitor visas and it included business visitors, sponsored family visitors and people visiting Australia for medical treatment. Taking all of those together, 3.233 million visas were issued in 2002-03. That was three per cent lower than the previous year’s figure of 3.332 million.

Senator WONG—Do you have the figures for the preceding year?

Mr Rizvi—Going back further?

Senator WONG—Will that be 2000-01?

Senator Vanstone—Would you like us to make a series of annual reports available to you? You could peruse them at your leisure then and get all the figures you wanted.

Senator WONG—If it will not inconvenience Mr Rizvi, we will just have that.

Senator Vanstone—I take it that is a no.

Senator SHERRY—I take it they are not published in historical format in the annual reports.

Senator Vanstone—Do you mean you have to actually add them up yourself!

Senator SHERRY—You do not have to add them up; you have to identify them separately. We are seeking the historical data. It makes it a lot easier, Minister.

Mr Farmer—As a matter of fact, Senator, the annual report does it year on year. Page 31 of the annual report gives those figures, but it is last year compared with the year before.

Senator WONG—Do you want to take that on notice, Mr Rizvi?

Mr Rizvi—I do have the numbers here. For 2000-01—I would have to add two numbers together—it would be 570,000 plus 2.967 million. It comes to around 3.4 million to 3.5 million. In other words, 2000-01—that was the year of the Olympics—was higher than the two most recent years.

Senator WONG—That makes sense. There has been a significant amount of public discussion on Mr Brigitte. What type of visa was he issued with to come to Australia?

Mr Rizvi—He was issued with what is known as an electronic travel authority.

Senator WONG—They are available on the Internet and via travel agents, aren't they?

Mr Rizvi—That is correct.

Senator WONG—They are fairly easy to get.

Mr Rizvi—If the person fits the nationality profile, and the application does not raise any particular alerts through the electronic system, those ETAs will then be granted.

Senator WONG—When did France become an eligible ETA country?

Mr Killesteyn—In 1997.

Senator WONG—What security checks are undertaken before an ETA is issued? Mr Rizvi mentioned that, firstly, you have to be from a participating country.

Mr McMahon—Essentially, if it is an electronic travel authority we have a movement alert list. The movement alert list basically comprises two components. One is a person component, and there are about one-quarter of a million names in there. Probably 60,000 of those are security related. The others are a whole range of immigration, character and other concerns. We have about 1.7 million documents that are also examined. When a person applies for an ETA, a check is run against that system within a matter of seconds. If the person's name has not come to attention and it has not been placed on the movements alert list, the visa will be issued.

Senator WONG—Is that check run by DIMIA?

Mr McMahan—Yes. That is our system.

Senator WONG—You say that anyone who applies for an ETA over the Internet or via a travel agent is run through this security protocol?

Mr McMahan—No. Around 88 per cent of visitor visas are issued through the electronic travel authority, and they overwhelmingly constitute the big countries that travel to us. There are many countries not on the electronic travel authority: in our region, for example, Thailand and Indonesia are not, whereas Korea and Malaysia are. So there are differences; particularly the countries specified. When an application is made, the electronic check takes place.

Senator WONG—Does an electronic check crossmatching the person with movement alert lists take place for anyone who applies for an ETA, regardless of which country they apply from?

Mr McMahan—Yes, they do.

Senator WONG—So, presumably, Mr Brigitte was subject to that security check?

Mr McMahan—He was run against the movement alert list and there was a zero return on him.

Senator WONG—Who creates the movement alert list?

Mr McMahan—It is created largely by us, the Department of Immigration and Multicultural and Indigenous Affairs. However, some agencies, particularly security agencies either have private access—in other words, they can put names in which we are not aware of—or can directly access the system through a remote entry point and put names in themselves, in which case they would be visible to us.

Mr Killesteyn—The movement alert list is a tool that is used by all agencies. DIMIA provides the tool. We provide names of people on that alert list in relation to offences or breaches of the Migration Act. Other agencies such as AFP, for example—and also other intelligence agencies—provide names to that alert list. In a sense, we manage it on their behalf.

Senator WONG—What information is included in the movement alert lists?

Mr Killesteyn—That tends to vary. The movement alert list is structured according to risk factors, so there are various levels or categories of names. Depending upon which category a name is included in, the alert checks conducted—which are essentially a comparison of the bio information we have from an ETA application checked against the details held on the alert list—are either much more detailed or lower level, depending on the risk.

Mr McMahan—The information recorded against the entry will depend on what information the person had when they put the entry on. It may well be simply some information to say that this person owes \$20,000 to the Commonwealth, or it could be that this person is believed to have a criminal conviction.

Senator WONG—Do Australian security agencies, either through you or by themselves, make additions to the movement alert lists?

Mr McMahan—Yes.

Senator WONG—It seems obvious from the press and from your answers today that Mr Brigitte was not on a movement alert list.

Mr McMahon—That is correct.

Mr Killesteyn—At the time that Mr Brigitte made the application for an electronic travel authority, he was not on the movement alert list.

Senator WONG—As has been reported, if he were under surveillance by French authorities at the time he made the application, why was that not translated through to an entry on the movement alert list?

Mr Killesteyn—That is not a matter I can comment on. As I said before, we manage that movement alert list on behalf of other agencies. We were first advised of Mr Brigitte on 9 October. Mr Brigitte made his application for an electronic travel authority back in May.

Senator WONG—So the first advice to you by any Australian organisation regarding concerns with Mr Brigitte was on 9 October?

Mr Killesteyn—That is correct.

Senator WONG—Do we place any requirements on participating ETA countries in order to maintain access of their citizens to the ETA process? For example, do they advise us of any of their citizens who are under surveillance?

Mr Killesteyn—The electronic travel authority is essentially a visa reciprocity issue—that is, Australian citizens are granted visa-free access to those countries in return for which we provide ETA access to their nationals. As far as any other arrangements with DIMIA go, there are no such arrangements requiring information to be shared. That is a matter for security agencies and it is a matter I cannot comment on.

Senator WONG—So we do not require anything additional from a country in order for its citizens to have access to an ETA other than they give our citizens similar access?

Mr Killesteyn—This is quite a common arrangement as far as bilateral arrangements between countries for access by visitors are concerned.

Senator WONG—I do not disagree with you, but it is unusual that there seems to be no arrangement to pass on information so that someone can be put on the movement alert list who obviously should have been in circumstances where the movement alert list is the only security check that is engaged.

Mr Farmer—I think in a way, Senator, you are addressing that question to—

Senator WONG—To the wrong agency?

Mr Farmer—That is right.

Senator SHERRY—Can I just clarify a couple of points. The way you describe it is that you are a clearing house. You do not vet names that go on the alert list.

Mr Killesteyn—In some cases, the agencies that are concerned about particular individuals would prefer that the extent of information about a particular individual is limited. Therefore, we have made arrangements in relation to the operation of the movement alert list where those agencies in effect have their own private movement alert list, if I can call it that. In other

cases, we do manage the alert list on behalf of all of the other agencies, and we apply protocols in terms of the standards of information that need to be put on the alert list. It is no good, for instance, providing a general name without any date of birth or any other information because that would mean considerable disruption and potentially large numbers of names that we would have to check. We try to apply some standards so that the checks are as efficient as they can be.

Senator SHERRY—So when names are put on the list it is not necessarily the department that will check each and every name against the details that are put on that list, unless there is information in insufficient form or information which is poorly formatted?

Mr Killesteyn—It depends what you mean by ‘check every name’. We act on behalf of many other agencies and it is not our role in those cases to be making some sort of judgment about the reason for—

Senator SHERRY—So the names are just placed on the list. You do not necessarily say—

Mr Killesteyn—If we have a proper request from an agency to insert a name on the list then we will respond in that way.

Senator SHERRY—In the case of the French security service, if they sought to communicate names to you would they be put on the list in the normal course of events?

Mr Killesteyn—We have no direct relationship with any security agencies in that way. As I said, if an arrangement existed—and I am making no comment on that—it would be a matter for the intelligence agencies to have that bilateral arrangement.

Senator SHERRY—So presumably communication from a foreign security service—in this case, the French—would come through an Australian security service, and Australia’s security service would put it on the list.

Mr Killesteyn—I believe that would be the proper process, yes.

Senator SHERRY—Do you know whether or not it was communicated to the Australian security services that Mr Brigitte was under security surveillance in France? If so, why wasn’t it communicated to the list?

Mr Farmer—I think the director-general of security has already answered those questions.

CHAIR—It is not really a question for Mr Killesteyn either, Senator Sherry.

Senator SHERRY—I was just interested to know whether you had heard an explanation as to why his name was absent from your list.

Mr Killesteyn—No, Senator.

Senator WONG—Is the government considering reviewing the security protocols attached for ETAs as a result of this matter?

Mr Farmer—To our knowledge, this is not a question that has arisen.

Senator WONG—Is that an answer, Mr Farmer?

Mr Farmer—Yes. I said ‘to our knowledge’.

Senator WONG—Mr Killesteyn, just to clarify: you are saying that there is no additional requirement regarding security cooperation, transmission of information and so forth on participating ETA countries. The only requirement from the DIMIA perspective is that similar access is provided to Australian citizens seeking visas for those countries.

Mr Killesteyn—It is not a DIMIA perspective.

Senator WONG—From the government's perspective?

Mr Killesteyn—In negotiating for visa-free access for Australian citizens—which is essentially the equivalent of the ETA access—that was primarily the basis of the arrangements we have with countries like France. There are about 32 or 33 countries that have ETA access. The quid pro quo, if you like, is visa-free access for Australian citizens. As I said, it is quite normal and applies not only to Australia but also to many other countries who run visa-free schemes.

Mr McMahon—I just make the obvious point that if there was no ETA and that person—Brigitte—came into our office, we would be running him against the same system.

Senator WONG—That was my next question. I presume that an in-person application for a visa at an Australian embassy is run against the movement alert list.

Mr Killesteyn—Yes. The movement alert list applies at every point of any decision in relation to the processes that the department operates—whether it is an electronic travel authority, whether it is a traditional paper based visa, whether it is for an extension of a visa or whether it is for citizenship.

Senator WONG—I understand. Are there any additional requests for information for the purposes of security—other than a run against the MAL—that the department requires, either through the ETA or a paper application, such as a character check, a residence check: those sorts of things?

Mr Killesteyn—Yes, there are. There are certain countries for which additional checking is required—countries that are nominated on a security checking handbook. I should add that these would not be ETA countries, but nationals who are applying from those countries require referral to ASIO.

Senator WONG—I am asking if there is anything between those two extremes—not the countries where there is an automatic referral to ASIO. We have established that for ETA countries the only security check is running against the movement alert list. Is there anything else that you ask for which is security based information, such as proof of residence, proof of identity and so on? I presume proof of identity is a passport.

Mr Killesteyn—In non-ETA countries, where there is a paper based application, the decision maker will turn their mind to the bona fides of the visit. That will include a range of factors, such as the identity of the person. There will be an opportunity to examine the passport. There will be questions about intention: do they have the necessary financial facilities to maintain their stay in Australia; do they have return tickets to their home country; are there any other incentives that would bring them back to their home country? All of those things, I believe, go to the bona fides and security of the visit, ultimately.

Senator WONG—But none of those apply to an ETA country?

Mr Killesteyn—No.

Mr Farmer—As a broadly based answer to your question, we do have another opportunity related to character, and that is the entry card. The passenger card on entry to Australia asks a question about criminal convictions.

Senator SHERRY—But if they lied, how would you check the entry card until after they have entered? It is self-declaration.

Mr Farmer—That is right. Perhaps you would be surprised that people do answer ‘yes’ to that question. It is important whether they do or whether they do not because in a number of cases, if a person has not answered that question correctly and is admitted, we will subsequently have a basis on which to review their stay in the country.

Senator SHERRY—But what would be the timelag between the making of a false declaration about some type of conviction and you picking up on that—by the time you have checked through all of these entry cards? It could be some time, couldn’t it?

Mr Farmer—We would not, as a matter of course, check through those entry cards because, if there were a basis on which we could check, it would be in MAL anyway.

Mr McMahon—The entry cards are very important for us because they often lead to visa cancellation where we find a person has lied. Can I make the point, too, that we basically have a multi-tiered approach in respect of entry to Australia. There is the visa application and the advanced passenger processing in which the person is run through a MAL check again—if the person is not on it, it is not going to work. We have a fairly extensive liaison network where we look at the documentation before the people arrive, and that picks up some people. At the border, we have another document-to-face check. Sometimes we also look at issues relating to the documentation that they are carrying. For example, if the person were suspicious—they were basically staying in Brisbane, they came in at Sydney and there was no interconnecting flight—obviously that would be a cause for suspicion at the border.

Senator SHERRY—But if a person makes a false declaration on an entry card and they have an ETA, it can be some time before that false declaration is picked up—it may not be picked up at all.

Mr McMahon—That is entirely possible. The strength of it is that, if we do pick it up, it forms a very clear basis for visa cancellation. That often is a significant issue to face at the other end of it.

Senator SHERRY—But the point I am getting to is whether you pick it up. Just to be clear: say the ETA applications are lodged in France and the person wants to come to Australia, are they directly routed electronically to Australia or are they processed through, in this case, the French embassy?

Mr Killesteyn—No. The French embassy, or any other embassy overseas, has nothing to do with it. It is all processed here in Australia.

Senator SHERRY—When the ETA is approved in Australia, presumably it is sent back electronically and/or in paper form to the individual applicant?

Mr Killesteyn—No, it is all done electronically—both the application as well as the confirmation that the person has entry to Australia.

Senator SHERRY—Is there any electronic notification, say, to the French embassy?

Mr Killesteyn—The French embassy, as does every other embassy of Australia, has access to that information.

Senator SHERRY—That is a matter of course? They are not just told on the day that they can look at it if they wish?

Mr Killesteyn—That is correct. As Mr Rizvi indicated, there are more than 2½ million visa ETA applications a year. So, unless there is some other reason to check, such as an MAL entry—which would have prevented the ETA application going through in the first place—there is really no basis for any subsequent checking.

Senator SHERRY—Presumably, if they wish, officers on the ground in Paris could access and look at the ETAs that have been given to people from France who have applied? Can they query them if something has come to their attention independently?

Mr Killesteyn—That is correct. If there is some reason for them to check, they can confirm the arrangements or the ETA and look at when it was lodged, the date it was decided and all of those sorts of things.

Mr Farmer—Can I clarify that, when we are talking about the French embassy, we are talking about the Australian embassy?

Senator SHERRY—The Australian Embassy in France, yes.

Mr Farmer—I just did not want people to suddenly say we are making millions of details available to foreign governments.

Senator SHERRY—That is what I meant. I am sorry I did not make it clear.

Mr McMahon—In addition to that, if a person were to subsequently identify a name and put it on MAL after a visa had been issued, that name would then be rerun against the existing visas which have been issued. That is a safety check against the existing movements which have taken place.

Senator SHERRY—Do officers of the department in the Australian Embassy in Paris ever have contact with local security for any particular reason?

Mr Killesteyn—I do not want to comment on security arrangements. If there are arrangements going on that involve security issues, generally speaking they would not involve DIMIA officers.

Senator SHERRY—I am just asking whether a DIMIA officer would have contact with the local security services of a foreign country—in this case, France—for any particular reason.

Mr Killesteyn—I cannot think of any particular reasons that would not have to involve also a properly authorised officer from one of the other intelligence agencies.

Senator SHERRY—So, in this case, if the French security services wanted to find Mr Brigitte—wanted to know where he had gone—and they thought that he had gone to

Australia, they would contact the Australian security services. They would not come to an officer in the Australian Embassy in Paris, for example.

Mr Killesteyn—No. They would probably use their normal communication lines, which would not involve DIMIA.

Senator WONG—What conditions of stay were attached to Mr Brigitte's visa?

Mr Killesteyn—His original electronic travel authority?

Senator WONG—Yes.

Mr Killesteyn—The normal conditions that would apply to a visitor visa, which are a stay of up to three months and no work.

Senator WONG—I think that you have indicated that the only checking that was conducted was the run against the movement alert list.

Mr Killesteyn—I know that I am perhaps only quibbling about words, but when you say 'the only checking'—

Senator WONG—The check that was done, then.

Mr Killesteyn—It is a very comprehensive check.

Senator WONG—It was not in this case, because he was not on it.

Mr Killesteyn—There was no information on the system at the time.

Senator WONG—We accept that.

Mr Killesteyn—This is one of the best systems in the world for checking visitor visas from countries that invariably present themselves as low risk. All of the ETA countries—the 32 or 33 of them—are countries where we have gone through considerable assessment and looked at the question of the risk profile of the nationals.

Senator WONG—But we have a person who has been under surveillance by the French security services for some time, including—if you are to believe the press—at the time the application was made, who does not show up on the movement alert list. Those are the facts as we understand them.

Mr Farmer—That is correct.

Senator SHERRY—Have you found Mr Brigitte's entry card? Has that been checked?

Mr Farmer—That is a good question.

Mr McMahan—That has not been requested, to my knowledge. Certainly, information around his entry and other entry issues has been requested, and we continue to work quite closely with security organisations and law enforcement agencies on that issue. But whether or not they have regarded the entry card as material to their investigations is really a matter for them.

Senator SHERRY—So no request has been made to find other documentation at his point of entry?

Mr McMahan—To the best of my knowledge it has not been requested, but I could take it on notice as to whether it has.

Senator WONG—Minister, is the government proposing to review the security arrangements that attach to the ETA process as a result of this matter?

Senator Vanstone—I do not believe so.

Senator WONG—You do not consider it to indicate a systemic problem?

Senator Vanstone—It would not be a decision just for me, in any event. If you wanted to review security arrangements, that would be a matter that would come forward from one of the security portfolios.

Senator SHERRY—But the ETA is an essential part of security checking. When the correct, up-to-date information is not entered into the system, we have a major security breach. Why would you not have a look at the current arrangements? It seems to me obvious to do so.

Mr Farmer—I think that Senator Wong's question related to the ETA.

Senator WONG—My focus perhaps should have been on the movement alert lists. They are the only check. I think we have established that. They are the only security check in the process of applying for an ETA. You have indicated that there is no other requirement in terms of security cooperation that the government requires of participating countries. So you do not say to France, 'You can have an ETA if you promise to give us all this information, including who you've got under surveillance.' That is not a requirement. So my question is: given these circumstances, is the government proposing to review either the data that is put into the movement alert lists or the security arrangements, including cooperative arrangements, which are required for a country to benefit from the ETA process?

Mr Farmer—From the immigration point of view—and that is the only thing that I can comment on—the movement alert list certainly is the front line. Our role is to apply the list, and we attempt to do that thoroughly and well. But the question you are asking is a broader question and one that I do not have a comment on.

Senator SHERRY—But you say the movement alert list is your front line. I think they were the words you used.

Mr Farmer—Yes.

Senator SHERRY—If you are not provided with full information, you are left with a hole in the front line, aren't you?

Mr Farmer—Certainly, to put it another way, we can only act on the basis of information that we have.

Senator WONG—And you did not have this information at the time.

Mr Farmer—That is correct. Can I just add something? In the case of, let us say, people who come to Australia from ETA countries, there are many people who may have criminal convictions of one sort or another. Those convictions are not necessarily entered onto MAL. The AFP and other law enforcement agencies have the capacity to request entries onto MAL, but their resources are not such as to enable them to gather the details of, if you like, every convicted person who potentially would be of character concern. That is just a statement of fact.

Senator SHERRY—That is to say you could have another hole, Mr Farmer, because there are not sufficient resources to check the convictions.

Mr Farmer—This system—the MAL system—has gone back for quite a while, and in these matters you do have a trade-off. There is no doubt about that. You can have, for example, lists of war criminals which have tens of thousands of names on them. A number of those names are on our warning lists because we do not want war criminals to come here. Is every potential war criminal listed on our lists from Rwanda or the former Yugoslavia? That is a question that immigration services around the world are contending with, because there would be very few immigration services that, in answer to that question, would answer yes.

Mr Killesteyn—Can I say, Senator, this is not a single, static list. This is being constantly updated and improved all the time. One needs to look at this over time and see what has happened to the movement alert list. It was only five or six years ago that the number of names on the movement alert list would have been 50,000 or 60,000. We have constantly worked inside DIMIA and with many, many other agencies to increase the number of names to give us much better coverage. As Mr McMahon has said, we are now at 230,000 names, and the list of names continues to go up.

Senator WONG—So is Mr Brigitte on the movement alert list now, Mr Killesteyn?

Mr Killesteyn—Yes, he is, Senator.

Senator WONG—When did he get put on that?

Mr McMahon—On exit.

Senator WONG—On exit from Australia?

Mr McMahon—Yes. On 17 October.

Senator WONG—You were alerted to concerns about his security.

Mr McMahon—On 9 October.

Senator WONG—Yes. That was when you were first notified. Subsequent to September 11—the attacks in New York—were there any changes to protocols or information being inputted into movement alert lists?

Mr Killesteyn—No, I do not believe so, Senator. That is not to say that the issue I think you are implying, about needing to review the nature of names going on the list, was not uppermost in their minds. I think you will find that, from that time—and certainly before and after—there were constant additions to the movement alert list as names continued to emerge.

Senator WONG—But there were no changes to the categories of persons that you put on the MAL as a result of that?

Mr Killesteyn—We already had very comprehensive categories from those that were very high risk, and that included a risk of terrorism right through to those that we would regard as relatively low risk, such as a breach of immigration.

Senator WONG—Is there a category for people who are under surveillance by their national government?

Mr Killesteyn—The categories do not work like that. The categories are broad risk categories. Within those, there will be certain subcategories. People who have some form of attachment to terrorist activity would be included in our high risk category.

Mr McMahan—We did review our position more broadly within the portfolio after September 11. You may recall that the government announced some initiatives as a result of that. The key initiative for our portfolio was the placement of six additional airport liaison officers in the regions. Basically, it is a very important step in providing an offshore border point to Australia.

Senator SHERRY—Was one placed in Paris?

Mr McMahan—No, it is not a gateway to Australia.

Senator SHERRY—It was in the case of Mr Brigitte.

Mr McMahan—Mr Brigitte would have to have gone through one of the gateways in the wide arc around international airports in the region.

Senator SHERRY—Did he fly from Paris?

Mr McMahan—I do not know his travel details. He arrived on the 16th. He had an ETA on the 10th, and he arrived on the 16th.

Senator SHERRY—Wouldn't the embarkation card show the travel details, including where he got on?

Mr McMahan—It normally shows the last port.

Senator SHERRY—You do not have that card yet, do you? Or you have not been asked to find it!

Mr McMahan—That is right.

Senator SHERRY—I must say that I do find it quite extraordinary that you have not been asked to find the card in the circumstances.

Mr McMahan—I guess it is a question of its materiality to the investigations. We provided information on his arrival, so the information is known.

Senator WONG—What information in relation to Mr Brigitte is now on the MAL?

Mr Farmer—I do not think we should answer that.

Senator WONG—Is that classified?

Mr Farmer—I believe it is a security related matter.

Senator SHERRY—But you know the answer.

Mr Farmer—I do not, but I am sure we do.

Senator SHERRY—The department does?

Mr Farmer—Yes. It would be on the list. I do not know whether the protocols would enable us to read it all, if you know what I mean.

Mr McMahan—In this case, there is immigration information and, as the secretary indicated, there may well be security information as well. But, in the end, he was a person

who was removed from Australia because he was working in breach of his visa conditions. That certainly would be recorded on the MAL.

Senator WONG—His breach of visa conditions would be recorded?

Mr McMahon—Yes.

CHAIR—We are still in output 1.1, Senator Sherry—generally speaking.

Senator WONG—Mr Rizvi, you were going to tell me about the Samaki family, weren't you?

Mr Rizvi—Yes, Senator.

CHAIR—Lucky guess, Senator Wong!

Mr Rizvi—I mentioned earlier that there were two visitor visa applications with regard to the Samaki children that were ongoing in terms of appeal. You wanted the dates of the various applications that have been made. There were in fact three sets of applications altogether for the Samaki children. The first set of applications was supported by the Zero to One Foundation. The first application was lodged on 7 November 2002 and a decision on it was made on 8 April 2003. The second application, which was the one that was supported by the gentleman in South Australia, was lodged on 18 May 2003.

Senator WONG—The magistrate?

Mr Rizvi—Yes. It was decided on 29 May 2003.

Senator WONG—When you say 'decided', Mr Rizvi, do you mean rejected?

Mr Rizvi—Yes, that particular application was refused.

Senator WONG—Were the grounds for rejection for both the first and the second visas on the basis that these children were at risk of overstaying?

Mr Rizvi—That was essentially the assessment of the decision maker.

Senator WONG—And the third?

Mr Rizvi—The third application was made on 26 May 2003, and it was decided on 6 June 2003.

Senator WONG—Again it was rejected.

Mr Rizvi—Yes.

Senator WONG—Again on the basis that these young children were at risk of staying in Australia.

Mr Rizvi—All of those applications have to be assessed against the legal criteria, and one of the criteria is whether a genuine visit is intended.

Senator WONG—Was that the basis of the rejection?

Mr Rizvi—Yes.

Senator WONG—Can I ask how the department envisaged children of this age having the wherewithal to overstay their visa and evade immigration authorities?

Mr Rizvi—It is a question of the totality of the application, and that has to take into account what the likelihood is of the persons overstaying, whether that be of their own volition or as a result of other supporters or the wider community.

Senator WONG—Are there particular persons, in terms of the supporters, who are regarded as putting these children at risk of not complying with their visitor visa conditions?

Mr Rizvi—I do not have access to the specific decision that was made, but it would not necessarily have to be in respect of the specific supporters or sponsors themselves.

Senator WONG—How old are these children?

Mr Rizvi—I think they are both under 10 years of age.

Senator WONG—Yes, five and eight years of age or something like that. It would be hard to see them evading immigration authorities. Presumably, if you considered they were at risk of overstaying, the department must have formed a view on at least three occasions that someone who would have responsibility for them in Australia was unlikely to comply with the visa conditions?

Mr Rizvi—It would not necessarily have to be someone who had responsibility for them that could lead to that outcome.

Senator WONG—Can I clarify that the third application is the one that was supported by the senator and the member of the legislative council in South Australia?

Mr Rizvi—That is correct.

Senator WONG—Thank you.

Senator SHERRY—This is not in our questions, but I did ask about exit visas on the last occasions. I think you might have provided me with information on the reprinting of the card.

Mr McMahan—Yes.

Senator SHERRY—Is the new card in operation? This was for the one about superannuation.

Mr McMahan—Yes, I know the question. It was that and the ATO.

Senator SHERRY—If this is not the correct place, I am happy to wait.

Mr McMahan—We will answer that in 1.3.

Senator SHERRY—Fine.

CHAIR—You will remember that, won't you, Senator Sherry?

Senator SHERRY—I will.

Senator KIRK—I have a couple of questions in relation to student visas. Can you advise us how many student visas were issued in the past financial year?

Mr Rizvi—In 2002-03, 162,575 student visas were granted. That is a seven per cent increase on the previous year. Offshore student visa grants—that is, visa grants to persons who were outside Australia—increased by 12 per cent, whereas visa grants to persons who were already in Australia declined by 2.4 per cent, giving the overall increase of seven per cent.

Senator KIRK—Thank you. I notice there have been some increases and decreases in the two categories of visa. Have there been any changes to the criteria for student visas in the past year?

Mr Rizvi—The major change in visa criteria for students took place in July 2001, when there was a major reform of the criteria. Since then there has been some minor finetuning, but nothing significant in terms of criteria. We believe the decline in visa numbers onshore is partly related to more streamlined procedures offshore in granting visas to people doing a package of courses. Previously, we did not tend to issue visas for the full package of courses that a person might be intending to undertake. Since the July 2001 reforms we have been more prepared to provide a visa that covers, for example, an initial English language course and then, subsequently, a VET course.

Senator KIRK—So you are suggesting that more people are applying for the visas offshore rather than making their application when they are in Australia?

Mr Rizvi—I think that is right. I think the visas that are being issued offshore are being issued for a longer package of courses.

Senator KIRK—It seems to have taken a bit of time for those changes of July 2001 to filter through.

Mr Rizvi—No. Since July 2001 the overall increase in student visa grants has been in excess of 20 per cent, so the reforms have been very successful in boosting student visa numbers.

Senator KIRK—Thank you.

[3.01 p.m.]

CHAIR—I think that covers off most of the issues and questions in 1.1, as senators have advised me. We will move to output 1.2, Refugee and humanitarian entry and stay.

Senator KIRK—I would like to ask some questions about TPVs. I understand that we put some questions on notice in relation to some figures. I am not sure whether or not you were able to bring the answers to those along with you today.

Mr Farmer—I think we are ready to talk to them.

Senator KIRK—Thank you.

Mr Illingworth—I was asked for the total number of people currently on protection visas and when those will expire, with a breakdown of dates by the end of 2003 and then for every six-month period following that. As at 24 October 2003, there were 8,862 people who had been granted temporary protection visas since the introduction of the visa in October 1999. Those figures include some children born to TPV holders in Australia. Of those people, there were some questions about how many were currently on bridging visas and when they would expire, and we were asked for a breakdown of those TPV holders by gender, nationality and age with respect to whether they were adults or children. Of the 8,862 people, eight currently hold a bridging visa, and they lodged their further protection visa applications after their temporary protection visas had ceased; four have not lodged an application for a further

protection visa and have not departed Australia; 18 no longer hold a temporary protection visa because of cancellation; and some 200 have departed Australia.

Of the 8,321 temporary protection visa holders who are recorded as having made a further protection visa application, those who made an application during the term of their existing temporary protection visa will have their temporary protection status continued until such time as the further protection visa application is finally determined. There are 541 TPV holders who are yet to make a further protection visa application. Therefore, their temporary protection visas could notionally cease if they do not make a further application before the end of that face term of the visa grant.

I have numbers for the notional expiry dates of those visas. For the period from November 2002 to December 2003 there are 49 people. From January 2004 to June 2004 there are 67 people. From July 2004 to December 2004 there are 176 people. From January 2005 to June 2005 there are 140 people. From July 2005 to December 2005 there are 52 people. From January 2006 to June 2006 there are 25 people. From July 2006 to December 2006 there are 32 people.

Proceedings suspended from 3.05 p.m. to 3.27 p.m.

CHAIR—The committee will resume our consideration of output 1.2, Refugee and humanitarian entry and stay.

Senator KIRK—Mr Illingworth, you gave us some breakdowns of the 8,062 figure. What I was interested in particularly was, of those people who are on TPVs, when do their 36-month visas expire? Or was that the breakdown that you gave me?

Mr Illingworth—The visas work in such a way that, while the temporary protection visa is granted for a fixed period, it actually changes if the person lodges a further application during the term of their visa. So the original visa is no longer defined by an end date; it is defined by the event of finalising the further application. So, for all of those further protection visa applicants, their end date has ceased to be 36 months. It is now whenever it is that we finalise their further application. In essence, their visa status does not expire: they stay as temporary protection visa holders until they get an answer from us that is finally determined either at primary stage or review. That is how I got to the 500-odd people.

Senator KIRK—Yes, the 541 that you mentioned.

Mr Illingworth—They are the ones who, at the moment, still have not lodged a further application and, therefore, if they do not, they have not defined any date that I could then give you.

Senator KIRK—I see. So it is only 541 who potentially will have their visas expire at the dates that you gave us and, because they have not lodged any further application, they cannot continue, whereas the other 8,300-odd—

Mr Illingworth—That is 8,321.

Senator KIRK—are still in the system, so to speak.

Senator SHERRY—Just on that issue, do you have any projection or estimates about when that is likely to be for those who are not subject to the time cut-off point?

Mr Illingworth—Ultimately that date will depend on a number of factors: the speed of processing, whether the initial decision is an approval or a rejection and whether they go to review. It is rather hard to give firm projections, but we are certainly aiming to produce decisions on large numbers of those with the first decision, the DIMIA decision, this financial year. That process has already started.

Senator KIRK—When do you expect the primary decisions will be made in relation to those persons?

Mr Illingworth—We have already made over 300 primary decisions. Decisions are being made as soon as we can make them in the normal processing arrangements. It is hard to pick an application and give a projection of the date, because it will depend on features particular to that application. One of the claims is a need to look at country information or require a person to do offshore criminal checking.

Senator KIRK—I just wanted to clarify it, because, in answer to a question that Senator Wong asked, the RRT estimated that there would be around 3,800 TPV holders able to appeal their decisions at the RRT in the next 12 months. Would that be in line with your estimate as well as to the number that will be coming through?

Mr Farmer—I think it is correct to say that the RRT said that that was leaving aside a judgment as to how many of those applications would be approved by the department. It was really saying that it was up to that—

Senator KIRK—That was the upper limit?

Mr Farmer—Yes.

Senator KIRK—They were obviously trying to make some sort of prediction as to their likely workload. Unfortunately I was not here, so I was not quite sure of the context.

Mr Farmer—I think they were talking about the upper limit of the workload.

Senator KIRK—Mr Illingworth, did you say that in the figures you are going to provide us with there is a breakdown of the nationalities of the TPV holders?

Mr Illingworth—Yes, I have some information as requested on the gender and the nationality breakdown. Of all the people granted a temporary protection visa—these figures, again, are as at 24 October this year—we have 1,806 females and 7,056 males for a total of 8,862. I have a nationality breakdown. The major nation is Afghanistan on 3,659, Iraq is on 4,256, Iran is on 453 and Sri Lanka is on 128. I can give you an exhaustive list if you would like me to.

Senator KIRK—Yes, thank you. That would be helpful.

Mr Illingworth—Afghanistan has 3,659, Albania has eight, Algeria has nine, Angola has one, Bahrain has two, Bangladesh has one, Bulgaria has one, Burma has 12, Burundi has two, China has one, the People's Republic of China has five, Congo has six, the Ivory Coast has one, Egypt has eight, Eritrea has one, Greece has one, India has two, Iran has 453, Iraq has 4,256, Jordan has six, the Democratic People's Republic of Korea has four, Kuwait has 12, Kyrgyzstan has one, Lebanon has three, Liberia has one, Morocco has one, Nigeria has two, Pakistan has 28, the Palestinian Authority has 102, the Philippines has two, the Russian

Federation has four, Rwanda has two, Saudi Arabia has three, Sierra Leone has two, Somalia has 15, Sri Lanka has 128, 42 people are stateless, Sudan has two, Syria has 24, Thailand has one, Tunisia has three, Turkey has 33, Turkmenistan has one, Ukraine has two, the USSR has two, Yemen has two, the Federal Republic of Yugoslavia has two, Zaire has two and Zimbabwe has one.

Senator KIRK—Thank you.

Mr Illingworth—There was also a request for a breakdown between minors and adults.

Senator KIRK—You might be able to provide that to us in due course. I probably do not need the detail now. Thank you very much anyway. I do have some general questions about the process of determining ongoing protection. How long on average does it take to assess each claim?

Mr Illingworth—It varies from case to case.

Senator KIRK—Do you keep statistics as to the time frame?

Mr Illingworth—We do have some average statistics. The larger the group of cases that one averages it over, the more accurate a picture one gets, although it can vary from groups of nationality as well. Usually it takes about two to 2½ days of total time of a case manager to make a protection visa decision. That will not necessarily all occur in 2½ days—it is that amount of time, but it could be spread over several days or weeks.

Senator KIRK—Do you have to allocate additional staff to do the consideration of the claims or do you rely on the staff you already have?

Mr Illingworth—We have a body of trained case managers. They are in offices in New South Wales, Victoria and Western Australia—for the further protection visa processing. The same officers that we already have in place for our normal protection visa workload are used for that work.

Senator KIRK—What criteria do the officers use? Do they use the same criteria as those for the initial temporary protection visa or are there additional guidelines?

Mr Illingworth—We basically apply the refugee convention. The test is to assess whether an individual continues to be owed protection obligations. The criteria for grant of a protection visa in domestic legislation is that a person is owed protection obligations under the refugee convention or is a close relative of a person who does meet that test. So the same test is applied. There are some extra considerations that need to be taken into account when you are looking at people.

Senator KIRK—What are the extra considerations in the second stage?

Mr Illingworth—One looks at the basis of the claims that the person had originally and then draws a conclusion as to whether or not the person's status—I am talking about further protection visas—remains the same in the light of the country information and the situation as it exists at the time of the fresh decision. If that is not the case, one needs to turn their mind to the new claims—if there are any new claims—and make an assessment about whether the person continues to be owed protection obligations because of the new claims.

Senator KIRK—You gave us the breakdown of males and females before. Could you also give us a breakdown of the minors and adults?

Mr Illingworth—Certainly. Of the 8,862 TPV holders, 1,830 are under 18 years old and 7,032 are 18 years or older.

Senator KIRK—I have a question specifically in relation to Afghan TPV holders: is it the case that there has been an instruction provided that the applications of the Afghan TPV holders should be rejected at the initial stage and that they then should be required to go to the next stage at the RRT?

Mr Illingworth—No, certainly not. We would not issue any such instruction. Decision makers make the best decision they can on the individual case they have before them. That is their individual responsibility.

Senator KIRK—So it is fair to say there is no direction from above as to how to deal with a particular class of visa holder, for example?

Mr Illingworth—We provide guidance, country information and training to help decision makers make reliable decisions but we certainly do not instruct them as to what the outcome of a decision will be.

Senator KIRK—The guidelines are general guidelines and they are applied across the board by the primary decision maker on a case by case basis?

Mr Illingworth—That is right. The sorts of guidelines we provide are basic supports for administrative decision makers—how you apply the law and the sorts of tests one needs to look at.

Senator KIRK—Are those guidelines available publicly?

Mr Illingworth—They are. My understanding is that the protection visa processing manual is a publicly available document.

Senator KIRK—Thank you. Of those TPV holders who are in the system, so to speak, have any made applications for permanent protection?

Mr Illingworth—They do not need to make a separate application for permanent protection. They merely need to apply for a protection visa, and that would encompass both a permanent and a temporary visa. Whether they got one or the other would depend on the circumstances of the individual case.

Senator KIRK—So whether or not it is permanent or temporary is left to the discretion of the decision maker?

Mr Illingworth—It is not a discretion because the criteria are set out in legislation. They are obliged to make a judgment about whether the criteria for grant of the particular visa subclass are met.

Senator KIRK—I understand. Of those TPV holders who have not had their visas extended, has anything been done in order to monitor the return of those refugees, of those persons who have returned to their country of origin?

Mr Illingworth—The ones I mentioned as having departed have done so voluntarily. Our normal means of identifying that is to check the movements records that we hold against our protection visa application records and spot the ones who have left. They do not actually come to us and say, ‘I’m going home.’ In most cases we just note that they have left.

Senator KIRK—At what stage in the appeal process would a refugee or a TPV holder lose their right to work and to Medicare? I wonder if you know at what point those benefits are suspended.

Mr Illingworth—Their status as a temporary protection visa holder will continue throughout the processing of their further protection visa application. If they are refused their further application by the department, there is no change to their status. They would be able to apply for a review while still being a TPV holder. It would only be if the RRT eventually affirmed a department refusal that those entitlements would cease and their status as a TPV holder would come to an end.

Senator KIRK—So it is only really when there is a final decision that those—

Mr Illingworth—Throughout the merits review process, their status remains that of a TPV holder.

Senator KIRK—That remains the case as well if there is an appeal to the Federal Court?

Mr Illingworth—No. Once the merits review process is concluded, they cease to be a TPV holder. But they still are able to obtain bridging visas in the normal course of events to pursue litigation, should they wish, on the same basis as any other person who has their PV refusal affirmed by the tribunal.

Senator KIRK—What are the other services or benefits that are lost in the event that an application is unsuccessful?

Mr Illingworth—Once an application is finally determined post RRT, I understand that the restrictions on accessing work rights are not automatic. Essentially, once they have got to that point the person should be either in litigation if they think they have a basis for that challenge or leaving. The normal approach of the legislation is that, where a person reaches that point, they should be departing the country or would be liable for detention and removal.

Senator KIRK—So at that point in time they lose all rights.

Mr Illingworth—At that point in time they would be, as would any other protection visa applicant or visa application who reached that point in the process, expected to depart because they would have no lawful basis on which to remain. If they were to mount litigation then there are avenues there that apply to others who are in litigation also to obtain bridging visas on certain conditions and to remain in the community lawfully while they pursue that litigation.

Senator SHERRY—How many Iraqi refugees are on expired or expiring temporary protection visas?

Mr Illingworth—I do not have the numbers for those who have not lodged further applications and therefore whose temporary protection visas are likely to expire, but I have some numbers for the ones who have reached the 36-month point of their visa. The vast

majority of those have lodged further applications and so have not stopped being TPV holders. As at 17 October, there are 1,628 Iraqis who have lodged further applications for protection and whose original temporary protection visas have reached or exceeded the 36-month point. They have been holding a TPV for more than 36 months, but all of those people are still TPV holders. They have just converted into this other—

Senator SHERRY—Nebulous.

Mr Illingworth—category, which keeps them lawful until they have a decision on their further application.

Senator SHERRY—What is happening to the processing of their applications?

Mr Illingworth—There is a centralised exercise for obtaining updated country information, which would enable decision making on a large number of them to proceed reliably. Wherever it is possible to proceed with a decision for an Iraqi protection visa application, with the current country information such as we have it, that will happen. The problem is that the turmoil in the country has essentially rendered our historical country information unreliable. There is a question of its relevance. It is very difficult to get a clear picture of what is happening on the ground and precise detail to enable reliable decision making to proceed. But we are putting considerable effort into trying to reach that point and are soon as we reach that point there will be groups—and, possibly, even large groups—of applicants, depending on the nature of their claims, who could be decided quite quickly.

Senator SHERRY—So, effectively, the process is bogged down until we get some more reliable information on the status in the country.

Mr Illingworth—Part of the process is getting reliable country information.

Senator SHERRY—I understand that, but you are indicating there are some problems in getting reliable information at the present time.

Mr Illingworth—We are getting a lot of information, but there was a lot of information we needed, because there was a major change in the country situation. There will be other steps we will need to consider when we start making decisions and those go to providing the applicant with an opportunity to raise claims they may wish to raise that they had not raised before.

Senator SHERRY—But, effectively, there are a significant number of applicants on hold until you have more reliable information. That is where we are at the present time.

Mr Illingworth—I would not use the words ‘on hold’, because the action that is being taken is coordinated, centralised action rather than dispersed individual case action. There are a large number of applications affected by the need to get reliable country information in order to reach a decision. This is not just an Australian problem. UNHCR has raised the issue of the reliability of making asylum claims in the current environment with a number of countries.

Senator SHERRY—So, at the present time, you cannot make a reliable assessment for a significant number of people until you get accurate or up-to-date information.

Mr Illingworth—That is correct.

Senator SHERRY—It seems to me, as an outsider looking in through the media's eyes, that the situation is one of constant flux and violence. Can you predict when you will get some up-to-date information for when a decision can be made? Is it possible to predict it?

Mr Farmer—I do not think we will be getting that sort of prognosis out of the UNHCR. I do not think they are talking to countries that are in the same position as Australia along those lines. I think the situation is that we, as others, are waiting for the situation to change.

Senator SHERRY—What if it does not change? What if the 'instability' continues for some years? Presumably, you cannot make a decision until then.

Mr Farmer—Obviously that is really hard to say. The people who are here will have their status extended, so their access to—

Senator SHERRY—But, if the instability continues for a year, two years, five years, are you saying that we should keep extending it until we get some clear indication of where this country is headed?

Mr Farmer—Certainly there are a number of authorities who are talking about regularising, or changing, circumstances in Iraq. I think it remains to be seen what comes of that. I certainly agree with you that there are question marks about the future. How soon it takes for those to be resolved, we cannot say.

Senator SHERRY—Given that we invaded the place, I would have thought we had very reliable information.

Mr Farmer—You would not expect me to agree with all of that characterisation, Senator. In terms of information that enables us to make a judgment that is fair to individuals who are making a claim for protection, we do not believe we have access to that information. I think the UNHCR believes that that sort of information is not available either.

Senator SHERRY—Do the UNHCR still continue with their assessments in this area in the country, given the dreadful circumstances of some of their staff at one of their operations? Has that affected their ability to assess?

Mr Farmer—It may well have. I do not know if my colleagues have any details about UNHCR operations in Iraq.

Mr Illingworth—I am not aware of the current situation with the UNHCR.

Senator SHERRY—Has there been an assessment made that there would be no public acceptance of returns to Iraq at this stage?

Ms Godwin—There are people returning to Iraq, and the UNHCR is aware of that. Mostly, though, I think the view is that at this stage those returns would be in small numbers and on a voluntary basis. But it is certainly true that there are people returning to Iraq.

Senator SHERRY—You say 'voluntary basis' and 'small numbers'. What sort of numbers are we talking about approximately?

Ms Godwin—I certainly do not have the numbers. I do not know if anybody else at the table has got them. We may need to take that on notice.

Senator SHERRY—I note that Minister Downer expressed a view last year that return to Iraq was possible.

Mr Farmer—I do not know when he said that, but if it was last year—

Senator SHERRY—It was before Saddam Hussein was removed from power.

Mr Farmer—Perhaps I can just say something that I hope might be helpful. It is certainly intended that way. Without going into the details, I think it is true that the majority of temporary protection visa holders of Iraqi background were given those visas on the basis of a claim by them that they feared persecution at the hands of the Saddam Hussein regime. Prima facie, if you were to take a decision on their cases, you might say, ‘There is no Saddam Hussein regime, so where is the basis of their continuing claim to protection?’

Senator SHERRY—That does seem logical, Mr Farmer.

Mr Farmer—That is right.

Senator SHERRY—They cannot go back because of Saddam Hussein. He has gone; they can go back.

Mr Farmer—But, as we have found in the case of Afghans, people might also have other claims to put on the basis of changing country information. There can be people of different ethnicities who are differently placed for a variety of reasons whose potential circumstances might have changed.

Senator SHERRY—But what about those who stated that they feared going back to Iraq while Saddam Hussein was in power? He has been removed. It has changed. Why isn’t the department assessing these applications in those cases?

Mr Farmer—Because it may well be that at a different point in time their claims will have changed, and so the system in effect gives them the chance to make any new claims they might have. That has happened with a number of people. Ms Godwin might want to add to that.

Senator SHERRY—But, surely, there are some who said, ‘Look, I don’t want to go back because of Saddam Hussein.’ They have not changed their grounds.

Mr Farmer—And, indeed, if someone said, ‘I’ve made a claim on the basis of fear of persecution by the Saddam Hussein regime. That is not there any longer. I don’t have a basis. I will go home,’ they can return voluntarily.

Senator SHERRY—But are there any people who refuse to go, despite having claimed that they feared Saddam Hussein’s regime?

Mr Farmer—I am not aware that anyone is in effect putting their hand up and saying they have no further claim but they are not going.

Senator SHERRY—We were talking earlier about the advice on conditions in Iraq, and the UNHCR was mentioned. Are we seeking advice from other sources?

Mr Illingworth—Yes, we seek advice from as wide a range of sources as we can lay our hands on. We communicate with a number of agencies like IOM. We consult with other countries that have case loads as well and have information sources which we may not have

available to us. We seek advice through our posts, although that comprises a relatively small percentage of the total of information that we gather. We search Internet and media sites and sources in order to try and find as much as we can about what is going on in particular countries.

Senator SHERRY—For example, in the case of a person of Kurdish origin from Iraq, do you consult with the people that are controlling what is the de facto Kurdish section of Iraq?

Mr Illingworth—It would depend on the nature of the claims. The normal practice is that we would not go back to the authorities in the country from which the person has fled fearing persecution, because you do not get a clear picture if you go back to the person who is alleged to be the persecutor and ask them if they have been persecuting this person. Quite often they will say—

Senator SHERRY—But the US is running the show, isn't it?

Mr Illingworth—Yes. We talk to those sorts of information sources.

Senator SHERRY—So you do talk to the US authorities there. They are running it—or trying to.

Mr Illingworth—We gather information from wherever we can.

Senator SHERRY—But I asked whether you talk to the US authorities who are attempting to run Iraq at the moment.

Ms Godwin—We are not aware that we have specifically spoken to the US on this. I think the point Mr Illingworth is making is that we collect information from a variety of sources depending on the circumstances. You started this group of questions with a question about UNHCR. It is certainly not the only source, but clearly, given the circumstances in the country, we would be keeping in very close touch with UNHCR around their views about the approach that should be taken in respect of applications from people from Iraq.

Senator SHERRY—Are you not aware of any possible change to the presence of the UNHCR in Iraq because of those other circumstances that I mentioned earlier?

Ms Godwin—I am certainly not aware of their presence in Iraq specifically. Certainly they have been in the region, and I understand they are working with other countries in the region in relation to displaced Iraqis who have been in places like Jordan, Syria and Iran.

Senator SHERRY—I suppose that, if we cannot find WMDs, it is pretty difficult to find information that is up to date on the security situation, isn't it?

Mr Farmer—We would not think of it in those terms.

Ms Godwin—It might be worth drawing a distinction between the general information about the security situation, as you described it, and the more detailed information of the sort that Mr Farmer pointed to, which goes to the question of what the circumstances might be in respect of individuals who seek to return. The assessment we have to make is not simply about the security situation as such but about whether an individual would face persecution themselves. So that sort of information is clearly harder to get than more general information about the overall circumstances.

Senator SHERRY—I understand that it is complex. The persecuted can become persecutors, given a changed circumstance. That is quite possible, given the different ethnic groups in Iraq.

Ms Godwin—That is potentially an issue. Equally, someone who focused their claims initially, as Mr Farmer was saying, on the fear of the Saddam Hussein regime simply might not have raised other concerns because that was the focus. Now that it has gone, they may nonetheless have other concerns that they have not currently brought to our attention.

Senator SHERRY—Is evidence available to the department, or is the department aware of any studies, on the effect of the insecurity—this waiting and waiting and waiting until these processes can be brought to a conclusion? Do you have any information on the health and wellbeing of people who are waiting in these circumstances?

Mr Farmer—Of people who have a temporary protection visa?

Senator SHERRY—Yes. They are just waiting, and they could be waiting for years.

Mr Farmer—I think it has been made clear that, whilst circumstances do not permit a re-examination of claims, the status of people will continue—that is, they will continue to have access to the right to stay in the community and to benefits of a variety of sorts.

Senator SHERRY—I am aware of that, Mr Farmer, but that is not what I asked. Is the department aware of any health studies of people who are in this state of uncertainty, if you like, for some indeterminate time?

Mr Farmer—There certainly have been press reports of a variety of types about people worried about their future. I have certainly seen a number of reports of that sort. Studies I am not aware of, but that is not to say that they do not exist.

Ms Godwin—I am not personally aware of any.

Senator SHERRY—Has the department itself commissioned any studies on the medical health effects of the sense of insecurity on individuals in these circumstances?

Mr Farmer—I do not believe so.

Senator SHERRY—Has there been any identification of the medical condition of Iraqis whose process has effectively been put on hold while this matter is finalised? Have there been any observations made by your own medical people?

Mr Farmer—To the extent that we have medical people, they are working in other parts of the migration program. They are the Commonwealth medical officers who are engaged in other visa processing but not really in this area of our work.

Senator SHERRY—Has the department come to any view about the cumulative effect of persecution in Iraq—flight, detention, long processing, temporary protection and then some sort of indefinite suspension—on individuals?

Mr Farmer—I do not think it is indefinite suspension.

Senator SHERRY—They do not have a finite time.

Mr Farmer—That is right, but it is suspension for the time being.

Senator SHERRY—Let us assume that it is suspension for the time being. Let us use your expression. Does the department have any view on how that would affect the wellbeing of individuals?

Mr Farmer—I think the answer is no developed view. I just repeat that those individuals do have access to the right to remain in the community and to benefits while they are in the community.

Senator SHERRY—What about the impact on the children who are waiting in this state of flux?

Mr Farmer—They are still in the community. They have access to education and other benefits.

Senator SHERRY—Is the department aware of any view expressed by medical authorities with respect to, say, the children?

Mr Farmer—I hesitate to say ‘the department’. I am not aware of studies. I have seen a number of newspaper accounts of people’s views.

Senator SHERRY—Let us take these newspaper views that you refer to. Has the department sought advice from any of the individuals reported in the media to have made observations?

Mr Farmer—I am not aware that we have.

Ms Godwin—No.

Senator SHERRY—You are not concerned about looking at potential health impacts on the individuals affected?

Mr Farmer—We are concerned to process applications as soon as that is possible—

Senator SHERRY—I understand that.

Mr Farmer—and, meanwhile, the various benefits that are available to people remain available to them.

Senator SHERRY—I understand that. It is very clear. But you have observed media reports of people’s uncertainty and the impact of that on their health. The department is doing nothing about that? It is not interested? It is not even going to follow it up, check it or have a look at it?

Mr Farmer—I do not think we have a role in that area.

Senator SHERRY—Does anyone else have a role? Can you identify another government department that should be looking at this?

Mr Farmer—People have access to medical attention.

Senator SHERRY—You make it clear that your department does not have a role in looking at this issue, so that is your department out. What about other government departments—the Commonwealth department of health, for example?

Mr Farmer—I have said that they have access to medical attention.

Senator SHERRY—Are they doing anything? Have you asked them to do anything?

Mr Farmer—Individuals have access to the medical system. They have access to Medicare and, therefore, to medical attention.

Senator SHERRY—But that is not the issue I am getting at. The issue is evaluation and study of their medical condition as a result of the suspended state they are in—waiting. Nothing is being done by the health department to look at this issue?

Mr Farmer—For a definitive statement you would have to ask the health department. I am not aware that anything is being—

Senator SHERRY—But your department has not asked any other department, state or federal, to look at this issue?

Mr Farmer—That is correct.

Senator SHERRY—There have been a number of campaigns by communities where TPV holders have settled to let those TPV holders stay because of the benefits that the communities see locally. Is the department aware of recent reports on the benefit to regional economies of people on TPVs?

Mr Farmer—Yes, we have seen those reports.

Senator SHERRY—Has the department undertaken any of its own analysis on this issue—the benefit to regional economies, the employment impact and those sorts of issues?

Mr Farmer—I think it would be reasonable for you to assume that, in thinking about case loads like this, we do quite a bit of analysis of the composition of the case load. For example, it is easy to talk in the broad about 8,000 or 8,500 cases, but as you know we deal with each case on an individual basis. There are clearly thousands of individual circumstances here. To take one hypothetical example: a temporary protection visa holder who has married or is engaged to an Australian citizen might very well find himself or herself in a different circumstance from someone else. When you start thinking about the case load, you can think about people who might well fall into a variety of categories. One would be those who have formed, are forming or might form a particular relationship with an Australian citizen. As you have said, there might well be cases of people who are able to in some way establish a case for migration other than through a new family relationship. That also is a possibility.

Senator SHERRY—I will come back a little bit more specifically to my question. We have had some campaigns that have been run in communities where TPVs have settled, usually as a group with the same background or the same country of origin. Has the department looked at the arguments about the benefits to regional economies and the consequences of removing those TPVs from those regional economies?

Mr Farmer—We have not yet done, if you like, a comprehensive study of that issue, but we have begun to turn our minds to the potential range of circumstances of temporary protection visa holders, who might fall into a variety of categories, other than those who would be found to need continuing protection.

Senator SHERRY—You can take this question on notice unless you have the information here, but I would not expect you to. Could I have the location of people on TPVs by electorate. You do not have it?

Ms Godwin—As a general point, we do not have information by electorate. We do not collect information in that way.

Senator SHERRY—You have their address, don't you?

Ms Godwin—We have an address by postcode. That is the address that the person has advised us of most recently, but as TPV holders they are free to move around the community; they may not necessarily be at that address.

Senator SHERRY—I understand that. But you can give us the groupings by postcode?

Ms Godwin—We may well be able to pull it off by postcode, but we would not necessarily know what that corresponded to. As I understand it, electorates and postcodes do not necessarily directly correspond.

Senator SHERRY—No, but there is a pretty strong correlation. I agree that they do not always correspond; they overlap.

Mr Farmer—Can we undertake to do our best on that?

CHAIR—That would be helpful, Mr Farmer.

Senator SHERRY—What about Centrelink?

Ms Godwin—I understand Centrelink also do not keep it by electorate. They keep it by postcode. In any event, not all of the TPV holders would be Centrelink recipients because some of them are working.

CHAIR—Would it be acceptable if the information was provided to you by postcode, Senator Sherry?

Senator SHERRY—Yes.

CHAIR—Thank you.

Senator BARTLETT—Sadly, due to other things, I was not able to hear all of the questioning that went before, so if my questions overlap please tell me to listen more closely next time and go and check the *Hansard*. On the issue of the expiry of TPVs and people applying again or getting reassessed, which I think you have been answering questions about to some degree, can I just clarify the criteria for reassessment. When someone is getting to the end of their three years, they normally apply again for another TPV or in some cases for a permanent visa. Are those reassessments basically completely fresh? Does a person need to prove that their situation has changed, or do they need to prove that they are in genuine fear of persecution?

Mr Illingworth—There is not an onus of proof in the legal sense that relates to the decision making. An applicant always has an obligation to advance the claims and to do what they can to help to substantiate them, but ultimately the decision maker has to make the best decision that they can. The decision maker has an obligation to explore and to exercise the benefit of the doubt as appropriate and to make a decision that grants a visa where the person meets the tests. It is not a case of applicants having to demonstrate and definitively prove their case again. Certainly they have to put their claims and the case manager will assess them.

Senator BARTLETT—I accept the technicality about having to satisfy the decision maker to the same extent as the first time around.

Mr Illingworth—That is correct. The decision maker must be satisfied that the criteria for the granting of the visa are met. If they are satisfied that the criteria are met, they are obliged to grant the visa. If they are not satisfied, they are obliged to refuse the visa. It is a fresh visa application in that sense. The decision is made under the Migration Act.

Senator BARTLETT—One would assume that a lot of that would rely on the latest country information about what the situation is rather than any fresh information that the applicant would provide.

Mr Illingworth—The applicant is free to provide whatever new claims or information they want to advance. In this process they are actually given formal opportunities to do that, but a decision could turn on information that the department holds rather than information that the applicant provides. A decision either way could turn on such information.

Senator BARTLETT—The assessment that is made is obviously whether people meet the criteria to be a refugee under law. There is no specific onshore humanitarian visa, as we know. I do not want to revisit that debate, but a lot of the community debate is about sending people back to somewhere that is not safe. The criteria that protection applications are judged against do not specifically go just to the safety questions. If there are other safety questions beyond simply the criteria to be called a refugee, is that another area where people will possibly explore the ministerial discretion avenue?

Mr Illingworth—Assuming individuals have gone through a further protection visa application process, have been refused by the department, have gone to merits review and have had that decision affirmed, there is a ministerial intervention power which the minister could use should she consider this to be in the public interest. That is the same power that would apply to every other protection visa applicant in the same position. Of the processes that we would put the application through, yes, the protection visa test relates to the refugee convention criteria. Following an RRT decision that affirms a refusal or should the situation come about—and we are talking about events that will probably be a long way down the track now—where the removal of a refused protection visa applicant is being considered, the department will conduct an assessment of those cases to consider whether there are issues which relate to other convention obligations and will identify any other issues that might raise broader public interest concerns. That provides a safeguard, and those issues can be drawn to the attention of the minister as and when they arise.

Senator BARTLETT—Those things could also include the issues Senator Sherry was raising about the situation in Australia now, such as the economic value to the community, links to family or relationships that have been developed.

Mr Farmer—I do not think that would be relevant in the assessment of a protection visa.

Senator BARTLETT—I was thinking more of cases where a claim is not successful. These are issues that could then be brought to the minister's attention or put before the minister for exercise of discretion.

Mr Farmer—Yes. People could really raise any matter they wished then.

Senator BARTLETT—Has there been a previous question about UNHCR’s use of the cessation clause? Is any weight given to the invocation or non-invocation of cessation clauses by the UNHCR in generally assessing the safety of countries for people to be returned to?

Ms Godwin—I will let Mr Illingworth talk specifically about the cessation clause, but I will reiterate a point we were making earlier. Because it is a fresh application, the decision maker is obliged under the Migration Act to make in effect a fresh decision as to whether protection obligations are owed. In forming a view about whether protection obligations are owed, they have to have regard to the provisions of the refugees convention in the broad. That includes both the protection elements and any other elements that might be relevant. I will let Mr Illingworth talk about cessation specifically.

Mr Illingworth—We are aware of the public comments that have been made by various groups about how they feel it would be best to process further applications from temporary protection visa holders. The Migration Act governs how we process the applications, and a couple of key elements are set down for us as decision makers. We have to be satisfied at the time of decision that the visa criteria are met and we have to apply the criteria, which are from the convention and have been introduced into domestic law in section 36 of the act. Essentially, we have to make a decision as to whether the person is a refugee or is owed protection at the time of decision. The issue of the person, in some cases, being someone who was in the past found to be owed protection and granted a temporary protection visa is directly relevant to the later decision, but it is not binding on the later decision maker. The further application has to be decided on its own merits, and the decision maker has to make the best decision they can on the facts they have. It is obviously relevant that the applicant is the holder of the TPV and was granted that visa X years ago, but it is also relevant to ask whether the underpinnings of that earlier decision are still valid. That is the process we go through.

Senator BARTLETT—What about country information? Take the Afghanistan example, which is obviously relevant for a number of people. As I understand it, the DFAT web site currently has a travel warning which tells people that anyone travelling outside of Kabul should consider permanent armed protection and that these precautions still cannot guarantee safety. That would seem to be a fairly clear demonstration that it is not exactly the safest place to go back to, but that is still not automatically relevant in a refugee assessment.

Mr Illingworth—All the information that we can lay our hands on that could have a bearing on whether the person has a fear of persecution on a convention ground is relevant. I will be cautious and not step too much into this ground because the Foreign Affairs portfolio is the expert in this area, but I think there could be a difference between the concept of a travel warning for a visitor travelling to a country and issues that relate to residents and nationals of that country. There can quite often be distinctions in risk between people perceived to be foreigners in a country and those perceived to be habitual residents or nationals. That is one issue that can be relevant.

The other issue that we are focussing on is whether the person would be persecuted for a convention ground. Quite often some of the broad arguments for people not being able to go home to country X or country Y are based on less focused concerns about levels of

infrastructure, standards of living, environmental situations or security situations which may broadly relate to safety and wellbeing but do not relate to the refugee convention.

I think the other issue is that in every case that we decide a person is not owed protection, we make the decision based on that individual's claims and concerns and we take into account, through the post RRT processes that I mentioned, an evaluation against the guidelines, looking at other possible public interest issues that might be a concern for the individual—not as a broad proposition but case specific concerns.

Ms Godwin—We also need to keep this in a broader perspective. Something like 2½ million displaced Afghans have returned to Afghanistan with the active support and assistance of UNHCR. So there is clearly a view that for large numbers of people returning to Afghanistan is appropriate and reasonable in all of the circumstances. As Mr Illingworth has said, we are obliged to turn our minds to the circumstances of individuals. There may well be circumstances that would make it difficult for a particular person to go home but would not make it difficult for significant numbers of others. I think the general proposition is always difficult in relation to individual refugee applications because, as I said, we are obliged to make an individual determination in respect of the individual applicant. But in general circumstances, clearly UNHCR has formed a view that it is appropriate and reasonable for significant numbers to return to Afghanistan and has assisted them to return over the last year or two.

Senator BARTLETT—I want to ask some questions, which may have been covered already, about the number of people from Afghanistan and from Iraq who have put in new applications and how many have been rejected and how many have been accepted. Have you had questions along those lines?

Ms Godwin—We have not had questions on the outcomes of decisions so far, Senator, but we have already provided some cohort data—if I can put it that way—on the number of people who have made further applications and the number who have not. We have had questions about when the 36 months will be up for the number who have not yet made a further application. Many of them still have time to make those applications so it is just a potential issue for those individuals.

Senator BARTLETT—That would be useful. I am also interested in how many have been rejected, what countries they are from, whether any have then reached the stage of being knocked back by the RRT as well—if any have got to that stage yet—and also how many are in abeyance, if you like. I am not quite sure what the technical term is, but I understand that there are a number, particular from Iraq, who have not been assessed yet and are sitting on some form of bridging visa.

Ms Godwin—I think that maybe the most helpful thing to do would be to review what we have already provided—what is already in the *Hansard*—and then, in a sense, provide on notice the elements that expand that along the lines that you have just mentioned. We did have a fairly lengthy exchange with Senator Sherry around the issue of Iraqis—the country information and where their applications were up to.

Senator BARTLETT—Finally, I turn to the seven-day clause, in terms of the determination. As you would be aware, a regulation was disallowed in the Senate that

contained, amongst other things, something to do with the seven-day clause. As I understand it, that only applied to those who had arrived prior to September 2001. It did not affect anybody who arrived after that date. I wanted to confirm that. Presumably, by putting it in a regulation, the department or the government perceived this to be a problem that should be addressed. I am wondering whether any other avenue is now being considered to address the problem that still exists due to the disallowance.

Ms Godwin—I think the question of any other measures that are being considered would be a matter for the minister. We are certainly aware of the disallowed regulation. We are certainly aware of the issue. But, as I say, whether any further measures are being considered is a matter for the minister.

Senator BARTLETT—I turn to the interpretation of the seven-day clause and the definition of ‘resides’. Certainly, judging from what people say to me, it seems to be something that there is some contention about. Has the department obtained legal advice about that at all, in terms of how it should be applied?

Mr Illingworth—The department obtained legal advice in the drafting of the provision and, as I understand it, since.

Senator BARTLETT—Are you aware of any legal challenges at the moment to the application or interpretation of that seven-day clause?

Mr Illingworth—No, I am personally not aware.

Senator KIRK—I believe that we put on notice a number of questions that we have referred to before. In relation to asylum seekers in detention, I wonder whether you have the information with you today that you would be prepared to give to us.

Ms Godwin—I think that the people responsible for detention do have that information, but that would normally come up under output 1.3.

[4.34 p.m.]

CHAIR—We now move to output 1.3. This relates to enforcement issues, entry and departure, unlawful entry and so on.

Senator KIRK—In relation to people currently being held in detention, I would like to get the latest data broken down by gender, adult or child status, nationality, location, length of time in detention and how many of these are completed cases where the applicant has failed and is awaiting removal. Do you have those figures? It would be helpful if they could be tabled or perhaps you would like to run through those figures.

Mr Davis—I can provide information to you here. Running through the request, my figures are as at 24 October, which I think is about a week or so ago. There were 1,177 people in immigration detention at that stage. Ninety-seven of those people were in what we call ‘other facilities’ which are hospitals, prisons, alternative detention arrangements in the community or nursing homes et cetera.

Senator KIRK—Are you able to provide a breakdown as to where those places are and the number of persons held there?

Mr Davis—I do not have that with me.

Senator KIRK—It would be helpful if you took that on notice.

Mr Davis—Yes. Off the top of my head, of those 97 at least 24 or 25 are in alternative detention arrangements in the community—foster care or community care of one form or another. I can provide more detail on notice. I also do not have the male-female breakdown of the people in those other facilities with me, I am afraid. For those in detention facilities and the residential housing projects, there was a total of 1,080 as at 24 October. Of that 1,080, there were 168 adult females, 807 adult males, 41 female children and 64 male children. Their claimed nationalities included: 212 Chinese—I think that is PRC—209 Iranians, 102 Afghans, 77 Vietnamese and 62 Indonesians. Those are the top five nationalities, and I have the details of 418 other nationalities. I do not have the breakdown of nationality other than the top five with me here.

As at that date, their locations included the following centres: 286 in Baxter, 100 in Port Hedland, 17 in the Woomera residential housing project, 72 in Maribyrnong, 19 in the Perth IDC, 583 in Villawood—and I will qualify that number in a second—and 53 on Christmas Island. Two of those 53 are actually in a state prison in Western Australia and one of those 53 is currently in hospital in Perth, so there are actually 50 on the island right at this moment.

The data I am providing to you is extracted from our departmental systems. There has been a significant turnover of detainees in the Villawood centre. There has been a lag in updating the full records, and the figure of 583 overstates the number by about 20 in the current population of Villawood. That is simply a lag that occurs in the recording of the system. While it is 583 in our system as at a week ago, I am advised that the head count for last night was about 560—just to be clear on that number. The others are in line with the head count information.

In terms of time in detention, of my 1,080, 501 have been less than six months; six to 12 months, 121; 12 to 18 months, 54; 18 months to two years, 28; two to three years, 278; three to four years, 89; and four years or longer, nine. I again have the top five nationalities of how many of these are completed cases and awaiting removal. Of the 1,080, 624 are awaiting removal, the top five nationalities being Chinese, or PRC, 180; Iranian, 74; Afghan, 45; Indonesian, 45; Republic of Korea, 39; and 241 people of other nationalities.

CHAIR—Can you table that document?

Mr Davis—I will provide it.

CHAIR—I did not quite get all of the figures.

Senator KIRK—I was wondering whether or not there is a regular status report compiled about the number of people in detention and whether or not that is publicly available.

Mr Davis—We do provide a weekly report to the Parliamentary Library of numbers of people in detention and in which facilities. I believe that includes things like gender and break-ups of minors, adults and children. I think it does also include some information on top numbers of nationalities in each centre. It is provided weekly to the Parliamentary Library.

Senator KIRK—And that is done weekly, is it?

Mr Davis—Yes.

Senator KIRK—Is it put on your web site?

Mr Davis—No, I do not believe so.

Senator KIRK—Do you know what the longest period of time that someone has been held in detention is?

Ms Godwin—Do you mean ever?

Senator KIRK—I believe I do mean ever, yes.

Ms Godwin—I think ever we would have to take on notice. It is certainly not one of our current detainees.

Mr Davis—Unfortunately, Senator, I do not have the person currently in detention who is the longest serving, but it is over four years. Nine people are over four years.

Senator KIRK—I have some information that a person had been held for more than nine years.

Ms Godwin—We can take that on notice, but I would be extremely surprised if that were the case.

Senator KIRK—Thank you. I had also some questions in relation to children in detention. I jotted down some of the figures that you read. Am I correct in saying that there are approximately 100 children in detention—41 females and 64 males?

Mr Davis—That is correct. That would include children in the residential housing projects at Woomera and Port Hedland.

Senator KIRK—What about children held in Manus and Naru? Do those figures include them?

Mr Davis—No, the figures I have provided to you are those who are in Australian detention facilities, including Christmas Island. But Naru and Manus are not detention facilities, and output 1.5 covers the operation of those centres.

Senator KIRK—I will come to that later. I wonder if you are able to advise the committee how many children have been born in detention centres in the past four years.

Mr Davis—I think we would have to take that on notice and provide that to you.

Senator KIRK—Do you have any figures as to how many children have been held in detention for more than two years? I think the figure you gave me in the breakdown was about 54. Is that how many you said had been held?

Mr Davis—I do not have that sort of breakdown of children by time, but we can certainly create that and provide that information for you at a later date.

Senator KIRK—That would be helpful. If those figures that you gave me on the length of time in detention—one to six months, six to 12 months and so on—could be broken down into adults and children, that would be most helpful.

Mr Davis—Sure.

Senator KIRK—Can you tell me whether or not children in the Australian detention centres have regular assessments by health and education professionals from outside of the detention centres?

Mr Davis—What would you mean by assessments?

Senator KIRK—Assessments as to their health—whether or not they see doctors outside of the detention centre, whether or not medical professional specialists are brought in to see the children in relation to their health—and likewise educational requirements.

Mr Davis—Certainly on health requirements doctors come in from outside. Indeed, many of the detention facilities use local GPs for normal day-to-day needs, but also special attention, either through specialist nursing provision in the centres or through specialists being brought in on individual cases, is accessed on a needs basis. It is common practice for it to be a local general practitioner who actually provides doctoring services to centres, whether that be on an individual doctor basis under contract or a practice under contract where a number of doctors in a local service may come to a centre. That is arranged through our service provider.

In terms of educational requirements, it is an obligation under the contract for our service provider to provide curriculum that meets certain standards under our immigration detention standards. Generally speaking, our first objective is to see whether we can access external schooling and, in the process of placing children into external schools, an education assessment is done, usually by the school authorities to which we are placing those children. I add in passing that we have actually had some comments from education authorities to indicate to us that the standard of education of students who have gone out to external schooling for the first time is very high and we have actually had positive feedback from education authorities that what they have provided in the centre meets their needs and in some cases exceeds their needs.

Senator KIRK—You mentioned local GPs coming in and providing health services. Who makes the decision, if it needs to be made, that a specialist needs to be brought in, for example, if a child has a serious health issue? Is it the local GP who makes that recommendation, or who is that that makes a recommendation?

Mr Davis—It would be the treating doctor. Again, our service provider does have a medical director and senior medical staff who guide the work of the service provider in ensuring detainees get adequate health services. But the treating doctors would be recommending and arranging access to relevant specialist medical services as needed.

Senator KIRK—Would the same apply in relation to their educational needs? Is that a decision that would be made by the school if they were attending an outside school?

Mr Davis—Once the child is attending outside school, exactly what level of education services they are provided is usually a matter for the school, as I understand it. If a specific issue arises with a particular child, I imagine we would engage in discussion with the school authorities on that particular issue. Generally speaking, the school assesses what level of educational support an individual requires and accesses it and provides that to the child in the external school environment.

Senator KIRK—Have there been any children reported as self-harming in the past three years?

Mr Davis—I do not have figures for children; I have total figures for self-harms in centres. For the year to date to the end of September, I have information that we have had 33 self-harms, but I cannot indicate with the figures in front of me how many involved children.

Senator KIRK—Would you be able to take that on notice?

Mr Davis—I can indeed.

Senator KIRK—Thank you.

Mr Davis—Of course, for any issue related to children where self-harm or indeed any other concerns arise we have immediate notification arrangements with the local child welfare authorities to deal with those sorts of issues, whether they be self-harm or any other issue relating to children.

Senator KIRK—So those social welfare authorities are then brought in to assist the children. Is that the case?

Mr Davis—It depends on what is required. They would look at the issue to see whether it is simply a reporting issue or whether it is something that requires investigation. They make the decisions on what is required in response to any issues that arise for children.

Senator KIRK—So it is left to them to make a decision such as whether the child requires some further treatment, for example, psychological?

Mr Davis—We work closely with the child welfare authorities on those sorts of issues—on the needs of the individual children.

Senator SCULLION—When you talk about statistics on self-harm. Are there any smaller qualifications? Can you break down the statistics? There is a huge difference between drinking some shampoo and taking your own life. I am not really sure what that means. Do you have any details on that?

Mr Davis—I do not have them with me. There is one point I could make that the issue of self-harm, on the figures I have provided, are about allegations of self-harm and how serious the individual was about harming themselves. It goes to issues you have raised—the nature of what they might do. I do not have that information, but I can provide it on notice.

Senator SCULLION—You are telling me that even an allegation of self-harm may be one of the 33 cases?

Mr Davis—Yes.

Senator SCULLION—Would you take that on notice?

Mr Davis—Yes. I will provide more information.

Senator KIRK—Would the department advise the committee about the recent case that has been brought against the Commonwealth for the harm caused to a child held at Woomera Detention Centre in 2001? I am interested to know where that case is at and who will be responsible for meeting the costs of it if it is successful.

Mr Farmer—This is a case that is now being brought—

Senator KIRK—Yes. I understand that proceedings have been instituted.

Mr Farmer—It is a bit difficult to comment on the case in the broad. I was not quite sure what the import of your question was.

Senator KIRK—My question really goes to who will be bearing the costs of the case.

Mr Farmer—We would pay for our litigation.

Senator KIRK—When you say ‘our’ litigation, do you mean the Commonwealth? Or does DIMIA have its own separate budget for that?

Mr Farmer—We have a litigation budget.

Senator KIRK—I also want to ask some questions about alternative detention models. As has been mentioned, at the end of last year the then minister, Mr Ruddock, announced that the government would be building alternative models of detention to house women and children. On a couple of occasions in the Senate the minister has mentioned the progress that is being made at the Port Augusta centre. Could I be given an update on Port Augusta and other places that provide alternative accommodation for women and children?

Mr Davis—In Port Augusta, establishment of the houses on site has been completed. We are going through the finalisation of furniture, fittings, operational commissioning and the final testing of the facility to ensure it meets our needs. We expect an opening of the facility by mid-November, which is a week or so away. I cannot give you the exact date because those issues are being worked through right now. Essentially, Port Augusta will be available within weeks.

Port Hedland has been operational since mid September. We currently have three detainees in the Port Hedland residential housing project. The Woomera residential housing project currently has 17 detainees and continues to function with a cluster of eight houses—one administrative house and seven accommodation houses. Exactly how long the Woomera project will run is a matter to be determined and based on the progression of the Port Augusta residential housing project.

Senator KIRK—Is the intention to close the Woomera alternative housing project eventually? Is the intention to move those 17 people to Port Augusta?

Mr Davis—We are looking at providing opportunities for the women and children in the Baxter centre to participate, subject to available space. How the Woomera project is used will need to be determined once we have assessed our capacity to manage from there. It is yet to be determined exactly in terms of time frames. In relation to other alternative detention arrangements for women and children and those with special needs, we continue to work with state welfare authorities, as I said, in terms of unaccompanied minors whom it is appropriate to place in foster care. We still have a group of unaccompanied minors in the Adelaide community in foster care arrangements. We are also working actively through the Immigration Detention Advisory Group with nongovernment organisations looking at options for placement of detainees, women and children but also those with special needs, into community detention arrangements as appropriate. We have had active discussion with a number of NGOs in a number of cities and that work is going forward in terms of developing

options. We have also recently placed a family into alternative detention arrangements in Melbourne under the care of some NGO groups.

Senator KIRK—Going back to Port Augusta you said it is going to open in mid-November—this is the alternative housing project. Have you made any offers as yet to persons in Baxter to determine their willingness to shift to the housing project in Port Augusta?

Mr Davis—We have not made any formal offers given that we do not have an exact date but we have gone through the process of discussing that matter with all eligible families.

Senator KIRK—Firstly, how many people will the housing project hold and, secondly, how many are you expecting to take up offers?

Mr Davis—On a medium-term basis, we believe that the capacity of the new centre is around 40 detainees. The difficulty with that is the composition of individual families. The number of children with an adult female could determine how many rooms they need in a three-bedroom house, for example. What we are putting into the Port Augusta project are seven three-bedroom houses and, depending on the exact nature of the family compositions, there could be more or less than 40. We have, as I said, canvassed the degree of interest with detainees in the Baxter facility and it is true to say that we have had a mixed response to date from individuals. Until such time as the complex is completed and we can show the detainees what the complex looks like I cannot give you an exact number of how many may wish to participate because participation in the RHP is a voluntary process.

Senator KIRK—What about the 17 in Woomera? Have they been made aware of the fact that the project in Port Augusta is about to open?

Mr Davis—They are indeed aware of that and we are working with that group as well in terms of options for them to participate in the Port Augusta project. We are also bearing in mind issues around schooling and other things. They may wish to complete schooling in the Woomera school where the children currently attend. Those sorts of issues are part of the process of us working out the transition arrangements for the Woomera project. There are a number of factors that we are looking at in terms of a transition, if you want to call it that, from the Woomera project.

Senator KIRK—You mentioned Port Hedland had opened in mid-September. Is that correct?

Mr Davis—Yes.

Senator KIRK—I think you said that there were three detainees.

Mr Davis—Yes.

Senator KIRK—Why are there so few? What is the capacity in Port Hedland?

Mr Davis—The Port Hedland facility is made up of five single-bedroom units, one of which is a little bit larger than the other four units. We believe the capacity, again depending on family configuration, is somewhere between eight and 12. We use eight as a guide to a medium-term capacity but, depending on family configuration, we could go up to something like 12. Essentially, as I recall, six families who were in Port Hedland were assessed as

eligible. One of those six families chose to participate; the other five families chose not to participate in going into the facility. That is simply their choice.

Senator KIRK—What were their reasons for that? Was it because of the configuration of the project—the fact that it is five single bedroom units?

Mr Davis—I do not have detailed information as to individual reasons, but I think the overall thematic reason we have heard is separation from partners. But for those who do participate we do arrange regular interaction between the adult male in the centre, if there is one, and the partner and children in the RHP. That works in both directions—that is, the detainees in the RHP visit the centre regularly and the adult male visits the RHP regularly.

Senator KIRK—What is the distance between the centre proper and—

Mr Davis—It is about 700 metres in Port Hedland's case.

Senator KIRK—So, almost no distance at all. Are there any plans to establish an additional alternative detention centre in Port Hedland, in addition to this five single bedroom unit complex?

Mr Davis—Not at present.

Senator KIRK—I wondered whether or not the department has had a chance to look at and respond to the joint standing committee report into conditions at detention centres that was tabled in both the House and the Senate last month.

Mr Farmer—We have certainly had a chance to see it, but we have not had a chance to form views and brief the minister. I would rather that she heard from us before you heard from us, if you see what I mean.

Senator KIRK—Do you have any sort of timetable for when you are intending to prepare your response and deliver it to the minister?

Senator Vanstone—Soonish.

Senator KIRK—Soonish?

Senator Vanstone—It is a technical term.

Senator KIRK—Yes, I will have to look that one up in the dictionary. Today?

Senator Vanstone—No.

Senator KIRK—By the end of the year—the sitting period?

Mr Farmer—We would certainly aim to provide some advice to the minister by the end of the year, yes.

CHAIR—I indicated to Senator Allison, who needs to ask some questions before half past five, that she would be next.

Senator ALLISON—If I could go to those statistics on children in alternative accommodation, I was provided with a table of the numbers for each month up until the end of July this year. On average, it does not rise too much above 10 per cent of all children in detention centres who have been found alternative accommodation. Minister, this may be one

for you: does that disappoint you given the objectives of the government to allow children and their mothers, mostly, out to alternative detention?

Senator Vanstone—These things take time.

Senator ALLISON—So, over time you would expect that percentage to be higher?

Senator Vanstone—We will see how we go.

Senator ALLISON—So what is the objective?

Senator Vanstone—In the context of?

Senator ALLISON—Percentage of children in alternative detention as the Prime Minister has promised?

Senator Vanstone—I do not think we have a set objective.

Mr Farmer—Senator, one prior point that should be made is that the decision to put people into a detention centre is made on a case-by-case basis.

Senator ALLISON—I understand that, Mr Farmer; I am just asking the minister. It is the Prime Minister's commitment to relocate as many children, as I understood it. Migration direction No. 317—I think that is the number—suggests that this is a high priority for the government. But 10 per cent over a period of more than six or eight months? It is not really a good figure.

Senator Vanstone—I think the officers might be able to give you some further insight to this, because one particular point is that shifting out is voluntary and not everybody chooses yes. We discussed this earlier—you were not here—

Senator ALLISON—I did hear.

Senator Vanstone—You can look at figures and you want to compartmentalise them and aggregate them in particular ways to make them user-friendly and say '10 per cent; fine'. But what you miss out on is that some people do not choose to do it. Ms Godwin might have some more information for you in that context.

Senator ALLISON—On that point: I asked why it was that some people chose not to do it. You would think it would be an attractive proposition. One reason—in fact, the first one cited—was not wanting to be separated from family members who would be remaining in the detention centre. Can you quantify that? Of those who chose not to leave, would 90 per cent have cited that as a reason?

Senator Vanstone—I cannot tell you. Ms Godwin might have some figures.

Mr Davis—We do not have definitive figures on that issue, but I think it is—

Senator ALLISON—Why is that?

Mr Davis—We do not compile the statistics in that way on that particular reason. I was going to say that over—

Senator ALLISON—How do you document the reasons? Is there a report?

Senator Vanstone—It is difficult, and I know that you want to get to something, but if we could let an officer who is in the middle of saying something finish what they are saying I think we would get a better flow of questions and answers.

Senator ALLISON—Thanks for that advice.

Mr Davis—I was going to say that I think that probably is the predominant reason and I think that is what we said in answer to your question. We can see if we can get more statistical information around it, but the predominant reason given to us is separation, particularly from partners but also from older children who remain in a detention facility. Also, particularly once the Woomera centre was shutting, a reason given was the distance to the Woomera RHP. Clearly, what we are doing to open a facility in Port Augusta will significantly overcome that issue. The way I would characterise what we are trying to achieve is that we are trying to overcome some of these barriers to achieve an outcome which does lead to more women and children being placed in alternative arrangements.

Senator ALLISON—I did not actually say that was the most likely reason; I forget the words you used.

Mr Davis—I would say to you—

Senator ALLISON—You just gave in the answer four reasons that included that one. That is the reason I asked you that.

Mr Davis—Yes.

Senator ALLISON—It is relevant to ask you how this is documented.

Mr Davis—In terms of documentation of individual families, we do have notes and tables against the reasons people give us for not participating; I guess I was simply saying that I do not think we have compiled them in a statistical way to tell you that a certain percentage have indicated that as a reason. We do have documentation for every family and every adult female where they have been eligible of reasons why they have chosen not to participate. We do have that information.

Senator ALLISON—You said you have them in a table.

Mr Davis—We do have that information against individual families. We would need to be careful about privacy of individuals—

Senator ALLISON—I am not asking about names.

Mr Davis—but we could certainly compile that information for you.

Senator ALLISON—It would be interesting to know how many chose to remain in detention because they liked the current management and facilities of the centre they were located in. That data would be excellent.

Mr Davis—We will provide that.

Senator ALLISON—Thanks. I wonder if I can go to the question of costs of alternative accommodation. Again, your answer to my question about what Commonwealth funding was provided for those placed in alternative accommodation gives a couple of examples. I wondered whether it is possible to extract the costs of alternative detention in community care

facilities. By these I mean typically a church-run organisation; Hotham in Melbourne I know would be one of them, but I understand there are a couple of others that have been authorised. I think your estimates suggest that it costs the Commonwealth \$17,800—or thereabouts, by my arithmetic—per month per person in alternative detention, which sounds very high. I will ask you shortly about that. Can you give a comparison with the cost of those other kinds of alternative accommodation?

Mr Davis—I think in the response to the question you are quoting from we gave you the breakdown as we could provide it for the residential housing projects separate from other alternative detention arrangements. We have a range of different alternative detention arrangements, such as foster care, Hotham Mission type exercises—which, for a family group, can be quite different to a foster care situation—and a mix of arrangements with the South Australian government for the different people in their care, some of which involve costs which arrangements for other individuals do not involve.

It is true to say that each individual alternative detention arrangement has a unique set of cost drivers. Sometimes that can be significantly higher than that of a detention facility and in other situations, depending on the level of voluntary contribution or arrangements put in place in a larger family group, there may be economies about how they are held, rental costs and things of that nature. Some of those may be cheaper than holding them in a detention facility. I think the range of alternative detention arrangements, in terms of cost, is significant. Some can be quite low cost and others can be quite high cost. In overall terms, it is hard to come up with an average which characterises the situation. Also, when we talk about alternative detention arrangements, we include within that umbrella residential housing projects, which can be quite expensive if the occupancy levels are low. Probably it is somewhere between, I guess, the community detention arrangements, where the range can be quite large—

Senator ALLISON—I think it is probably fairly obvious that by averaging across all kinds of accommodation you are not getting a very useful figure. How much per capita was the cost of housing children with foster carers, on average?

Mr Davis—I could take that on notice and provide that to you.

Senator ALLISON—Could you also do that for the question I asked earlier about community care facilities such as those organised by churches and church organisations.

Mr Davis—We will do our best to see what we can provide to meet your need.

Senator ALLISON—You cite the cost of housing two persons—a mother and her daughter, as I understand it—in South Australia in a motel as being \$80,348 for the month of June 2003. Are those detainees still in that motel accommodation and why is the cost \$80,348? That is a very expensive kind of motel.

Mr Davis—I am advised that they are still in the motel and that medical supervision is the key reason why they are in Adelaide for an extended period.

Senator ALLISON—How long have they been at this motel?

Mr Davis—For some time. I would have to get the information.

Senator ALLISON—At least since June this year—is that right?

Mr Davis—Yes.

Senator ALLISON—Going on for at least six months.

Mr Davis—Yes.

Senator ALLISON—And what is the medical attention there that is costing \$80,000?

Mr Davis—The \$80,000 goes to their accommodation, not necessarily their medical expenses. I would have to clarify whether that cost includes the medical expenses, but it also covers the cost of detention officers who are with them in the motel supervising them in that situation.

Senator ALLISON—How many officers? What times of the day are they there? Are they in the same motel room or in another room? How does it work?

Mr Davis—They are in a different room. We take care on issues of privacy and issues of that nature, but there is a security issue around them being in detention in that environment.

Senator ALLISON—Twenty-four hours a day?

Mr Davis—There is a presence of detention officers 24 hours a day, yes.

Senator ALLISON—Are they free to come and go?

Mr Davis—Not without the detention officers accompanying them.

Senator ALLISON—So what do they do—knock on the door next door and say, ‘I want to go for a walk’?

Mr Davis—I would have to clarify the exact arrangements on the ground. I do not have that detail.

Senator ALLISON—It would be good to know what the exact arrangements were, and also the capacity of these people, who have been there for six months, to move outside the motel area.

Mr Davis—Excursions and activities are arranged for them, both as part of their medical treatment and for general recreation purposes. Also, we are looking at options for those people in lieu of the motel arrangement.

Senator ALLISON—Can you explain why \$230,000 was spent during June 2003 on motels in Western Australia when the figure as at 23 July which you gave me earlier suggests that there were only two detainees kept in hotel-motel accommodation and these were both in South Australia, not in Western Australia? Is it possible that suddenly in June we put lots of people in hotels and motels in Western Australia?

Mr Davis—Which year are we talking about?

Senator ALLISON—This year.

Mr Davis—We did have a detainee in a motel arrangement in Western Australia in June this year. I would need to check the details of whether there is an inconsistency between the questions.

Senator ALLISON—How do you assess the costs that are cited for general costs, \$605,207 overall, for June 2003, in regard to the new facilities being constructed? You

depreciate those buildings over what period of time? You may want to take this on notice: what is the make-up of that \$605,207?

Mr Davis—We will take that on notice and see what we can provide.

Senator ALLISON—Is it the case that the new accommodation at Port Augusta is not suitable for males over 14 and, if so, why?

Mr Davis—The migration series instructions include all males up to the age of 18—they are minors. The issues in relation to eligibility also go to management, behavioural and other issues, and those are not just issues associated with the individual but also the harmony, for want of a better word, of the residential housing project. Where we have had older male children potentially participating in a residential housing project, we have had to take into account those other factors in allowing their participation. There is not a strict eligibility on 14 years for a male child but associated issues for all children going to behaviour, privacy and other issues that may arise in the RHP context are balanced and taken into consideration in the placement of older male children.

Senator ALLISON—Are there any over-14-year-olds likely to go into that Port Augusta facility?

Mr Davis—It will be determined very much case by case up to the age of 18.

Senator ALLISON—You provided some figures for children in detention as at early October, which was the 93 in mainland detention centres. Is it possible to get figures for how many children there are currently in offshore detention centres?

Ms Godwin—Could we clarify the definition of ‘detention centre’. Christmas Island and Nauru are dealt with under program 1.5. I think someone has those figures, but they are not included in our detention centre figures.

Senator ALLISON—So I am asking the question too soon?

Ms Godwin—No.

Mr Davis—I am happy to provide you with Christmas Island figures on children. Is that the figure you wanted?

Senator ALLISON—Yes, children in offshore detention centres.

Mr Davis—Children on Christmas Island, we have 16.

Senator ALLISON—And on Nauru?

Mr McMahon—We have 93 children on Nauru.

Senator ALLISON—What are the security arrangements for the new residential housing projects at Port Augusta and elsewhere? How free are the children and adults to move around?

Mr Davis—I need to be careful how much I say about security arrangements within that facility but, broadly speaking, we have a perimeter fence with some security on the boundary of the facility to monitor the activity of people coming into the facility as well as people leaving the facility. We have an ACM service provider presence within the facility—adequate to meet what we would consider the needs. Clearly, if there were some security issues, that would rise; if there were a need, the staffing levels would go up. Basically there is a set of

service provider provisions for staffing for security purposes. Indeed, all children and adults participating in residential housing projects are still in detention and therefore are escorted if they leave the facility, whether that be to the playground next door, which is 50 metres away, down to the shops, back to the Baxter facility or anywhere else. Escort arrangements would be put in place as appropriate to meet the needs at the time.

Senator ALLISON—Camera surveillance?

Mr Davis—Predominately on the perimeter, not within houses.

Senator ALLISON—What height are the fences?

Mr Davis—They are six-foot fences—I cannot convert off the top of my head.

Senator ALLISON—Is there ribbon wire on the top?

Mr Davis—There is some razor wire on the top of the fence that backs on to the caravan park. We are negotiating with the caravan park owner to remove that. He has that around his facility for his own security reasons. We happen to be adjacent to that. We are discussing that matter with him with a view to see whether it can be removed. We are not planning to install any wire of that nature.

Senator ALLISON—What are the protocols with regard to people being accompanied outside the centre?

Mr Davis—The guiding principles that we have provided to our service provider are generally that people are given maximum flexibility to move outside the facility, and that is under escort or accompaniment. Those are the arrangements we are putting in place with the service provider and they are expected to meet that operational priority.

Senator ALLISON—What if five people want to go in different directions at the same time?

Mr Davis—That is something that needs to be balanced up at the time as to, I guess, relative priorities and how they can be accommodated. Certainly that has not been the experience of the Woomera residential housing project, which did have numbers of up to 20-plus at various times. That was not an issue in terms of ensuring that detainees' expectations and needs were met.

Senator ALLISON—There are probably fewer places to go in Woomera than in Port Augusta, would you say?

Mr Davis—I do not know—not knowing those towns well. We will work with the service provider to maximise people's capacity to move outside the facility.

Senator ALLISON—If it is possible to provide the committee with the rules of engagement, as it were, on what detainees can and cannot do, how often and so forth, that would be useful.

Mr Davis—We will provide what we can to the committee.

Senator ALLISON—How many children currently in detention are on medication for mental illness?

Mr Davis—I would have to take that on notice. I would not have that detail here.

Ms Godwin—In any event, I think we would need to make the usual sort of—

Senator ALLISON—I am not asking for names, Ms Godwin, just numbers.

Ms Godwin—I understand that, but it does require us to examine people's individual medical records. It is a matter between the individual and the treating doctor, and we do not keep tables of that sort of information. So we would need to look at whether we could examine the medical records and whether that would be appropriate.

Senator ALLISON—Can you also advise the number of incidents of mental illness amongst children?

Mr Davis—We will see what we can do.

Senator ALLISON—Can I add to the list the number of detainees on sleeping tablets?

Mr Davis—Again, we will see what we can do.

Senator ALLISON—Thank you. Recent research by Trang Thomas and Winnie Lau into the psychological wellbeing of children recommended family cohesion, family support and parental psychological health as major contributors to positive mental health outcomes. To what extent is that taken into account in decision making about alternative detention?

Mr Davis—I am not aware of the particular detail of what you are quoting from or asking. The issues of welfare of individual detainees are paramount in our minds in terms of both service provision within a centre—whether medical or any other service—as well as looking to access alternative detention or medical services in the community. Indeed, as I said before, one of the things we are exploring through the IDAG with some NGOs is meeting the needs of individual detainees with individual needs. We are seeking to maximise our response to the individual needs of detainees, whether within a facility or outside of it.

Senator ALLISON—There was a fair amount of criticism of the government in the recent National Rural Health Alliance newsletter of September, the month before last. It says that with Australian Correctional Management—the organisation which runs immigration detention centres—there is 'a culture of profit, a lack of transparent accountability, conflict of interest and resulting compromises of professional ethics which affect all health treatment decisions'. Did you agree with that statement? If you did not, what attempts were made to verify whether that claim affects the mental wellbeing of detainees?

Mr Farmer—I think that is a statement of opinion made by an advocacy group.

Senator ALLISON—It may well be; I am not suggesting otherwise. I am asking whether this criticism put forward by a very large number of medical groups prompted any form of review, investigation or examination of the claim.

Mr Farmer—I am sorry; I thought you said it was a statement by the rural refugee—

Senator ALLISON—It is.

Mr Farmer—But then you said 'medical groups'.

Senator ALLISON—No. I said it that was reported in the National Rural Health Alliance newsletter. I can tell you who signed off on it: the Royal Australian and New Zealand College

of Psychiatrists, the Royal Australian College of Physicians, the Committee of Presidents of Medical Colleges, the AMA and the Australian Psychological Society.

Mr Farmer—They are quoted as talking about ACM's profit motive?

Senator ALLISON—That is what I said.

Mr Farmer—I am not sure how they would be in a position to comment on—

Senator ALLISON—I can send you through a copy of that newsletter, if you do not have it. But my question is: does this prompt you to look at the question, particularly with regard to mental illness?

Mr Farmer—With the way we operate the centres, we are under scrutiny from a variety of publicly established institutions: this committee, the Human Rights and Equal Opportunity Commission, the Ombudsman and so on. We have a quite well-established set of approaches to managing—

Senator ALLISON—Perhaps you could just focus on that statement. I will make sure that, through the secretariat, your office gets a copy of it. If you could respond to that particular statement, it would be useful.

Mr Farmer—I am sorry but, without seeing the statement, I really hesitate to say that we will respond to it.

Senator ALLISON—Your response might be, 'We are not going to respond.' I am happy, whichever it is.

Mr Farmer—I am really unsure about what it is you want from us.

Senator ALLISON—Mr Farmer, you could say, 'We take no notice whatever of that statement and regard it as being spurious,' or you might say, 'We're going to look into it and see whether there's any justification for it.'

Mr Farmer—Prima facie, sight unseen, it appeared to be a shotgun or scattergun statement about a variety of matters by people manifestly opposed to mandatory detention and, therefore, setting out to make I think rather broad ranging comments about detention. That is my off-the-cuff comment but, as I say, I have not seen the statement.

Senator ALLISON—You might want to have a more considered response.

Mr Farmer—It was a considered response to the facts such as they were before me. No, I would not undertake to respond to every comment made by every organisation about these matters. Of course, we will always respond to anything that the committee puts to us; that is in accord with our aim to be as helpful as possible.

Senator ALLISON—I have some more questions, but I may come back to those after my colleagues have asked their questions.

CHAIR—We will see how we are going. If we have completed this area, could you put those further questions on notice?

Senator ALLISON—I will.

Senator SCULLION—I have a couple of follow-up questions with regard to the Port Augusta housing project. I understand that you do not wish to go into too much detail about

that for security reasons. I am privileged enough to have been in the Woomera facility. So for my benefit, are you basically planning to have an environment that is very similar to the Woomera housing project?

Mr Davis—Yes.

Senator SCULLION—So there will be groups of houses and people can interact? It will basically be like being in suburbia, and the controls will be further away?

Mr Davis—Yes.

Senator SCULLION—Are the detainees in the Baxter facility aware that there is going to be the opportunity shortly to move into alternative housing arrangements?

Mr Davis—Yes, for those who are eligible. Overwhelmingly that is most families in Baxter.

Senator SCULLION—What percentage of people are going to take that up?

Mr Davis—That is where it is a little unclear. We have had a degree of interest. I do not have a percentage, but quite a few families are interested in participating the moment it is open. Also we believe that interest will probably grow over time once families tour the facility and see what it has to offer. There are some families who are definitely interested. There are some families who would like to see it operating or open before they make up their mind and there is a group of families who have simply indicated that they do not wish to leave the Baxter facility—they accept where they are meets their needs.

Senator SCULLION—Would there be anyone in the Baxter facility who would be aware of the circumstances that existed at the Woomera housing project?

Mr Davis—I think we have a couple. At the time the Woomera IRPC shut, I believe there were some families who were in the Woomera residential housing project and who chose to go with their partners back to Baxter. I do not know how many, but I believe that some families who had the previous Woomera RHP experience may still be there.

Senator SCULLION—Are you going to build on that knowledge? Will you have some sort of excursion to show them around before they make those decisions?

Mr Davis—That is all planned in terms of ensuring the detainees are well-informed about the options available to them for those who are eligible. We have planned things like excursions through the facility once it is completed. They certainly have been provided information on what is expected and what we are planning to do.

Senator SCULLION—So you are telling me the vast majority of family units within Baxter meet the eligibility criteria?

Mr Davis—Yes.

Senator SCULLION—If I come to estimates next time and say, ‘Mr Davis, why have we only got 50 per cent of people living in the housing precinct?’ will one of your responses be that they have just chosen not to? This is a voluntary program. Is that correct?

Mr Davis—Overwhelmingly that is the response I would make—the eligible families have simply chosen not to participate in the residential housing projects.

Senator SCULLION—So we cannot expect, at any time, all women and children to be living outside standard detention facilities because of the choice factor—many of them will actually choose to remain within those facilities?

Mr Davis—Indeed. One of the issues alluded to in the question on notice that Senator Allison quoted was that indeed some families consider the facilities within the detention centre to meet their needs and are happy with those facilities.

Senator SCULLION—Do people have the opportunity to move back to or visit Baxter, particularly if part of their family is still at Baxter—perhaps an adult male, someone who does not meet the requirements as part of their family or another person from the housing project?

Mr Davis—Are you talking about the Port Augusta housing project?

Senator SCULLION—Indeed.

Mr Davis—Yes. We would have regular visits back to the centre. Services may be provided at the centre for some of the activities in a day-to-day sense—for example, if a migration agent or a lawyer is visiting a family, then that is likely to occur back at the Baxter facility. Also, we will be arranging for partners to go to the residential housing project for day activities, such as barbecues, family celebrations or other things that may be going on within the housing project. So we expect regular movement of detainees in both directions.

Senator SCULLION—It will be very difficult to determine from statistics at any stage how many people are still in detention or otherwise. Why is that the case? There is free movement between the Baxter facility and the housing project on a needs basis and also to facilitate access to the legal process.

Mr Davis—In one sense, that is true. In another sense, we do consider that, if a family has chosen to participate in a residential housing project, usually they participate for a period. Therefore we attach them, if you like, to the residential housing project. Even though they may spend a short period back in the Baxter facility from time to time with their partners, we still consider them to be actively participating. If they choose, in wholesale terms, to move back to the Baxter facility we would then, in a statistical sense, consider them to not be participating at that time in the residential housing project but rather as being part of the population of the Baxter centre.

Senator SCULLION—I suppose there is a fine balance between trying to keep the family unit together, which you have decided to do, and at the same time having women and children living in a separate environment?

Mr Davis—Yes.

Senator SCULLION—You can say quite clearly that families still have access so they can become a family unit; they can go back but, at the same time, they can enjoy this other environment.

Mr Davis—Yes. That is certainly part of our objective: to maximise the interaction and the involvement of partners in activities within the housing project, as well as back at the centre as a family group. We also strongly encourage both parents to participate in activities such as educational activities, where things may be going on at the school, and we actively pursue

that with the school authorities as well as with our service provider with respect to the services they provide to us.

Senator SCULLION—I heard about the razor wire. I was not sure whether I got it absolutely right. You did not put it up and you had nothing to do with the razor wire. It belongs to someone else; is that right?

Mr Davis—It belongs to someone else and, indeed, we are negotiating. I do not know whether we have been successful in negotiating to have it removed—because of our wish to not have it there—from our part of the fence.

Senator SCULLION—It is not there as a consequence of what may be happening in the housing project?

Mr Davis—It has been there, as I have said, a number of years.

Senator SCULLION—It has nothing to do with the activities that you are undertaking?

Mr Davis—No.

Senator MARSHALL—Has ACM ever been issued with a default notice under their contract?

Ms Godwin—It is a matter for the public record that they have been issued with one default notice.

Senator MARSHALL—When was that?

Ms Godwin—I believe it was around July or August 2001.

Senator MARSHALL—What were the issues that led to the issuing of the default notice?

Ms Godwin—I need to be careful about what I say here, because I am aware that documents in relation to this subject were requested and the minister had a view about what should be provided in those circumstances. When that came up in the Senate a couple of weeks ago, I think the minister offered an opportunity for briefings on the default notice and that was taken up by at least two senators. I am concerned not to go beyond what the minister has already indicated to the Senate.

Senator MARSHALL—And I would not ask you to, but what can you tell me about those matters?

Ms Godwin—The circumstances of the default were the subject of one of those documents, which the minister indicated she did not propose to table at that time. I apologise but, as I say, I do not want to answer a question that would go beyond what the minister has already indicated in the Senate.

Senator MARSHALL—Were the issues that led to the default notice issues that developed over a period?

Ms Godwin—Given that the minister had already indicated that she was prepared to make briefings available to interested senators, it may be appropriate to offer you a briefing in that way.

Senator MARSHALL—What are the concerns about making this information public?

Ms Godwin—I think the minister already made a statement on that when she responded to the request to table documents.

Senator MARSHALL—Mr Farmer indicated earlier that he accepts that part of the role of this committee is to put you under scrutiny in these matters. I am trying to put you under scrutiny and I am not getting very far in that respect. Were you aware of the issues that led to the default in May 2001, a couple of months earlier?

Ms Godwin—I am sorry, did you say May 2001?

Senator MARSHALL—Yes. The default notice was issued in July or August 2001. I assume someone did not wake up one morning and decide to issue a default notice. There must have been substantial investigation and potentially even negotiation with ACM before a default notice was issued. I am wondering whether in May you would have been aware of the issues that led to the default notice.

Ms Godwin—I need to clarify this. I am not sure what the reference to May 2001 is a reference to.

Senator MARSHALL—I can assist you, if you like. On 30 May 2001 former Senator Cooney in this forum put:

I suggest to you that this is a detention centre that is out of control and that the people who run it, ACM, are just not doing the job that they are supposed to ...

Ms Godwin—I would need to have a look at what detention centre he was referring to in those remarks, but I do not know whether that relates to the issue that was subsequently the cause for the default notice.

Senator MARSHALL—There was a report commissioned by DIMIA on 18 October 2000 and a consultancy called Knowledge Enterprises was engaged. Are you aware of that report?

Ms Godwin—Yes.

Senator MARSHALL—When was that report handed to DIMIA?

Ms Godwin—I do not recall the date. I do recall that that report has been the subject of questions in this committee and that we provided extracts from that report to the committee a year or two ago.

Senator MARSHALL—Why can't the full report now be made public?

Ms Godwin—That was also the subject of a request to the Senate which the minister responded to at that time.

Senator MARSHALL—In a letter to Mr Stuart Washington, who as I understand it is the National News Editor of *BRW*, I am advised that DIMIA refused *BRW*'s request to see the default notice because of the harm it would do to ACM's business reputation. Is that the case?

Ms Godwin—I think the point to make about this is that the delegate who made the decision under the FOI Act is required to take into consideration a variety of matters and, where there is an interested third party, to consult with that third party and take their views into consideration. I believe that is what the delegate did, and he referred to that in his response to Mr Washington.

Senator MARSHALL—Was that the only reason for refusal?

Mr Davis—For the default notice, that was the only reason. But there were other reasons cited for other aspects of the FOI request.

Senator MARSHALL—Is that the reason the default notice cannot be made public as well, from your point of view?

Ms Godwin—That was the reason that the delegate refused to provide the information under the FOI request. But there has been a subsequent request to the minister in the Senate. She has indicated to the Senate what she will or will not provide and the reasons for that. As I said before, I am anxious not to go beyond what the minister has already indicated she wants to have in the public arena.

Senator MARSHALL—Let me get this right. It cannot be made available to the press because of the harm it may do to ACM's business reputation, and that is the only reason; yet it cannot be made available to the parliament for a whole range of other reasons which we are unclear about. Can you explain to me how that works?

Ms Godwin—The minister I think made a statement at the time. The reasons that she determined not to make the documents available were made known to the Senate at the time that those documents were requested.

Senator MARSHALL—Let us just deal with the press freedom of information request. Why are we concerned about ACM's business reputation if in fact it goes to the issue of reasons why a default notice was issued? Do we believe the default notice was issued incorrectly or that we had no grounds to issue a default notice?

Ms Godwin—No. The delegate who makes an FOI decision is required under the act to take into consideration a variety of factors. As I said before, one of those is the views of an interested third party. They are required to consult. The delegate did that and took into consideration the views that the interested third party, in this case ACM, put to them. The letter to Mr Washington said:

On balance, I have concluded that in this matter, the public interest in disclosure is outweighed by the adverse impact that disclosure would or could reasonably be expected to have ...

In coming to this finding, I have taken into account ACM's written objections to release of the document ...

And it sets out what the factors were that the delegate then took into consideration. The issue here is that a delegate, delegated under the FOI Act to make a decision, has made a lawful decision. I can only tell you what the decision was and what the letter of explanation to Mr Washington set out. The delegate themselves obviously has to form that view. There are avenues of appeal, of course, under the FOI Act.

Senator MARSHALL—I am just finding it difficult to accept that DIMIA's concern about ACM's commercial reputation actually outweighs its duty for transparency and scrutiny in this matter.

Mr Farmer—The decision maker took a decision and it was a lawful decision.

Senator MARSHALL—Is it the right decision, though? Are you prepared to review that?

Mr Farmer—The decision is subject to review or to appeal if that is what the applicant wishes.

Mr Davis—That particular decision has already been subject to one review process, and the reviewer also came to the same view. But there are further avenues for appeal for an FOI applicant to the AAT.

Senator MARSHALL—How credible were the answers to the Senate Legal and Constitutional Legislation Committee on 30 May 2001 that the management contract had been put out to tender on the basis of value for money alone? Surely these issues that led to the default notice were known about at that time.

Ms Godwin—I am trying to strike a very careful line here. As at 30 May a decision about a default notice had not been made—and I was the contract administrator at the time—nor, ultimately, was the decision to issue the default notice particularly relating to events that occurred prior to 30 May. In any event, the question you raise about the decision to put the contract out to tender relates to the provisions of the general agreement and the services contract. Under that agreement, the first step in the process, which was taken well before that point in time, was to seek from the then contracted service provider, ACM, a bid and to assess whether or not that represented value for money for the Commonwealth. In the event, a decision was taken that the Commonwealth could not be satisfied that it represented value for money. It was not a question of specifically that it did or it did not, but we were not able to be confident of that. The way to test that is to go to the market, which is what we did. It was subsequently tested, and it is on the public record that another service provider has been assessed as providing best value for money for the Commonwealth in the provision of services in detention centres.

Senator MARSHALL—So, throughout the assessment of ACM's contract and the decision on whether or not to renew it, performance based issues played no part in that decision-making process?

Ms Godwin—Value for money goes to the question of the capacity to deliver the service and the price at which the service is to be delivered. When you put out a tender, you specify the service that you require and you ask for people to tell you how they will go about providing the service, as well as the price that they will charge you to deliver that. The assessment process in the end is a question of weighing up the way in which they say they will deliver the service and the price for that service. Those two things come together into an overall assessment of value for money.

Senator MARSHALL—But what if they have not delivered the services they said they were going to deliver? If they continue to say that they will deliver them but they do not, do you simply ignore that aspect when awarding the contract?

Mr Farmer—It is a couple of years ago, but I will answer to the best of my ability. I was the decision maker as to whether we would extend the contract or not. As I recall, I was asked to focus on a judgment about in effect the financial aspects of the contract. I was not asked to turn my mind, and did not turn my mind, to the performance aspects—and that was not necessary because I could not be satisfied on the financial aspects that we would obtain value for money. Had I been able to satisfy myself about the financial aspects, then I would have

had to turn my mind to the other aspects; but that did not happen and did not have to happen, because I was not satisfied that the financial offer being made was in the Commonwealth's best interests. That is my recollection of the process.

Senator MARSHALL—Who is the new contractor?

Mr Farmer—Group 4 Falck.

Senator MARSHALL—How much cheaper were they than ACM?

Mr Farmer—We will answer the question, but can I say that to some extent the question and answer will stand and fall separately. The process of going to the market, in effect, enables you to establish value for money because you are saying the market will deliver a result that we can be satisfied represents value for money.

Senator MARSHALL—I am still finding it hard to come to grips with the fact that we can talk about value for money but isolate performance from that. If you have measured Group 4 and ACM against each other and you have chosen ACM based purely on financial grounds and nothing to do with performance—

Mr Farmer—No, that is not what I have said.

Senator MARSHALL—Sorry, I have missed something. You probably need to explain it to me again.

Mr Farmer—I thought that you were talking first off about the process by which we determined that we would not in effect extend the contract with ACM. At that stage Group 4 was not in the picture. Indeed, no other company was. There was a question whether we would extend ACM for a further period. In order to make that decision—in order to arrive at a positive decision in effect—we would have had to satisfy ourselves on a number of grounds. In practice, we did not get beyond step 1, which was an ability to assure ourselves about the financial value being offered by ACM. On that basis, I formed the view that I could not be satisfied that the offer represented best value for money. Therefore, I formed the view that we should go to the market. Obviously, when you go to the market you get into a quite different environment, because you have a variety of companies who are then competing.

Senator MARSHALL—Including ACM?

Mr Farmer—Yes. That is a different process, and we can talk about that if you like. They are two different processes. The one involves only ACM; the second involves a number of companies.

Senator MARSHALL—Are you satisfied that Group 4 is meeting all the performance measures contained within the contract?

Mr Farmer—Perhaps we should explain where we are right at the moment in transitioning to the new arrangements.

Ms Godwin—I might ask Mr Davis to comment in detail. We have signed the contract with Group 4, but we are in a transition phase. That is a staged process by which Group 4 will take over the centres one by one according to an agreed timetable. At that point, ACM in effect steps out. However, during the transition phase, until the moment that Group 4 takes over individual centres, ACM will continue to be responsible for delivery of services within

the centre, and that is the current situation. We have not yet transitioned any of the centres. We are in the transition planning phase. Mr Davis may well want to give more detail.

Mr Davis—We are actively planning with both Group 4 and ACM to transition our facilities. We expect the first centres to transition in early December and the last centre to transition by the end of February next year. It is a phased approach so that we balance the risks associated with getting the planning right and the smooth handover of the whole range of activities and things that go on in centres. I could say that it is not a simple or straightforward process. In terms of planning, we are well into what we consider the transition phase. It really started with the signing of the contract on 27 August, but no centre has yet transitioned.

Senator MARSHALL—Can you tell me how many of the people in detention centres are asylum seekers as opposed to other groups of people, such as those who are about to be removed for other purposes?

Mr Davis—I do not believe that I have exact figures here, but it is true to say that the minority—less than half of the people in detention facilities—are asylum seekers.

Senator MARSHALL—Could you seek the detail of that?

Mr Davis—We can provide that on notice.

CHAIR—We move to questions from Senator Crossin, which I understand pertain particularly to Christmas Island.

Senator CROSSIN—It was reported in the *Herald Sun* on 15 September that holding people in the IRPC on Christmas Island has been costed at around \$627 per day. Is that the correct figure?

Mr Davis—I have the figures to the end of September. The current figure to the end of September is \$762 per day per detainee.

Senator CROSSIN—I understand that at Baxter it is around \$415 a day. Is that correct?

Mr Davis—At the end of September, Baxter was \$313 per detainee per day.

Senator CROSSIN—What is the difference? Why is there a disparity in the costs? Do you have a breakdown of why that is?

Mr Davis—Why there is a difference between those two centres? Is that what you mean?

Senator CROSSIN—Why is it \$762 per day at Christmas Island but \$313 a day at Baxter?

Mr Davis—There is a range of different factors that go to the costs associated with the centre. It goes to the level of occupancy for a centre, the level of occupancy relative to capacity, issues associated with the nature of the detainees and the services they need, the level of service provision from our service provider, the locality of detention centres and the basic costs of accommodation and other things both for DIMIA staff and service provider staff in different localities. There is a wide range of factors. I could not isolate any individual factor.

Senator CROSSIN—So you do not have a breakdown of that \$762?

Mr Davis—Not that will illustrate the differences in those sorts of areas.

Senator CROSSIN—How is this expenditure made? Is this an amount that is provided to ACM, for example?

Mr Davis—It is true to say that the Christmas Island centre has a different financial arrangement from all of the mainland centres, other than perhaps the residential housing projects. The centres in metropolitan Australia, as well as at Port Hedland and Baxter, have what we call standard fee schedules associated with the level of occupancy. Essentially, payments are made in accordance with the number of detainees in those centres. The range of services provided is an all-encompassing service provision within those payment arrangements. With things like residential housing projects and the Christmas Island centre, the financial arrangements with our service provider have been different. That is the different nature of those facilities. We use the broad term ‘out-of-scope services’ for these different sorts of activities. At the Christmas Island centre we essentially have an arrangement whereby the costs expected to be borne by the service provider are indicated to us. We approve those ahead of time and essentially pay the costs that are met by the service provider in providing us those out-of-scope services.

Senator CROSSIN—Give me an example of what would be an out-of-scope service on Christmas Island.

Mr Davis—On Christmas Island the whole service is essentially what we would term ‘out of scope’. When the boat arrived off the Western Australian coast, before ACM deployed their staff to the island they indicated the numbers of staff, the mix of staff—including interpreters, nurses and teachers et cetera—that were needed to meet the needs of the group. We agreed, ahead of the deployment of their staff to the island, on the mix of staff required. We do not normally do that in mainland centres, where the general service bands apply; rather, we rely more on the output based approach associated with immigration detention standards. That is true of other out-of-scope services, such as escorts and other things as well, which we access from ACM. On a case-by-case basis we look at the need, we obtain a proposal, we may negotiate that proposal or agree to that proposal and pay the costs associated with the relevant service provision.

Senator CROSSIN—Of the \$762 per day, how much is actually spent on Christmas Island itself?

Mr Davis—Spent?

Senator CROSSIN—It costs you \$762 a day per person. How much of that would actually go to the Christmas Island economy?

Mr Davis—I would have to take that on notice. Some parts of that \$762 we would pay direct to island contractors, staff or local employees. For the service provider, we would make a payment to ACM, and how much of that goes into the local community would be a matter for them.

Senator CROSSIN—Perhaps you could take that on notice and give me some advice about how much of the cost over, say, the last two years has gone directly into services provided by Christmas Island.

Mr Davis—I will see what we can do, but for the service provider it may be difficult to obtain that information.

Senator CROSSIN—I understand where you pay ACM and ACM pay their staff. I am not talking about that; I am talking about where you might directly purchase a service on the island.

Mr Davis—Okay. I will see what I can do.

Senator CROSSIN—How many Christmas Island people are currently employed?

Mr Davis—I would have to take that on notice.

Senator CROSSIN—What was the cost of flying in staff to the IRPC for the most recent group of arrivals?

Mr Farmer—Is the point behind your question the cost of flying in versus employing people locally or the opportunity in effect to employ people locally?

Senator CROSSIN—It could be.

Mr Farmer—You are a tough senator! If that were the point, there is a point about having trained people available in other areas of ACM operations to be flown in versus the cost of having people employed on the island and not sort of gainfully employed.

Senator CROSSIN—I understand all that.

Mr Davis—I think I am better off taking it on notice because the costs of transport include things like freighting food and other things as well as staff to the island, so I do not have immediately available the cost of getting staff there.

Senator CROSSIN—You might also want to take on notice the cost of the Navy boat which took them there, because I assume that is a cost that was incurred by your department and then sent across—

Mr Farmer—That is a Defence matter.

Senator CROSSIN—They did not bill you for the cost of that exercise; it was a cost they bore themselves?

Mr Farmer—I have still got \$5 in my wallet; I would not if Defence billed us.

Senator CROSSIN—That is a cost that was borne by the defence department. Is that what you are saying?

Mr Farmer—Yes.

Senator CROSSIN—If you are telling me it is costing \$762 a day now, it is an interesting figure to have on record for when the IRPC is built to see how much it is going to cost you in the future. At what stage is the processing of those 53 refugees?

Mr Davis—As I understand that, they had their visa decisions on 24 October. Perhaps my colleague is better off answering that, given his role.

Mr Illingworth—My colleague was correct. The decisions on the 53 individuals were delivered on 24 October. They currently are in the period in which they can make an appeal to the relevant merits review tribunal. We understand informally that that may well be the case.

Senator CROSSIN—So, of those 53 refugees, are you saying to me that all of them have been rejected?

Mr Illingworth—Of the 53 boat arrivals, 53 of them were found not to be refugees. So they are in a position where they have received decisions and detailed statements of reasons and are in the time frame within which they can apply for a review by the relevant merits review tribunal.

Senator CROSSIN—And they are still on Christmas Island? Is that correct?

Mr Davis—Of the 53 detainees, 50 are on Christmas Island, two are in state prisons in Western Australia and one is in hospital in Perth at the moment.

Senator CROSSIN—Why?

Mr Davis—They have a medical need. The two in state facilities have been charged with people-smuggling offences, as I understand it.

Senator CROSSIN—Can you tell me where the redesigned, down-scaled IRPC is at, in terms of Christmas Island? I understand the design work was supposed to be with the Joint Statutory Committee on Public Works in September. Was this time line met?

Mr Davis—That is a matter for the Department of Finance and Administration, but perhaps I could add to that and say that we had a public hearing last Friday before the Public Works Committee, which considered and discussed the design issues.

Senator CROSSIN—So the design work is with the Public Works Committee. Is that correct?

Mr Davis—Yes, it is.

Senator CROSSIN—What is the latest amount of money that has been set aside for the IRPC budget allocation?

Mr Davis—I think that is a matter for the department of finance.

Senator CROSSIN—When I ask them, they tell me to ask you.

Mr Davis—There were figures provided to the Public Works Committee relating to the budget allocations, the construction costs and so forth. That was all part of the submission of the department of finance to that committee last Friday. I do not have the figures with me, but I am sure that information is available from the department of finance and it was certainly provided in their submission to the Public Works Committee.

Senator CROSSIN—Can I ask you quickly, then, some questions about the IRPC in Darwin. Are there people here you can ask?

Mr Davis—Are you talking about Coonawarra?

Senator CROSSIN—I am talking about Coonawarra. Can you tell me how many people have been housed at that IRPC since I last asked a question about this?

Mr Davis—The Coonawarra facility has not had any detainees housed there.

Senator CROSSIN—What is the current cost of maintaining that facility?

Mr Davis—I do not believe I have that figure here, but I could take that on notice and provide that to you.

Senator CROSSIN—What is the current amount of money that has been expended to date in building that facility? In the last answer to questions on notice I got back from you, I think there was some confusion. You quoted me the budgeted amount and the amount that had been expended and they were one and the same, to the exact cent. I thought that was fairly amazing.

Mr Davis—If we have already replied to that question, we can have a look at that, but if that is the answer on that—we would just need to have a look at that.

Senator CROSSIN—You do not have those figures in front of you, on how much has been expended to date on that detention centre?

Mr Davis—For that detention centre in the current financial year the information in front of me is that we have spent nothing, but I would need to check.

Senator CROSSIN—For the current financial year?

Mr Davis—In the current financial year. But I understand things like maintenance arrangements are with the Department of Defence, so exactly how they are reflected within our expenditure here—it could be that we are paying for that out of central office, rather than the payment being attached to that facility, but I will need to check that.

Senator CROSSIN—When you talk about the ‘current financial year’, you are talking about from 1 July this year onwards?

Mr Davis—Yes.

Senator CROSSIN—Prior to that, have you expended I cannot remember whether it is \$5.4 million or \$7.2 million?

Mr Davis—I would have to take that on notice and come back to you. I do not have those figures here.

Senator CROSSIN—Could you give me a breakdown of what you have spent to date in building that centre?

Mr Davis—I will provide that to you.

Senator CROSSIN—In the *Northern Territory News* on 3 October there was an article that talked about the Coonawarra naval base possibly being sold as part of the Australian Defence Force’s sell-off, and about this perhaps happening in the next few years. Has your department had any discussions with the Defence Force about this?

Mr Davis—I am aware of that in the broad, but I do not believe we have had any detailed discussions at this point, no.

Senator CROSSIN—What sort of awareness have you had?

Mr Davis—I only have a broad awareness.

Senator CROSSIN—In what way? Has there been a newspaper article you have seen, or have you had a letter from the Department of Defence?

Mr Davis—I think it is of the nature of a newspaper article. I do not believe we have had any official notification from the Department of Defence, but I stand to be corrected. I would need to check.

Senator CROSSIN—Can you take that on notice for me?

Mr Davis—Yes, I can.

Senator CROSSIN—If that is correct, what does that then mean for the IRPC?

Mr Davis—As I say, we have yet to enter into any meaningful dialogue with the Department of Defence on that matter.

Senator CROSSIN—Would your IRPC be relocated?

Mr Farmer—Really that is hypothetical because we do not know the circumstances, or even the facts, of the case.

Senator CROSSIN—Now that there has been a number of newspaper articles about this, has your department written to the Department of Defence? Does anyone write to say, ‘Hang on a minute. I saw this article in the newspaper the other week. What’s going on?’

Mr Farmer—I do not believe we have.

Senator CROSSIN—So the newspaper articles have just happened and no-one follows up on them?

Mr Farmer—I do not believe that we have written to Defence. We are in the middle of looking at our detention strategies and our needs and we will be consulting other departments, including Defence, in that process.

Senator CROSSIN—If no asylum seeker or person seeking refugee status has been held in this facility, has any consideration been given to opening it in the meantime for community based groups in the Northern Territory—sporting groups, school children from Indigenous communities who might come to Darwin? Is there any possible way DIMIA can release this facility for community use?

Mr Davis—I understand that we have had some approaches around those issues and, to date, they have not been provided for. One difficulty we have with the Coonawarra facility is that it is part of an active defence facility. I understand that one of the key reasons it is difficult to provide such access goes to the Department of Defence’s requirements for active defence bases. I believe that is the key reason why, when approached by different groups to date, we have had difficulty with responding in the positive. But I would need to seek details from my people as to what approaches we have had.

Senator CROSSIN—I would appreciate it if you could do that. Has your department had some discussions with the Department of Defence about overcoming that problem? The whole IRPC is actually fenced to that facility with wire—and it would probably go almost to the balcony here. I know the IRPC is on that land, but it is fenced and is separate to the defence facilities. There is a distance of perhaps less than 10 metres to Amy Johnson Drive where an alternative entrance to this facility could be created. That is half a kilometre away from the main entrance of the base. Has DIMIA made any effort to explore this possibility?

Mr Davis—I would have to take on notice what approaches we have had and what responses we have made. I would add though that one of the facility's purposes is to be available for activation, if needed, at short notice. That is another issue we have experienced where people have sought access to some of our facilities elsewhere. The guarantee that people can leave at short notice has been one of the issues that we have had to think about in allowing access. I would need to follow up and see what approaches we have had and how we have responded.

Senator CROSSIN—But you are not using it, are you? Fifty-three people arrived in Western Australia and you did not bring them to Darwin; you took them to Christmas Island. So you are not actually using it at all.

Mr Davis—The Coonawarra facility remains one of our contingency facilities on the mainland for use on a needs basis.

Senator CROSSIN—But it has never been used and, when people arrive on our doorstep, you do not use it. You have not used it.

Mr Farmer—That is correct. Are you talking about the arrivals near Port Hedland?

Senator CROSSIN—Correct.

Mr Farmer—They were sent to Christmas Island.

Senator CROSSIN—I would have thought that bringing them to Darwin would have been less expensive as it is much closer.

Mr Farmer—That was an operational decision where there was a centre we had used already. We have never used Coonawarra for means of contingency.

Senator CROSSIN—Are people still being processed through the showgrounds?

Mr Farmer—The showgrounds?

Senator CROSSIN—That is correct. When illegal fishermen have arrived in Darwin, you have processed them through the Foskey pavilion at the showgrounds rather than the IRPC. Is that still happening?

Mr Davis—I would need to check out the details of what has happened recently but, generally speaking, Foskeys, as I understand it, is still available to be accessed. It is a question of numbers sometimes. If it is done elsewhere other than at the Coonawarra facility, that could be because of the small numbers involved. I would need to check the details of our recent arrangements.

Senator CROSSIN—I think I have got figures up to January. Perhaps you could tell me whether any people have been processed through the showgrounds since 1 January this year and on what dates.

Mr Davis—We will provide that information.

CHAIR—I have questions from Senator Scullion. Senator Kirk, do you have further questions in 1.3?

Senator KIRK—I do have a few more.

CHAIR—How long do you think they will take?

Senator KIRK—It is difficult to say. Perhaps another hour.

CHAIR—We will be resuming 1.3 after dinner; that is fine. Senator Scullion, why do you not continue now.

Senator SCULLION—Mr Davis, I am interested in some of the questions from my colleagues on the committee about the recruitment of local people in regional and rural Australia. Obviously it is a concern to everybody that we try to maximise opportunities for employment in these faraway places. What requirements do you have for these security guards? Are there specific requirements that you demand of them, apart from their having to stand upright and wear a uniform?

Mr Davis—Overwhelmingly, our detention service provider establishes the recruitment requirements for their staff. Some of the key requirements go to the issue of the capacity of detention officers to interact with detainees and to deal with issues as they arise. Some of those characteristics of individuals and, indeed, skills are sometimes available in local work forces and sometimes not. So the service provider determines the balance. At each of our facilities that is a matter they balance in accessing local staff as opposed to bringing in staff from other places.

Ms Godwin—It is a requirement of detention immigration standards that staff be properly trained. The training program that the service provider has in place is either four or five weeks formal training—I think it is four weeks—and then a week of on-the-job training before they are accepted. So short-term requirements obviously have to be balanced against the need for people to be properly trained. A service provider would obviously have to balance getting local people quickly enough and trained in order to meet their requirements with, in meeting our requirement that only people who are trained operate in the centres, bringing staff in from elsewhere. In established centres—places like Port Hedland and Port Augusta—they have in fact conducted local recruitment exercises. They have been able to address that issue by recruiting locally and training people. But where it is a short-term or contingency arrangement then obviously it becomes more difficult to just rely on local staff.

The other point to make is that, as I understand it, the service provider has been in the habit of seeking to employ local people in positions that do not have a training component, if I can put it that way—admin staff and so forth. So, to the extent that they can source staff locally for those sorts of positions, they have been in the habit of doing that.

Senator SCULLION—I find that most standards are minimum standards. Would the contractor be allowed for the first three or four weeks to have people who did not meet the requirements and then later on have people who could or do they have to provide a minimum number of staff from day one who have to be of a certain standard?

Ms Godwin—It is our requirement that people be trained. The fact that the training has been designed as a five-week intensive training program has been up to a point a matter for the service provider, but having decided that that is what it takes to train somebody our requirement is that they not operate without that training. The training that the current service provider has in place has been accredited by a TAFE institute in Victoria, so they have developed the training with proper educational output.

Senator SCULLION—Perhaps you could touch on some of the issues that they get training for. I understand that they have been touched on before. There are some cultural issues that they need to understand and there are some medical issues—there is a whole range of issues. Even if you cannot provide them briefly now, could you provide them on notice? I am interested in the minimum requirements. I have in my mind two types of staff member. One is the one in the uniform who is directly interacting with the detainees. The other is an administrative staff member responsible for things like provision of cooking and cleaning the facilities. I imagine that they would be people who could be recruited locally.

Ms Godwin—I think that that is right. I think in the past we have provided to this committee—and we could see if there is any update to what we have previously provided—an outline of the curriculum to give the committee an idea of the sorts of subject matter areas and the design of the curriculum that is involved in the training.

Senator SCULLION—The Coonawarra processing facility is to be maintained as a contingency in the event that someone arrives on mainland Australia or in a non-excised place. Is that reasonable?

Mr Davis—Yes, I think that that is reasonable, Senator.

Senator SCULLION—If we move to embrace some of the opportunities suggested by others on this committee and in other places with regard to the use of Coonawarra, what do we do with the people in there? What if somebody suddenly turns up in Darwin Harbour? I know that people say that it is unlikely, but let us say that somebody did. Would that be a major limitation on the use of the place? You would have to find somewhere else immediately to move these people to. Would you say that that is reasonable?

Mr Farmer—Certainly, the proposal would raise issues of that sort. It is the availability of the facility if it were required, and then, during the potential alternative use, there would be management issues: who would, in effect, be in control of the centre? Who would manage it? Who would, in effect, run things like kitchens, cleaning and so on? Who would pay? There are, obviously, a lot of issues of that sort that would come up.

Senator SCULLION—There was a previous question to Mr Davis about how much it cost in the previous financial year. Nothing indicates that it has been mothballed. I am assuming that it is all ready to go.

Mr Davis—It is, indeed, ready to go. We have plans if it is needed.

Senator SCULLION—So if we wake up tomorrow morning and people need to stay there, that is basically where they will go. If there is a requirement, that is where it will be.

Mr Davis—That would be our expectation, yes.

Senator SCULLION—Do you take seriously the suggestions that it could have other uses? It has been suggested that we use it for itinerants. There have been quite a number of suggestions in the media in the Northern Territory and from some of my colleagues.

Mr Farmer—Perhaps I would put it this way: our priority and our focus are on discharging our responsibilities for protecting the border and administering the legislation and regulations. That, of course, includes the legislative requirements on mandatory detention.

That would always remain for us the primary focus. The other potential uses would not be for us, if you like, in that primary category. It is not part of our remit.

Senator SCULLION—So it is your intention to maintain its position as an integral part of the contingency planning for non-arrivals?

Mr Farmer—That is what we would want the facility for.

Senator SCULLION—Thank you.

CHAIR—As I indicated a moment ago, we will come back to output 1.3 when we resume.

Proceedings suspended from 6.29 p.m. to 7.37 p.m.

CHAIR—We will reconvene with output 1.3, Enforcement of immigration law.

Senator KIRK—Could you advise the committee when the contract with ACM to provide detention centre services will cease?

Mr Davis—As I mentioned earlier, the transition of centres is to commence in early December and will go through to February. The contract with ACM for detention services will cease when the last centre is transitioned, which will be around February.

Senator KIRK—Is the department involved in any discussions regarding the re-employment of ACM staff by Group 4 once the contract changes hands?

Mr Davis—That is largely a matter for the old contractor and the new contractor. We are aware broadly of the approach adopted. I can give you some brief details, although the detail is a matter for the two companies. Broadly speaking, as I understand it, Group 4 have provided an opportunity for all ACM staff to apply if they wish to do so. They had a high rate of applications, and I think recruitment for most of the centres is, if not finished, close to being finalised and a goodly number of ACM staff have been offered employment with Group 4. Of course, it is up to individuals whether indeed they follow that through and take the position.

Senator KIRK—So the department does not have any direct involvement in that?

Mr Davis—No.

Senator KIRK—Can you advise the committee whether ACM was issued with a default notice due to some breach of its contract quite recently? Actually, now that I look at the dates, I understand that it was in May 2001. That is the information that I have.

Ms Godwin—I did take questions on this before the break. It is a matter of public record that there was one default notice. It was issued in August 2001, not May.

Senator KIRK—I may put these questions on notice and move on. Could you tell me whether there were any penalty or reward clauses in the detention centre contracts with ACM?

Ms Godwin—The current contract has within it a series of what you would regard as escalating provisions. The core provision is the performance linked fee matrix, which we have discussed at estimates before. The performance linked fee matrix works in conjunction with the quarterly performance assessments. There is a process of assigning points for various performance issues, either negative or positive, and dollars are attached to those points. They are all added up at the end of the quarter and, depending on which way the balance goes,

either there is a sanction or there is not. The contract then sets out another layer, which is that if, using that process, concern is not able to be satisfactorily resolved you can move to a default notice. The default notice allows for the provision of a cure plan within a specified period of time. Provided that the service provider issues a cure plan and the department accepts the cure plan and its implementation then the default is regarded as resolved or cured and that is the end of the matter. Then there are further provisions in the contract. These are all set out in the publicly available version of the contract.

Senator KIRK—So this fee matrix, as you describe it, is really the step before you go into the default process?

Ms Godwin—It is the basic ongoing performance management process. It is an ongoing process. It happens every quarter.

Senator KIRK—Is it more often the case that the points, if that is what you want to call them, are positive or negative?

Ms Godwin—The vast majority of things for which you would assign points are generally areas where there has been what you would regard as below standard performance. Below standard performance is always a matter for concern, but it is not a breach of the contract as such, nor indeed is a default necessarily. It would be where we believe that there has been a failure to meet standards of some description and there is a particular requirement for that to be remedied or rectified. Generally speaking, the points assigned would be for below standard performance, but there are particular circumstances which attract positive points.

Senator KIRK—What about the records kept in relation to these scores, if that is what you want to call them—

Ms Godwin—It is a quarterly performance assessment.

Senator KIRK—Could you make them available to the committee so that we can get an overview of how things are progressing?

Ms Godwin—We would need to take that on notice.

Senator KIRK—That would be fine. Can you tell me whether the contract with Group 4 is similar in this regard? Does it contain the fee matrix that you have been describing?

Ms Godwin—It is broadly similar in structure. If you have had a chance to look at the statement of requirements and the immigration detention standards, however, there is a fairly significant degree of difference between the new detention standards and the old ones. The structure is roughly the same and the approach is broadly similar, but there is a much greater level of detail in the new IDS compared to the previous ones. The core of the contract essentially remains a similar sort of process; it is an ongoing performance assessment process. The objective obviously is not to get to a point where you have a major problem but to resolve issues as they occur. This may be through daily contact, but we also have monthly operations meetings with the service provider and we have the quarterly performance assessment process. The objective is to resolve things immediately rather than let them escalate.

Senator KIRK—That was my question: how is the assessment made of whether the standards are being met? Is it made at the monthly or quarterly meetings that you have referred to, or is someone sent to inspect what is going on in the centres?

Ms Godwin—I will ask Mr Davis to comment, but essentially there is an ongoing process of monitoring, including daily monitoring within the detention centres, because we have staff there. As I say, our objective is to try to get things resolved on the ground as quickly as possible in order to maintain service delivery appropriately.

Mr Davis—Probably the best way to characterise our approach on contract monitoring is that it has a number of different layers. We do have staff on the ground that we ask for monthly reports on how the service provider is going in each centre. Each DIMIA centre manager provides us with that information. We have a process of examining incident reports and the other self-reporting mechanisms that are required of the contractor. These are examined in the context of a possible discussion of issues or indeed sanctions or rewards in due course. We have an active program of central office staff going to centres specifically with the view of their monitoring activities, so we have that central office focus.

We also have a tier of expertise that we access through what we call our expert panel, where with a particular area of the contract, with a particular service delivery or even as a random audit process we might access an expert adviser in the area of security, fire safety, health, education or whatever and access expertise outside the department to go and have a look at how something is running and feed that into the performance process. Probably the other thing to say is that basically issues arise in day-to-day discussions with the service provider and, as Ms Godwin said, we seek to resolve those as soon as we can. Not all of them lead into a sanction or a reward decision per se. But wherever possible we seek to avoid the need to go down that pathway. It is also true to say that, where a standard or performance is not quite what we want, we do use the mechanisms of the contract as appropriate.

Senator KIRK—Can you give me a few examples of a failure to meet a particular standard?

Mr Davis—It could be a lack of adequate records in an officer's log. It could be that for some reason or another a meal might not quite meet the expectations of detainees and issues might arise which we need to work through. It could be that for some reason a recreational or other activity is disrupted in a way that raises the question of why something happened. An issue could arise over a visitor process, a search process or whatever. It goes to the whole sphere of immigration detention standards and really we try to test every aspect of those detention standards, not just focus on some particular issues. I guess we have pretty high expectations that detention standards are met and we try to test those using the multitiered level of monitoring.

Senator KIRK—What about matters such as the loss of equipment?

Mr Davis—It depends on the nature of the equipment and what we are specifically talking about. It could be.

Senator KIRK—What if equipment has gone missing, for example, or there has been damage to property that is perhaps unexplained? Would that be the kind of issue?

Mr Davis—There are issues around maintenance and other things in the contract where there are expectations, but if something went missing or there was a suspicion of theft, robbery or whatever else we would report those sorts of matters to the relevant authorities. We would not just leave it at the contract provisions if some sort of criminal action had occurred;

we would refer it to the relevant authorities to investigate as they saw fit. So it depends on the nature of the particular instances that may arise.

Ms Godwin—An important point to make is that the focus of our attention in the ongoing monitoring is the delivery of the detention services according to the immigration detention standards, so things like property—except for detainee property—are not necessarily central to that provision. Much of the equipment is in fact owned by the service provider anyway, so if it went missing it is in a sense an issue for them. We would be more concerned about detainee property or a failure to attend to a particular need in an appropriate way.

Senator KIRK—A certain amount of property would be DIMIA property too—a number of the items within the rooms and in the recreation area and the like.

Ms Godwin—The recreation area material is more likely to be the service providers. The DIMIA equipment is most likely the major equipment or stuff in our own office. Things like recreation equipment and materials in the dining rooms are generally owned by the service provider.

Senator KIRK—What about things like televisions and computers?

Ms Godwin—Sometimes the computers belong to individuals. People can and do buy things in the centres. A fair bit of it would belong to the service providers. There may be a small number of pieces of equipment that are owned by DIMIA.

CHAIR—Senator Kirk, is it a timely opportunity to seek advice from the minister on the matter we were discussing before?

Senator KIRK—That would be fine.

CHAIR—Minister, before you came in, members of the committee had indicated they would like to seek from you an update on the current situation on Melville Island.

Senator Vanstone—I have preliminary advice that a boat is in close proximity to Melville Island. There are about 14 people on board who appear to be of Middle Eastern origin and about four crew. The boat is about 300 metres offshore. A naval patrol boat should arrive in about 40 minutes—that was the last advice I had—to secure the vessel. Earlier this afternoon a plane arrived with some department of immigration, Federal Police, Customs and AQIS people. That is the advice I have. I do not have advice on how many. They are seeking to ascertain exactly what has happened. When the naval patrol boat gets there this visiting boat will presumably be secured.

I am told that the first report was received by Customs at around 2 p.m. Eastern Standard Time. I think I was told just before we had our short afternoon break, although it does all mesh into one—I am not sure whether it was before or after, but I think it was just before. I am told there is another naval vessel on the way. It is correct that a flight exclusion zone has been declared. That is a Customs matter. Basically, the people who have arrived from those agencies that I mentioned will assess what has happened and they will make a report to government. The government will then be in a position to decide what to do next. Presumably it will all go through the People Smuggling Task Force.

CHAIR—Do any members of the committee have questions for the minister?

Senator BARTLETT—I understand from reports, and also from finding the instrument, that a regulation has been gazetted that excludes not just Melville and Bathurst but also the whole gamut again.

Senator Vanstone—That is right: some regulations were signed, passed this afternoon and gazetted. They are very similar to, but not exactly the same as, the regulations that were rejected by the Senate last year. I will just take some advice on this, but I think the difference is a couple of degrees of latitude in respect of islands off Queensland; otherwise it is the same. Those regulations take effect from 0.01 seconds on the day on which they are passed, which is today.

Senator BARTLETT—They take effect from when?

Senator Vanstone—From midnight the day before—in other words, from the beginning of the day on which they are passed. So they will have taken effect as of midnight last night, and that island has been excised from the migration zone. I hope senators realise that, with the arrival of this boat, there is a necessity to do this and they allow the regulations to stand.

Senator BARTLETT—Without getting into that particular debate, and turning to the issue of when the regulations commence, I know the terms of the prohibition on retrospectivity under the Acts Interpretation Act talk about ‘taking effect before the date of notification’. Even so, your advice is that the regulations say they commence on gazettal and that, legally, that means the start of the day of gazettal.

Senator Vanstone—I think Doug Walker might be able to give you this in what I would describe as a full-bottle explanation.

Mr Walker—The Acts Interpretation Act provides that the regulations take effect at the beginning of the day on which they are gazetted. As the minister says, they are taken to have come into effect at just after midnight this morning.

Senator BARTLETT—When these regulations say they commence on gazettal, the legal definition of ‘on gazettal’ is one minute after midnight on the day of gazettal rather than at the actual time of gazettal.

Mr Walker—That is correct.

Senator BARTLETT—I realise this has only just happened, so I do not want to ask questions at length, because I am sure things will become clearer. Were these regulations in preparation prior to your having been notified at whatever time it was you said you found out about it or have they been put together since then? Did you have any advance warning of the boat arriving?

Senator Vanstone—I think it is very appropriate to have regulations ready should you need them. As in the scouts: be prepared.

Senator BARTLETT—Indeed! From that, I take it that there was no significant advance warning or that you were expecting this boat to arrive.

Senator Vanstone—I did not have any significant advance warning of the boat arriving.

Senator BARTLETT—I guess that line of questioning could go to the effectiveness of our surveillance regime and whether that is another boat that has got through. I understand we still have Relex operating and that we are still doing surveillance.

Senator Vanstone—Honestly, I do not have any more detail than I have given you now, and I do not think we will have. We will have some perhaps later tonight, and tomorrow, as you say, perhaps these things will become clearer.

Senator BARTLETT—I would like to clarify that Operation Relex is still going and that we still have air surveillance and that sort of thing happening.

Mr Farmer—Yes, Operation Relex is still operating.

Senator LUDWIG—When was the department first notified about this boat—at what time and by what means?

Senator Vanstone—Apparently, Customs rang the department. I think I said in my quick introduction—

Senator LUDWIG—Yes, but I just want to tie down the time. I do not think you said a time.

Mr McMahon—I believe it was around three o'clock, but I would need to confirm that.

Senator LUDWIG—Who was it from Customs that rang you?

Mr McMahon—I have been at Senate estimates, so I cannot give you that information. It would normally be Coastwatch.

Senator LUDWIG—That would have been my understanding as well. That is why I asked the question. Perhaps you can take it on notice and clarify it.

Senator Vanstone—When these things happen someone says, 'Hold on. Let me just take a note. Who are you? Where do you come from? What is the time on my watch, because I might be asked this in a couple of months or later tonight.' They just get on with the job. All of this will be clear. Someone will know who rang whom and when. We just do not know it now.

Senator LUDWIG—That is why I was asking the question so that we can at least have the answers coming rather than wait till later for people to try to recollect when these things occurred. If you can understand the question and take it on notice, I would be appreciative. Then, of course, Minister, when were you notified, the time, and by whom? In addition, what action was then taken? When were the regulations introduced, gazetted or signed, as the case may be?

Senator Vanstone—We can get all that written out for you. It was this afternoon some time. Other people would have been watching the clock, not me.

Senator LUDWIG—Minister, I think we all sometimes watch the clock, but in this instance I am sure the department can look at their records and ascertain the sequence of events. That would be helpful. Do Customs and Immigration in Operation Relex have a joint operation? Is part of the immigration department also with Customs or with Coastwatch?

Mr Farmer—Operation Relex is a Defence operation.

Senator LUDWIG—Yes, but I think Customs and a number of other people are involved.

Mr Farmer—It is part of the whole-of-government activity in relation to combating people-smuggling. The high-level task force comprises a range of departments, including Defence, Customs and Immigration, plus of course the AFP, Foreign Affairs and so on.

Senator LUDWIG—Is Immigration in there as well?

Mr Farmer—Yes.

Senator LUDWIG—The other question—and you may want to take this on notice—is whether in the briefings that you eventually get on this matter you can ascertain the time, the longitude and latitude of the boat when it was first picked up, spotted or identified and the means by which that was done.

Mr Farmer—Yes.

Senator SCULLION—I know you perhaps do not like to deal with hypotheticals, but in view of the fact that we are not sure of all of the facts I am assuming that, because these islands effectively were excised through the excision of islands process that happened at midnight, these people would not be kept at Coonawarra. If these people had arrived 40 nautical miles to the south of their position, which is Darwin, being an onshore place, is it likely that we would have needed the Coonawarra processing facility in that instance?

Mr Farmer—That would certainly be a possibility. A decision on that sort of thing would need to be taken very much in response to particular circumstances.

Senator SCULLION—Again I am not sure if you have the information now, but I heard briefly on the news that it was described as a small Indonesian fishing vessel. Can I confirm that it is a fairly small craft?

Senator Vanstone—I suppose with 18 people it would not be very big. I just do not have the details. I don't know whether it is a large boat with not many people on it or a small boat with a lot of people jammed on it.

Senator SCULLION—If it is a small Indonesian fishing boat as described, it would obviously be an awful lot harder to detect.

CHAIR—Minister, thank you very much for assisting the committee with that update. If there are no further questions, we will return to output 1.3.

Ms Godwin—Just before we go on, can I add one thing to the discussion we were having before the minister's update. This issue of who owns what actually varies from centre to centre, so it is reasonably complicated. The point I was trying to make, though, is the ongoing quarterly performance processes focus most on the provision of services and meeting standards rather than some of the other contractual issues to do with equipment and so forth.

Senator SHERRY—Where do you plan to put the Melville Island arrivals?

Senator Vanstone—We will not be making any decisions until we have further advice. I cannot remember if you were here earlier, Senator, but I said that there are a number of people—Federal Police, Customs, Immigration and, I think, AQIS—who have arrived. They will assess the situation, get some solid information as to what has happened and give advice to government. Government will then decide what to do.

Senator SHERRY—So you are not going to rule out placing them on Christmas Island?

Senator Vanstone—I am just going to wait and see what advice government has and then government will make a decision.

Senator SHERRY—So you are not ruling out their coming to the Australian mainland?

Senator Vanstone—As I have said, we will wait and see what the advice is as to what has literally happened this afternoon. When we have that advice, we will be in a better position to make a decision.

Senator KIRK—I have some questions in relation to the reintegration package offered to Afghan refugees. How many have returned since the introduction of that package at the end of last year?

Mr Davis—In terms of reintegration packages for Afghans, 130 offers have been made to Afghans who are in detention, 79 have accepted the package and 54 have returned. I have a figure of 40 Afghan TPV holders accepting the reintegration package, but I do not have a figure for how many offers we have made to TPV holders.

Senator KIRK—Are those figures for people returned under the initial \$2,000 package?

Mr Davis—That is my understanding, but if it is different I will advise in due course.

Senator KIRK—Of those who have been returned, were they returned to Afghanistan or to a neighbouring country?

Mr Davis—My understanding is that they returned to Afghanistan.

Senator KIRK—As far as you understand, none of those persons were returned to any neighbouring countries, for example?

Mr Davis—The advice I have in front of me is that they were returned to Afghanistan. Could I add that that was as at 30 September. There may well have been some further returns since that time.

Senator KIRK—What is DIMIA's advice, probably received from DFAT, as to the current safety of conditions in Afghanistan?

Ms Godwin—We touched on this a little bit earlier in today's hearings. All of those people were returning voluntarily. That is the first point to make. Some 2½ million people have returned to Afghanistan from all over the world with the assistance of UNHCR, IOM and others. The issue of safety does not arise in those particular circumstances, because, as I say, they are all voluntary returns.

Senator KIRK—Does DIMIA keep a list of countries that are considered unsafe for the return of asylum seekers? Do you keep such records?

Ms Godwin—Return is based on an assessment that the individual is not a refugee. In that context, an assessment has been made that the individual, in returning to their country, will not face persecution. We do not have a list of safe countries of the sort that you are asking about. It is really a question of whether in an individual case the person will face persecution. If the answer to that is no and they are not found to be a refugee and therefore not given a visa then they can be removed.

Senator KIRK—So it is really done on a case by case basis, assessing the circumstances of the particular individual rather than just saying a particular country is unsafe?

Ms Godwin—That is right.

Senator SHERRY—I want to briefly touch on the matter I raised last time—the embarkation card issue. I think it was with Mr Hanna or Mr McMahon.

Mr McMahon—We did check. It came into place on 1 July.

Senator SHERRY—This year?

Mr McMahon—This year.

Senator SHERRY—Are the new cards being given out?

Mr McMahon—Yes.

Senator SHERRY—Just to refresh my memory, the initial batch of cards had to be reprinted, didn't they?

Mr McMahon—That is correct. Essentially we put back to Taxation the urgency of it. We indicated that in the normal course of events we would run down a batch of cards. Essentially we put the decision to them about whether they wanted to replace them all at once or whether they wanted to do a run-down process. It was basically a cost issue for the Taxation Office.

Senator SHERRY—I agree with you. It was their responsibility and, frankly, their fiasco and I do not see why you should have had to pay for it. So the cards were up and running from 1 July. The responses can be read electronically, can't they?

Mr McMahon—No, not that part of the card, although I understand that Taxation was thinking of basically using the same electronic scanning—provided that we have used it separately. Essentially we are at arm's length to that, so I am not sure.

Senator SHERRY—That is the business of the Taxation Office?

Mr McMahon—Strictly their business, yes.

Senator SHERRY—Do you give them the cards where that section has been completed or how do they get the data?

Mr McMahon—The contractor is Insight and the cards go to them. The provider would be scanning both sides, but scanning one side for the Taxation Office and one side for us. The scans, at least for the Immigration Act, constitute the legal image, so we do not necessarily need to keep the cards.

Senator SHERRY—The tax office question is on the back of the card?

Mr McMahon—It is, yes.

Senator SHERRY—Is that the only question on the back of the card?

Mr McMahon—I cannot answer that. There is not much on the back of the card, but I cannot answer whether it is the only thing on the back of the card.

Senator SHERRY—Do you know the wording of the question?

Mr McMahan—I cannot tell you the precise wording. Basically it asks non-residents leaving the country to contact the tax office or to give us their email address. It is basically a collection point for email addresses.

Senator SHERRY—They have to fill in their email address in response to that question?

Mr McMahan—That is correct, if it is applicable to them. It would attract quite a small proportion of people leaving the country.

Senator SHERRY—Presumably a proportion of those temporary residents would not have an email address anyway.

Mr McMahan—That is possible, although I think there may be some other means of contact.

Senator SHERRY—How would they do that?

Mr McMahan—I think there may be a reference in the question. We can table a copy of the card if that would be helpful to the committee.

Senator SHERRY—Yes. What was the cost to Treasury for the printing job?

Mr McMahan—I would have to find that out because that was a decision in the end about how quickly they ran out the stock. Normally, from memory, a complete run of cards would cost about \$70,000. The question is whether or not they took a decision to replace those. We will take that one on notice.

Senator SHERRY—I will be speaking to Treasury about this in somewhat probing and sterner terms on Thursday. How many cards were left over? On 1 July the new cards came in and, presumably, there was a batch of old cards left?

Mr McMahan—I will have to take that on notice.

Senator SHERRY—Do you have any assessment as to how many people have completed that question?

Mr McMahan—We would not know the answer to that.

Senator SHERRY—Let us say the person indicates that they were a temporary resident leaving the country. Can you provide Treasury with a forwarding address other than that which the individual indicates in a specific response to that question?

Mr McMahan—I do not think that question has been asked of us. There is information on the card but, as I understood it, it was the responsibility of the person leaving to make their contact details available to Treasury.

Senator SHERRY—Are people asked to put a forwarding address on your section of the embarkation card?

Mr Hanna—I believe it is the city and the country of embarkation.

Senator SHERRY—So it is not their street number or email address?

Mr Hanna—I do not believe so, but that will be revealed when we table a copy of the card.

Senator SHERRY—Would it be possible to get it to me by Thursday?

Mr Hanna—Most definitely.

Senator SHERRY—I would not have thought it would be hard to find. I have some questions in respect of a stateless Bedouin who was removed from Australia in July 2003. He was given a ticket to Kuwait, with a stop-off in Syria, but was apparently encouraged by officials to alight in Syria as he could not return to Kuwait. Are you aware of this individual?

Mr Williams—What is the question precisely?

Senator SHERRY—I am not giving his name for an obvious reason—I do not want to identify him because it might cause him some particular problem.

CHAIR—Did you say a stateless Bedouin?

Senator SHERRY—Yes.

Mr Williams—I am sorry, but I have just come into the room. I do not quite understand the question.

Senator SHERRY—There have been media reports about the case. A stateless Bedouin was removed from Australia in July 2003 and given a ticket back to Kuwait with a stop-off in Syria, but he was apparently encouraged by officials to alight in Syria as he could not return to Kuwait.

Ms Godwin—Mr Williams has been tied up with the boat issue. I think we are aware of this case. As I recall, the person was actually visaed for Syria and so was travelling there on a voluntary basis.

Mr Williams—That is correct.

Ms Godwin—It is standard practice, depending on the circumstances of the person's travel, to onward ticket them. The destination of the onward ticketing would depend on the circumstances of the individual case. Often when people are in a neighbouring country they are in a position to then make their own travel arrangements. He was visaed for Syria and that, therefore, was his initial destination on departure from Australia.

Senator SHERRY—I want to be clear on this. He was onward ticketed to Kuwait?

Ms Godwin—I am going on what is available to us, but it is often the case, if they have a visa for somewhere but intend to travel further, that we onward ticket them. He had a visa for Syria, and that was his destination on departure from Australia.

Senator SHERRY—Why would you pay for a ticket on to Kuwait?

Ms Godwin—It would depend on the circumstances of the individual case. It is not uncommon for us to onward ticket people who seek to get to a country in the region but then intend to make their own travel arrangements further. We give them the means to do that.

Senator SHERRY—Who would be the DIMIA official who would authorise such a movement and the purchase of a ticket?

Ms Godwin—The departure arrangements are made either in the state compliance area if it is a removal being managed in a state or in the section in central office where we manage a number of removals. As I say, the circumstances of the travel would depend entirely on the circumstances of the individual.

Senator SHERRY—I understand that, but who was the DIMIA official? You are aware of the case because there has been some controversy over it. Who was the specific official who authorised the purchase and payment for the ticket?

Ms Godwin—I do not know who the specific officer was. I have told you the area where it would have been managed—that is, either in one of our state offices or in the central office section.

Senator SHERRY—Do you know which state office it was managed in?

Ms Godwin—I said it would have been managed either in a state office or in the central office section. It is just an allocation of responsibilities, and I do not know whether this particular removal was managed in a state office or in our central office section. We would regard it as an operational matter, and it would be handled accordingly.

Senator SHERRY—Would you find out which state or whether it was done centrally and who authorised it?

Ms Godwin—We could find out.

Senator SHERRY—I am still perplexed. Was it known that this person could not return to Kuwait before the ticket was purchased?

Ms Godwin—He might well not have had formal arrangements to go to Kuwait, nor may he have had permission at that point. The point I was making is that people are often intent on making their own arrangements if they can by travelling to the region or to a place where they have the right of entry with a visa, which this individual did have, and then seeking to make their own further arrangements.

Senator SHERRY—But the visa was for Syria. He was going to Syria. Why would we buy a ticket for Kuwait? Why would the taxpayer pay for it?

Senator Vanstone—I think Ms Godwin has answered that. You might not be happy with the answer, but you have it.

Senator SHERRY—Minister, are you happy that someone who cannot go back to Kuwait—

Senator Vanstone—I do not know whether that has been established, bearing in mind the question you asked. I am just making the point that you have asked it a couple of times and Ms Godwin has answered it.

Senator SHERRY—Are you happy with this sort of arrangement, Minister? Are you happy that a ticket is paid for to go to Kuwait when the person is going to Syria and cannot go to Kuwait and that is known?

Senator Vanstone—You say it is known. I think I heard Ms Godwin say that she was not sure whether that was known and that there were people who may choose to go to a destination in the region for which they have a visa and, when they get there, to make subsequent arrangements themselves to go on from there.

Senator SHERRY—If it was known that he could not go to Kuwait—

Senator Vanstone—That is hypothetical. I do not know.

Senator SHERRY—I understand it is, Minister. If it was known that he could not go to Kuwait, why on earth would the Australian government pay for a ticket to Kuwait when he could not go there?

Senator Vanstone—I have nothing further to add to what Ms Godwin has already said, which was that some people have a visa to go somewhere, and they choose to go there, intent on making arrangements when they get there to go elsewhere else. We give them the capacity to do that.

Ms Godwin—The other point I should make is that, if somebody has a travel document, a visa and a preparedness, a willingness or a wish to depart Australia voluntarily, we are obliged to assist them to do that; otherwise, we would be breaching our obligations under the Migration Act. This individual had a document, he had a visa and he wanted to leave.

Senator SHERRY—So, if a person had an entry visa for Lebanon, we would buy them a ticket for Paris and that would be acceptable?

Senator Vanstone—That is not quite within the region, Senator.

Senator SHERRY—Athens or Egypt?

Ms Godwin—It would depend very much on the circumstances of the individual case.

Senator SHERRY—I know. I just find it amazing that we buy tickets for places where the person is not going to go and it is known that they cannot go there. This is a sort of world tour. I am serious.

Ms Godwin—That was not the point I was making. Sometimes people, as I say, want to travel to the region so that they can then seek to make their own onward travel arrangements. We will do our best to assist them in that. As I say, the specific circumstances of the ticketing arrangements, the route that they take and so forth depend on the circumstances of the individual or the arrangements that we make at the time.

Senator SHERRY—Would you accept that, where the department has purchased a ticket for a failed asylum seeker to a destination the department knows that person cannot travel to, that constitutes an act by our government official to defraud another nation's immigration officials and that that is misleading them?

Ms Godwin—The fact that someone does not immediately have permission to travel there or that we have not been able to obtain permission for them to travel there does not necessarily mean that they may not be able to make their own arrangements to go there.

Senator SHERRY—Effectively the department knew the person had no intention of going and could not go to Kuwait. They were stopping over in Syria, and that is where they were to land.

Ms Godwin—If the person has a visa, a wish to depart Australia and a lawful means of doing that, which this person did, then we have to assist them to do that.

Senator SHERRY—Can you advise who signs the deportation order when a failed asylum seeker is to be returned to another country?

Ms Godwin—There is no deportation order when it is a removal in that circumstance. It is an operation of law requirement. If a person does not have a visa, the act obliges us to remove

them as soon as is reasonably practicable. There is no decision to remove; in fact, there is an obligation to remove. That was my point about someone who has the lawful means to depart and a wish to depart: we must assist them. There is no signing of a deportation order.

Senator SHERRY—Is there any signing of anything?

Ms Godwin—No. As I say, there is an obligation under the act and a requirement for us to assist the individual either if they are leaving voluntarily or if we have the means to achieve an involuntary removal. In this case, the person would have been travelling voluntarily because they had a visa to another country. Deportation orders are signed only in respect of a very small number of cases that are subject to criminal deportation or formal deportation action as the result of cancellation of a visa as the result of character considerations.

Senator SHERRY—Where they are a failed asylum seeker and will not go, what documentation is signed? There must be documentation of some sort signed to ensure their removal. That is aside from the ticket purchase; I am not going to that issue anymore.

Ms Godwin—There is not any documentation signed that, in a sense, is the decision to remove them. It is simply a question that they, as a matter of law, become available for removal as a result of not having a visa or other lawful means to remain in Australia. We then have to try to achieve that removal. A very significant proportion of people depart on a voluntary basis. In a certain number of situations they depart involuntarily and we make whatever arrangements we can appropriately in those circumstances.

Senator SHERRY—Where they depart involuntarily, that might involve some custody arrangement, some accompaniment by some officer of some sort. That could happen, couldn't it?

Ms Godwin—There would be escort arrangements in most cases if it were an involuntary removal.

Senator SHERRY—Presumably there must be some written documentation to the officer concerned. It might even be just an email or some letter saying, 'We want you to accompany this person because they will not go of their own free will.' Presumably there would have to be something in terms of necessary restraint and the physically handling of that individual.

Ms Godwin—There certainly would be documentation around the administrative arrangements. The point I was making is that there is no formal decision or a decision record about the removal. But, yes, there is administrative documentation.

Senator SHERRY—So there is an administrative document.

Ms Godwin—Sorry to be pedantic, but what I said was 'administrative documentation'. The nature of that would depend on the circumstances. If we had to arrange for escorts, yes, we may write to whoever is providing the escorts. There may be emails. There is no single piece of documentation; there would be a range of documents just to effect the administrative arrangements.

Senator SHERRY—So is there a standard administrative document for this process?

Ms Godwin—Not a single form. As I said, it is just a process of making appropriate arrangements.

Senator Vanstone—I think what Ms Godwin said is, when she refers to ‘administrative documentation’, she is referring to such range of documents that may be required and they will vary depending upon the circumstances.

Senator SHERRY—What role, if any, does the minister play in this administrative documentation?

Ms Godwin—None.

Senator SHERRY—What role does the detention centre manager play, if any?

Ms Godwin—The detention centre manager may be involved in assisting making arrangements, getting the person from the centre to their point of departure from Australia. They may be involved in talking to the individual about removal options or the fact that they do not have a visa and that they are now available for removal. There would be ongoing contact with not just the manager but other staff at the centre.

Senator SHERRY—They might be aware of relevant facts to the deportation?

Ms Godwin—They would certainly be aware of relevant issues to do with the removal, yes.

Senator SHERRY—Who was the manager of Port Hedland detention centre when Mr Mahtar was deported twice from Australia on a false Iraqi passport?

Ms Godwin—If I could make a couple of points. The claim now is that the document was false. That is some three years after the removal. To the best of our being able to reconstruct the departure, there was no indication at the time that the document was other than valid. He was removed voluntarily on both occasions. We could get the name of the centre manager at the time.

Senator SHERRY—Thank you. In this sort of circumstance, who holds the passport: the individual in the detention centre or the administration?

Ms Godwin—I know I use this phrase a lot, but it is true it would depend on the circumstances.

Senator SHERRY—What about this circumstance?

Ms Godwin—I do not know whether I have the specific information about this individual—and we could take that on notice—but I can give you a couple of general points. If people arrive at the centre with a valid travel document, which happens, for instance, with people who have been located in the community or something of that sort, then the document would be put into safekeeping in the centre. There are safety deposit boxes where their documents would be held.

Senator SHERRY—You mentioned ‘safekeeping’. Is that safety deposit box in the control of the detainee or of the administration?

Ms Godwin—There is usually joint control there. They are safety deposit boxes with double keys.

Senator SHERRY—So they can both access it and look at it if they want to?

Ms Godwin—They have to do it together.

Senator SHERRY—So it is joint access?

Ms Godwin—Yes. At other times people, particularly unauthorised arrivals, turn up without documentation. When it comes to trying to arrange removal or departure, the first question you ask a person is: ‘Do you have any documentation?’ If the answer is no, you may ask if they have access to their own documents in any circumstances. Sometimes people will say, ‘I have not got it with me, but I left it with a relative,’ or , ‘I have posted it home. I will try to get it.’ At other times people apply for a new document. At other times, if they neither have their own document nor can or will apply for a new document, then we can make arrangements for the issue of an Australian certificate of identity to assist them in travel out of Australia. That is an internationally accepted document.

Senator SHERRY—The administration of a centre and/or outside officials would examine the documentation in many cases, wouldn’t they?

Ms Godwin—Certainly if we had any cause to believe that there was something wrong with the document, yes, we would probably try to check that out.

Senator SHERRY—Do you know if that happened in this case?

Ms Godwin—The document had a visa granted into it, so the visa granting authority clearly thought the document was okay, and I do not think from our records that we had any reason to believe anything other than that the document was a valid document.

Senator SHERRY—Did anyone who is familiar with Iraqi passports and documentation have a look at it to determine whether it was false or not?

Ms Godwin—The country responsible for issuing the visa had access to the document and they issued the visa into the document. They were presumably satisfied as the issuing country—

Senator SHERRY—It was a valid visa in an invalid document?

Ms Godwin—That is what is now claimed. The fact is that at the time the country issuing the visa presumably had no reason to believe that the document was other than valid and, as I say, our records have nothing to indicate that either.

Senator SHERRY—Which country issued the visa?

Ms Godwin—I think the visa was for Syria. The other point to make is that when the person first departed Australia and was refused uplift at a transit point—so they did not get all the way home and it was an airline decision to refuse uplift—according to the provisions of ICAO, the International Civil Aviation Organisation, the person returned to Australia. He was still intent at that point on departing and so we consulted with the Syrian authorities to ask, ‘Is there a problem that we aren’t aware of?’ They said no. They did not know why he had been refused uplift.

Senator SHERRY—Where was that uplift refusal? It would not have been in Kuwait, would it? You can go to Kuwait and then on to Syria.

Ms Godwin—I do not believe there is a direct route that way. It would not have been there. I do not know whether it was Dubai or somewhere like that. In any event, we consulted with the Syrian authorities. They said they were not aware of any particular reason why there

would have been a problem. The person was still keen to leave. We made new travel arrangements for him and he went—that time successfully.

Senator SHERRY—So at that point in time you were aware that there was a problem with the documentation?

Ms Godwin—No, I did not say that. I said he was refused uplift by the airline.

Senator SHERRY—On what basis?

Ms Godwin—We do not know. That is a matter for the airline. When he came back to Australia, we asked the Syrians if they thought that there was any particular problem. They said that they were not aware of one and they could not see any difficulty. We therefore arranged his travel again and he travelled successfully on his document and his visa.

Senator SHERRY—Do you know what airline it was?

Ms Godwin—I do not know off the top of my head. We may well have that information, but we use a variety of airlines depending on available seating.

Senator SHERRY—I would be surprised if the airline did not give a reason for refusing uplift.

Ms Godwin—They may have given a reason to the individual, but we would not necessarily have been aware of it at that point.

Senator SHERRY—In this case, were we paying for his ticket?

Ms Godwin—If someone was being removed from Australia and could not arrange their own travel, we would, yes.

Senator SHERRY—If we are paying for the ticket, surely we would check the documentation that he is travelling on and make sure he gets to the destination of the ticket we are paying for.

Ms Godwin—I have already said that if the visa issuing authority thinks that the document is valid and issues the visa, and there is no other indication from our perspective that we have anything other than a valid travel document before us, then we would use that document.

Senator SHERRY—In Mr Mahtar's case, was there a purchase of another destination?

Ms Godwin—I do not know those details.

Senator SHERRY—We have already had the example of Syria-Kuwait. Was there a similar pattern of on-travel proposed on this one?

Ms Godwin—I do not know.

Senator SHERRY—I asked earlier about the manager of Port Hedland detention centre. I presume there would be a DIMIA official at Port Hedland, either permanently or temporarily, who would have advised this particular deportee on options for obtaining appropriate documentation to travel.

Ms Godwin—There would have been a DIMIA official there. When I said 'the manager of the centre', I was referring to the DIMIA manager.

Senator SHERRY—Would they have been the person to advise on documentation and to help organise the ticket?

Ms Godwin—That person may well have assisted but, if the person has their own document already and there was no need to obtain another document, it would not have been necessary for the manager to provide advice of that sort.

Senator SHERRY—He still may have provided advice. He may have looked at the documentation.

Ms Godwin—He may have.

Senator SHERRY—Could you take that on notice? Do you know the name of that official?

Ms Godwin—I said I would check.

Senator SHERRY—Previously I was referring to the manager. It might be a different person.

Ms Godwin—Indeed it may. We will check.

Senator SHERRY—I understand there is a document called the Australian identity document.

Ms Godwin—Certificate of identity, yes.

Senator SHERRY—Is it called Australian certificate of identity or certificate of identity?

Ms Godwin—It is issued by Australia as a certificate of identity.

Senator SHERRY—What is the purpose of the document?

Ms Godwin—It is a document that can be issued by the Department of Foreign Affairs and Trade in the circumstances where somebody needs a travel document but does not have access to a document of their own. It is an internationally recognised travel document for the sorts of circumstances that we are talking about. It would be recognised in other countries. It is not just a document that Australia has; other countries have similar sorts of documents.

Senator SHERRY—Is there an international agreement on this type of document?

Ms Godwin—I do not know if there is an international agreement. I just know that it is a document that the individual can apply for. It can be issued by the Department of Foreign Affairs and Trade and it is valid for travel. We have issued them, or people have applied for them, in a variety of circumstances.

Senator SHERRY—Is it a standard document?

Ms Godwin—It is a standard document as far as I am aware.

Senator SHERRY—Could you provide the committee with a copy of it?

Ms Godwin—I presume so. I will take that on notice.

Senator SHERRY—Is it designed to look similar to a passport?

Ms Godwin—I do not know that it looks similar to a passport. I presume it is about the same size as a passport, but it is designed specifically for purposes of travel where people do not have their own document.

Senator SHERRY—Are you familiar with the document?

Ms Godwin—I do not think I have actually seen one. I know of them, and I have seen facsimiles of them and so forth, but I do not know that I have seen the document.

Senator SHERRY—Has anyone here seen a copy of it?

Mr McMahan—I believe that it looks like an Australian passport, in effect. It does not have the same data necessarily, but it has some of the same security features, and it has a photograph, different bio data et cetera. From what I can recall, it uses some of the same passport technology.

Senator SHERRY—When was this document first introduced for use in Australia?

Mr Farmer—I think that that is a DFAT question.

Senator SHERRY—It might be a DFAT question, but you might know.

Mr Farmer—We would not presume.

Senator SHERRY—You still might know. Do you know?

Senator Vanstone—He knows that it is a DFAT question.

CHAIR—You can ask them on Thursday, Senator Sherry.

Senator LUDWIG—You can ask DFAT if he knows.

Senator SHERRY—Woe betide you if they refer it back here!

CHAIR—Woe betide you in February, anyway. Do not panic too soon.

Senator SHERRY—We can bring it on in the Senate for a massive debate earlier than that. Is the department aware of any cases where other countries have questioned the purpose and status of this document?

Mr Williams—I am not aware of any case where that has occurred.

Senator SHERRY—So, when we have issued it and people have gone abroad with it, we have had no complaints or queries from other countries about the document?

Mr Williams—Not that I recall. Many countries use similar sorts of documents for similar purposes, so it is a fairly routine matter for most countries.

Senator SHERRY—Did it previously have a different purpose? Has the purpose of the document changed over time?

Ms Godwin—I do not know. I think it falls into the category of something for DFAT. We know the purpose for which we have applied for it or for which individuals in detention have applied for it.

Senator SHERRY—Has its purpose changed from your point of view?

Mr Williams—No. We have not used it for any different purposes.

Senator SHERRY—Chair, could I check your time frame? I missed the beginning of the evening's session.

CHAIR—In fact, Senator Sherry, I would not describe it accurately as my time frame; I would describe it more accurately as yours. That is to say that we will be leaving here at 11 p.m. exactly.

Senator Vanstone—Not necessarily!

CHAIR—At the latest, Minister. When I say we, Minister—

Senator Vanstone—If Senator Sherry, Senator Ludwig and Senator Bartlett feel they have alternative commitments, I will not be standing in their way!

CHAIR—Yes, Minister, that is why I said 'at the latest'. When I say 'we', I mean that all of us get to enjoy the fun. However, Senator Sherry and Senator Bartlett have other questions. It just depends how long it takes to go through the rest of output 1.3, whatever is left in output 1.4—and in previous estimates there has been little or nothing for discussion—output 1.5 and outcome 2.

Senator SHERRY—I think that we can anticipate a squeezed time frame. If Senator Bartlett has anything in this area, I am happy to give way to him.

Senator BARTLETT—Broader allegations have been made along the lines of what Senator Sherry was pursuing earlier from the Edmund Rice Centre about false passports and those sorts of things. Have there been any further investigations inside the department about those?

Ms Godwin—There are a couple of things to say about that. We have instigated an investigation. It is a somewhat difficult investigation in the sense that there is not a lot of detail. There is the material that has been in the media. We have been seeking to discuss with Mr Glendenning from the Edmund Rice Centre whether he has any further details, and that process is ongoing. We have made contact with him a number of times but have not yet been able to talk to him in detail about whether he has any further information.

Separately, I am aware that Senator Brown has raised the matter with the Australian Federal Police, who are evaluating the material that he put to them. The AFP and our internal investigations area have been in consultation to make sure that those investigations are conducted in an efficient manner, but as far as I am aware the AFP have not passed what they would call the evaluation stage, that is, they have not decided that it is something that they would undertake a formal investigation on. We ourselves are still seeking to establish whether there are any other details that we can check. What I would say, however, is that to the extent that we have been able to check we do not regard it as being a systemic problem. There is no intention on our part to require, encourage or condone the use of false passports and it is a question of whether or not there has been a particular example that we need to check out in detail.

Senator BARTLETT—In relation to deportation or removal of people, with the situation with Iran and the memorandum of understanding that was adopted not too long ago, how many people have been removed back to Iran involuntarily—I think that is the technical term—since that was adopted?

Mr Davis—Two, Senator.

Senator BARTLETT—When did they depart, roughly?

Mr Williams—It was a couple of months ago.

Mr Farmer—There was nothing rough about the departure, though!

Senator BARTLETT—What is the situation with removing people to Iraq at present: is that still problematic—or impossible, rather?

Ms Godwin—No, it is not impossible. The UNHCR has indicated that small numbers of returns to Iraq on a voluntary basis are possible, and very small numbers of people are returning to Iraq on a voluntary basis from outside the region. From within the region I think large numbers are returning. Certainly it is not impossible for people to return to Iraq; it is just that I think there is a view that that should be on a small-scale voluntary basis for the time being.

Senator BARTLETT—So there are no involuntary returns to Iraq happening at the moment?

Ms Godwin—Certainly not from us.

Senator BARTLETT—What about Afghanistan: have there been involuntary returns?

Mr Williams—At the moment, no, there are no involuntary returns to Afghanistan.

Senator BARTLETT—I know that in the past there used to be the practice on occasion of returning people through Syria. Is that still a practice? Does Syria still accept returns?

Ms Godwin—It is not so much practice. There were countries in the region that were prepared to allow people to return via their country—that is, arrive in a neighbouring country and then voluntarily return into Iraq. I am not sure whether anyone specifically went from Australia in that way, but it certainly was an available option.

Senator BARTLETT—Is it still an available option?

Ms Godwin—I am not sure whether Syria at the moment is a transit point. I think the more usual transit point in any event in the past was Jordan.

Senator BARTLETT—Turning to the Al Masri case from earlier this year—and please stop me if the question has been asked—and the principle adopted by the full Federal Court on that occasion, have any people been released from detention by the department as a consequence of that ruling?

Mr Williams—There are 13 cases in total that were released under the Al Masri decision or subsequent decisions by courts, but those decisions were taken by the courts concerned.

Senator BARTLETT—So there have been rulings by the court to release them on the basis of that earlier ruling, rather than the department deciding?

Mr Williams—Yes. On the basis of the principles by which the Al Masri decision was taken, there was no reasonably practicable prospect of return in the court's view, and there have been 13 cases in total of subsequent release by courts. But the department has not released any cases on that basis, as far as I am aware.

Senator BARTLETT—So the department has not gone through its cohort of the people in detention and assessed whether this ruling might affect them?

Mr Williams—The department has been and is going through cases on an active basis to see whether there are cases that can be removed. We do that on a routine basis.

Senator BARTLETT—You are doing it on a routine basis but you have not found anyone yourself who should be released from detention as a consequence.

Mr Williams—There have not been any cases released on that basis.

Senator BARTLETT—I understand that there is a case, not the Al Masri case itself but a subsequent case, that relies on that principle and that it is under appeal by the department before the High Court. Is that right?

Mr Williams—That is right. I believe it is at the High Court level.

Senator BARTLETT—Do you have any idea when that is likely to be determined?

Mr Eyers—There are two matters currently before the High Court. They are listed for hearing next week on 12 and 13 November.

Senator BARTLETT—They are both listed for hearing next week.

Mr Eyers—Yes.

Senator BARTLETT—What is the other matter? Are they both to do with the Al Masri case?

Mr Eyers—They both deal with the same principle.

Senator BARTLETT—A hearing next week does not mean a decision next week, does it?

Mr Eyers—No.

Senator BARTLETT—While you are at the table, I would like to ask about people being deported under section 501. Are there any figures on trends and whether there are greater numbers of people?

Mr McMahan—I am sorry, Senator, but we do not have any trend information on that. We can take the question on notice.

Senator BARTLETT—I am trying to get a clearer sense of things because I am getting a number of cases being brought to my attention, and I do not like unnecessarily chewing up ministerial and department time on all of them without being clear myself. A number of cases that have come to me involve people who have come to Australia at a very young age, have lived here for decades, have probably married and had kids and now they have been convicted of a drug offence or something like that. Unfortunately for them, they have not got around to taking out Australian citizenship and are subject to being sent back to a place where they do not have language or family. It seems to me that the good old criteria of public interest seems to come into play a fair bit in relation to those decisions, which is always somewhat in the view of the decision maker. Is it possible to give any indication of how much weight those sorts of things are given when making decisions like that? Or is it another area where it really just comes down to the minister's view?

Mr McMahon—There are a range of criteria that the minister has to consider, and you would not be able to answer in general terms as to what weight he would put on a particular element. He obviously has to consider the interests of the child, their links to Australia, the chances of recidivism and the seriousness of the nature of the crime that has been committed. All of those considerations are brought together in respect of any individual case. There is no inherent weighting system with it.

Senator BARTLETT—Again it is a ministerial decision. Is that right?

Mr McMahon—There are a range of section 501 decisions made both in respect of refusals and cancellations. In general, the minister has been taking the decision on more serious permanent entry type cases.

Senator BARTLETT—On page 61 of your annual report you mention that there has been an increase of 27 per cent in the removals of people who had no authority to remain in Australia. That is obviously way beyond just unauthorised arrivals. Is that increase due to more people overstaying or an impressive performance on the part of the department in finding more of them who were out there?

Mr McMahon—There are a couple of elements to it. Between 2002-03 and 2001-02, there was an increase from around 17,500 to 21,500 locations. Once you have a location you need to either regularise their status or remove them. So it is a consequence of the higher number of locations.

Senator BARTLETT—I have a question about litigation. In your annual report, you mention that the number of challenges to departmental and tribunal decisions is continuing to grow. There were 6,351 applications and appeals filed, which is an increase from 2,600 roughly in the year before. That is a rather dramatic jump—a much bigger jump than during the year before that. What do you put that down to?

Mr Eyers—There were two factors which impacted greatly. Apart from an underlying increase of not insignificant proportions, one was the effect of the wash-up of the Muin and Lie High Court class actions. As a result of the finalisation of those class actions, a significant number—approximately 1,400—individual applications had to be filed by persons who wished to pursue their claims. Those matters were part of that 6,300.

The other matters which increased that figure were a number of other remittals from the High Court following the decision in S157 in February this year. The interpretation that the High Court gave to the privative clause in that case meant that a number of cases that were effectively stockpiled behind S157 were able to be remitted to the Federal Court. Shortly after S157, my recollection is that the High Court remitted somewhere between 600 and 700 cases and they turned up as additional applications in the Federal Court.

Senator BARTLETT—The annual report mentions a significant development with regard to the challenge of the attempt to limit judicial review to exceptional cases. There is a brief explanation in the report. I have read a fair bit about these decisions and various people's interpretations of them, as well as the judges' judgments. However, I am still not sure that I understand them. You say here, in effect, that the High Court held that the privative clause only protects decisions which comply with all important, substantive and procedural

requirements in the Migration Act. Are you able to elaborate a little further on what that means in practice?

Mr Eyers—It is not a very straightforward concept. Up to this stage, federal courts have taken varying approaches to it. For instance, one approach which has been fairly commonly espoused by the Federal Court is that if the decision maker does not understand or does not properly address all the claims that are being made by an applicant, then it would be a matter that would involve that decision maker completing or undertaking a jurisdictional error that they are acting outside the jurisdiction that is empowered to them.

Mr Storer—Just to supplement that answer, I think what Mr Eyers is saying is that it is complicated for the courts. The High Court said that the privative clause is still constitutional. You can still do it, but you have to be within what they call the ‘jurisdiction’. You have to do it legally. As to how that is defined, it did not give any guidance of what it meant by that concept. At the moment people are reapplying to the courts as to the possibility that they had they received jurisdictional error. It has all been tested again. As Mr Eyers said, I think that is one of the factors for why there is a continuing increase in litigation.

Senator BARTLETT—So we will have more cases where people try to get a clearer definition of what constitutes ‘jurisdictional error’?

Mr Eyers—Certainly, at this stage the High Court, post S157, has not given any authoritative statement as to what ‘jurisdictional error’ means, where there is a privative clause in place, under the Migration Act. Despite having said in S157 that the privative clause is constitutional, it then did not elaborate as to what that might mean.

Senator BARTLETT—Ever helpful. I suppose it has been about 60 years since Hickman? Is that right?

Mr Eyers—Yes; it was a 1940s case.

Senator BARTLETT—It is nice to be able to debate things for a while, I guess. Finally—I think it is under this output as well—I noted an article in the media about the removal of the immigration minister from the National Security Committee of Cabinet. Has that been asked about?

CHAIR—No, it has not, Senator Bartlett.

Senator BARTLETT—I think it comes under ‘preventing unlawful entry’ and all that sort of stuff. It is probably a question for the minister or Mr Farmer, I suspect.

Mr McMahan—I think it would be better to direct that question to the minister.

Senator BARTLETT—I might wait until she comes back.

Mr Storer—Senator Bartlett has asked us a question on notice to bring to the committee today concerning the Dranichnikov case. I could read all the figures out to you, but I would prefer the document to be tabled.

CHAIR—I think tabling is a very good idea and then Senator Bartlett can have a copy immediately. Are there any more questions on output 1.3?

Senator LUDWIG—In respect of the tourist visas which have breached, how many people are returned each year?

Mr McMahan—It is a growing figure, but we have removed about 12,500 in 2002-03.

Senator LUDWIG—How are they removed? Are they all voluntary?

Mr McMahan—No, there are a range of situations. For example, of the 12,609 that were removed in 2002-03, there were 23 criminal deportations. They would have had people accompany them. There were another two criminal deportations that were voluntary. There were 37 destitute removals. There were 8,326 people who were simply monitored—in other words, they were leaving and we basically checked that they had left. We may not have even taken them into detention. We removed 2,500 people. That is where there would have been involuntary removals in some form. In many of those cases, they would have actually had someone accompany them on the flights. There were 1,700 supervised removals. A supervised removal is just another stage of monitoring. With a supervised removal, we actually make sure that they get to the air site and probably make sure they go to the gate and get on the plane.

Senator LUDWIG—Which one did Mr Brigitte fit into then?

Mr McMahan—He would have been just a removal—in the category of ‘removal’.

Senator LUDWIG—In what sense? Was he supervised?

Mr McMahan—No, he actually had a number of people accompany him to Paris.

Senator LUDWIG—Who was that? Were they Customs officials?

Mr McMahan—No, Customs does not have anything to do with removals. As I recall, there were two New South Wales policemen and one Immigration official.

Senator LUDWIG—Which category was it? Was it a forced deportation or was it an accompanied or supervised deportation?

Mr McMahan—I had it in the category of just a removal.

Senator LUDWIG—How many are there in that category?

Mr McMahan—There are 2,514.

Senator LUDWIG—So this was an ordinary removal?

Mr McMahan—Yes, it was.

Senator LUDWIG—With two policemen and an Immigration official?

Mr McMahan—Indeed. The bottom line of it is that from the immigration department’s point of view we had one official. He was removed because of a breach of working conditions. As to the New South Wales police, I do not know whether we would have made that arrangement.

Senator LUDWIG—Who made the arrangement then?

Mr McMahan—We would have made the arrangement for the removal. As to the decision about the number of people and whether New South Wales police accompanied them, I could not say with any certainty at this time how that decision was made.

Senator LUDWIG—Perhaps you could take it on notice to come back to me and explain how it came about. Immigration would have consented to that arrangement, surely.

Mr Farmer—Not necessarily.

Senator LUDWIG—But they would have agreed to it in the sense of sending an Immigration official with Mr Brigitte and two New South Wales policemen, or did you all just happen to be on the plane together?

Mr Farmer—I am not—

Senator LUDWIG—I did not think that either.

Mr Farmer—But we would have taken a decision about our person. The decision in relation to the others would have been taken by other agencies, and we will say anything we can about that. I just enter a caveat: there may be limits to what we can say—I do not know.

Senator LUDWIG—I accept that. That is why it is best to take it on notice to find out what the position actually is. Who paid for the flight then for Mr Brigitte?

Mr McMahon—It is possible that he had a return ticket. We would generally make use of a return ticket if it is available.

Senator LUDWIG—You are not sure, though, are you?

Mr McMahon—No, I do not know the answer to this question.

Senator LUDWIG—Perhaps you could take on notice to establish whether the immigration department paid, the New South Wales Police paid or Mr Brigitte had a return ticket.

Mr McMahon—The principle is we would pay to remove him if he did not have a ticket or he could not buy a ticket, but we will take it on notice.

Senator LUDWIG—Was the airline advised as to who Mr Brigitte was? What airline was it?

Mr McMahon—In general we would advise—

Senator LUDWIG—I am not asking in general; I am asking about Mr Brigitte.

Mr McMahon—We will have to take that on notice.

Senator LUDWIG—We will get through it a big quicker that way. As I understand it from discussions yesterday with Mr Keelty and ASIO—and I am happy to be corrected—Immigration were aware that he was of interest in terms of broader terrorism issues, if I can put it that way. So who made the decision then to allow him to be flown with an Immigration official and two New South Wales police on a commercial plane? Was it a commercial plane?

Mr McMahon—Yes, it would have been.

Senator LUDWIG—You would not have chartered one?

Mr McMahon—No.

Senator LUDWIG—Or advised the airline of the interest—

Mr McMahon—We normally advise an airline where there is a removal, so I would be very surprised if the airline was not advised that a person was being removed and that person would be accompanied.

Senator LUDWIG—Who received him at the other end?

Mr McMahan—I think our immigration interests would have ended once we got to Paris. In other words, I doubt whether we would have been party to any other arrangements even if we may have known about them. Any other arrangements really would have been a matter for other agencies.

Senator LUDWIG—But you would have arranged to hand him over to somebody in France or did you just let him hop off the plane?

Mr McMahan—No, what I am saying is that the immigration interests would have been completed once the person got back to Paris.

Senator LUDWIG—So was there an arrangement to hand him over to somebody or to Immigration officials? What happens at that point?

Mr Farmer—I think there may have been an arrangement, but it did not involve us. I believe that to be the case. In other words, there were arrangements made by other agencies. That is my understanding. If there is anything that involved us, we will refer to that in our answers to questions on notice.

Senator LUDWIG—All right then. I am particularly interested in whether the immigration department had made arrangements with the French immigration department for the receipt of him, the arrangement of any custody or detention of Mr Brigitte or whether you are aware of what the arrangements were. If you were not, then what was the point of sending an Immigration official with him? Perhaps you could also explain that.

Mr McMahan—It is normal practice when we are doing a removal to accompany the removal to make sure they get to where they are meant to be going. When we return a national, in normal circumstances we really just take them through the barrier or to the barrier in the receiving country.

Senator LUDWIG—Thank you.

Senator SHERRY—But it is not normal practice for someone who is accompanied by an official of the department to be accompanied by a police officer or officers, is it?

Mr McMahan—Sometimes we use New South Wales Police and we used ACM when they were our service provider—

Senator SHERRY—I understand that, but it is not the normal practice, is it?

Mr Farmer—No, it is not the normal practice. This was not normal.

Senator SHERRY—I assume he travels economy.

Mr McMahan—I would have to take that on notice.

Senator SHERRY—Was he handcuffed?

Mr McMahan—I would have to take that on notice too.

Senator SHERRY—I have some questions relating to sex trafficking, which we discussed at two previous hearings. I understand there was a package of measures announced on this issue on 13 October, one week after Senator Vanstone became the new minister. That is correct, isn't it?

Mr McMahan—Yes. I thought that was a rhetorical statement.

Senator SHERRY—That was a question.

Mr McMahan—Sorry. Yes, there was an announcement of a package.

Senator SHERRY—When did the department first become aware that sex trafficking into Australia was an issue?

Mr McMahan—Immigration has been working for quite some time with various authorities. In some of those situations, the department was aware that there had been sex trafficking, but that would go back to at least 1998. I recall a major operation in New South Wales called Paper Tiger, which involved illegal workers and people who had possibly trafficked in the New South Wales sex industry. It was probably that operation that galvanised the government into introducing amendments to the Criminal Code around sexual slavery and sexual servitude.

Senator SHERRY—Have you made any attempt to quantify the size of the problem?

Mr McMahan—We have a process of referral to the AFP, which is responsible for criminal prosecutions under the Criminal Code. Since sex trafficking legislation was introduced at the end of 1999, we have referred 34 cases, involving 66 people, to the AFP.

Senator SHERRY—Over how many years?

Mr McMahan—I think it was about 3½ years.

Senator SHERRY—Could you give us a breakdown of that? Do you have it now?

Mr McMahan—I do not have it by year.

Senator SHERRY—Is it possible to get that?

Mr McMahan—Yes, it is.

Senator SHERRY—Please take it on notice. Is this problem growing? You can have greater success in referring cases and numbers of people—in this case, 66—but are these numbers increasing each year?

Mr McMahan—It is difficult to assess whether or not it is a growing problem. Our referrals over the last six months have grown reasonably significantly. One of the reasons for that is that we have changed our practice somewhat. Previously we conducted investigations ourselves. We built up more of a case and then referred it to the AFP if there was significant evidence. Under revised protocols, we now refer the case almost immediately to the AFP. That means that there is not the same level of screening that there was previously; hence the numbers have not jumped up but the rate of referral has jumped up somewhat.

Senator SHERRY—Do you have any observations about whether the problem is growing? Your referrals may have gone up, but the size of the problem can actually be growing larger over time.

Mr McMahan—I can say that we have no evidence of that, but I can also say that since it has been given wider publicity we have had a couple of good referrals from the community. We had some information before we visited the 417 brothel in Melbourne that there may have

been sex trafficking. We went in there and we found that people had been sex trafficking. We referred it immediately to the AFP, and that resulted in charges being laid.

Senator SHERRY—You have outlined both here and on previous occasions the policing of the issue. What particular measures have been implemented to try and stop the trade?

Mr McMahon—We did not coordinate the whole government effort—Attorney-General's did—but there are further amendments to the Criminal Code to widen the offences. From Immigration's point of view, the former minister announced a new visa class, which is the witness protection visa, and that is now being progressed. Effectively, for a person who is giving evidence and has a continuing need for protection, that will allow the minister to grant a visa. It is hoped to some degree that this will encourage people to come forward. Also, the minister will be bringing forward another visa which would allow people to be released more readily to community groups pending assessment by law enforcement agencies as to whether or not a criminal justice stay certificate should be issued.

Senator SHERRY—Where that special visa is issued, will that allow them to stay in Australia permanently?

Mr McMahon—It would allow that, subject to the conditions being met, yes. The third element—and particularly from an immigration point of view—is that a compliance officer has been placed in Bangkok to play a regional role in connection with sex trafficking. Obviously, one of the major features of the whole-of-government announcement was the development of a very large strike force within the AFP.

Senator SHERRY—I assume they have been placed in Bangkok because that would be the principal place of origin of most of the 66 people.

Mr McMahon—Of the 257 people located in the sex industry, 100 were from Bangkok. If you look at the statistics, people from Thailand, Korea, Malaysia and China overwhelmingly constitute those working in the sex industry.

Senator SHERRY—But the significant majority are from Thailand?

Mr McMahon—Yes.

Senator SHERRY—How did they enter the country?

Mr McMahon—Largely through visitor visas in the case of those from Thailand. We do screening at the post. We have looked at procedures. Unfortunately, with respect to the profile, if you are stopping all women between the ages of 20 and 35 then you are obviously not going to let many people in.

Senator SHERRY—We had a discussion earlier about Mr Brigitte and the information provided. I assume they are applying under the electronic travel authority.

Mr McMahon—No. They are not eligible for an ETA.

Senator SHERRY—Thailand is excluded from it?

Mr Farmer—It is not included.

Senator SHERRY—Do you believe that the new visa class and the special protection arrangements will improve protection of victims in these circumstances?

Mr McMahan—Yes. A very good initiative is the bridging visa, which allows support to be given by non-government organisations. That will be coordinated through the Office of the Status of Women. Effectively, it is providing some support in the short term. There is a real problem amongst women who have been sex trafficked, because they have generally been coached as to what to say and they are potentially under threat or some form of coercion. Some support may provide them with a more balanced perspective about the advantages of prosecution. But of course many people who have been trafficked will not talk to us. They do that because they want a return to income, and the only way they can get income to repay debt is to leave the country and resume sex work in probably another regional country.

Senator SHERRY—Presumably you would know when those individuals leave the country. Would you pass that information on to other jurisdictions?

Mr McMahan—Yes, we certainly cooperate and we have actually got very strong cooperation with the Thai government. We deal with welfare organisations there and we deal with the embassy here. We have tried to get feedback from interviews, if the person has returned, by welfare organisations to refine our profiles and see what we can do. And in many cases AFP seeks to make contact with the person even after they have left the country.

Senator SHERRY—I assume that in the work you have carried out some of the perpetrators have been interviewed and arrested. Is there any case where they have been deported where they have come from, say, Thailand and are clearly involved in the trafficking?

Mr McMahan—There have been eight people charged with sex trafficking. That would involve some criminal justice stay certificates to allow us to issue a visa to make sure they remain in the country to allow us to prosecute them.

Senator SHERRY—Are they of Thai origin?

Mr McMahan—There is a mix. The ones in Melbourne I believe are two Caucasians and one Thai woman. The ones in Sydney have been a mix again of nationalities. But it does involve one Thai person.

Senator SHERRY—When you refer to Caucasians, I take it non-Australian Caucasians.

Mr McMahan—They are Australian Caucasians.

Senator SHERRY—They are Australian citizens. In the case of the one who is not Australian who has been charged—

Mr McMahan—No, there are two that I can recall in Melbourne.

Senator SHERRY—How did they enter the country?

Mr McMahan—I think they are Australian citizens.

Senator SHERRY—Are any of them not Australian citizens?

Mr McMahan—Yes, a number of them are not Australian citizens. They are residents.

Senator SHERRY—How have they entered the country—visitor visa?

Mr McMahan—Once they have got residence or citizenship, we would probably would not go back and examine the visa type in such a small part of the group.

Senator SHERRY—I thought if you looked at the visa type you might be able to look at some change to the particular visa type.

Mr McMahon—They may be the facilitators, but there are only a few of them and many of them have longstanding ties with Australia, so it is not of particular relevance. What is of more relevance is the method of entry of people who have been trafficked and looking to see if we can determine that.

Senator SHERRY—In terms of the victims' needs and at least trying to remove them from any threats of coercion or intimidation and get them out of the environment, is there anything else that is being considered to assist in that regard?

Mr Farmer—I think the package has had a pretty good reception from groups who are interested in this issue and knowledgeable in it. I am not sure whether there have been further suggestions made by groups.

Senator SHERRY—Did you look at models anywhere else in the world, for example?

Mr McMahon—We are quite conscious of what a couple of other countries have done. The UK and US have done very similar things. First of all, you have to look at the legislation, and I think the lesson that came out of the comparative legislation is that most countries have legislated for various aspects of trafficking but probably no country had got every component right. So getting more comprehensive legislation in place was extremely important. That was a key part of it. But certainly providing some support for victims of trafficking, and particularly in the earlier stages, was very important. Within that package is the availability of counselling and obviously income support.

Senator SHERRY—Is there English language training or any other education and training support?

Mr McMahon—In the first month, where part of the package is basically just providing immediate support in counselling, making sure that they are not destitute and ensuring that they have effective care. We also, as part of the immigration side of it, were making sure that we got our processes right. We are certainly trying to ensure that any woman who has been trafficked and who needs to be retained because of flight risk or whatever is detained in the women's section of Villawood.

Senator SHERRY—What number are kept in detention centres?

Mr McMahon—I do not have a number, but a lot of them are not kept in detention centres. That is not necessarily a good thing, because it is generally an indication that they are making immediate plans to remove themselves. They will have a ticket. Sometimes they will have purchased the tickets or made the bookings even before they have left the immigration compliance, so they have a very real intention of returning. Sometimes we would prefer that they did not return. Sometimes, if they go back out into the community, they can be subject to intimidation again. But if, indeed, they are not a flight risk and they are making arrangements for their own removal then they will not be brought into detention.

Senator SHERRY—But, presumably, you would not want them to leave, because they would be witnesses in the prosecution.

Mr McMahan—Yes. We were very disappointed with respect to the Thai women in Melbourne who left. We had actually made representations to them to stay, and so did the law enforcement agencies, but a number of them took a decision to leave. We were lucky that sufficient numbers of them remained to form the basis of a case for the AFP.

Senator SHERRY—I turn to the initiative that has been announced. Do you have details of the costings over the forward estimates period?

Mr McMahan—It is \$20 million over four years.

Senator SHERRY—I will just give you the categories: the community awareness campaign, the AFP mobile strike team, the compliance officer in Thailand, the victim support measures and the reintegration assistance. Do you have a breakdown for each of those categories?

Mr McMahan—No, we do not. We would not normally release the estimates of other organisations. We would have a rough costing with respect to the placement of an officer overseas, which is the key cost indicator for us.

Senator SHERRY—Obviously, the AFP mobile strike team is paid for by the AFP.

Mr McMahan—Yes.

Senator SHERRY—What about the community awareness campaign?

Mr McMahan—That is OSW from PM&C.

Senator SHERRY—The victim support measures?

Mr McMahan—I am not 100 per cent sure, but they are certainly involved in the counselling and the support. About the awareness campaign I could not state definitively.

Senator SHERRY—It is cross-portfolio. Are you designated the lead agency?

Mr McMahan—No. That is Attorney-General's.

Senator SHERRY—So it would be the one to ask about the coordination and the formula funding allocation?

Mr McMahan—You would have to put the question to them, but I rather suspect that they would also not release the estimates of other agencies.

Senator SHERRY—As long as we know whom to ask.

Mr Farmer—That would be your best shot.

CHAIR—We can still put those questions on notice, Senator Sherry. They can go on notice for the other department.

Mr McMahan—Clearly, it is going to be an additional estimates matter.

CHAIR—We will look forward to that, Mr McMahan.

Senator SHERRY—Those questions are in respect of the strike force, AFP. I will turn again to the DIMIA compliance officer in Thailand. Are there any other compliance officers currently posted in Thailand? Will this be an add-on?

Mr McMahan—Yes, this is an addition. We have a compliance officer there who looks at sex-trafficking issues already. We wanted a dedicated officer who could also play a regional role.

Senator SHERRY—It is a top-up. We are not scrapping any other positions?

Mr McMahan—No. This is an addition.

Senator SHERRY—How many other compliance officers at this level do we have in South-East Asia? Do you have any idea?

Mr McMahan—I cannot answer the question about how many we have in South-East Asia, but we have about 26 overall.

Senator SHERRY—This is around the world?

Mr McMahan—This is worldwide, yes.

Senator SHERRY—Could we have a list on notice of where they are posted?

Mr McMahan—We will table that.

Senator SHERRY—What do you see the officer as actually doing? Obviously, they will be attempting to reduce sex trafficking, but how will they go about that?

Mr McMahan—We are going to have to develop the methodology for that, but first they would work very closely with the AFP stationed in Bangkok; they would try to make links across countries; they would work with the local law enforcement officers and local immigration authorities; they would look at refining methodologies for screening of people before they arrive; they would look at issues where people have returned and act as a liaison point for them—so if a person we believe has been sex trafficked has returned, which almost certainly would mean that the person has decided to remove themselves and return themselves, they would try to liaise with them; they would make sure that the Thai government, which has been very supportive and very cooperative on these issues, is fully aware; and they would brief the Thai government. That would be the sort of range of activities.

Senator SHERRY—Have any of those who have decided to go back to their country of origin agreed to return to give evidence?

Mr McMahan—To my knowledge, there has been no prosecution which has required their return. I do know that there have been continuing links between the AFP and some of the people who have returned.

Senator SHERRY—Do you mean that if they have returned to, say, Thailand—which is where most have come from—there is some assistance or backup support by Australian authorities in Thailand?

Mr McMahan—No, we do not actually offer support. But we do liaise with the Thai government. I do not know the name of the department—but it is descriptively community affairs or whatever—but I know that they take some interest in the return of women. I know that AusAID run some programs in South-East Asia which relate to sex trafficking, but that is really for them.

Senator SHERRY—I will briefly go back to the compliance officer. I assume that other countries have something similar. For example, the UK might have someone in Albania or in other eastern European countries. Are you having a look at what models are used in other jurisdictions?

Mr McMahon—I think we would apply intelligence and other methodologies. It certainly would be open to look at that. I do not think we have any particular plans to do so at the moment. The US, for example, has its major embassy offshore in Thailand, and we will be participating with them next week in some sex-trafficking discussions.

Senator SHERRY—So there is a problem with respect to the US as well?

Mr McMahon—I do not know the size of their problems; we are just interested in talking about the dimensions. I would be surprised if it was not.

Senator SHERRY—Obviously there are some individuals who have been charged. To date have you been able to identify the nature of the organisation behind this?

Mr McMahon—That is really a question you have to put to AFP largely. I would say that with the Migration Agents Taskforce that we have set up we have noticed that a number of migration agents have been associated with protection visa applications for women brought into the sex industry. We are looking at that very closely.

Senator SHERRY—What is the estimated number that you are looking at closely in the migration agency area?

Mr McMahon—The number of migration agents?

Senator SHERRY—Yes.

Mr McMahon—We started off with a list of about 30 migration agents and we have also looked at targets of opportunity. For example, if it has been illustrated in a review tribunal or whatever, we have picked out some people to look at in that context. So the number is probably less than 40, and I do not think we want to grow that list much, because the bigger you grow the list the more chances there are that your resources are going to be spread thinly.

Senator SHERRY—I understand. I am actually surprised that it is between 30 and 40 that you are looking at. It seems a reasonably significant number to have under some sort of examination. What is Australia's current position on the UN trafficking protocol?

Mr McMahon—It was part of the government's announcement that it would ratify it. It has already signed it.

Senator SHERRY—Does that mean it is now active?

Mr McMahon—Until ratification takes place, I do not think it has the force of law in Australia, but certainly to all intents and purposes we have adopted the definition of 'trafficking' et cetera and that is what we are now working to. I think the important aspect is that key elements of those trafficking offences have now been reflected in domestic legislation.

Senator SHERRY—True, but do we have any reservation in place?

Mr McMahon—Yes, there is a reservation in respect of the migration provisions.

Senator SHERRY—What is the reason for that?

Mr McMahan—We did not want to give people who claimed to be trafficked unfettered access to a visa outcome in Australia. You can actually get to a situation where you are encouraging the process rather than discouraging the process. I think the government took the decision that it would define the way in which it would implement what it sees as provisions under the Migration Act, and it has already moved to do that in respect of the two visas.

Senator SHERRY—Is there some sort of national oversight committee or group that is coordinating the antitrafficking activities in Australia?

Mr McMahan—Only the AFP.

Senator SHERRY—But you do not have some sort of working group with people from different departments coordinating or meeting to discuss—

Mr McMahan—Yes, we have had a whole-of-government working group. That has been running for a little time.

Senator SHERRY—Approximately how much time?

Mr McMahan—It has probably been running for over 12 months. The announcement also had a reference to an action plan being developed. That will be done through an IDC process as well.

Senator SHERRY—Will the working group which has been in operation for approximately a year continue?

Mr McMahan—I expect that will be the vehicle for developing the action plan.

Senator SHERRY—Which departments are on the working group?

Mr McMahan—It is chaired by Attorney-General's. It has representation from the Department of the Prime Minister and Cabinet, the Department of Immigration and Multicultural and Indigenous Affairs, the Australian Federal Police, the Office of the Status of Women—that is part of PM&C—and the Australian Crime Commission.

Senator SHERRY—You made reference to OSW being part of PM&C. Does that mean there is someone from OSW involved in the group?

Mr McMahan—Yes, there is. Normally it is the head of OSW.

Senator SHERRY—Anyone else?

Ms Daniels—The Department of Family and Community Services will also be part of that plan.

Senator SHERRY—They have not been on the group so far, but they are to go on this group?

Ms Daniels—AusAID, in the Department of Foreign Affairs and Trade, is also part of that working group.

Senator SHERRY—Are the Department of Family and Community Services to join the group? Have they not been on it?

Ms Daniels—I think they have been.

Mr McMahon—They have been on there the entire time.

Senator SHERRY—Which is the lead agency?

Mr McMahon—Attorney-General's.

Senator BARTLETT—I have a question in relation to the removal of the immigration portfolio from the security committee of cabinet. It has been suggested that it would be appropriate for the minister to answer it. What was the rationale for that? Is that an indication that immigration is not seen as a key component of border security or broader security issues any more?

Senator Vanstone—No. Your question would be more properly addressed to the PM&C estimates for a start, because that was the Prime Minister's decision. But I am perfectly satisfied that Immigration will get the opportunity to put their views on any issues that relate to immigration.

Senator BARTLETT—Mr Farmer, you are on a committee—

Mr Farmer—The Secretaries Committee on National Security, yes.

Senator BARTLETT—Yes. That obviously provided an opportunity for this portfolio to have regular input into matters concerning security, but that will not be available any more.

Mr Farmer—In practice, without going into details for obvious reasons, my focus in that committee was on issues, and there were a number of them, of interest to this portfolio. I believe the arrangements will still permit that involvement. In other words, people can be coopted to that committee.

Senator BARTLETT—Is it fair to surmise that this might in some way be linked to the reduction in unauthorised arrivals?

Mr Farmer—I have no idea as to the background. From my point of view in the department, it does not affect the potential effectiveness of the arrangements.

Senator BARTLETT—It is a bit less work for you to have to do.

Mr Farmer—That is true.

Senator BARTLETT—Segue straight into 1.4?

CHAIR—Yes. We will now move to output 1.4.

[9.54 p.m.]

CHAIR—You said you would be brief, Senator Bartlett.

Senator BARTLETT—It is a bit hard to be anything other than brief on 1.4 these days.

CHAIR—You never know in estimates.

Senator BARTLETT—I would like an update on how many people are still in the country on safe haven visas and where their countries of origin are.

Ms Bicket—The current position in relation to temporary safe haven arrangements in the three subclasses that fall under this are that in subclass 448, which is the Kosovar safe haven temporary visa, there are currently no persons on that visa. In relation to subclass 449, which

is the humanitarian stay temporary visa, there are 18 persons, made up of 14 Ambonese, one Iranian and two Iraqis.

Senator BARTLETT—That is 17.

Ms Bicket—I am sorry. I think one person has been left off this list. In relation to subclass 786, which is the temporary humanitarian concern visa, there are currently 41 persons. I understand the breakdown is 28 Kosovars, with the remaining 13 persons comprising seven East Timorese, two Palestinians, three Iranians and one Afghani.

Senator BARTLETT—What is the distinction between the Kosovars in that latter visa category and the initial one? Is there any difference?

Ms Bicket—There are approximately 160-odd former Kosovar safe haven visa holders still in Australia. During July and September this year, the former minister lifted application bars in relation to those people, and those remaining 160-odd have been permitted to make various other applications. The bulk of them, which is about 116, have been invited to apply for protection visas, and they have moved into the PV process and onto bridging visas. Therefore, they are no longer on any of the temporary safe haven arrangements. The 28 Kosovars who are in subclass 786 have been given further periods of stay, for various reasons particular to their cases but principally on medical grounds.

Senator BARTLETT—So they are all on different time periods.

Ms Bicket—That is right.

Senator BARTLETT—So the 41 in that latter category are not able to apply for other visas.

Ms Bicket—Not at this time.

Senator BARTLETT—How long have the Ambonese been in the country now? It must be getting on for three or four years, isn't it?

Ms Bicket—That is right. They first arrived in January 2000.

Senator BARTLETT—What is their expiry date this time around?

Ms Bicket—I believe that it is around March next year, but I would have to check on the exact date.

Senator BARTLETT—There is no limit to this, is there? It can keep going indefinitely.

Ms Bicket—That is right. If the minister chose to extend that period of time and so forth, that is an available option.

CHAIR—That is the end of output 1.4. Thank you very much, Ms Bicket. We will now move to output 1.5, Offshore asylum seeker management.

[9.58 p.m.]

Senator BARTLETT—I think some questions were asked earlier about Christmas Island and numbers of people and that sort of thing. Is that right?

Mr Farmer—Yes.

Senator BARTLETT—In that case, I will not go there. The most recent MOU or agreement or whatever it is with Nauru expired on 30 June. Has the latest one been finalised and signed-off?

Mr McMahan—No, it has not. An agreement was reached before the end of June that the arrangements would continue, subject to the finalisation of another agreement. That agreement has not yet been finalised, and part of that has been because of the elections and change of government.

Senator BARTLETT—They have had a change of government again and things like that.

Mr McMahan—Yes, there have been a couple. But we are back to the same position now. Rene Harris is currently the President.

Senator BARTLETT—The process has not stalled or anything? It is still intended that there will be a new agreement adopted reasonably soon?

Mr McMahan—DFAT is doing the negotiation, and it has been slow, but I think it has been slow more because of ability to get together to negotiate it than because of any particular difficulties underlying the negotiation.

Senator BARTLETT—How many detainees are left now on Nauru?

Mr McMahan—There are 314 people. We have a table here showing the composition, which we could table.

Senator BARTLETT—That would be good.

CHAIR—Thank you, Mr McMahan.

Senator BARTLETT—Have any of those 314 left been determined to be refugees?

Mr McMahan—Four have been, yes.

Senator BARTLETT—I presume it would be over a year now since they were assessed to be refugees. Is there any time line or expectation of them being settled?

Mr McMahan—Discussions are still taking place with a number of countries. I think each of those four has prospects of resettlement. I do not think we can ever put a precise time line on it.

Senator BARTLETT—I presume they are somewhat of a priority.

Mr McMahan—Indeed.

Senator BARTLETT—Has there been anybody removed from Nauru involuntarily and sent back to country of origin?

Mr McMahan—No. All the people who have gone to date have been removed by IOM, and IOM will not participate in an involuntary removal.

Senator BARTLETT—Are people still eligible for the assistance package?

Mr McMahan—The people who met the government's requirements are eligible. Of the 462 people who have voluntarily returned, 411 had the package. The package has not been reopened. The government said it would not reopen the package and it has not done so.

Senator BARTLETT—I have heard a number of times—and I want to confirm whether or not it is correct—that there is a plan to relocate people from Topside camp to State House and put them all in the one spot.

Mr McMahan—There has been discussion around that.

Mr Okely—Because we have a reduced population on Nauru we are looking at the economies of relocating to one site rather than two on Nauru. We are looking at the relative advantages of being in Topside and being in State House and are making that assessment at the present time.

Senator BARTLETT—Is there any time line for that?

Mr Okely—I would think we would make a decision and move around January or February.

Senator BARTLETT—What is the security situation at State House at the moment? I know there were problems there a little while ago.

Mr Okely—State House presently does not have any residents. Residents are presently all in Topside.

Senator BARTLETT—That is probably not a security problem then at the moment.

Mr Okely—There is no security problem there.

Senator BARTLETT—Solved that one! Do you have or are you able to get from medical staff any figures on the extent of mental illness amongst the detainees?

Mr McMahan—We would normally have to approach IOM for that data and we could make a request of it. It really depends on the form in which it is collecting the information. But at the moment, for the 314 people there, they have four doctors. One of them has psychiatrist-type qualifications, and I believe that they are bringing in another one as well. So they will have five doctors there.

Senator BARTLETT—Is that extra one a psychiatrist, did you say, or a general practitioner?

Mr McMahan—Yes. They will have expertise in that area.

Senator BARTLETT—With regard to the returns, I know that there was a visit by the Afghani foreign minister or a reasonably high-up Afghani official.

Mr McMahan—Yes. That was Minister Nazari, who is the minister for refugee resettlement.

Senator BARTLETT—Is there any difference between the approach to returning people from Nauru and the approach to returning people from Australia in terms of criteria or things you have to satisfy or anything like that?

Mr McMahan—No. To date, they have all been voluntary returns. The only difference is that in Nauru there was a decision quite early in the piece to make a universal offer of the package for return, while in Australia it was more selective and the timing was different.

Senator BARTLETT—You have stated before that IOM are not involved in involuntary removals. They are only involved in voluntary removals.

Mr McMahan—Yes.

Senator BARTLETT—What is likely to be done if involuntary removals are required?

Mr McMahan—An arrangement will probably be made with the Nauru government, or we will develop an arrangement. But we have not actually got to that point yet. We also think that, if you got to the point of involuntary removals, people would go voluntarily.

Senator BARTLETT—You have 310, not counting the four refugees there. When I was there in July there were about 350, not counting the refugees. Therefore, that 40 or so have been voluntary returns to Afghanistan and, it seems, Iraq. Would that be right?

Mr McMahan—Yes, there have been some voluntary Iraqi returns and some other nationalities. Certainly, the majority have been Afghans. We hope to get another group of probably 20 returns shortly, simply because passports have been issued. There is a bit of frustration: people either do not want to go or, if they want to go, want to go immediately. If the documentation is not there, it can be difficult. So we certainly have appreciated the cooperation of the Afghan government in processing some of the passports for us.

Senator BARTLETT—Are you able to give us an indication of how many of the 310 have said that they wish to return but are waiting on documents?

Mr McMahan—We have that information. I do not think that I have it with me here. But the number is diminishing. We are probably getting to within the last 50 or so.

Mr Okely—I have a breakdown of the number of people who have accepted the integration package and who have travel documents. That number is 17. Twenty-two have applied for travel documents and, as Mr McMahan said, they will be getting those travel documents very soon. Those 17 are indicating at this particular time that they do not want to go, but they do have travel documents. There are a number who have not applied for travel documents but who have accepted the package, so they are simply sitting on their hands for the present. There are a number of people who have travel documents but are not indicating that they want to go, and they have not accepted the package. So it is quite a mishmash of people in different stages of wanting to go home.

Senator BARTLETT—But overall, would the number of people be 50 or so—something like that?

Mr Okely—Presently, there are 22 who have definitely said they want to go. I would say there would probably be another 20 or so.

Senator BARTLETT—According to these figures, there are 93 people under the age of 18—five of whom are unaccompanied. Obviously, the ones that are not unaccompanied are attached to an adult—by definition. Do you know how many of them are single parent arrangements?

Mr McMahan—I do not think we have ever collected that data.

Mr Okely—We have not.

Mr McMahan—Even the five unaccompanied minors have nearly all been associated with a family group.

Senator BARTLETT—My understanding of the process that has been followed to date is that the UNHCR assessed an initial group—the ones that arrived on the *Manoora*—and DIMIA has assessed the rest. You mentioned in your annual report that all claims for protection were finalised against UNHCR guidelines. I was wondering how that statement tallies with the department's decision not to count derivative status as part of the criteria. I thought that was part of UNHCR guidelines.

Mr Illingworth—The procedures that we developed for assessing refugee status in the offshore processing centres were based on processes that were adopted by the UNHCR. But the test that we applied was the refugee convention tests. In some of the commentary in the media there has been some confusion between the issue of what is a process and what is a criteria or a test. When we built our process, essentially we were building an administrative decision making mechanism which assessed claims, which had safeguards in it for natural justice, which provided interviews, counselling points, correspondence, formats and decision records—that sort of structure—designed to provide robust decisions.

The actual test that we apply is the refugee convention test. The refugee convention provides one test to be a refugee that has to be met, and that is article 1A: to be a refugee, one has to be outside the country of origin and have a well-founded fear of persecution on a convention ground. So in the refugee convention itself, there is no element of the refugee definition that says that if you happen to be a family member of a person who is a refugee, then you are one too. The concept of 'derivative status' is essentially putting that proposition.

The Australian arrangements for dealing with families are, in fact, quite generous. As a general rule, if a family group arrive and apply for protection together and one person is found to be owed protection, then the other family members receive a visa as well without having to satisfy the refugee test in their own right. But the legislation domestically and the approach that we adopted that mirrored that setting offshore makes a distinction in situations where families arrive separately and there is unauthorised travel and unauthorised entry involved. In those cases, where people arrive separately and apply separately, they are assessed separately.

Senator BARTLETT—I was going to ask the legal basis for that, but I guess it is the law—so that is the legal basis for it. What is the logical basis of it? How do you derive the fact of someone's assessment being based on whether they arrive separately rather than together affecting whether they get determined to be a refugee?

Mr Illingworth—On our reading of the convention I would almost turn that the other way: there is no basis in the convention for doing other than assessing each case on its own merits against the convention. If an individual meets the refugee test, they are a refugee; if they do not, they are not. There is no basis in the convention to provide somebody with automatic refugee status purely on the basis of a family link with somebody else—to qualify that: 'solely' on the basis of the family link. Obviously, if a person were related to a refugee and there was an imputed problem—for example, the spouse of a high-profile dissident or something like that—then it is quite possible that the relationship would mean the other family member would be at risk of persecution. But there is no basis in the convention to give refugee status to somebody who does not personally have a fear of persecution.

Senator BARTLETT—The annual report states at page 67 that ‘all claims were finalised against UNCHR guidelines’. I am trying to get the distinction. Are you saying that UNCHR guidelines do not include derivative status?

Mr Illingworth—I believe that means administrative guidelines. If I cast my mind back some while, there was a considerable deal of consultation between the UNCHR and DIMIA when we were finalising our arrangements for processing to ensure that, particularly on Nauru, the handling of the caseloads was consistent. We put in a great deal of effort, down to even aligning the text of letters and to the timing and content of briefings. I think that is what is referred to there when we were talking about the guidelines. From memory, also, the issue of derivative status first arose after the first round of decisions were made—that is, after the hand-down of decisions to both the UNCHR and the DIMIA caseloads. After the guidelines had been set, as it were, there was advice from UNCHR which they adopted, as I recall, when they looked at review of their original refusal decisions. That is my recollection. I would have to check my records to confirm that recollection.

Senator BARTLETT—The UNCHR does not, in a technical sense, have any interest in or oversight of any of the people on Nauru now—is that right?—apart from maybe the four refugees.

Mr Illingworth—I suppose that is a question that would be better answered by them to see what they felt their role was. Certainly, they would think they had a role to look at the needs and the interests of individuals who they thought were owed protection or were refugees. As you note, there are individuals who were recently found to be refugees who were in the UNCHR caseload, as it were; so they have a continuing interest in resolving the resettlement of those people.

Senator BARTLETT—Sorry, I am not actually aware of those. Which ones are they? Are they the four people?

Mr Illingworth—There were four people. I understand three of those were from the UNCHR caseload and one from ours.

Senator BARTLETT—It is just when you said ‘recently’ I thought there was some new information that had changed there.

Mr Illingworth—It is my understanding that there was some new information and a new interpretation of the convention which the UNHCR has applied to the case load it had been handling and as a result of that reached some different views about the status of some individuals.

Senator BARTLETT—Could I clarify that. When I was asking earlier about the four I came to the understanding that they had all been determined to be refugees some time back, over a year ago.

Mr Illingworth—My understanding is that it was quite recently.

Senator BARTLETT—I will perhaps follow that up with you separately. I will ask just one more question, and it is in relation to a person who has had some degree of attention who came to Australia at some stage needing treatment for an artificial leg and has since been returned. I do not know if you know the individual case.

Mr Okely—I am sorry, Senator, I am finding it hard to hear you.

Senator BARTLETT—A person was brought from Nauru to Australia for medical treatment to receive a prosthetic leg or an updated, improved fitting. A lot of the correspondence I have received suggests he was returned before the fitting was done properly and he is suffering ongoing problems as a result and he is unable to get around et cetera. Do you know where that case is at? Is anything being done to resolve his situation?

Mr Okely—The gentleman in the case you are talking about is back in Nauru at the present time. He is experiencing some difficulty with his prosthesis, and those issues have been referred to the medical people on Nauru. There has been some discussion down in Melbourne with respect to the prosthesis, and arrangements are being made at the present time for that prosthesis to travel to Nauru and for things to be fixed up.

Senator BARTLETT—He is a person who, as I understand it, has not met the refugee criteria and would also be subject to being requested to return to I think Afghanistan. How does that fit into the treatment he is getting at the moment? Is he not likely to be returned until these medical issues have been resolved?

Mr Okely—If he does not wish to return voluntarily then his return would not be finalised until an involuntary return agreement was negotiated. Whether that preceded or succeeded a resolution of the medical issues, I cannot say at this point.

CHAIR—Thank you. Senator Bartlett, thank you very much for your cooperation. Senator Sherry, if it is of any assistance, we can move to outcome 2: A society which values Australian citizenship, appreciates cultural diversity and enables migrants to participate equitably—thanks to Senator Bartlett's cooperation.

Senator SHERRY—Great. Thank you, Senator Bartlett.

CHAIR—There may as a result of moving relatively quickly through those last couple of points be some questions which are placed on notice at the end of output 1.5.

Senator SHERRY—Thanks, Chair. We do have a considerable number of questions. I believe we will go through until 11 o'clock and obviously we will put the rest on notice.

Mr Farmer—Could I ask a question. We have officers here who deal with budget and management issues as well as outcome 1. Am I correct in assuming that the remaining questions relate only to output 2?

Senator SHERRY—Yes, from our perspective. They relate to output 2.

[10.23 p.m.]

CHAIR—Yes, I think that is a reasonable assumption. We will now move to outcome 2.1: Settlement services.

Senator SHERRY—I want to ask some questions about the settlement services. The minister, Mr Hardgrave, released a report, *Review of settlement services for migrants and humanitarian entrants*, on 27 May 2003. Who are the members of the high-level task force announced by the minister on 27 May?

Mr Vardos—I will ask my colleague Jennifer Bryant to answer in detail. PM&C chairs the task force and there are a number of federal departments represented on it, apart from us. Ms Bryant may have the complete list.

Ms Bryant—Those represented on the task force include the central agencies of PM&C, Treasury and Finance and Administration. It also includes us, obviously, and the Department of Education, Science and Training, Department of Employment and Workplace Relations, Department of Health and Ageing, Department of Transport and Regional Services, Department of Family and Community Services and Centrelink. They have been involved in the task force.

Senator SHERRY—Does it have terms of reference?

Ms Bryant—Yes, it does.

Senator SHERRY—Are they available publicly?

Ms Bryant—I would have to confer with the Department of the Prime Minister and Cabinet in relation to that issue.

Senator SHERRY—Take it on notice to provide a copy. In its terms of reference, when is it required to complete its work?

Ms Bryant—I understand, Senator, that the task force is continuing its work, and it is intended to report to government later this year or early in the new year.

Senator SHERRY—Is it then envisaged that the task force would finish?

Ms Bryant—Yes. I think individual agencies may have cooperative efforts to pursue some ongoing matters, but in general the task force work will conclude at that time.

Senator SHERRY—When did the task force commence—approximately, if you do not know the exact date?

Ms Bryant—I think its first meeting was in August. I would have to double-check that for you, but I believe it was in August.

Senator SHERRY—Have the community consultations following the release of the review been concluded?

Ms Bryant—Minister Hardgrave held a series of community consultations in all states and territories in July. I think they were all concluded by the end of July.

Senator SHERRY—What are the conclusions that were reached based on these community consultations?

Ms Bryant—I think that in general the report was well received. The predominant issues that the community raised post the release of the report were in relation to creation of the new grants program which would combine funding for MRCs and CSSS grants. There was a strong interest in service delivery to regional areas, an interest in funding for the needs of established communities, continued concern over housing for humanitarian entrants, a need for improved support for volunteers and certainly support for improved planning—many of which echoed the findings of the review itself.

Senator SHERRY—Since the release of the review—it has been approximately five months—have there been any decisions taken to alter guidelines or the budget for any of the five settlement service programs?

Ms Bryant—Perhaps I can walk you through what has been achieved in the five months. An improvement plan for the settlement database has been developed—that is recommendation 23. A pilot pre-embarkation cultural information and orientation program for humanitarian entrants at Kakuma and other refugee camps has commenced.

Senator SHERRY—Just before you go on, as you are outlining these identified projects—whether they are completed or not—can you outline whether they involve any new funding or reprioritising of existing funding?

Ms Bryant—The database exercise involves an allocation of DIMIA funding, so it has been allocated priority internally within the department. The pilot pre-embarkation cultural information and orientation program is internal money. That relates to recommendation 30. Enhancements have been made to the integrated humanitarian settlement strategy. Again, they involve departmental funds but funds that were additional in the budget context. You will recall in the budget context that around \$97.8 million was allocated to the department, and it is part of that funding. Those enhancements include the introduction of the tenancy training program, enhancements to the package of goods available under the Household Formation Support program and clarification of service provider responsibilities for assisting new entrants to access medical attention. Recommendation 44, which relates to assessment of MRC performance, is being applied currently, and DIMIA is continuing to support the development and maintenance of community language assistance programs through the AMEP's home tutor scheme. Those are matters that are happening within existing arrangements.

In terms of guidelines and those sorts of things that have changed or are in the process of changing, there is the development of workplace programs that more clearly articulate the role of MRCs and MSAs. That is recommendation 41. We have drafted revised work programs and we conducted consultations with the sector during October on the form of those revised work programs. The outcome of those discussions with the sector is currently being incorporated in funding guidelines and so on. We are in the early stages of developing arrangements for the combined new grants program, including eligibility requirements, management committee issues, reporting arrangements et cetera. DIMIA has signalled its commitment to participate in the OECD's review of integration policies. That is recommendation 1. Internal work has begun on recommendations related to settlement planning, and we will be consulting with the sector in the first half of 2004. Those are recommendations 21, 22 and 24 to 27. How much more detail would you like?

Senator SHERRY—Do you have a document that you can provide to the committee?

Ms Bryant—I can prepare one for you.

Mr Vardos—Any significant additional funding that may flow to the sector as a consequence of the settlement services review will be a matter for government following their consideration of the task force report that Ms Bryant referred to.

Senator SHERRY—But some areas have been identified for additional funding. Could you indicate, in approximate figures, where that has been? Obviously, I would not hold you to those figures.

Ms Bryant—The main area of new funding is the integrated humanitarian settlement strategy at this point.

Senator SHERRY—Also, I would appreciate information where it involves a reallocation and where there is an estimate. Does the department propose to exclude established migrant communities from eligibility for future CSSS funding?

Ms Bryant—You will recall that the settlement services review recommended that government give consideration to the creation of a separate grants program that might cater more specifically to the needs of established communities, particularly in terms of aged care. That recommendation is being considered by the Department of the Prime Minister and Cabinet task force, and government has not made a decision on that as yet.

Senator SHERRY—Is this another task force separate from the task force you outlined earlier?

Ms Bryant—No, it is one and the same. So it is considering that issue, it being an issue that goes more broadly than DIMIA's responsibilities. In the interim, until the government decides otherwise, established communities are eligible to apply for CSSS funding. I imagine they would be in the future, particularly as established communities can be well placed, because they have considerable skills in service delivery to migrant communities—in the same way that MRCs and so on have—to apply those skills in serving some of the newer, arriving communities as well. Certainly I would imagine that there will be a role for them into the future, depending on the work that they are seeking to do.

Senator SHERRY—But the type of work that they may do may change?

Ms Bryant—To the extent that they seek to meet the needs of newly arrived entrants, particularly our refugee and humanitarian entrants, and indeed in service delivery in regional Australia to the extent that some of the established communities have expertise that can be applied in those areas, they would continue to be eligible for funding. To the extent that they cater for non-settlement needs, such as aged care needs, they would be a lower priority for funding within our program. In the future, if the government determined that it wished to create a separate program then clearly they would be potentially eligible for funding under such a new program for those specific needs.

Senator SHERRY—But there is some level of uncertainty at the present time. What is your anticipated time line, approximately, for the completion of the PM&C task force review in this area?

Ms Bryant—As I mentioned at the beginning, it is expected to report later this year or early next.

Senator SHERRY—Would that be in time for consideration in the budget next year or would it be too late?

Ms Bryant—I would imagine it would be in time for consideration in the budget context.

Senator SHERRY—I suppose if PM&C are chairing it there would not be a deadline.

Mr Farmer—So long as you flag that things may be along during the next few months, it is quite orthodox.

Senator SHERRY—For all my years and days in Treasury and Finance, I did not know that.

Mr Farmer—It just keeps getting better and better, Senator.

Senator SHERRY—Be careful or I will quote you back to them! Have there been any discussions held with the states on joint funding models, cost sharing or issues of that type?

Ms Bryant—Our state and territory offices have all sought to engage with the state and territory governments in relation to the review report, its recommendations and potential areas of shared interest. I would have to get more precise advice. The nature and content of those discussions clearly varies with the interests of state governments and across jurisdictions.

Senator SHERRY—But presumably—and I do not know the detail on the ground, unfortunately, in my own home state—there would be some other funding arrangements being made by some of the states, wouldn't there?

Ms Bryant—The states have existing activities that are relevant to meeting the needs of new arrivals, and we have historically engaged with them in the form of settlement planning committees. We continue to have a level of engagement with them as part of our ongoing business, where our interests intersect, and we are also seeking specifically to talk to them about issues and new directions that arise from the review.

Senator SHERRY—But I would have thought we could anticipate that if there were a shift in Commonwealth priorities there would be some attempt at least at the local level to go to the state governments to make up the difference.

Ms Bryant—Are you suggesting that any shifting would result in a gap that the states—

Senator SHERRY—I am not saying that it would, but I could certainly anticipate organisations heading off to the state government to make up any shortfall in funding that they cannot meet because of a change in priorities. I am not suggesting that you are cutting back the total funding, but a shift in priorities might mean that there is a reaction to head off towards the state governments, I would have thought.

Ms Bryant—Certainly it is not intended that the review would result in any gaps and so on that would cause people to do that sort of thing. Indeed, where there is a shift in priorities, such as aged care, that has been a direction that has been foreshadowed for some time. The Commonwealth will be looking at those issues at a Commonwealth level. There is not an expectation that they will become an issue that people would look to the state governments for.

Senator SHERRY—The review also contained a recommendation to amalgamate CSSS and migrant resource centres. Have any conclusions been reached on that recommendation?

Ms Bryant—As I mentioned earlier, it is an area of strong interest and it was an area of interest in the consultations. Certainly the government has broadly endorsed the directions

outlined in the review prior to its release in May and it would be intending to proceed with an amalgamation of the MRC funding and the CSSS grant funding.

Mr Vardos—Your question suggested an amalgamation of migrant resource centres and CSSS as a program. That is not strictly correct. The funding source will be consolidated, but MRCs will be able to bid independently of CSSS organisations for that pool of money. There will not be an amalgamation of the two.

Senator SHERRY—But it certainly would lend itself to an amalgamation, would it not?

Mr Vardos—At the moment there are effectively two pools of money: core funding for the MRCs and a grants program for community organisations under the CSSS. It is the minister's intention to put those two groups of money together. But those same organisations will continue to exist and, I guess, bid for that centralised pool of money. It is possible that some community organisations currently operating under the CSSS banner may form an alliance with an MRC. Yes, that is feasible, but there is no intention to amalgamate the two sets of organisations.

Senator SHERRY—That could be the outcome in some cases, could it not?

Mr Vardos—It is feasible, but that is not the intent.

Senator SHERRY—With the amalgamation of the programs, is it intended to keep the same level of funding overall?

Mr Vardos—Yes.

Senator SHERRY—What is the time line for financial allocations for the two combined programs? When will the CSSSs and the migrant resource centres have to start to bid on the new consolidated program?

Ms Bryant—The review recommended that the combined grants program operate within two to three years. Our planning at this stage is that it operate from 1 July 2005. When we advertise for grant applications in November 2004 that would lead to grants from 1 July 2005 under the new arrangements.

Senator SHERRY—Would other organisations, aside from the CSSSs and the migrant resource centres, be eligible to compete for the funding?

Ms Bryant—Any not-for-profit community based organisation, or indeed local government, is currently eligible to apply for CSSS funding and that would continue to be the case into the future. As is the case now, we generally find we have from year to year a good deal of commonality between applicants and successful grant recipients. There is probably 80 per cent or 90 per cent commonality from year to year. But in any given year we see new organisations forming. At the margin, new ones are entering, some old ones are leaving, and if they are eligible we will continue to see a range of new players, I would imagine.

Senator SHERRY—That is all I have under 2.1.1. I have some questions under 2.1.2: Humanitarian settlement services. The resettlement services review and the report of IHSS evaluation supported criticisms that have been made of the nature of assistance under the program. Has the government accepted the findings of the settlement services review that

humanitarian entrants eligible for IHSS assistance require increased assistance moving to long-term accommodation and setting up house?

Ms Bryant—The government has broadly endorsed all of the recommendations in the settlement services review. Yes, it has accepted that there is a need for additional support for people in terms of longer term accommodation and setting up a household and has already allocated additional funding to household formation support in particular.

Senator SHERRY—What is that additional level of funding?

Ms Bryant—I do not have a breakdown of funding across the enhancements. The enhancements that we have discussed—the tenancy training, the increased level of household formation, introduction of a phone card and the clarification of medical expenses—are of the order of \$4 million.

Senator SHERRY—If you are able to provide further detail on notice, that would be appreciated. How will the next tender round differ from the first tender round? Will there be any difference?

Ms Bryant—Perhaps I can outline the process first. We have done some more thinking about process. The way in which we envisage proceeding is with a discussion paper that we will release in the next six to eight weeks. That discussion paper will seek to give a wide range of stakeholders the opportunity to comment, including the volunteer sector and state and local governments and so on. We then propose to proceed with a formal expressions of interest process and then, finally, the formal request for tender itself. The discussion paper that we propose to release is still in preparation, but we do envisage that it will outline a couple of possible new models with which to interact with the sector. They seek in particular to pick up the settlement services review's recommendations in relation to improved case management and a reduction in the component parts of the IHSS.

Senator SHERRY—Will the alternative or optional models in the discussion paper be different from the approach taken in the first tender round?

Ms Bryant—In order to introduce new functions, we have in effect to restructure some of the existing arrangements and define the functions that might be performed by particular contractors in a different way to pick up those enhancements. So, yes, there will be changes.

Senator SHERRY—Is the issue of better integration of volunteer involvement in IHSS being addressed?

Ms Bryant—Yes, that will also be one of the issues that we are seeking to enhance in the new arrangements. Again, we will put a couple of options at least to the sector for comment and interaction—different ways that we might seek to strengthen their involvement.

Senator SHERRY—Has there been consultation with church based and other volunteer groups?

Ms Bryant—To date we have not had any wide-ranging discussions with volunteer groups. In terms of our early formative thinking to assist us with preparation of the discussion paper, we have spoken to Canberra based volunteer groups, one of which is a church based group and one of which is not. In that same context, we have also spoken to Volunteering Australia,

but it is Canberra based organisations at this point, with a view to refining the paper and exploring it more widely after that.

Senator SHERRY—So presumably there will be much more intensive consultation when they have the discussion paper.

Ms Bryant—Yes. Basically, the consultation will follow our giving them something to interact with.

Mr Vardos—This whole process is not going to be rushed. We are going to give the sector an ample amount of time to react to our thinking. In particular, as Ms Bryant suggests, there will be some suggested alternate models. The whole process, from consultation through to tender, might take anywhere from 12 to 18 months to get through. We are not going to be rushing the sector in this process.

Senator SHERRY—If it were 12 to 18 months and the discussion paper is issued in the next six to eight weeks, that takes us pretty much through to Christmas, close to the end of the year. So it could be another year to a year and a half. It could be 2006 before—

Mr Vardos—It could. And there are certain time lines in that tender process that are immutable, which blow it out; but, yes, we could be looking at another 12 months at least before the full cycle is completed.

Ms Bryant—We are looking at contracts commencing in 2005. We have yet to consult with the minister on the precise timing of that.

Senator SHERRY—I have finished output 2.1.2. Moving to outcome 2.1.3, Support for company services, the minister, Mr Hardgrave has advised at least some federal members from Perth that he has:

... reached the conclusion that core funded migrant settlement services in Perth can best be provided by the establishment of a single Migrant Resource Centre (MRC), appropriately located and operating under a strong and effective Management Committee.

It seems a bit like the minister dictating the local structure. What is the rationale for this position that the minister has articulated?

Mr Vardos—Ms Bryant may supplement my answer, but the minister's concern is that the MRCs in Perth—two of them—have not actually followed the settlement patterns of the clientele they are supposed to be helping. His concern is that amalgamation of the two existing MRCs into a more appropriate location would probably better serve the client base they are trying to get to, with appropriate outreach services to reach those clients that are in the further reaches of Perth. That is fundamentally his concern.

Senator SHERRY—If the concern is that neither of the two existing MRCs has adjusted its client focus, is there not a danger that when you move them both together the same problem will continue? Does an amalgamation of two MRCs that it is claimed are not focused appropriately at the present time mean that they will refocus?

Ms Bryant—The problems between the two MRCs were different. With the Northern Suburbs MRC, the problems were with the performance of the management committee and its ability to guide and effectively manage the MRC. In the case of the South Metropolitan MRC, I think it is regarded by the department as being well managed and an effective organisation,

but it is no longer well managed in relation to its primary client target group. We have been talking to both MRCs for some time about their respective issues. We have been seeking the South Metropolitan MRC to relocate to an area more suitable to reach clients and we have been talking to the Northern Suburbs MRC about enhancing the effectiveness of the management of the organisation. I think the amalgamation stems from a desire to capitalise on the strength of the South Metropolitan MRC, which is its effective management, and an acceptance that the Northern Suburbs MRC is well located in terms of the client group and then to have outreach services that cover the metropolitan area.

Senator SHERRY—If the intention is to ensure that the respective strengths of each of them are combined into one organisation, we do not run the risk, do we, that the respective weaknesses also will be combined into the one organisation? You end up with a poorly managed committee in the wrong location.

Ms Bryant—A task force has been established which has had both MRCs on it and some other interested stakeholders, together with the department, and they—

Senator SHERRY—I thought that might be the case. There is a degree of guided democracy entering into this process, is there?

Ms Bryant—MRCs play a valuable role in service delivery in Perth and the minister is concerned to ensure that the organisation is operating effectively and delivering services effectively to clients, and I think this offers the best option of ensuring that in the Perth context at the present time. He is seeking to ensure that the organisation is effective. The task force has opted for a new constitution, which will give it a mix of elected and appointed members to its committee of management and will give it better prospects to overcome some of the concerns you have expressed. So it will be a new organisation that has consciously thought about the issues it needs to overcome.

Senator SHERRY—To have two MRCs in Perth seems to involve a considerable degree of micromanagement by the minister through the department.

Ms Bryant—With services in any location, the outcome that the department and certainly the minister has sought to achieve is that clients receive effective services. And that requires judgments in each context.

Senator SHERRY—In any number of community organisations you get conflict from time to time—sometimes personality based, sometimes based on issues and sometimes based on both. For the federal minister of the day to try to sort it out seems—it might be quite commendable that it is all fixed up—to be a lot of detail to go into.

Ms Bryant—I think it reflects a commitment to ensure that there is an effectively-operating MRC for the Perth area.

CHAIR—Senator Sherry, I am going to take this opportunity—

Senator SHERRY—Yes, we will leave it there.

CHAIR—to make the observation that it is 11 o'clock and to ask you to put any further questions on notice. Similarly with Senator Bartlett, if there are further questions for the committee. I thank Mr Farmer and his officers for assisting the committee today. I thank the minister.

Senator Vanstone—Thank you, Chair. I thank the committee members and those other senators that came in. Yet again we have found that civility is not a sign of weakness, and it has been much better for everybody.

CHAIR—Indeed, Minister. I also thank the committee secretariat, Hansard and sound and vision and the attendants.

Committee adjourned at 11.00 p.m.