



COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

## SENATE

EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION  
LEGISLATION COMMITTEE

ESTIMATES

**(Budget Estimates Supplementary Hearings)**

THURSDAY, 6 NOVEMBER 2003

CANBERRA

BY AUTHORITY OF THE SENATE



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**SENATE**

**EMPLOYMENT, WORKPLACE RELATIONS,  
AND EDUCATION LEGISLATION COMMITTEE**

**Thursday, 6 November 2003**

**Members:** Senator Tierney (*Chair*), Senator George Campbell (*Deputy Chair*), Senators Barnett, Carr, Johnston and Stott Despoja

**Senators in attendance:** Senator Tierney (*Chair*), Senator George Campbell (*Deputy Chair*), Senators Barnett, Collins, Eggleston, Johnston, Kirk, Webber and Wong

**Committee met at 9.04 a.m.**

**EMPLOYMENT AND WORKPLACE RELATIONS PORTFOLIO**

Consideration resumed from 3 June 2003

**In Attendance**

Senator Abetz, Special Minister of State

**Department of Employment and Workplace Relations**

**Whole of Portfolio**

Dr Peter Boxall, Secretary

Mr Bob Correll, Deputy Secretary, Employment

Mr John Lloyd, Deputy Secretary, Workplace Relations

Ms Malisa Golightly, Chief Financial Officer, Financial Management Group

Mr Craig Symon, General Manager, Corporate

Mr Jeremy O'Sullivan, Assistant Secretary, Legal and Risk Branch, Corporate

Mr Darren Hooper, Assistant Secretary, Business Services Branch, Corporate

Mr Brian Quade, Assistant Secretary, Parliamentary, Public Affairs and Performance Branch, Corporate

Ms Anya Moore, Assistant Secretary, Human Resources Branch, Corporate

Ms Robyn Kingston, Assistant Secretary, Internal Audit

Mr John Burston, Chief Information Officer, IT Services Group

Mr Dave Drury, Assistant Secretary, IT Facilities Branch, IT Services Group

**Outcome 1—An effectively functioning labour market**

Mr Michael Manthorpe, Manager, Industry Strategies Taskforce

Ms Jo Caldwell, Group Manager, Job Search Support Group

Mr Tony Waslin, Acting Assistant Secretary, Transition Programs Branch, Job Search Support Group

Mr Bill Traynor, Assistant Secretary, Employment Exchange Branch, Job Search Support Group

Mr John Manthey, Director, Budget and Performance, Transition Programs Branch, Job Search Support Group

Ms Susan Black, Director, CWC Management, Work Experience Branch

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Mr Richard Morris, Director, Program Participation, Work Experience Branch  
Mr Finn Pratt, Group Manager, Intensive Support Group  
Ms Kylie Emery, Assistant Secretary, Indigenous Employment Programs Branch, Intensive Support Group  
Ms Kerren Thorsen, Assistant Secretary, Employment Services Performance Branch, Intensive Support Group  
Ms Alison Durbin, Assistant Secretary, Intensive Support Operations Branch, Intensive Support Group  
Mr Scott Matheson, Acting Group Manager, Employment Analysis and Evaluation Group  
Mr Graham Carters, Group Manager, Employment Policy Group  
Mr Peter Hade, Group Manager, Employment Services Purchasing Group  
Mr Anthony Parsons, General Manager, Employment Systems

**Outcome 2—Higher productivity, higher pay workplaces**

Mr James Smythe, Chief Counsel, Workplace Relations Legal Group  
Ms Diane Merryfull, Assistant Secretary, Legal Policy Branch 2, Workplace Relations Legal Group  
Mr Robert Bennett, Acting Assistant Secretary, Legal Policy 1, Workplace Relations Legal Group  
Ms Natalie James, Director, Awards, Agreements and Compliance Section, Legal Policy Branch 2, Workplace Relations Legal Group  
Mr Rex Hoy, Group Manager, Workplace Relations Policy Group  
Ms Sandra Parker, Assistant Secretary, Strategic Policy Branch, Workplace Relations Policy Group  
Mr John Rowling, Assistant Secretary, Wages and Conditions Policy Branch, Workplace Relations Policy Group  
Ms Sue Sadauskas, Assistant Secretary, Wages and Conditions Policy Branch, Workplace Relations Policy  
Mr Ted Cole, Advocacy Team Leader, Advocacy Team  
Ms Barbara Bennett, Group Manager, Workplace Relations Implementation Group  
Ms Flora Carapellucci, Assistant Secretary, Industries Branch, Workplace Relations Implementation Group  
Mr John Kovacic, Assistant Secretary, Public Sector Branch, Workplace Relations Implementation Group  
Mr Steve Kibble, Acting Assistant Secretary, Cole Royal Commission Implementation Team, Workplace Relations Implementation Group  
Mr David Bohn, Assistant Secretary, Building Industry Legislation Team, Workplace Relations Legal Group  
Mr Nigel Hadgkiss, Director, Interim Building Industry Taskforce  
Ms Jenet Connell, Group Manager, Workplace Relations Services Group  
Mr Michael Maynard, Assistant Secretary, Employee Entitlements Branch, Workplace Relations Services Group  
Mr Mark Jasprizza, Assistant Secretary, Remuneration Tribunal Secretariat, Workplace Relations Services Group  
Mr Paul Strutynski, Assistant Secretary, Workplace Services Branch, Workplace Relations Services Group

Mr Dianne Fletcher, Assistant Secretary, Employee Entitlements Project Branch,  
Workplace Relations Services Group

**Office of the Employment Advocate**

Mr Jonathan Hamberger, Employment Advocate

Mr Peter McIlwain, Deputy Employment Advocate—Client Services Network

Mr David Rushton, Senior Legal Manager

**National Occupational Health and Safety Commission**

Mr Robin Stewart-Crompton, Chief Executive Officer

Mr Drew Wagner, Executive Manager

Ms Helen Bull, Executive Manager

**Equal Opportunity for Women in the Workplace Agency**

Ms Fiona Krautil, Director

**Comcare**

Mr Barry Leahy, Chief Executive Officer

Mr Noel Swails, Deputy Chief Executive Officer

Mr Terry Langton, General Manager, Corporate Management

Ms Leone Moyse, General Manager, Claims Policy and Systems Improvement

Mr Stewart Ellis, General Manager, OHS (CE) Act Policy and Support

**Australian Industrial Registry**

Mr Nicholas Wilson, Industrial Registrar

**CHAIR**—We now move to the Employment and Workplace Relations Portfolio. The committee examined the budget expenditure of this portfolio at its hearings on 2 and 3 June 2003 and will further consider matters of which senators have given notice. The committee has resolved that answers to questions on notice are to be lodged with the committee by Monday, 15 December 2003. I welcome Senator the Hon. Eric Abetz, the Minister representing the Minister for Employment and Workplace Relations, and officers of the Department of Employment and Workplace Relations and agencies as well as observers to this public hearing. I remind participants that oral evidence and documents in estimates proceedings are part of the public record. Minister, do you wish to make an opening statement?

**Senator Abetz**—No, I do not.

**CHAIR**—We will now move to consider matters relating to the Office of the Employment Advocate.

[9.05 a.m.]

**Office of the Employment Advocate**

**Senator WONG**—I turn first to the telephone survey, which is referred to at page 31 of the annual report. What was the cost of that survey?

**Mr Hamberger**—This is the freedom of association survey?

**Senator WONG**—Yes.

**Mr Hamberger**—I think the total cost has turned out to be \$208,000.

**Senator WONG**—I think last time we asked you to provide the questions that were asked.

**Mr Hamberger**—With respect, I was not at the last hearings, but my understanding is that did not happen.

**Senator WONG**—No, it didn't. We asked you and you said it was not appropriate until the survey results had been received. Would you now please provide a copy of all the questions in the survey?

**Mr Hamberger**—Yes. I do not have them here, but I do not think that should be a problem.

**Senator WONG**—How long would it take you to get them?

**Mr Hamberger**—We can provide them when we give the responses to questions on notice.

**Senator WONG**—Are you able to get them before that?

**Mr Hamberger**—I will see. I do not see why not.

**Senator JACINTA COLLINS**—Today would not be unreasonable.

**Mr Hamberger**—I do not have them and that would be difficult.

**Senator JACINTA COLLINS**—There are facsimiles.

**Senator WONG**—Can't you just get your office to fax them through?

**Mr Hamberger**—I will do my best.

**Senator WONG**—I am asking you to make arrangements so that we can question you about the questions. If you could do that, I would appreciate it.

**Mr Hamberger**—We will organise it.

**Senator WONG**—Perhaps we will come back to that after we see how far away they are. I have some questions regarding higher education. In the last estimates—and I do recall that you were not there, Mr Hamberger—Senator Carr asked some questions regarding the percentage of employees in the higher education sector who were on AWAs. This is question on notice W03604. In that answer you advise that fewer than one per cent of employees in the higher education sector were on AWAs, which compares to an overall figure of about 4.6 per cent of the work force.

**Mr Hamberger**—I do not think that figure of 4.6 per cent for the work force would necessarily be correct.

**Senator WONG**—I thought that is what is set out in your annual report.

**Mr Hamberger**—Could you take me to that?

**Senator WONG**—I do not know that I have it tabbed.

**Mr Hamberger**—Leaving aside that I do not think that is correct, the higher education figure would be correct.

**Senator WONG**—Leaving aside that issue, the government has announced the higher education reform package and one aspect of it is the encouragement of AWAs in the higher education sector. I presume your office was involved in preparing the government's reform package?



**Mr Hamberger**—No, we were not.

**Senator WONG**—You were not asked for any advice.

**Mr Hamberger**—No.

**Senator WONG**—Have you been asked to consider what the potential impact of the reforms would be?

**Mr Hamberger**—No.

**Senator WONG**—You have had no involvement whatsoever—

**Mr Hamberger**—No, we have had no involvement whatsoever, which might seem surprising but is true.

**Senator WONG**—The government's stated objective is to increase the number of AWAs in the higher education sector. Are you telling me that the Office of the Employment Advocate had no involvement in developing that policy?

**Mr Hamberger**—That is correct. I know it is surprising, but that is what happened.

**Senator Abetz**—That is a lot of supplementary questions out of the way, hopefully. Next topic!

**Senator WONG**—So have you examined the government's package?

**Mr Hamberger**—Personally, only what I have read in the newspapers.

**Senator WONG**—Has your office examined the package? When I say you, Mr Hamberger, I am generally not referring to you personally; I am referring to your office.

**Mr Hamberger**—Fair enough, but I am not aware of it. I think no is the answer.

**Senator WONG**—Is it your view that the AWAs in the sector will increase as a result of the government's package?

**Mr Hamberger**—My understanding—and this is really based on just following it in the media—is that there is quite a long way to go yet before we see that package implemented.

**Senator WONG**—On the Federal Police inquiry that was referred to in the June estimates, Mr McIlwain confirmed that as a result of previous proceedings before this committee in estimates you had referred a matter to the Federal Police for investigation.

**Mr Hamberger**—To be more accurate, I think we referred the matter to the investigations unit of the Department of Employment and Workplace Relations and they referred it to the Federal Police. In that sense, yes.

**Senator WONG**—What aspect of this committee's proceedings did you say indicated an unauthorised leak?

**Mr Hamberger**—Prima facie there appeared to be material that was internal to the OEA that appeared to have become not internal any more, with no authorisation that we were aware of.

**Senator WONG**—What was the material, Mr Hamberger?

**Mr Hamberger**—To be honest, off the top of my head, I actually cannot remember.

**Senator WONG**—You have referred to an alleged leak, which then went to the Federal Police, and you cannot recall what the subject matter of that—

**Mr Hamberger**—It was about 18 months—

**Senator WONG**—I have not finished the question, Mr Hamberger—

**Mr Hamberger**—It was 18 months ago. I think there was—

**Senator WONG**—Mr Hamberger, I have not actually finished the question.

**Mr Hamberger**—Sorry.

**Senator WONG**—You referred a matter for investigation which was serious enough to warrant a referral to the Federal Police, and you are telling me you cannot recall the information which gave rise to your concern.

**Mr Hamberger**—My recollection is that there were some internal emails.

**Senator WONG**—Regarding what?

**Mr Hamberger**—It was some issues to do with processing of AWAs.

**Senator WONG**—Mr Rushton, can you assist?

**Mr Rushton**—My recollection is that those internal emails went to the issue of the no disadvantage test in the context of the Specified Partners Program.

**Senator WONG**—As a result of the referral, was there an investigation by the AFP?

**Mr Hamberger**—Yes. My understanding is that we requested the DEWR Fraud and Investigations Team to investigate the matter, which was potentially a breach of the APS Code of Conduct and the Crimes Act. The DEWR Fraud and Investigations Team sought the assistance of the AFP. There were unexpected delays, as the AFP case officer was required to work in Bali at short notice, but the General Manager of AFP Executive Services wrote on 10 July 2003:

AFP investigators have, unfortunately, been unable to identify the persons responsible.

The Team Leader, Fraud and Investigations Team, DEWR, wrote on 31 July 2003:

As neither the AFP case officer nor the DEWR investigator has been able to obtain physical or evidentiary material sufficient to lay charges against any person, both the AFP and DEWR have concluded their investigations and no further action will be taken.

That is the up-to-date situation.

**Senator WONG**—In the context of the investigation, I assume you have some knowledge of what occurred in relation to your staff, Mr Hamberger.

**Mr Hamberger**—In what respect? Some. I was not involved in the investigation.

**Senator WONG**—What occurred? Were staff interviewed?

**Mr Hamberger**—Yes. I think we have responded to that.

**Mr Rushton**—There is a question on notice in relation to that.

**Senator WONG**—I am asking it again, Mr Rushton: how many staff were interviewed?

**Mr Rushton**—That answer from the last occasion was 16.

**Senator WONG**—And it has not changed?

**Mr Rushton**—No, it has not.

**Senator WONG**—Were they all in the office in Canberra?

**Mr McIlwain**—As I recall, the staff were all in the national AWA team in Sydney and Brisbane.

**Senator WONG**—In Brisbane?

**Mr McIlwain**—I believe so.

**Senator JACINTA COLLINS**—This is new to me. Can you give me a summary of what the answer was to the question on notice?

**Mr McIlwain**—Sixteen staff were interviewed.

**Senator JACINTA COLLINS**—And we have not yet been provided with any information about the outcome.

**Mr Hamberger**—I just gave it to you. That is subsequent to the last hearings, so that brings it up to date. As far as I am concerned, that concludes the matter from our point of view.

**Senator WONG**—On the basis of what information were only staff in Brisbane and Sydney interviewed?

**Mr Rushton**—It was a obviously a decision taken by those conducting in the investigation.

**Senator WONG**—Were any members of the AWA involved in the investigation?

**Mr Hamberger**—You mean the OEA.

**Senator WONG**—Sorry, the OEA.

**Mr Hamberger**—It was done by the Federal Police. It was done at arm's length, if you like, by the police.

**Senator WONG**—But somebody must have liaised with them to say, 'We think you need to look in Brisbane and Sydney.' Who did that?

**Mr McIlwain**—It would have been our national corporate manager.

**Senator WONG**—And who is that?

**Mr McIlwain**—That is Ms Ann Skarratt.

**Senator WONG**—On what basis did Ms Skarratt indicate that only Brisbane and Sydney required investigation?

**Mr McIlwain**—I do not know that she did indicate that.

**Senator JACINTA COLLINS**—Do you know what she did indicate?

**Mr McIlwain**—No.

**Senator WONG**—In terms of the actual conduct of the investigation, can you please tell me what actions were taken? I presume staff were interviewed.

**Mr Rushton**—Yes.

**Senator WONG**—Did the AFP conduct those interviews?

**Mr Rushton**—Yes, as I understand it.

**Senator WONG**—Were staff interviewed individually?

**Mr Rushton**—I am not sure of the process. I presume so, but I am not sure.

**Senator WONG**—Mr Hamberger, there is an investigation by the police into your office at your request.

**Mr Hamberger**—As a result of a request by us, yes.

**Senator WONG**—You felt, because of questions asked in an estimates committee, that it was worth while referring the matter for investigation on the basis that there was a leak.

**Mr Hamberger**—Right.

**Senator WONG**—I am asking: what were the things involved in the investigation? You have indicated that staff were interviewed. Were they interviewed separately?

**Mr Hamberger**—I certainly took the position that I was completely hands off, arm's length, in the investigation. I did not follow the details of what was going on. How they conducted investigations was really a matter for them. I understand what you are asking me. I assume they would have interviewed people individually, but I do not have any direct knowledge of how they conducted the investigation.

**Senator WONG**—Do you know if people were invited to have a representative present when they were interviewed?

**Mr Hamberger**—I have absolutely no idea.

**Mr Rushton**—I do not know either.

**Mr Hamberger**—To be honest, you should ask the Federal Police. We did not conduct the investigation. I accept that it was an investigation into staff in my office, but we did not involve ourselves in how the investigation was conducted.

**Senator JACINTA COLLINS**—Did they report to you the outcome of the investigation?

**Mr Hamberger**—No. As I just read out, they reported to the DEWR investigations unit.

**Senator JACINTA COLLINS**—So we need to talk to them?

**Mr Hamberger**—You may get more information from them, yes.

**Senator JACINTA COLLINS**—Mr McIlwain, could you take on notice my earlier question about the advice provided to the AFP by the OEA on where they needed to conduct their investigation. What was their brief or advice? I presume the officer you are referring to is not present.

**Mr Rushton**—No, she is not present.

**Senator WONG**—Mr Hamberger, I appreciate you saying this was the Federal Police, but there clearly is an industrial context to this investigation. You are alleging a possible leak which you have discerned from questions senators have asked at an estimates committee. I am surprised that you did not take steps to ensure that your staff had the right of representation when being interviewed by the AFP.

**Mr Rushton**—I think the office had every confidence in the AFP conducting its investigation appropriately. That was the approach taken by the office.

**Senator Abetz**—I am sure you would not want them actively poking around and trying to tell the AFP how to conduct the interviews. If they were to do that, I am sure we would be getting a flood of questions as to why they were interfering with the AFP's process of interviewing people. That is why we have the AFP. That is why we have those experts doing it. I do not think it is necessarily a good suggestion that they should involve themselves in it.

**Senator WONG**—Prior to or during the AFP's investigation, what communication did you have with your staff regarding the investigation?

**Mr Hamberger**—My recollection is that we sent an email to all staff advising them that this was happening.

**Senator WONG**—What did the email say?

**Mr Hamberger**—I cannot remember exactly.

**Senator WONG**—If you could take that on notice.

**Mr Hamberger**—I am sure we can find a copy of the email.

**Senator WONG**—I would like a copy of all correspondence to staff regarding the leak and the investigation. Were you provided with copies of statements taken in the interviews?

**Mr Hamberger**—I do not think that is really up to us.

**Senator WONG**—Were you provided with copies?

**Mr Hamberger**—No, I do not believe so.

**Senator WONG**—What does 'I do not believe so' mean? Does that mean no?

**Mr Hamberger**—I actually do not know. We can find out.

**Mr McIlwain**—We believe it to be unlikely, but we will check with the national corporate manager who was, as we have said, the OEA officer liaising with the National Investigations Unit of DEWR on this matter.

**Senator WONG**—Has any disciplinary action been taken as a result of this incident?

**Mr Hamberger**—No.

**Senator WONG**—None whatsoever?

**Mr Hamberger**—No.

**Senator WONG**—Have you or anyone at your direction in a management position conducted any interviews with any employees regarding the alleged leak?

**Mr Hamberger**—No, it was completely left to this process we have just been talking about.

**Senator WONG**—Has there been any notation made on anyone's personnel file?

**Mr Hamberger**—No. I am sure there would not have been, given the findings of the investigation. They were unable to identify who was responsible, if anyone, for the leak, so there is no need to do that, and no adverse findings were made against anyone.

**Senator WONG**—It is an interesting process, isn't it, to use the Senate estimates process to conduct a police witch-hunt into your office to see who allegedly gave us some information?

**Mr Hamberger**—There are rules, both criminal and Public Service rules, about the unauthorised disclosure of information. There are whistleblower provisions, but my understanding is that there did not appear to be any evidence that those had been used. We have a responsibility to uphold the law in this area. I do not think it is particularly odd that we asked that the matter be investigated. Obviously, we would have preferred the whole incident had never occurred, but we felt that we had a responsibility to have the matter investigated. Perhaps not surprisingly, given this kind of matter, the Federal Police were unable to identify whom, if anyone, had not behaved appropriately and, therefore, the matter is over as far as I am concerned.

**Senator WONG**—Did the investigation involve checking computer records for emails and suchlike?

**Mr Hamberger**—We were not involved in the conduct of the investigation. I imagine that would have been the case. As I said, we were not involved in the investigation.

**Senator WONG**—Prior to the matter being referred to DEWR and then the AFP, did you conduct any investigations internally?

**Mr Hamberger**—No.

**Senator WONG**—None whatsoever?

**Mr Hamberger**—No. I think our view was that the matter should be investigated at arm's length and that that was the most appropriate way of doing it.

**Mr Rushton**—And there is a specialist body within the department that deals with such matters, which is where it was referred to.

**Senator WONG**—Have you issued any instructions to staff as a result of your view that there was a possible leak?

**Mr Hamberger**—We have made it clear to people—and I think it may have even been in the email we sent out at the time—that there are rules about unauthorised disclosure of information.

**Senator WONG**—Again, could you take this on notice. I would like that email or any additional emails indicating directions to staff as a result of your view that there was an alleged leak. Could you please provide those?

**Mr Hamberger**—Yes.

**Senator WONG**—In your annual report at page 55 there is a contract for \$65,000 for the executive leadership program.

**Mr Hamberger**—Coyne Didsbury, yes.

**Senator WONG**—What is the executive leadership program?

**Mr Hamberger**—It involved some 360-degree assessments of members of the executive.

**Senator WONG**—What are 360-degree assessments? Do you walk around them?

**Mr Hamberger**—You are obviously not familiar with that.

**Senator WONG**—No.

**Mr Hamberger**—It meant that you were rated, if you like, or that your behaviours were commented on by your boss, by your peers, by your subordinates and by other people that you dealt with. Then that was used to develop a coaching program for the individual managers.

**Senator WONG**—Did it involve going away for some team-building exercise or conference or something?

**Mr Hamberger**—No.

**Senator WONG**—How many people were the subject of this 360-degree analysis?

**Mr Hamberger**—I would have to take the exact number on notice. It would have been about eight people. It might have been nine or it might have been seven—I can take it on notice to check—but it would be of that kind of order.

**Senator WONG**—So it cost about \$8,000 a person. Is that right?

**Mr Hamberger**—Yes.

**Senator WONG**—Was there anything else done?

**Mr Hamberger**—The coaching is a fairly intensive process.

**Senator WONG**—Who did it?

**Mr Hamberger**—You would have the assessment done. There were also some—and again I do not know if you are familiar with these—other analyses of the executive, including emotional intelligence surveys.

**Senator JACINTA COLLINS**—Who conducted these?

**Mr Hamberger**—Coyne Didsbury.

**Senator WONG**—You were telling us how much work was involved in the 360-degree feedback.

**Mr Hamberger**—They did some further assessments. There were then meetings with the staff from Coyne Didsbury to talk about your developmental needs. Then there were fairly intensive—run over a period of about a year or so—coaching sessions with senior managers. That is basically what it came down to.

**Senator WONG**—So you have been coached by them?

**Mr Hamberger**—I have had a bit as well, yes. I was included in the program.

**Senator WONG**—How many coaching sessions are we talking about?

**Mr Hamberger**—It would vary from manager to manager, but there would have been four or five; there might have been more.

**Senator WONG**—Where were the managers from? Were they from all offices?

**Mr Hamberger**—Yes, but they were from the executive level of the OEA. That would reflect all the different areas of the OEA.

**Senator JACINTA COLLINS**—So Mr Rushton would have been through the process too.

**Mr Rushton**—I went through the process, yes.

**Senator WONG**—Did you enjoy it, Mr Rushton?

**Mr Rushton**—It was interesting, yes, and hopefully helpful.

**Senator WONG**—I am pleased to hear it. Is there anything else that the \$65,000-odd covered?

**Mr Hamberger**—That is basically it. There were reports written as part of the process. You got a report about where you were strong, where you were weak and all that kind of stuff. It is all part of this process. It is not a particularly unusual process for developing senior managers.

**Senator WONG**—Did you think you had some management problems that needed to be addressed?

**Mr Hamberger**—Well, we are not perfect, so, if you like, we can always get better.

**Senator Abetz**—We can always improve.

**Mr Hamberger**—We are always looking to be as good as we can be. I think it is important that we invest quite a lot in training and development, both of managers and of other staff.

**Senator JACINTA COLLINS**—What was the OEA's performance rating for providing policy advice?

**Mr Hamberger**—Do you mean as part of this process?

**Senator JACINTA COLLINS**—No, as part of the reporting process. An annual report for, say, a department will usually indicate what their performance rating is.

**Mr Hamberger**—I do not think we have one. We do not actually provide very much in the way of policy advice. It is not really our role.

**Senator JACINTA COLLINS**—I do not know; I can recall something a while back.

**Mr Hamberger**—Occasionally, it does happen. I do not think we have any rating on performance.

**Senator JACINTA COLLINS**—You have not rated it?

**Mr Hamberger**—No. I think that is the honest answer.

**Senator WONG**—The web page you launched for young people makes no reference to a minimum age. In fact, in the web site—you do the question and answer thing—you state:

I am under 16 years of age. Can I legally sign an AWA

Yes you can.

You do not have any concerns about promoting AWAs for 15-year-olds?

**Mr Hamberger**—We are not promoting them to people; we are just stating what the law is there.

**Senator WONG**—You do not suggest that perhaps they should speak to their parent or guardian?



**Mr Hamberger**—I think we do, actually. I think that in that web site we encourage people to talk to their parents or guardians.

**Mr Rushton**—My recollection is that we do in that web site as well.

**Senator WONG**—You certainly do not in answer to that question.

**Mr Hamberger**—No, but it is part of our whole site.

**Senator WONG**—How many AWAs have you approved for people under 18?

**Mr Hamberger**—I do not have that figure. We probably would not be able to give that precise figure. We probably could give a figure—I do not have it off the top of my head—for those under 21. We specifically ask ‘Are you under 21?’ when we receive an AWA because it might be relevant to junior rates. But, as you would recall, sometimes junior rates go up to people aged 19 or 20. So we do have information on that, but it would be 21 rather 18.

**Senator WONG**—So you do not have any way of knowing, when an AWA is registered, if a person is a legal minor?

**Mr Hamberger**—If they are under 21 we ask how old they are.

**Senator WONG**—So you do have that information.

**Mr Hamberger**—We do, but we do not collate that information for statistical purposes. It is used for the purposes of the NDT. There may be junior rates in the award and, as you know, they vary by age, so if they are under 21 we need to know how old the person is. What we do not do is collate all that detail so that we can say that there are X many people on AWAs who are 16, 17, 18, 19 or 20. What we could do is have a figure for how many there are who are under 21. I am pretty sure that we have that figure.

**Senator WONG**—You might need to point me to the part of the web site in which you say, ‘Talk to your parents’. There is only:

Your bargaining agent can be a ... family member ...

It just seems strange to me that you would be saying to people, ‘Yes, you can sign it’, without specifically saying to somebody who is under 16, for example, ‘You should probably talk to your parent or guardian first.’

**Mr Hamberger**—I think we do encourage that on the web site.

**Senator WONG**—I think what you do on the web site is make reference to a ‘bargaining agent’. It is hardly the same thing.

**Mr Rushton**—I think there is something more specific than that.

**Mr Hamberger**—I think there is more than that.

**Senator WONG**—That may be the case.

**Mr Hamberger**—We are just having a look at that site now.

**Senator WONG**—Do I understand from your answer that you do not put any additional checks in place for minors?

**Mr Hamberger**—That is not necessarily the case. What we try to do is provide additional assistance to young people—for example, through the web site. We do take into account when we are looking at an AWA the age of the people if they are under 21.

**Senator WONG**—But there is no additional protocol regarding questions that might be asked in terms of the no disadvantage test or any further investigation that your officers do when you have an AWA involving a 15-year-old.

**Mr McIlwain**—The NDT is conducted as per the requirements of the Workplace Relations Act.

**Senator WONG**—I understand that, Mr McIlwain.

**Mr McIlwain**—For all AWAs, the individual agreements, the assessment is conducted on a case by case basis. If there is a particular element to that AWA—for example, the youth of the employee party—the case officer conducting that no disadvantage test may take into account that youth and take into account other issues that he or she believes have a material effect either on the passing of the no disadvantage test or on the additional approval requirements, one of which is genuine consent. Were a case officer to have doubts about the genuine consent of the employee party to that AWA, and those doubts were related to the youth of that employee, he or she would make whatever inquiries they believed necessary to satisfy themselves that genuine consent was present.

**Senator WONG**—That is a very lengthy answer, but it is not an answer to the question. The question was: do you have a particular protocol which you apply to people, for example, under 16?

**Senator JACINTA COLLINS**—Other than junior rates.

**Senator WONG**—Other than junior rates. As I understand it, you are saying it is up to your case officer to determine whether or not they should undertake further investigations if the person is 15. You have no additional protective protocol in place to safeguard young people?

**Mr Hamberger**—We have tried to, through specific educational initiatives aimed at young people—for example, the web site. We have also conducted a fairly major campaign alerting people like careers advisers about the existence of this information and encouraging their students to access to it. We have had a whole program of information directed through schools and colleges to make sure that young people are aware of their rights. In the past, we have also funded a special web site—web sites are a good way of getting to young people, as I am sure you are aware. We have provided specific funding to the community legal centres to assist young people and to the National Children's and Youth Law Centre. We funded the development of a complete part of their web site on employment law, going beyond the issue of AWAs to provide information to young people. But it is an educational focus.

**Senator WONG**—Those are educational focuses. I am talking about having some other check to ensure that young people are not ripped off and understand their rights.

**Senator Abetz**—If a young person were to get a job not under an AWA, what provisions does the law require at the moment so that mum and dad or guardian are consulted to ensure that the terms are not a rip-off?

**Mr Hamberger**—There are none.

**Senator WONG**—I suppose that is because generally the commission will have already determined whether those rates were fair and reasonable.

**Senator Abetz**—Somebody else determines as well on the basis of no disadvantage.

**Senator WONG**—I do not want to get into an argument about AWAs and awards, Minister. I know that is your government's position. One would have thought it good practice to suggest to young people that they should discuss an AWA, for example, with their parent or guardian. I have looked at the web site. In the section under the question 'I am under 16 years of age. Can I legally sign an AWA', it states:

Yes you can. There is no minimum age for signing an AWA.

The only reference I can see to parents is as a bargaining agent. The section answering the question 'I do not understand my AWA. What should I do' states:

If you have any questions about your AWA, you should not sign it until you fully understand what it means.

- As a first step, it's a good idea to ask your boss to go through your AWA ...

The third step states:

- It's a good idea to show your AWA to someone you trust to get your questions answered, including either a parent or guardian ...

So you are suggesting that the employer is a first port of call. It is interesting that people who are legal minors are not being told, 'This is really something you should discuss with your parents or guardians.'

**Mr McIlwain**—Senator, may I suggest that you click on 'steps to making an AWA'. You click on step 2. You click on the tip and you will find a dot point that says 'Talk about it with your guardian or your parent'.

**Senator WONG**—I have that in front of me.

**Mr McIlwain**—I can demonstrate it.

**Senator WONG**—No—I have got it in front of me.

**Mr McIlwain**—It is on our screen.

**Senator WONG**—I am simply making the point that it seems strange that you do not have any additional protocols in relation to young people. You do not require case officers to check if they have discussed it with their parent or guardian. You simply leave it to the discretion of the case officer. That is as I understand your evidence.

**Mr McIlwain**—That is correct, Senator. We apply the law as it is set out in the Workplace Relations Act.

**Senator JACINTA COLLINS**—Can I ask, in part, a legal question. If a person under the age of 16 years genuinely consents to an AWA, but then their guardian does not consent, what is the status of that AWA?

**Mr Rushton**—I think it is the employee's genuine consent. There is no impediment to them signing an AWA. The fact that their guardian may disagree is not to the point.

**Senator JACINTA COLLINS**—That is an interesting step for the Howard government—undercutting parental rights in relation to children’s employment.

**Mr Rushton**—I do not think it is new, Senator.

**Senator Abetz**—So you would, undoubtedly, subscribe to that for young people visiting the doctor, as well?

**Senator JACINTA COLLINS**—I do not recall having made any comment on that issue, Senator Abetz.

**Senator WONG**—We are just pointing out your inconsistency, Minister.

**Senator Abetz**—Once the unions talk to mums and dads before they try to sign up the under-18s, there might be some credibility in your assertions. They do not do that, do they?

**Senator WONG**—Perhaps when employers talk to mums and dads about the conditions they are offering young people you might have some ground to stand on, Minister.

**Senator Abetz**—If it is good for the goose, it ought to be good for the gander.

**Senator WONG**—Even if an AWA relates to an employee under 15 years of age, does your office check that the relevant child employment permits are held by the employer?

**Mr Hamberger**—No, we do not, but I do not think we get many, if any, AWAs for people under 15.

**Senator WONG**—Mr Hamberger, how do you know? You have told me before you do not have that information and you don’t put in place any checks regarding the registration of young people.

**Mr Hamberger**—We do ask their age, so we would know.

**Senator WONG**—Are you aware that in, I think, most states, the employment of children under 15 requires an employment permit?

**Mr Hamberger**—No, I wasn’t, so thank you for letting me know. I am not aware of us getting AWAs for people under 15. We might get a few 15-year-olds.

**Senator JACINTA COLLINS**—Perhaps you could take that on notice.

**Mr Hamberger**—It is interesting because I have a son who has just turned 15. He has been working for a while on a part-time basis.

**Senator Abetz**—On an AWA?

**Mr Hamberger**—No, I do not think he is on an AWA, actually. He is not paid that much.

**Senator WONG**—So Mr Hamberger, you are telling me that your office does not have in place any protocols which ensure that employers comply with state law in relation to the employment of young people?

**Mr Hamberger**—If there is an obligation on the employer to do that—and I take your word for it that there is—even in the extremely unlikely event they would employ somebody on an AWA in that age group, they would still be obliged to have it. It would not affect the AWA either way.

**Senator WONG**—I do not disagree with that, but in a circumstance where you are approving an AWA for a young person I find it extraordinary that, firstly, you did not know until today that many states require a permit for people under 15 to work and, secondly, that you have not put in place any direction or protocols to your staff to ensure such permits are in place before an AWA is approved.

**Mr Hamberger**—It is just not our job.

**Senator Abetz**—If you want a federal agency to enforce the laws of state Labor governments, you have to ask yourself the question: what are the state Labor governments doing to enforce their own laws to ensure that 15-year-olds or under 15-year-olds—

**Senator WONG**—If employers choose to go to your system because it enables them to rip off people, yes, I do think the Employment Advocate should have regard to whether or not the employer has a permit.

**Senator Abetz**—This is the sort of nonsense we have to put up with from time to time from those who gain their position in this place courtesy of union endorsement. The simple fact is that AWAs do not rip off people. We do have the Office of the Employment Advocate and the no disadvantage test et cetera. I notice Senator Johnston sitting at the table, from Western Australia. There has been an absolute boon in AWAs in Western Australia because workers and people are voting with their feet.

**Senator WONG**—Minister, we can sit here all day and have political arguments if you want. What I am trying to ask—

**Senator Abetz**—I am quite happy to do that. We have a time limit to 11 o'clock tonight. How you use your time is up to you.

**Senator WONG**—I do not particularly want to have a political argument with you about preselection and so forth.

**Senator Abetz**—Then do not make political points.

**Senator WONG**—I am asking officers reasonable questions as to why, when you have an AWA application from a person under 15, you do not have in place any protocol that ensures the employer has the appropriate permit. We are talking about kids.

**Mr Hamberger**—As I said, I do not really believe we get AWAs from that group of people but there might be a handful. That is a state law. It would not matter whether you were under an AWA or anything else—an employer can employ somebody under an award when they are 14. Who checks that they have a permit?

**Senator Abetz**—Does the commissioner check?

**Senator WONG**—Don't wash your hands of things. How is the state supposed to know every young person who is employed? If something comes to your attention, it is an abrogation of your responsibility to not even check it. You were not even aware until today, Mr Hamberger, of this requirement.

**Mr Rushton**—We have a role in relation to the processing of AWAs. We are obliged under the act to carry out that role pursuant to the act, and that is what we do.

**Senator JACINTA COLLINS**—Mr Hamberger, let me give you one comparison. For apprentices and trainees under the age of 18 who enter into a contract or training, there is a requirement that a parent or a guardian co-signs the formal training document. That is a Commonwealth issue. It has obviously been a matter of Commonwealth policy in the past that that was a good idea. Senator Wong's quite reasonable question was why that has never been regarded as a good idea with respect to people under the age of 18 signing onto AWAs.

**Mr Hamberger**—That would have to be dealt with in the legislation. That really is an issue for parliament. The legislation sets out the process of making an AWA, who is a party to it and who signs it. I am not passing a view about whether it is good or bad, but there could be a requirement that, for minors, a parent has to co-sign an AWA. Parliament could deal with that, but it is not our responsibility.

**Senator JACINTA COLLINS**—Since it is, as you said, a matter for the parliament, let us have a look at the data. Can you please tell us how many AWAs have been signed by young people under the age of 18 and also under the age of 15?

**Mr Hamberger**—I do not think we can give you that. We can give you the data for those under the age of 21.

**Senator WONG**—Hang on, Mr Hamberger. You said you did have that data but it is not available today.

**Mr Hamberger**—It is not collated.

**Senator JACINTA COLLINS**—I am asking you to collate it.

**Mr Hamberger**—That is impractical.

**Senator JACINTA COLLINS**—Take a sample and collate a sample.

**Mr Hamberger**—There are nearly 400,000 AWAs. I will not have someone go through between now and 2010 collating every single one like that.

**Senator WONG**—How many are under 21?

**Mr Hamberger**—I could give you that figure on notice. There will still be many thousands.

**Senator WONG**—So you do not know whether you have anybody under 15 and you do not know how many people are under 18?

**Mr Hamberger**—No. We do not collect that figure.

**Senator JACINTA COLLINS**—And you do not know if, in assessing the no disadvantage test, your officers have taken into account any of the requirements with respect to state legislation on employing children under the age of 15.

**Mr Hamberger**—It is not our responsibility.

**Mr McIlwain**—The Workplace Relations Act sets out very clearly what our duties are. We must approve AWAs that pass the no disadvantage test, where we are satisfied that the additional approval requirements have been met. That is our statutory duty and we perform that duty.

**Senator JACINTA COLLINS**—But isn't part of your statutory duty to understand whether there is a conflict between what is in an AWA and what state regulation might provide in relation to standards for people under the age of 15?

**Mr McIlwain**—I cannot say any more than I have on that issue.

**Senator WONG**—Mr Rushton, correct me if my recollection of the law is wrong—having been out of practice now for a few years—but I would have thought that an AWA would not cover the field with respect to beneficial legislation such as the requirement for a permit on the part of the employer. So there would probably be an argument that the AWA would be void.

**Mr Rushton**—I think the AWA would not be void. If there was no permit for someone to work and a permit was required to work then there would be a breach of the relevant state legislation. If people were able to work then they could work under the AWA if it was approved—if it had met the statutory tests of legislative requirements—

**Senator Abetz**—This is interesting, but we are getting into the realm of seeking legal advice, Chair.

**CHAIR**—Please return to the main thrust of the estimates, Senator.

**Senator JACINTA COLLINS**—Before we move on, I will go on to my two questions. Firstly, I ask you to take on notice whether there are any people under the age of 15 for whom the OEA has approved AWAs. Secondly, I ask you to conduct a sample of those for whom you have recorded age—

**Mr Hamberger**—We could probably do that.

**Senator JACINTA COLLINS**—and see what that sample delivers in relation to age.

**Senator Abetz**—That is a sensible approach, yes. That is good.

**Senator WONG**—I am sure the actuaries could extrapolate the likely percentage from the sample.

**Senator Abetz**—Yes. But going through all of them would have been a big task, so I think we have a good compromise.

**Mr Hamberger**—I am happy to do it.

**Senator Abetz**—Senator Carr is not here. That is why we have not been asked and why we have a sensible compromise.

**Senator WONG**—Mr McIlwain and Mr Rushton, I think we discussed AWA templates on the last occasion. Just remind me: how many templates do you have?

**Mr McIlwain**—If you bear with me for one moment I will give you the latest figure. Off the top of my head—and I will just check it in my briefing—I believe it is 18 frameworks and templates at the moment.

**Senator WONG**—Sorry, was that 18?

**Mr McIlwain**—I believe so, yes.

**Senator WONG**—Are you able to tell me what proportion of the AWAs lodged with your office are in substantially the same form as the templates?

**Mr McIlwain**—No, I am not able to tell you that.

**Senator WONG**—Surely your staff would gain some impression of that when reading through the AWAs?

**Mr McIlwain**—We could look at providing you with some estimates by industry, if that would be useful.

**Senator WONG**—That would be useful, thank you. I seem to recall that when we last discussed this you indicated that the template AWAs were drafted in consultation with employer organisations.

**Mr McIlwain**—I believe I said that some were drafted collaboratively with employer and industry associations and some were drafted entirely in-house.

**Senator WONG**—There was no involvement with either unions or any employee representatives in the drafting of the templates, was there?

**Mr McIlwain**—No, there was not.

**Senator WONG**—Why is that? Why do you go to the employers and ask them what they think should be in a template but not to any employee organisation?

**Mr McIlwain**—We believe it to be more expeditious and efficient.

**Senator WONG**—So you draft a contract which, under the government's policy, is supposed to be a reasonable balance between employer and employee—I think that is the position that has been asserted—but you only take advice and input from employers.

**Mr Hamberger**—I must say that, if a union wanted to give us assistance in developing template or framework AWAs, I am sure we would be happy to consider what they had to say.

**Senator WONG**—But you have never invited it, have you?

**Mr McIlwain**—We have not invited it because we believe the prospect of that invitation being accepted to be very low.

**Senator Abetz**—Get the tongue out of your cheek!

**Mr Hamberger**—I would be quite happy to.

**Senator Abetz**—It would be like asking Gough Whitlam how to improve the monarchy!

**Senator JACINTA COLLINS**—Have you had advice from anyone else, other than unions, in relation to compiling these templates from an employee's perspective?

**Mr McIlwain**—I am sorry—have we sought advice from—

**Senator JACINTA COLLINS**—Have you sought advice from other organisations, such as those that tend to represent the interests of non-union members? In the past, I think there even used to be some OEA funding for those.

**Mr Hamberger**—There still is and we do continue to fund Working Women's Centres and community legal centres. I have been involved in discussions with them.



**Senator WONG**—But not to do with templates?

**Mr Hamberger**—I do not know about the templates but on framework, clauses and so on, yes, we have.

**Senator WONG**—But not to do with the templates?

**Mr Hamberger**—I do not believe so, but for example we provided specific funding to Working Women's Centres to develop a clause bank of provisions and put that up on our web site. So we have sought input from them.

**Senator JACINTA COLLINS**—But not for the templates.

**Mr Hamberger**—Not for the templates. There are templates, but they are a relatively new phenomenon; there are not that many. They are not used that much. I think we will get the figure. The frameworks have been around for a while. What they are more aimed at doing is giving people samples of the different kinds of clauses you can use. We put those up on our web site. We have also produced publications. For example, we have produced publications with sample clauses on family friendly provisions. I think we have had discussions with Working Women's Centres on those. We have discussed them with the work and family unit of DEWR. I would not want to say that we have not consulted other people on those. And we have spoken to the Institute of Family Studies and some other interested bodies in that area.

**Senator WONG**—Mr McIlwain, you might recall on the last occasion that I asked you some questions—and Senator Carr asked you some questions also—regarding reasonable hours provisions in the AWA templates, and we referred you to the commission decision. I think you took that question on notice. Subsequent to that, have you included reasonable hours provisions in your templates?

**Mr McIlwain**—Yes, we have. We have an ongoing program of review of templates and, as each one comes up for review, we are putting in a reasonable additional hours provision.

**Mr Hamberger**—We thought you had a good point!

**Senator WONG**—It would probably have been relevant to the no disadvantage test, I would have assumed, depending on whether the award picked up the federal commission's decision.

**Mr McIlwain**—That is precisely the case, but that is not the only factor we have taken into account. Whether or not the award has been varied to provide for that, as we go through revising each of the templates, it is now our practice to put in a reasonable additional hours provision.

**Senator WONG**—In effect, the templates previously were inadequate, weren't they, by failing to deal with this issue?

**Mr McIlwain**—They were not inadequate because they passed the no disadvantage test, but industrial relations is a moving feast and we move with the times.

**Senator WONG**—That is an interesting proposition. You did not check whether or not the reasonable hours provisions had gone into the relevant federal awards. If any of the awards had been varied between the time of the commission's case and your adjusting the templates

then your templates would potentially have been in breach of the no disadvantage test, would they not?

**Mr McIlwain**—When we conduct the no disadvantage test—

**Senator WONG**—I know it is an overall test.

**Mr McIlwain**—Senator, if you will let me finish. It is conducted against the award as it stood on the day before the agreement was signed. So had there been a variation to that award to provide all reasonable overtime or reasonable additional hours that would have been factored into the no disadvantage test, whether or not the template version signed by the parties included it.

**Senator WONG**—That is self-evident. I am saying that your template itself was potentially in breach of the no disadvantage test. What you were putting out as OEA's template failed to include a reasonable hours provision.

**Mr McIlwain**—That could only be the case if there were no countervailing advantages within the agreement, and our template agreements have many countervailing advantages.

**Senator JACINTA COLLINS**—Such as?

**Mr McIlwain**—Such as high rates.

**Mr Hamberger**—More money.

**Senator JACINTA COLLINS**—Your templates provide higher rates?

**Mr McIlwain**—That is correct.

**Senator JACINTA COLLINS**—How do they actually provide the higher rates? Do they suggest a rate of pay for a particular sector?

**Mr McIlwain**—The template agreements contain minimum suggested rates. I stress that it is entirely up to the parties to change any aspect of the agreement that they see fit. We make it abundantly clear that the rate included is a suggestion of a minimum and is not a paid rate, but even then it is designed to comfortably meet the no disadvantage test.

**Senator WONG**—So it is a significant percentage above the award minimum hourly rate?

**Mr McIlwain**—In the templates the rate is a loaded rate—it is loaded for penalty hours—but it has been designed to comfortably pass the no disadvantage test. It is not a rate that has been developed to just meet the requirement of the no disadvantage test. It exceeds that requirement.

**Senator JACINTA COLLINS**—How well it does that is going to vary depending upon the working hours and the nature of the work an individual worker performs.

**Mr McIlwain**—Precisely, and we have taken that into account. The templates are designed to allow for variations in hours and seasonal variations, and we are sure that those rates meet the no disadvantage test.

**Senator WONG**—Approximately how much above the award hourly rate is the rate proposed, to take into account the various additional components to which you have referred?

**Mr McIlwain**—That varies from template to template and it varies according to whether there has been a recent award adjustment. I would prefer to take that question on notice.

**Senator WONG**—What range of variation?

**Mr McIlwain**—I would prefer to take that question on notice.

**Senator WONG**—Because you do not know?

**Mr McIlwain**—I would not like to speculate and mislead the committee.

**Senator JACINTA COLLINS**—Let us focus on one particular template. Do you have a retail template?

**Mr McIlwain**—Yes, we do.

**Senator JACINTA COLLINS**—Could you make that available to us?

**Mr McIlwain**—It is available on the screen in front of you.

**Senator JACINTA COLLINS**—No, it would take several manipulations for me to actually get to that one.

**Mr McIlwain**—We could provide you with a hard copy if you prefer.

**Senator JACINTA COLLINS**—We could do away with estimates completely if we could all say, ‘It’s all there on the screen.’ Taking the example of retail—and I presume you have a loaded rate provided to attempt to cater for various circumstances, different working hours and various conditions across a retail award—can you provide us on notice the rate and the methodology for reaching that rate?

**Mr McIlwain**—Yes, we will provide that on notice.

**Senator JACINTA COLLINS**—Thank you.

**Senator WONG**—I am pleased to hear that you have put some reasonable hours provisions into your templates. When did that occur?

**Mr McIlwain**—The process began shortly after the last estimates hearings. So in June we began the process.

**Senator Abetz**—You make a difference!

**Senator WONG**—You see, Minister, the estimates are not a waste.

**Mr Hamberger**—I absolutely acknowledge that it was at least partly in response to the questions that we were asked. I thought you made a good point.

**Senator WONG**—I turn to public sector AWAs.

**Senator Abetz**—So you do not have to win government to make a difference, Senator!

**Senator WONG**—I am not sure that that will change our view about it, Minister. I think that in answers to questions on notice provided after the last estimates round you advised that there were 21,600 AWAs in the Commonwealth public sector.

**Mr McIlwain**—Off the top of my head, I believe that that is the figure we provided.

**Senator WONG**—Is it the case that agencies tend to offer reasonably identical AWAs within the agency?

**Mr Hamberger**—I think it varies quite a bit, actually; that is not necessarily the case. As I understand it, there is quite a bit of variation in the APS, even within agencies.

**Senator WONG**—Some agencies do and some do not; is that right?

**Mr Hamberger**—Yes.

**Senator WONG**—You have a basic knowledge of the sorts of AWAs that are being offered in the public sector?

**Mr Hamberger**—In broad terms, yes.

**Senator WONG**—So in some agencies they would offer substantially similar AWAs within the agency, wouldn't they?

**Mr Hamberger**—Yes, and also at different levels they would be different. I assume that SES ones probably look a bit different from ones for the EL1s and so on, and maybe in different areas of the agency. In the systems area they might offer a different kind of AWA.

**Senator WONG**—Isn't there an element of pattern bargaining in the Public Service itself?

**Mr Hamberger**—What does pattern bargaining mean!

**Senator WONG**—I am glad you say that. Perhaps you could explain that to your minister.

**Mr Hamberger**—We have had this debate over the years, I think. It is true that AWAs tend to be—though within a particular organisation it does vary—fairly generic in nature. I do not believe that that necessarily equates to pattern bargaining. I think the point about pattern bargaining is where organisations at an industry level get together and maybe one organisation, like a union, says, 'All agreements must look like this, and we will not countenance anything different.' That is my view of what pattern bargaining is. I am always, even with the templates and the framework, saying, 'Here is a starting point for you, but you change it in a way that suits your particular needs.' I think that process could happen even at the individual level.

**Senator WONG**—You do not think employers ever put out 40 AWAs to 40 employees in identical terms and say, 'This is it'?

**Mr Hamberger**—I am sure that they say, 'This is it. If you want it, sign it; if you don't, don't.' I am sure that they do that. Pattern bargaining is usually talking about enterprise versus industry, to be honest. The debate really is about industry level bargaining as opposed to enterprise bargaining. Remember also that, under the legislation in relation to AWAs, you are actually obliged to offer AWAs in the same terms. You are obliged by the act to offer AWAs in the same terms to all comparable employees, unless you have a valid reason not to. So, for good or ill, the parliament has decreed that there is a preference for that, which can—

**Senator WONG**—Which can result in pattern bargaining.

**Mr Hamberger**—I would not call it pattern bargaining. I think that is about something else.

**Senator WONG**—What? When unions do it, it is pattern bargaining; when employers do it—

**Senator Abetz**—It is the level it is done at.

**Mr Hamberger**—Pattern bargaining is really about the arguments. One I have been interested in for many years is the pros and cons of industry level bargaining versus enterprise or workplace bargaining. I think the individual level versus the collective within an organisation is an interesting issue but a different issue.

**Senator WONG**—How are we going with the telephone survey?

**Mr Rushton**—We have a copy of the questions. One of the officers of the department is just making additional copies to provide to you.

**Mr Hamberger**—I might just add something to an answer we gave earlier in relation to the ‘leak inquiry’, if I can call it that. I am advised that apparently Ann Skarratt, our Senior Corporate and National Communications Manager, was also interviewed about that matter. I think we said it was people in the National AWA Team, and there was also one other person who was interviewed.

**Senator WONG**—Regarding the trends in the AWA-making section, Mr Hamberger, on pages 13 and 24 you report a 58 per cent increase in filed AWAs in the last financial year. How many staff are now involved in approving and processing AWAs?

**Mr Hamberger**—I think it is about 47 in the national AWA team and those people are exclusively involved in filing and assessing AWAs. I should also say, though, that staff in the Client Service Network or in our regional offices—and there are about 43 or 44 of those—are also involved in some aspects of that as well. Altogether there are probably over 80. In the national AWA team I am advised there are 46 full-time equivalents. In the Client Service Network, there are 45.3, but those people would not only be involved in filing assessments. Their main involvement is, if the staff in the National AWA Team identify that an AWA may need undertakings to be approved, to refer that to the Client Services Network who then seek the undertakings from the employer. So there are 46 people who do nothing else but that, if you like, and then there are another 45.3 who spend about 20 per cent of their time doing that kind of work.

**Senator WONG**—Mr McIlwain, when I asked you that question on 2 June, you said there were 42.3—I assume that meant a part-time staffer—people working in processing AWAs. I assume that is the equivalent of the comparable figure in the figures Mr Hamberger just gave as 46.

**Mr Hamberger**—Yes.

**Senator WONG**—So when did you employ four additional people?

**Mr McIlwain**—Over the last several months, since we last appeared before the committee.

**Mr Hamberger**—I have to say, although you did not ask this, we anticipate increasing further the number of staff in that area.

**Senator WONG**—How far away is the survey? This is it here, is it?

**Mr Hamberger**—Yes.

**Senator JACINTA COLLINS**—Maybe you should have just emailed that to us.

**Mr Rushton**—Senators, there are two copies there and there is a spare copy if you need one.

**Senator Abetz**—This is quiet time, is it?

**Senator JACINTA COLLINS**—I was just going to say we should allow Senator Wong to look at that, and I will ask a couple of questions or we can take a break.

**CHAIR**—Who is going to ask questions? It is up to you, Senator.

**Senator JACINTA COLLINS**—That is what I am saying. Senator Wong can have a look at that, and I can ask some other questions.

**CHAIR**—Do we have any more questions for the Office of the Employment Advocate?

**Senator JACINTA COLLINS**—Yes.

**CHAIR**—Go ahead.

**Senator JACINTA COLLINS**—Just a bit of delegation there. We will let Senator Wong look at that and I will continue. I have forgotten the correct terminology for this, but when you are doubtful about a no disadvantage test and it is referred to the Industrial Relations Commission what is the correct terminology for that process?

**Mr Hamberger**—Referral.

**Senator JACINTA COLLINS**—How many referrals have there been in the last relevant period?

**Mr Hamberger**—I think there is a figure in the annual report. We only have a percentage. It was 0.2 per cent of all AWAs finalised. Let us say there was roughly 100,000 cases. So it would be about 2,000.

**Senator JACINTA COLLINS**—About 2,000. Do you have any categorisation—

**Senator Abetz**—Two per cent would be 2,000.

**Mr Hamberger**—It would be 200, sorry.

**Senator JACINTA COLLINS**—Is that for the financial year?

**Mr Hamberger**—Yes, the last financial year.

**Senator JACINTA COLLINS**—Do you have any characterisation of the factors involved in those referrals?

**Mr Hamberger**—Only in the sense that it is a situation where we identified that the AWAs did not pass the no disadvantage test. We sought undertakings and the employer would not give satisfactory ones. Most employers give the undertakings in that situation. Some just withdraw the AWAs.

**Senator JACINTA COLLINS**—What proportion just withdraw?

**Mr Hamberger**—There were 830 AWAs withdrawn.

**Senator JACINTA COLLINS**—On how many occasions did you seek undertakings that were then given?

**Mr Hamberger**—The figure is 7.5 per cent. I will just try to turn that into a case figure. I will probably get it wrong—

**Senator Abetz**—Do your own maths!

**Mr Hamberger**—So 7,500 gave undertakings.

**Senator JACINTA COLLINS**—I don't know, Senator Abetz, but this is one of the points made in the annual performance reporting—some of the difficulties in relation to transparency in how agencies report—and this is just an example.

**Mr Hamberger**—The figures are there. It was a percentage figure.

**Senator JACINTA COLLINS**—That is right. And we are asking you to translate them to real figures.

**Mr Hamberger**—I know. It is just my arithmetic at times. It is about 7,500.

**Senator JACINTA COLLINS**—So undertakings were given in 7,500 cases.

**Mr Hamberger**—Yes.

**Senator JACINTA COLLINS**—In 830 cases, the employer declined and withdrew.

**Mr Hamberger**—It is conceivable that some of those withdrawals were not in response to this issue of undertakings, but a lot of them would have been.

**Senator JACINTA COLLINS**—Okay.

**Mr McIlwain**—And they may have been employee withdrawals as well.

**Mr Hamberger**—Yes, employees can withdraw as well.

**Senator JACINTA COLLINS**—And you do not know that.

**Mr Hamberger**—I do not have a figure.

**Senator JACINTA COLLINS**—You would not necessary know the reason for the withdrawal?

**Mr Hamberger**—Not necessarily.

**Senator JACINTA COLLINS**—In 200 cases, the employer sought to persist and it was referred to the Industrial Relations Commission.

**Mr Hamberger**—Yes.

**Senator JACINTA COLLINS**—What was the outcome of the ones referred to the commission?

**Mr Hamberger**—We do not have a figure for that. You should really ask the Industrial Relations Commission. Once it is referred to them, I think it is fair enough to say it is their business then.

**Senator JACINTA COLLINS**—Do you reckon?

**Mr Hamberger**—I can probably get that figure if you would like. I would have to take it on notice; I do not think it is in the annual report and I do not have it with me.

**Senator JACINTA COLLINS**—I am pretty sure I have questioned you on this in the past. I am interested in the feedback you inform yourself with respect to the commission's determinations or referrals. Presumably, when an employer says, 'I am going to refuse to give an undertaking', the OEA then advises, 'This similar case went to the commission six months ago and this is what the commission determined, so you can waste your time or you can give

an appropriate undertaking.' Isn't that the feedback mechanism you would want to have in place?

**Mr Hamberger**—Sometimes the commission in the past—although not for a while I think—published reasons for decisions, but they do not have to and they do not always. We try to get feedback on an informal basis, and maybe have a look at the transcripts and so on, but it is not always possible.

**Mr Rushton**—We get told the result, but not always the process of reasoning that has led to that result.

**Mr Hamberger**—We are interested obviously in the reasons.

**Senator JACINTA COLLINS**—I think the last time I asked there were only about 12 referrals, and in just a couple of those we were able to get a decision that gave some factors. I am interested in the case history, and I would have thought that you would have been interested to inform your ongoing practice as an agency. Could you take on notice to give me what information you have that is easily collatable that informs you of the outcome of commission referrals?

**Mr Rushton**—If we do get a decision with reasoning back, we do obviously disseminate that to the relevant people.

**Senator JACINTA COLLINS**—So you would actually have a file of reasons?

**Mr Rushton**—A file of referrals, yes. The legal team will also prepare a summary of cases where we do have a decision from the commission with reasoning.

**Senator JACINTA COLLINS**—Is that available on the Internet?

**Mr Rushton**—No.

**Senator JACINTA COLLINS**—Can I have a copy of that, please?

**Mr Rushton**—Any commission decisions we have summarised.

**Senator JACINTA COLLINS**—The summaries you have produced as a result of those.

**Mr Rushton**—I do not think there have been any commission published decisions on AWAs for some time.

**Senator JACINTA COLLINS**—I thought you said a moment ago after speaking to Mr McIlwain that you produced summaries of reasons in decisions for internal circulation.

**Mr Rushton**—Yes, when they come out.

**Senator JACINTA COLLINS**—And you have not had any of those for quite some time?

**Mr Rushton**—Not in relation to commission decisions about AWAs being referred to them, no. I am struggling to recall the last one where we got a detailed decision from the commission.

**Senator JACINTA COLLINS**—Can I ask you to look at those cases where you have had detailed decisions and to provide me with a copy of any of those. Would it be too much work to apply that to the full period that the commission has been receiving referrals?

**Mr Rushton**—Probably not. There have not been that many.



**Senator JACINTA COLLINS**—Thank you.

**Senator WONG**—I understand from the annual report that you say that the draft survey was forwarded to both the ACTU and ACCI. I presume this is the only script that was used.

**Mr Hamberger**—Yes.

**Senator WONG**—When are we likely to obtain the results of the survey?

**Mr Hamberger**—Early next year, I am advised by my staff.

**Senator WONG**—Do you have them now?

**Mr Hamberger**—No, I do not have them now. It was a huge quantity of raw data. My staff in our policy research unit are analysing that data and what they advise me is that I will get that early next year.

**Senator WONG**—So we will discuss it at the next estimates, no doubt.

**Mr Hamberger**—Yes. We would certainly be looking to publicise that material and make it available. There is a lot of very interesting information, particularly to unions as well as to other people, in that material. We will be looking to do that as a sort of public duty, if you like. I believe this is the biggest survey of its kind ever conducted in Australia on these questions. I think that the information, whatever it says—I have not actually seen the results—will be of great interest to all sorts of people, and we will be looking to make it available to unions as well as to the general public.

**Senator WONG**—I have nothing further at this stage. We may put some questions on notice about that. Your time line is probably early next year, did you say?

**Mr Hamberger**—Yes.

**Senator WONG**—Perhaps you might, just as a matter of preparation, be aware that I am sure at the next round we will have some further discussions about it, so you might need to bring whatever data you have.

**Mr Hamberger**—Hopefully by then we will have it. The next round is February normally, I believe.

**Senator JACINTA COLLINS**—My suggestion is that we have the tea break now before we go to the department proper.

**CHAIR**—We will take a break.

**Proceedings suspended from 10.24 a.m. to 10.43 a.m.**

**Department of Employment and Workplace Relations**

**ACTING CHAIR (Senator Barnett)**—We now move to Department of Employment and Workplace Relations cross-portfolio questions.

**Senator JACINTA COLLINS**—The last annual report describes another 185 staff for the department. What does that additional staffing involve?

**Ms Golightly**—Is that the 2002-03 annual report?

**Senator JACINTA COLLINS**—Yes. In 2002, in terms of average staffing levels, you had 1,962 staff; in 2003, you had 2,147.

**Ms Golightly**—Basically, there has been a couple of the additional measures for the department. They mainly relate to the outcome 2 area. We had some additional money for implementation of the government's response to the Royal Commission into the Building and Construction Industry. We also had a little bit of additional money for the employee share ownership scheme. Also, the interim building task force was extended for another 12 months. They were the main things contributing to that increase.

**Senator JACINTA COLLINS**—I am going to spend a bit of time with a number of these things—noting, for instance, the annual performance reporting report, which I think covered your department amongst others and which highlighted the point that annual reports and PBSs these days are becoming very difficult for members and senators to use for transparency purposes. I think that is a consequence of the move to accrual accounting. In relation to those additional measures, I will ask you to provide a bit more detail about precisely what was allocated to the building industry, how that is accounted for differently to the extension of the interim building industry task force and precisely what the employee share ownership items involve.

**Ms Golightly**—Certainly. The descriptions of each of those measures are in the 2003-04 portfolio budget statements. They commence on page 39 and continue on to page 40.

**Senator JACINTA COLLINS**—Take me to the particulars.

**Ms Golightly**—On page 39 we start with the Employee Share Ownership Development Unit. As is explained there, there is additional funding—

**Senator JACINTA COLLINS**—I am sorry, which row is that?

**Ms Golightly**—I am on page 39 of the 2003-04 PBS.

**Dr Boxall**—There is also a table set out on page 17.

**Senator JACINTA COLLINS**—It is all right; I had FaCS's report.

**Senator WONG**—She has a multiplicity of tasks.

**Ms Golightly**—As Dr Boxall has just explained, there is a summary table on page 17, but pages 39 and 40 go into the detail of each measure. They give a bit of a description on background. As you can see there, the Employee Share Ownership Development Unit, \$1.7 million over four years.

**Senator JACINTA COLLINS**—So that unit has been established. How many staff does that involve?

**Ms Golightly**—I think we need to be clear here that the average staffing level figures that you were reading before are just that: they are average staffing levels.

**Senator JACINTA COLLINS**—I understand that.

**Ms Golightly**—They are derived. I would have to defer to—

**Senator JACINTA COLLINS**—But, for instance, I think we know the Work and Family Unit has 4.5 staff. My question is: how many staff are working in the Employee Share Ownership Development Unit?

**Mr Lloyd**—There are two additional staff in the employee share ownership unit.

**Senator JACINTA COLLINS**—Moving on to the building industry, how many employees are there in the Interim Building Industry Taskforce? Has that grown over the two years?

**Ms Golightly**—I think the average staffing level was about 25, but I would need to defer to outcome 2 to get the exact figures. We have now confirmed that it is 25 for the department and 47 for the task force itself.

**Senator JACINTA COLLINS**—And that is accounted for in those averages?

**Ms Golightly**—Yes.

**Senator JACINTA COLLINS**—What was it for the previous year?

**Ms Golightly**—2001-02 being the previous year?

**Senator JACINTA COLLINS**—Yes, it would be.

**Ms Golightly**—There was nothing for the department in that year—the measure only commenced in 2003-04—but the task force was in existence in the previous year and it was slowly built up to the 25 average.

**Senator JACINTA COLLINS**—But that 25 is accounted for in that growth in staffing that is reported in the annual report?

**Ms Golightly**—Yes.

**Senator JACINTA COLLINS**—Whereas prior to that it would have been zero?

**Ms Golightly**—That is right.

**Senator JACINTA COLLINS**—And otherwise in the building industry, because you made the distinction between the interim task force and other building industry measures? What do they involve?

**Ms Golightly**—The department itself received additional funding for implementation of the measures. That was for 25 staff.

**Senator JACINTA COLLINS**—I take it that the figure has grown to 47 now, has it, for the interim task force?

**Ms Golightly**—Yes.

**Senator JACINTA COLLINS**—We are at 72 with respect to the building industry and an additional two in relation to the Employee Share Ownership Development Unit. That is still a fair way off the 185. Where else have they gone?

**Ms Golightly**—I think we are comparing two different things here. The ASL figures you were reading were for the financial year ending 2002-03.

**Senator JACINTA COLLINS**—The annual report figures, I presume, were for the—

**Ms Golightly**—Which page of the annual report?

**Senator JACINTA COLLINS**—Page 273, note 16—‘were for the annual year 2003’.

**Ms Golightly**—In that year, the previous year, we would have had an increase for the task force. That is the total for the department. There were also increases on the outcome 1 side for

the establishment and tender et cetera for the ESC3—that is, the third employment services contract.

**Senator JACINTA COLLINS**—JN3?

**Ms Golightly**—Yes. So that increase from 1,962 to 2,147 was in the previous year, and there were those two measures. An increase also happened in the current year in outcome 2 because of the measures we were just talking about.

**Senator JACINTA COLLINS**—Regarding consultants and advertising costs, the department spent \$2.056 million on non-campaign advertising services. This is on page 344 of the annual report. What does that involve? It is all outcome 1, by the looks of it. Would you rather save that for outcome 1 or can we deal with it now?

**Mr Correll**—I would be happy to come back later in the day. I will pick it up under outcome 1.

**Senator JACINTA COLLINS**—The only problem is that I might not be here, so I might have to read about it. If you can take responsibility for bringing the answer back, I would be happy. Contracts for consultants is under outcome 2. There has been a 26 per cent increase from 2001-02 to 2002-03. Can you explain that?

**Mr Lloyd**—The increases are essential increases in legal services. There was also a consultancy into Australian Public Service remuneration, which did not increase it that much but was a large part of it.

**Senator JACINTA COLLINS**—What sort of increase did the additional costs for legal services represent from the previous year? What was the justification for it?

**Mr Lloyd**—I do not have that figure here. The legal services payments increased from \$899,000 in 2001-02 to \$1.566 million in 2002-03.

**Senator JACINTA COLLINS**—So almost double.

**Dr Boxall**—No.

**Mr Lloyd**—No. It has gone from almost \$900,000 to \$1.56 million.

**Senator JACINTA COLLINS**—All right, I am rounding it up too severely for you. What is the rationale for that?

**Mr Lloyd**—We get legal services. It is just the number of cases that occur. There is no particular reason for that. It is getting legal advice about interventions, essentially.

**Senator JACINTA COLLINS**—Has the department been pursuing more interventions than it has in previous years?

**Dr Boxall**—The department does not pursue interventions.

**Senator JACINTA COLLINS**—Has the department been seeking legal advice in respect to potential ministerial interventions more in the last 12 months?

**Dr Boxall**—The answer is yes.

**Senator JACINTA COLLINS**—Can you tell me on how many occasions between the two years the department has sought legal advice with respect to interventions or potential interventions and distinguished between the two?

**Mr Lloyd**—I will take that on notice.

**Senator JACINTA COLLINS**—It is not reported in the annual report?

**Mr Lloyd**—That detail is not in the annual report.

**Senator JACINTA COLLINS**—I might come back to that when I am seeking some further information, so we may get into some further detail there. Is the increase in intervention advice the only explanation for that significant increase or is there other legal advice that has been involved?

**Mr Lloyd**—That is the main rationale for the legal advice—interventions and related matters.

**Senator JACINTA COLLINS**—When you say ‘related matters’—

**Mr Lloyd**—It is just interventions. It is getting advice; it might be an appearance by a legal practitioner. They are the main sources of assistance.

**Senator JACINTA COLLINS**—What increase are we talking about in the Australian Public Service remuneration? What does that involve?

**Ms Bennett**—Could you repeat the question, please?

**Senator JACINTA COLLINS**—With respect to the Australian Public Service remuneration element of why there has been an increase in consultancies under outcome 2, what precisely does that increase in spending involve?

**Ms Bennett**—We commissioned a consultancy to do a survey on Public Service remuneration, and that occurs every few years.

**Senator JACINTA COLLINS**—What did that survey cost?

**Ms Bennett**—It is listed: \$242,450. It is on page 350 of the annual report.

**Senator JACINTA COLLINS**—And this is a survey you do every couple of years?

**Ms Bennett**—It is undertaken every year for the SES, but the one that is reported there was a combined total Public Service survey.

**Senator JACINTA COLLINS**—And when was the last time a combined total was conducted?

**Ms Bennett**—It was the first time it was done.

**Senator JACINTA COLLINS**—Page 349 of the annual report refers to just under \$15,000 being spent on a consultancy to review the Office of Workplace Services. What did that involve and what was the outcome of that review?

**Mr Lloyd**—We were looking at the role of the Office of Workplace Services, particularly to provide more education information to Australian employers and employees. The consultancy was entered into to give us some advice about how we could best implement that—the issues involved and how to go about it.

**Senator JACINTA COLLINS**—Education in respect of what?

**Mr Lloyd**—Employer-employee entitlements and obligations under agreements.

**Senator JACINTA COLLINS**—Who was the consultant?

**Mr Lloyd**—Cooper Piesse and Associates.

**Senator JACINTA COLLINS**—Did they produce a report?

**Mr Lloyd**—Yes.

**Senator JACINTA COLLINS**—Is that available? Can we have a copy?

**Mr Lloyd**—No.

**Senator JACINTA COLLINS**—Why is that?

**Mr Lloyd**—It is an internal departmental document.

**Senator JACINTA COLLINS**—Some internal departmental documents can be made available; some are advice to government and cannot be made available. I am asking why this particular document cannot be made available.

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

**Senator JACINTA COLLINS**—You will take on notice the reason why the document cannot be made available? You know the answer is no, but you need to take on notice the reason it is not available?

**Mr Lloyd**—We will take on notice whether we can release the report or not.

**Senator WONG**—I assume we are going to have this discussion a number of times today, Dr Boxall. If it is advice to government, we cannot receive a copy. I accept that. The Senate recently passed a motion relating to commercial-in-confidence as a basis for refusing provision of advice. What is the category of objection that you are taking to providing this?

**Dr Boxall**—I am not taking any objection.

**Senator JACINTA COLLINS**—He retreated; he is taking on notice whether he can provide it.

**Dr Boxall**—No, I am not retreating either.

**Senator JACINTA COLLINS**—I was not talking to you; I was talking to Mr Lloyd.

**Dr Boxall**—Mr Lloyd is not retreating either.

**Senator JACINTA COLLINS**—So the answer is no, is it?

**Dr Boxall**—Nobody is retreating and I am not taking any objection. If you ask a question for information and we feel that we can make it available, we will make it available; otherwise, we will consult the minister. We are here as a department answering questions on behalf of the minister. At the end of the day, if the minister decides whether he will make it available or not, that is his decision.

**Senator JACINTA COLLINS**—Dr Boxall, the *Hansard* record will record that Mr Lloyd, on my first request to be provided with a copy of this document, responded no.

**Dr Boxall**—That is correct.

**Senator JACINTA COLLINS**—He later said he was taking on notice whether he could make that document available. That is retreating from the answer no.

**Dr Boxall**—It depends on the definition of ‘retreat’.

**Senator JACINTA COLLINS**—Oh, for goodness sake, we will be here all day if you conduct yourself that way.

**CHAIR**—Senator, you are being pedantic. Can we move on.

**Senator Abetz**—We will not be here all day, because there is a time limit. How you want to use your time is up to you, Senator, but I thought it was to ask questions.

**Senator JACINTA COLLINS**—Let us clarify the answer to that question: can we have a copy of that report?

**Dr Boxall**—The answer to that question is that we will take that on notice.

**Senator WONG**—So you can consult with the minister, Dr Boxall?

**Dr Boxall**—We will take that on notice and the minister will give an answer.

**Senator JACINTA COLLINS**—When you take that on notice, will you please also take on notice: if the answer is no, under what reason is the answer no provided?

**Dr Boxall**—We will take that on notice and the minister will decide whether he wants to give the reasons or not.

**Senator JACINTA COLLINS**—Is that going to be a blanket response to any request for a report?

**Dr Boxall**—We do not have blanket responses. We answer each question as it comes up.

**Senator JACINTA COLLINS**—Any time I ask you for a copy of a report that is not publicly available on the web site or has not been published and made publicly available that way, will you be responding no, or will you be considering the merit of my request for information?

**Dr Boxall**—That is a hypothetical question, but we will consider the merit of each question, as we do all questions in this committee.

**Senator JACINTA COLLINS**—I am very happy, then. That is not a blanket response. The manner in which it was presented seemed to imply that it would be. There have been a number of changes to your output groups this year. Could you please explain these and how funding changes are accounted for?

**Ms Golightly**—The output group changes are listed on page 26 of the 2003-04 portfolio budget statement.

**Senator JACINTA COLLINS**—Can you walk me through those?

**Ms Golightly**—The two main changes were that we created an output for the General Employee Entitlements and Redundancy Scheme and that there was a move of function between 2.2.4 and 2.2.2.

**Senator JACINTA COLLINS**—What did that involve?

**Ms Golightly**—The box in the middle of that page gives you the description. Basically, it was the industry facilitation functions. The other change was that the seafarers act functions went to Comcare.

**Senator JACINTA COLLINS**—I noticed recently that, in some appearances from the department in relation to legislation, we had officers across different output groups. Is that a temporary arrangement or is that something we can expect as likely to continue in relation to policy advice and drafting of legislation?

**Mr Lloyd**—That depends on the issue the committee is looking at. We send who is best equipped to represent the agency.

**Senator JACINTA COLLINS**—You have 2.1.1, which is policy advice and legislation development. But we also get officers from 2.2.2 for some reason. I am trying to understand why that is the case.

**Mr Lloyd**—It would depend on the subject matter. There might be a policy legislation dimension to it. There might be a subject matter expert in the particular industry or issue, or something like that. So it just depends.

**Senator JACINTA COLLINS**—I got the impression that it was a resourcing issue—that it was a matter of allocating manpower to be able to deal with the load of legislation.

**Mr Lloyd**—No, Senator.

**Senator JACINTA COLLINS**—That is not the case?

**Mr Lloyd**—No, Senator.

**Senator JACINTA COLLINS**—It is just that, in terms of any of the legislation that we have had before us, none of these other areas easily fit in terms of expertise. For instance, I would have thought that all of the last three bills that the Senate addressed—which dealt with compliance, advocacy, government employment advice, the Employment Advocate and the workplace relations section—would easily have sat within 2.1.1.

**Mr Lloyd**—It is hard to respond without specifics, but the staff who would appear would be predominantly from 2.1.

**Senator JACINTA COLLINS**—The impression that I got was that, for manpower reasons, two of the bills had been allocated to one output and one of the bills had been allocated to another output.

**Mr Lloyd**—No, that is not the case. There might be branches within a group where there are different allocations, but that would be within the workplace relations legislation group, which is within 2.1.

**Senator JACINTA COLLINS**—So it was actually two groups rather than two output groups.

**Mr Lloyd**—I suspect so. As I said, I do not have the specifics, but the staff who would appear would be predominantly from outcome 2.1 from the legislation area.

**Senator JACINTA COLLINS**—Take me to the groups within output group 2.1. What page of the PBS will I find them on?



**Dr Boxall**—Page 17 of the annual report might be a good place to start.

**Senator JACINTA COLLINS**—So the explanation may be that we have had officers from policy advice as opposed to research evaluation and reporting. Would that be the explanation?

**Dr Boxall**—No. If you look in the bottom half of the page, outcome 2, you will see it.

**Senator JACINTA COLLINS**—I see.

**Dr Boxall**—We have output group 2.1, which has policy advice and legislation development in it.

**Senator JACINTA COLLINS**—There are no further groups under that.

**Dr Boxall**—That is serviced by an organisational unit, workplace relations policy and legal. Under 2.2, workplace relations implementation, we have identified the relevant organisational units.

**Senator JACINTA COLLINS**—So in fact for some of that we may have been getting assistance from those involved in, for instance, the building industry with expertise on why some of these compliance issues were relevant there as well as from officers from workplace relations policy and legal. Is that the correct understanding?

**Dr Boxall**—You might have been getting officers from workplace relations policy and legal, and you might have been getting officers from workplace relations implementation.

**Senator JACINTA COLLINS**—But on this sketch workplace relations implementation seems to belong under 2.2.

**Dr Boxall**—Yes, that is correct.

**Senator JACINTA COLLINS**—So I was correct in my original understanding, which was that I am getting officers from 2.2 and 2.1.

**Dr Boxall**—Yes, but you were incorrect in the conclusion that you had an impression that there was a manpower problem; there is no manpower problem.

**Senator JACINTA COLLINS**—The explanation—because it did not appear obvious from the outputs 2.2 described all the way down there—once you get to the next layer, which involves workplace relations implementation, is that they would be coming from an area within the department that they are coming from.

**Dr Boxall**—Workplace relations implementation is an organisational unit, and it is one of the units that feeds into output group 2.2.

**Senator JACINTA COLLINS**—Yes. It feeds into 2.2 as a whole?

**Dr Boxall**—Yes.

**Senator JACINTA COLLINS**—It is not a subprogram to one of the other programs?

**Dr Boxall**—No. In particular, it feeds into 2.2.2. That is last year. In the portfolio budget statement there have been some minor changes and it would still feed into 2.2.2, but that has slightly changed and is now called 'Industry and Australian government employment advice'.

**Senator JACINTA COLLINS**—But the role of the workplace relations implementation unit is not solely public sector, is it?

**Dr Boxall**—No. It is private sector as well. That is why 2.2.2 is now called ‘Industry and Australian government employment advice’.

**Senator JACINTA COLLINS**—Okay.

**Dr Boxall**—It is on page 26 of the PBS; that is one of the small changes that was made in this year’s PBS.

**Senator JACINTA COLLINS**—At 2.2.2, this new industry and Australian government employment advice unit has a budget of a bit over \$17 million as opposed to the previous—if I have this right—Commonwealth public sector employment reform facilitation unit, which had a budget of just over \$7 million. What does the additional \$10 million relate to, if I am correct in my attempt to understand that?

**Ms Golightly**—The budget for the previous year was \$4.3 million and it has increased to \$17.1 million.

**Senator JACINTA COLLINS**—So I was being generous in thinking it was \$7 million?

**Dr Boxall**—It is at page 41 of the PBS.

**Ms Golightly**—The increase is due to two things. First of all, roughly \$10 million of that is relating to the new measure ‘Royal commission into the building construction industry’, which is on the opposite page, page 40. The other \$3 million to \$3.5 million is because we transferred a function from output 2.2.4 to this current output, 2.2.2.

**Senator WONG**—Which function was that?

**Ms Golightly**—The industry facilitation function that we spoke about in the other diagram.

**Senator JACINTA COLLINS**—What do they do, again?

**Mr Lloyd**—They provide advice to the government about developments in industries. They provide advice about any serious ongoing major disputes to the government. They liaise with industry parties, employers and unions. They also liaise with other government departments.

**Senator JACINTA COLLINS**—Are there any particular industries that have been selected for work groups or subprograms in that area?

**Mr Lloyd**—No, the industries branch has a fairly wide remit and there is no particular targeting of their work. It is as the issues arise.

**Senator WONG**—In regard to this function transferred from 2.2.4, which is in the order of \$3 million, are any of those officers working on the government’s proposed reforms in the construction industry?

**Mr Lloyd**—No, Senator.

**Senator WONG**—So in terms of that function within the department, that is the \$10 million, I think you said, Ms Golightly, which comprises part of output 2.2.2—

**Ms Golightly**—That is correct.

**Senator WONG**—and also the Interim Building Task Force, which is another \$6 million.

**Ms Golightly**—No, the Interim Building Task Force has its own output.

**Senator WONG**—I understand that, but in terms of actual total government moneys you have got \$10 million in 2.2.2 and in 2.2.8 you have another nearly \$7 million.

**Ms Golightly**—That is correct.

**Senator WONG**—Is that the total outlay in relation to building industry reform from your department, or are there other areas which are also working on that?

**Mr Lloyd**—That is the total of it.

**Senator WONG**—So \$17 million for this financial year.

**Mr Lloyd**—Yes.

**Senator WONG**—The Office of Workplace Services, which was discussed earlier, is under output 2.4. Is that right?

**Mr Lloyd**—Right.

**Senator WONG**—Of that \$19 million, what proportion is spent on Wageline?

**Mr Lloyd**—Wageline is the telephone advisory service.

**Senator WONG**—Where you can ring up and get your award rate and so forth. That is under that output, isn't it?

**Mr Lloyd**—That is under that output, yes.

**Senator WONG**—How much is spent on Wageline?

**Mr Lloyd**—Bear with me a moment.

**Senator WONG**—I am happy to leave it if it is not easy, because I am going to ask quite a number of questions later. I am happy to come back to it.

**Mr Lloyd**—Yes, I think you would need to come back to it.

**Senator WONG**—So the government spends a total of \$19 million on workplace relations services and about \$17 million on the construction industry.

**Mr Lloyd**—Yes, Senator.

**Senator WONG**—On the Office of Workplace Services, what is the outcome of the review, Dr Boxall?

**Dr Boxall**—What review, Senator?

**Senator WONG**—The consultancy that we were discussing.

**Mr Lloyd**—The outcome is that we have established a workplace advisory service, which has a small number of officers. As I have said before, we are looking to enhance the information and advisory role of the Office of Workplace Services.

**Senator WONG**—How does the workplace advisory service differ from Wageline? What is its function?

**Mr Lloyd**—It is very complementary. Wageline takes numerous calls—perhaps 700,000 or 800,000 calls a year—from employers and employees. The workplace advisory service will actually visit employers and employees to explain their rights and obligations under the legislation, or any agreements they might be looking at. They also have the capacity to deliver seminars to employers and employees about agreement making or engagement issues. They are the principal roles of the service.

**Senator WONG**—Mr Lloyd, is this work similar to work which the OEA conducts?

**Mr Lloyd**—Yes, it is similar. They do liaise; sometimes at a seminar they will both make a presentation.

**Senator WONG**—Has there been any reduction in the total amount of funding available to Wageline?

**Mr Lloyd**—No.

**Senator WONG**—Is this the output that also deals with prosecutions for non-payment of wages and so forth?

**Mr Lloyd**—That is a compliance part of the Office of Workplace Services. That is another separate role.

**Senator WONG**—Has there been any reduction in funding between last financial year and this financial year for the compliance functions?

**Mr Lloyd**—No.

**Senator WONG**—Are the additional resources for the workplace advisory service at the expense of any other aspect of Office of Workplace Services or have they been financed from additional funding?

**Mr Lloyd**—Supposedly it is a reprioritisation.

**Senator WONG**—I would like to know where it is the reprioritised from.

**Dr Boxall**—Mr Chairman, are we on outcome 2 now? We are happy to do that; it is just that we need to assemble the correct officers. Are we finished cross-portfolio questions?

**Senator JACINTA COLLINS**—No, there is one further question.

**CHAIR**—Could we just stick with cross-portfolio questions and deal with those later.

**Senator WONG**—I will come back to that.

**Senator JACINTA COLLINS**—In the 2001-02 budget, the government announced a range of Australians Working Together-A Fair Go for Mature Age Workers initiatives. One of the initiatives provided \$1 million to this department for the establishment of best practice guidelines for the management of retrenchments. Where best should I deal with this issue?

**Mr Lloyd**—Where are you reading from, Senator? Could we have a reference please?

**Senator JACINTA COLLINS**—The 2001-02 budget, as I understand it—I presume it was in the budget papers—‘Best practice guidelines for the management of retrenchments’. Does that ring a bell?

**Dr Boxall**—We are having trouble in immediately locating last year's portfolio budget statement. If you like we can come back to that in about 20 minutes or so, as soon as we get one.

**Senator JACINTA COLLINS**—I have raised it in cross-portfolio because I am not sure where in the department structure it necessarily belongs. My understanding is that that budget did allocate \$1 million to the department. I want to ask questions about what has developed from there.

**Dr Boxall**—We will need to get a copy of last year's portfolio budget statement and then we can answer the question.

[11.24 a.m.]

**Senator JACINTA COLLINS**—We now move on to outcome 2, Higher productivity, higher pay workplaces. The first item relates to the draft Building and Construction Industry Improvement Bill. Was the exposure draft prepared by the department?

**Ms Bennett**—It was drafted by the Office of Parliamentary Counsel, on advice from the department, as is the normal process.

**Senator JACINTA COLLINS**—The normal departmental process of advising them was followed. Were external lawyers or consultants engaged to assist in this advice for drafting?

**Mr Bohn**—No.

**Senator JACINTA COLLINS**—Since the exposure draft was circulated, have you been instructed to draft any further amendments to it?

**Ms Bennett**—Some changes were made between the exposure draft and the bill that was introduced into the House today.

**Senator JACINTA COLLINS**—How significant were those changes?

**Mr Bohn**—As you know, we also had a consultation process, and a number of amendments flowed as a result of suggestions that were made through that consultation process. I can give you the headline changes, if that is of assistance. I will just run through a series of dot points. One of the key changes was the inclusion of an additional object of the bill to point out the encouragement of high employment in the industry. There were some refinements to the definition of 'building work' in clause 5 of the bill.

**Senator JACINTA COLLINS**—What do those refinements deal with?

**Mr Bohn**—Those refinements narrow slightly the definition of 'building work'.

**Senator JACINTA COLLINS**—To exclude what?

**Mr Bohn**—They exclude maintenance, they make it clear that the reference to 'railways' does not include rolling stock and they make it clear that the reference to 'prefabrication of components' relates to made-to-order prefabrication.

**Senator JACINTA COLLINS**—There was the new object and there were the refinements to definitions. What was next?

**Mr Bohn**—There were some amendments to the ministerial direction power in relation to both the Building and Construction Commissioner and the Federal Safety Commissioner.

**Senator JACINTA COLLINS**—What do those amendments do?

**Mr Bohn**—They make it clear that the power of the minister to issue directions cannot be used in relation to specific cases. The legislation now reflects the ASIC Act. There were some enhancements to the freedom of association provisions to address some gaps that were identified as part of the consultation process.

**Senator JACINTA COLLINS**—What sorts of gaps were they?

**Mr Bohn**—Largely, they were gaps to do with where people approach the ABCC. The enhancements were to prevent discrimination where somebody does that.

**Senator JACINTA COLLINS**—Could you go through that again for me?

**Mr Bohn**—There are a number of changes, but a key one is where someone approaches the ABCC. There are a number of parts of the legislation now—as in the Workplace Relations Act, on which these provisions were modelled—that provide protection where someone approaches essentially an enforcement agency. That protection does not exist in all the permutations throughout the act, so those gaps were plugged. There were small changes to the right of entry scheme.

**Senator JACINTA COLLINS**—What do they represent?

**Mr Bohn**—There were two. The first reinserted a provision that allows the commission a general power to prevent or settle disputes about the right of entry provisions. It is an equivalent provision to section 285G of the Workplace Relations Act. The other key one was that the provisions in the exposure draft make it clear that it is not permissible to have right of entry clauses in federal agreements. The bill extends that to state agreements as well, to make sure that the federal scheme in the legislation is as all-encompassing as is constitutionally possible.

**Senator JACINTA COLLINS**—Is there anything else beyond right of entry?

**Mr Bohn**—There are a couple more I will mention. There are some limits placed on the disclosure of confidential information. There is a provision towards the end of the bill—it was clause 237 in the exposure draft; I think it is 242 now—and that has been refined to make sure that it takes proper account of privacy issues. We consulted the Attorney-General's Department in developing those changes. The only other one that I will mention is some refinements in chapter 10 to the financial reporting obligations, essentially to pick up benefits received by third parties. Overall there are about 50 or 60, but they are the key ones.

**Senator JACINTA COLLINS**—What level of the information that was provided during this consultation process is currently available publicly?

**Ms Bennett**—All of the information that was provided during the consultation process is still available publicly.

**Senator JACINTA COLLINS**—Submissions?

**Ms Bennett**—It is on the web site.

**Senator JACINTA COLLINS**—Were there any confidential submissions for which people sought—

**Ms Bennett**—Sorry. In receiving submissions, the department said that they would be kept in confidence. They are not on the web site. The material that was available about the purpose of the bill, explaining how it would work, is all available.

**Senator JACINTA COLLINS**—So submissions are not available.

**Ms Bennett**—No.

**Senator JACINTA COLLINS**—Okay.

**Mr Bohn**—Unless the parties themselves choose to make them available, which I know some have.

**Senator JACINTA COLLINS**—Yes, but they are not available through the web site; they are available through the submitters.

**Mr Bohn**—Yes, through the submitters.

**Senator JACINTA COLLINS**—Are you able to tell us how many submissions and give us general information about what level of response you had to the consultation process?

**Ms Bennett**—We received about 60 submissions.

**Senator JACINTA COLLINS**—What was their make-up or composition? What number of them related to individual concerns or were peak organisation submissions?

**Ms Bennett**—I have a breakdown in broad categories.

**Senator JACINTA COLLINS**—That would be helpful. That is why I asked the first question about whether the submissions themselves were available. If they are not then a breakdown would be helpful.

**Ms Bennett**—We received four submissions from employee associations, 12 from employer associations, seven from government, two from major contractors and four from subcontractors. Twenty-eight submissions were received from international building unions.

**Senator JACINTA COLLINS**—But none from academics or international legal groups—none of that depiction?

**Mr Bohn**—No, Senator.

**Ms Bennett**—No.

**Senator JACINTA COLLINS**—Has the government considered whether the legislation complies with Australia's obligations under ILO conventions to which we are a party?

**Ms Bennett**—We consider it does.

**Senator JACINTA COLLINS**—You have considered it?

**Ms Bennett**—The government considers that it complies.

**Senator JACINTA COLLINS**—Have you produced anything dealing with those issues or those factors to date?

**Ms Bennett**—No.

**Senator WONG**—Has legal advice on that issue been sought either internally or externally, Ms Bennett? Maybe Mr Hoy can help us.

**Mr Hoy**—No, external legal advice has not been obtained.

**Senator WONG**—I asked about external or internal advice on that issue.

**Dr Boxall**—That is all part of preparing the brief. Our internal people look at this, make an assessment and advise the government accordingly.

**Senator WONG**—Can I clarify: I was not asking about the totality of the advice to government; I am asking if legal advice has been sought and provided in relation to the issue of compliance with ILO conventions. If so, who has provided that advice?

**Ms Bennett**—In formulating this bill, assessments were made about all the components, and that was one of a number of factors that was taken into account in determining what was in the bill.

**Senator WONG**—Who considered the issue of compliance?

**Ms Bennett**—We do not name individuals.

**Dr Boxall**—Officers of outcome 2 considered the issue and prepared advice for the government as part of the whole package of preparing advice on the bill to the government and working with OPC on the drafting instructions.

**Senator WONG**—You would be in a position to provide that advice to the Senate committee that is dealing with this legislation or to give a view about the advice?

**Dr Boxall**—At that point we will consider it.

**Senator WONG**—At that point you will consider it, but surely if you have already considered it you would be able to provide it.

**Dr Boxall**—No. You asked if we—that is, the department—would be in a position to make that advice available to the relevant committee assessing the legislation. The department's answer is that, if the issue is raised at that point, we will consider our position.

**Senator JACINTA COLLINS**—Does the government have a dialogue process with the ILO in relation to potential legislation?

**Mr Hoy**—The answer is no.

**Senator JACINTA COLLINS**—None at all?

**Mr Hoy**—No.

**Senator JACINTA COLLINS**—What about regular reporting to the ILO?

**Mr Hoy**—The government does provide regular reports to the ILO on various conventions, yes. They are called article 22 reports.

**Senator JACINTA COLLINS**—Those reports are meant to deal with changes in the legislative framework that have occurred in intervening periods, are they not?

**Mr Hoy**—That is correct, yes.

**Senator JACINTA COLLINS**—When is our next report due?

**Mr Hoy**—A recent report has just been provided to the ILO.

**Senator JACINTA COLLINS**—That is dialogue. Does that address this legislation?



**Mr Hoy**—No.

**Senator JACINTA COLLINS**—It is not relevant?

**Mr Hoy**—What the government does is report on its implementation of various conventions.

**Senator JACINTA COLLINS**—Proposed changes in the legislative framework are not regarded as relevant?

**Mr Hoy**—The government report does address the convention provisions and how Australia complies with the particular conventions.

**Senator WONG**—The recent report does not deal with the proposed legislation. Is that on the basis that it is not yet passed or is that on the basis that the government does not regard it as being relevant to any of the conventions to which we are party?

**Mr Hoy**—Until today the legislation had not been introduced. The report I mentioned is a general report covering Australia's compliance with conventions.

**Senator JACINTA COLLINS**—When is the next report due?

**Mr Hoy**—In two years time.

**Senator WONG**—The views of the ILO or of any of the expert committees of the ILO have not been sought in relation to this legislation and its compliance or otherwise with any conventions?

**Mr Hoy**—No.

**Senator JACINTA COLLINS**—Does the present report refer to any other proposals as opposed to actual legislation?

**Mr Bennett**—We had a hearing a week and a half back on three bills. Those three bills are mentioned, from my recollection, in one of the article 22 reports. The reason for that is that those bills were before the parliament at the time that the report was due. Therefore, they were subjects of the report.

**Senator JACINTA COLLINS**—That is the benchmark, is it?

**Mr Bennett**—I am not sure what the benchmark is, but that was the approach we took in relation to those three bills.

**Senator JACINTA COLLINS**—Whereas an exposure draft of a bill that is before a Senate committee is not regarded as being before the parliament.

**Mr Hoy**—At the time the report was made, it was not before the committee.

**Senator JACINTA COLLINS**—Okay. Were there any other proposals that were canvassed in this report that were not actually tabled pieces of legislation?

**Mr Bennett**—I cannot recall any.

**Senator JACINTA COLLINS**—Perhaps you would like to take it on notice for me.

**Mr Bennett**—I am happy to take it on notice, but I think I can be fairly confident in saying that there were not any.

**Senator WONG**—Could I go back to an answer given to Senator Collins when she asked whether any external consultants or lawyers were engaged to assist or draft the building construction industry improvement bill. The answer was no. Was there any involvement by third parties, that is lawyers or consultants, in any aspect of the preparation or consideration of that legislation?

**Ms Bennett**—We sought advice from a number of legal firms when we were shaping the department's view on what the bill should look like so we could advise the government in the policy process. The question you asked was whether we had external consultants in drafting the bill. The answer is no. Did we discuss what might be in that legislation and gather some ideas from external legal advice? Yes.

**Senator JACINTA COLLINS**—I will go back to what my question actually was: were external lawyers or consultants engaged to assist in this drafting?

**Ms Bennett**—The answer is no.

**Senator WONG**—This is a very fine point, Ms Bennett. You are saying you took legal advice prior to drafting but that that is not covered by the question.

**Ms Bennett**—I answered the question.

**Senator WONG**—Fair enough. Can we go to the legal advice you did seek. As I understand your answer, you sought legal advice from a number of firms prior to the department drafting the legislation.

**Ms Bennett**—Before formulating advice to the government.

**Senator WONG**—Who were the firms from which you sought legal advice? What was the cost of the legal advice provided?

**Ms Bennett**—It was views on the proposals by the royal commission. There were three firms who are on our legal panel that the department regularly seeks advice from.

**Senator WONG**—Could you remind me who they are?

**Ms Bennett**—They were Freehills, Blake Dawson Waldron and Minter Ellison. As I said, these are firms on the department's legal panel.

**Senator WONG**—All what one would regard in the profession as employer firms. What was the cost of the advice which related to the response to the royal commission?

**Ms Bennett**—I can get that for you shortly but I have not got it with me at the moment.

**Senator JACINTA COLLINS**—Did each agency have a different brief?

**Ms Bennett**—No.

**Senator JACINTA COLLINS**—All three received the same brief?

**Ms Bennett**—Yes.

**Senator WONG**—Why did the department feel it was necessary to obtain three separate independent legal advices on the same brief when you already have legal advice available internally? Why was the expense considered appropriate to brief three major commercial and employment law firms to advise on the same issues?

**Ms Bennett**—We sought views from three leading legal firms that are on our panel on the royal commission's recommendations in regard to legislative reform.

**Senator WONG**—I appreciate that, Ms Bennett. I am asking why it was considered necessary to provide an identical brief and seek advice from three separate firms and spend what I assume was a reasonable amount of public moneys on obtaining the same advice from three different sources.

**Mr Bennett**—It was to provide the best legal advice we could to the government. That was the reason.

**Senator WONG**—Three sets of legal advice.

**Mr Bennett**—I have nothing more to add. It was to provide the best legal advice we could.

**Senator WONG**—How long will it take you, Dr Boxall, to provide the costs involved?

**Dr Boxall**—Ms Bennett just answered that question. She said shortly.

**Senator WONG**—I am trying to be facilitative here, Dr Boxall. I am asking whether it is five, 10 or 20 minutes or a couple of hours.

**Ms Bennett**—We would hope during the lunch break.

**Senator WONG**—Thank you, Ms Bennett. We will come back to it after the lunch break.

**Senator JACINTA COLLINS**—The next issue, limiting public sector industrial action: there has been some activity there today, too, has there? Has another bill been tabled? No.

**Senator WONG**—Ms Bennett, I think Senator Collins is referring to the Workplace Relations Amendment (Better Bargaining) Bill 2003, which was introduced this morning. In its scope, does that not also apply to public sector industrial action?

**Mr Smythe**—No more than any other industrial relations bill applies to public sector industrial action. Yes, public sector industrial action would fall within its scope, but then it falls within the scope of the Workplace Relations Act. It is not a bill that is in any way specifically directed at the public sector.

**Senator WONG**—I understand the minister, in his second reading speech, specifically referred to teachers and nurses. Presumably that is part of the application of the act.

**Mr Smythe**—The act does not make any reference to teachers or nurses, or indeed to any particular sector of the employment community.

**Senator JACINTA COLLINS**—No, but the minister did. I think I recall at the time wondering why the minister, so new in the job, was picking on nurses and teachers. In relation to that bill, has the department consulted with any industry bodies or unions about the legislation and if so, whom?

**Mr Smythe**—That bill has been the subject of consideration by the committee on industrial legislation, which is a committee of the workplace relations consultative committee. Whether there has been any other consultation, I will just check.

**Mr Hoy**—Yes, there was consultation. The department wrote to employers and peak employee bodies to seek views on that bill.

**Senator JACINTA COLLINS**—Can you advise us of the scope of that consultation?

**Mr Hoy**—What do you mean by ‘the scope’?

**Senator JACINTA COLLINS**—Which peak organisations?

**Mr Hoy**—The department wrote to the ACTU and to the principal employer bodies—ACCI, AiG.

**Senator JACINTA COLLINS**—But most of them are on the committee that Mr Smythe was referring to.

**Mr Hoy**—Yes. This was a process before the committee was part of it.

**Senator JACINTA COLLINS**—So the consultation was no broader than the committee that Mr Smythe was referring to.

**Mr Hoy**—Correct.

**Senator JACINTA COLLINS**—What was the outcome of that consultation?

**Mr Hoy**—What do you mean, ‘the outcome’?

**Senator JACINTA COLLINS**—The bill, as it is, is the outcome of that consultation.

**Mr Hoy**—Yes. The bill was informed by the consultation process.

**Senator JACINTA COLLINS**—There is no further exposure process being contemplated in this case?

**Mr Hoy**—No.

**Senator JACINTA COLLINS**—Was this bill reported in the latest report to the ILO?

**Mr Hoy**—No.

**Senator JACINTA COLLINS**—On the basis of our earlier discussion, it has not been the subject of any dialogue with the ILO?

**Mr Hoy**—No.

**Senator WONG**—Mr Smythe, does the Workplace Relations Amendment (Better Bargaining) Bill 2003, which was introduced this morning, permit persons who may prospectively be affected by industrial action to apply to the commission for a suspension of the bargaining period?

**Mr Smythe**—I am not sure I quite understand the question.

**Senator WONG**—Does the bill deal with the ability of persons who may be affected by a proposed industrial action to apply to the commission for a suspension of the bargaining period?

**Mr Smythe**—It does.

**Senator WONG**—So it expands the circumstances in which applications can be made to the commission for suspension of a bargaining period.

**Mr Smythe**—It allows people who are not negotiating parties in the negotiation of agreement but who are significantly affected by protective industrial action to apply for a suspension of the bargaining period.

**Senator JACINTA COLLINS**—We can now move on to one of my favourite subjects, Victorian common rule awards. Have there been any negotiations between the department and the Victorian department about potential for the referral of powers to allow federal awards to apply as common rule in Victoria?

**Mr Hoy**—Yes.

**Senator JACINTA COLLINS**—When was the last meeting?

**Mr Hoy**—The last physical meeting was in early September, but there have been ongoing telephone discussions with Victorian officials.

**Senator JACINTA COLLINS**—On government-to-government meetings, was the media correct in reporting that the minister met with the Victorian minister last Friday to discuss outstanding issues?

**Mr Hoy**—Yes.

**Senator JACINTA COLLINS**—So we have two levels of dialogue here: departmental as opposed to ministerial.

**Mr Hoy**—I think it has moved from departmental to ministerial.

**Senator WONG**—Mr Hoy, I presume in your answer before when you said that the last meeting was in September you were referring to departmental level meetings.

**Mr Hoy**—Yes, but I did say that since that time there have been a number of phone discussions between officials.

**Senator JACINTA COLLINS**—So the meeting reported in relation to the two ministers was actually a telephone discussion. Is that right?

**Mr Hoy**—No. It was a physical meeting between the two ministers last Friday.

**Senator JACINTA COLLINS**—Was the department not present?

**Mr Hoy**—Departmental officials were not present.

**Senator JACINTA COLLINS**—Was there agreement about the substance of federal legislation that would allow the making of such common rule awards?

**Mr Hoy**—In principle, yes.

**Senator JACINTA COLLINS**—Were the outstanding issues resolved?

**Mr Hoy**—They are in the process of being considered.

**Senator JACINTA COLLINS**—I refer you to the press statement by Minister Andrews of last Friday that he plans to introduce legislation finally giving Victorian workers access to common rule awards. But without agreement from the Victorian government that will not be possible, will it?

**Mr Hoy**—That is correct.

**Senator JACINTA COLLINS**—But you still maintain that that agreement exists in—

**Mr Hoy**—The minister could introduce the legislation, but until the Victorian government proclaim their legislation the referral cannot occur.

**Senator JACINTA COLLINS**—Yes, you need a referral of power.

**Mr Hoy**—Yes.

**Senator JACINTA COLLINS**—At this point in time, how do you characterise the level of agreement? Is it agreement in principle?

**Mr Hoy**—It is in-principle agreement.

**Senator JACINTA COLLINS**—With some issues still outstanding?

**Mr Hoy**—Yes.

**Senator JACINTA COLLINS**—I notice that in the last legislative program this bill was removed from the list for the House of Representatives. What is the explanation for that? I was somewhat confused by the minister's statement that he was proceeding with that legislation when at the same time it had been removed from the House of Representatives forward program.

**Mr Smythe**—As officials, we have no control over whether or not matters are on the legislative program. That is something for the minister.

**Senator JACINTA COLLINS**—Have you received instructions to draft such legislation or to advise to draft?

**Mr Smythe**—We give instructions. We have given instructions to draft such legislation.

**Senator JACINTA COLLINS**—Which industry bodies or unions have been consulted in this process?

**Mr Hoy**—All the Victorian employer organisations and the ACTU.

**Senator JACINTA COLLINS**—Do you know the time frame for when the department anticipates this legislation will be introduced in parliament?

**Mr Hoy**—That is a matter for the minister.

**Senator WONG**—When do you expect the draft to be completed by?

**Mr Hoy**—There is a draft bill available now.

**Senator JACINTA COLLINS**—Are you able to inform us of the principal areas of concern remaining?

**Mr Hoy**—No.

**Senator JACINTA COLLINS**—Have there been drafting issues that may explain a delay in the processing of the legislation?

**Mr Hoy**—I would not accept that there has been a delay. The issue is that it is subject to agreement between two governments.

**Senator JACINTA COLLINS**—The delay is the fact that it was on the forward program for this year and was removed.

**Mr Hoy**—As Mr Smythe said, we cannot comment on the parliamentary program.

**Senator JACINTA COLLINS**—But to the department's knowledge, drafting issues were not the explanation for that.

**Mr Smythe**—I am not sure I understand the question. If you are asking were there technical issues as to the way—

**Senator JACINTA COLLINS**—Yes.

**Mr Smythe**—No.

**Senator JACINTA COLLINS**—Administrative, technical or processing concerns within the department that would explain why.

**Mr Smythe**—No, there are not.

**Senator JACINTA COLLINS**—Thank you.

**Senator WONG**—Perhaps we could approach it this way: when was the draft bill finished?

**Mr Hoy**—I would need to check on the precise date that the draft bill was prepared and, with the authority of the minister, was provided to Victorian officials for consideration. I think it was sometime in August, but I would need to check that for you.

**Senator Abetz**—Does much ride on the exact date? Are you happy with that answer—with your follow-up questions?

**Senator WONG**—I think the answer is here, isn't it?

**Mr Smythe**—Mr Bennett, one of my colleagues, has pointed out to me that there is a bill that has been drafted for some time. The issue about the referral of common rule powers and subsequent legislation would amount to government amendments to that bill, so we are not talking about a new and separate bill. We are talking about an existing bill that is in the house, in the parliament, at the moment. The issue of common rule would come forward by way of government amendments to that bill.

**Senator WONG**—Have those amendments been drafted?

**Mr Smythe**—Yes, those amendments are drafted.

**Senator JACINTA COLLINS**—I think Mr Hoy and I had a common understanding: we were actually talking about those amendments to the existing bill.

**Mr Hoy**—I was.

**Senator JACINTA COLLINS**—And they were the ones that were provided to the Victorian government in August.

**Mr Hoy**—It was sometime before the meeting in September, as I recall. I cannot be precise on the date.

**Senator JACINTA COLLINS**—No, that is fine.

**Senator WONG**—I turn now to the issue of the appointment of AIRC members. Does the department recommend a list of appropriate persons to the minister when a vacancy arises?

**Dr Boxall**—From time to time the department does recommend people for appointment.

**Senator WONG**—Is that the only means by which a list is put before the minister or does the minister obtain advice from elsewhere?

**Dr Boxall**—The minister can put forward names from any source. From time to time we do put forward names and the minister takes that into account, along with any other sources of names that he might have.

**Senator Abetz**—When you are a very consultative government, as we are, undoubtedly you draw on all sorts of areas, including the department, for possible candidates.

**Senator WONG**—Thank you for that, Minister; I am most grateful. I think the Howard government has appointed 15 persons to the federal commission. Has the department been asked to provide a list of names for each of those appointments and, if not, for how many did the department provide names?

**Dr Boxall**—We cannot go into what the department advised—

**Senator WONG**—I am not asking you the content of it. I am quite aware of that.

**Dr Boxall**—Excuse me, Senator Wong, if I could finish my answer—

**Senator WONG**—If you would answer the question it would be helpful.

**Dr Boxall**—I am answering the question. As I was saying, the department cannot go into the advice that it gives. It cannot go into whether it advised on particular positions or not. You asked a question, and I answered for the department that we provide a name from time to time. There may be some instances where we are asked to provide names and we do; there may be instances where we are not consulted directly.

**Senator WONG**—I am not asking the content or who was on the list, but I think I am entitled to ask when advice was provided. When has the department provided advice in relation to nomination of persons to the AIRC?

**Dr Boxall**—To answer that question goes to whether the department advised or not, and I do not believe that is the role of the departmental officials. We have already answered the question in generic terms: that, upon request, we do give lists of names.

**Senator WONG**—Can the department proffer any reason as to why, out of 15 appointments, there has only been one female in the term of the Howard government? Perhaps the minister would like to proffer an explanation.

**Senator Abetz**—As I understand it, all appointments are made on the basis of, one, those who might be willing to take an appointment and, two, the qualities of the candidate. We as a government always look to get the best possible candidate for whatever position. Unlike the Labor Party, we do not believe in quotas. We see the result of quotas on your side of the chamber.

**Senator WONG**—Yes, I know that that is your view about women, Minister.

**Senator Abetz**—No. It is my view about quotas—

**Senator WONG**—If I could just return to the issue: is it really the government's position that only one woman of merit in the entirety of the area of industrial relations expertise could be found in the entire country over the last eight years?

**Senator Abetz**—No. I am sure that there are many people of great merit of the female sex, but not all of them, possibly, may have been approached. For example—I do not know—some



might have said, 'Thank you for approaching me, but I don't want to take up the appointment', or they may not have been available for whatever reason. We as a government appoint on merit, not on the basis of quotas. If there could be more women on there, I dare say that that would be a desirable outcome, but not at the cost of not having the best person doing the job.

**Senator WONG**—I am happy for you to take this on notice, Dr Boxall: has the department reconsidered whether or not to conduct an Australian Workplace Industrial Relations Survey since June? What would be the estimated cost of conducting a new AWIRS study?

**Mr Bohn**—Minister—

**Senator WONG**—Senator.

**Mr Bohn**—Sorry. I promoted you.

**Senator Abetz**—It is a while off yet, we hope!

**Mr Bohn**—Any of those issues is really a matter for the government.

**Senator WONG**—So there has not been a government decision to conduct another survey?

**Mr Bohn**—No.

[12.04 p.m.]

**CHAIR**—Dr Boxall, we have finished with output 2.1 and will now move to output 2.2—should you wish to change any officers.

**Dr Boxall**—Thank you.

**Mr Hoy**—I am attempting to get the date for Senator Collins of when we provided you with draft legislation for Victoria. I will need to provide that.

**Senator Abetz**—But nothing rides on it. Can we take that on notice?

**Senator WONG**—Yes. Dr Boxall, I have some questions regarding advocacy. Would they be for Mr Smythe?

**Dr Boxall**—Mr Cole, Senator.

**Senator WONG**—I refer to the interventions that are listed at appendix 12 of the annual report, Mr Cole. In how many of those cases was the minister's position on intervention consistent with, or supportive of, the employer or employer organisation party?

**Mr Cole**—Actually, Senator Wong, that question is for Mr Smythe.

**Senator WONG**—Do you want me to repeat the question, Mr Smythe?

**Mr Smythe**—No. I gathered the gist of your question. I think we have had this discussion before and I have indicated that the minister intervenes in cases in the public interest—

**Senator WONG**—I appreciate that.

**Mr Smythe**—to put matters of principle. Frequently, if not always, it is not the particular facts of a situation that concern the minister but the proper interpretation of the legislation and

the ramifications of ensuring that that legislation is properly interpreted. Supporting one side or the other really is not an issue.

**Senator WONG**—With respect, Mr Smythe, it is not for you to say whether it is an issue. I appreciate that it is in the public interest. I am not wishing to have an argument about that. I am asking on how many occasions has the minister's position been consistent with, or supportive of, the position advanced by the employer or the employer organisation.

**Mr Smythe**—In terms of the explanation I have given, I cannot answer that, because the employer in any given case will be concerned with the facts of their case as it applies to them, whereas the minister's concern is the broader issue of principle about the interpretation of the legislation.

**Senator WONG**—I accept that your position, Mr Smythe, is that it is in the public interest that the minister intervene in a case. However, in that intervention, there will be an advocating on behalf of the minister in relation to the particular facts. Whether or not that is motivated by the public interest, a position will be put. I am asking on how many occasions has the position that was put on behalf of the minister been consistent with, or supportive of, the case advanced by the employer or the relevant employer organisation. If you wish to take that question on notice because you do not have that information, I understand that.

**Mr Smythe**—No. Senator, I do disagree with one of your premises—that is, that the minister will make submissions on the facts. The minister tends not to make submissions on the facts because, by and large, the minister and the Commonwealth are not in the best position to be aware of those facts. The minister makes submissions about the proper interpretation of the legislation, and the particular facts of the case are not necessarily any great concern of the minister; it is more about the appropriate way that the legislation should be interpreted.

**Senator WONG**—On how many occasions has the interpretation of the legislation advocated for by the minister's representative been the same as, or consistent with, that advanced by the employer or the employer organisation?

**Mr Smythe**—I will have to take that on notice because, obviously, that will involve an analysis of the submissions of the employers and an analysis of our submissions to see whether there was congruence.

**Senator WONG**—I am happy for you to take it on notice, Mr Smythe. I appreciate that that may involve some work. Were the interventions that are set out there all dealt with by the advocates employed by the department, or were some or all of them briefed externally?

**Mr Smythe**—Some were briefed externally, Senator.

**Senator WONG**—Could you identify which ones were briefed externally, Mr Smythe?

**Mr Smythe**—I will have to get Mr Cole to help me with this. Was there any external briefing with the safety net review?

**Mr Cole**—The department provided the advocacy for the safety net review.

**Mr Smythe**—With the second one, the federal redundancy test case, I understand that is also the case—or did we have some external counsel for that one?

**Mr Hoy**—No, we did not. That was done by a departmental officer.

**Mr Cole**—Perhaps if I could identify the cases where representation has been provided by the advocacy team. The first one—

**Senator WONG**—Before you do that, Mr Cole, so I understand what you are doing, are these the cases where advocacy was provided only by the advocacy team and there was not also a brief to an external lawyer? I am trying to work out whether you are saying, ‘This is what we worked on, and there might have been cases we worked on where we also briefed somebody’, because what I am keen on finding out is what was briefed externally.

**Mr Cole**—If we are talking in terms of representation in the Industrial Relations Commission, the department handled the safety net review, the redundancy test case—not the advocacy team but another officer in the department, which I think I mentioned last time. We also handled the Australian Taxation Office case, the NTEU case relating to casual employees, the Victorian retail sector case and the Victorian local authorities award child-care employees case. The department also provided representation in respect of the last matter on the Industrial Relations Commission against the Queensland 111AAA matter, and the matter preceding that, the matter affecting school based apprentices.

**Senator WONG**—So do I infer from that that the remainder were briefed externally?

**Mr Smythe**—Yes.

**Senator WONG**—Can I just clarify which ones they are? Just trailing down the list, the department handled the first, the second, the third, the fourth and the fifth. Is that right?

**Mr Cole**—Yes.

**Senator WONG**—External briefing, therefore, for—

**Mr Smythe**—And the sixth as well, Senator.

**Senator WONG**—and the sixth too. The CFMEU—the 285C(1)(a) interpretation—the section 45 appeal, the AMOU matter, the Grocon matter, CFMEU and Bulga Coal, Chubb Security and the LHMWU, and the pilots’ award were all briefed externally. Is that right?

**Mr Smythe**—Yes.

**Senator WONG**—Can you provide—and I am happy for you to take it upon notice—the costs of each of the external legal services provided in relation to those cases?

**Mr Smythe**—Yes, Senator, I may be able to provide that to you after lunch.

**Senator WONG**—That is most efficient of you, Mr Smythe. I think we have had a very lengthy discussion in previous estimates about this, but do I recall, Dr Boxall, that the department does not internally account for advocacy services provided by Mr Cole’s area in relation to these interventions?

**Dr Boxall**—That is correct, Senator Wong. We do not activity base costs to that level of detail.

**Senator WONG**—Mr Cole, can you remind me how many people work in your area?

**Mr Cole**—The advocacy team itself comprises a mere three people—me and two other senior advocates.

**Senator WONG**—That is a very small team.

**Mr Cole**—At times we have graduates and, for that matter, a number of other people on secondment to the team for a brief period—essentially, for them to have the benefit of advocacy experience. Of course, the advocacy team does not work in isolation and is supported by other areas of the department as appropriate. Indeed, other areas of the department may have a very significant role, particularly if what is involved is the preparation of extensive written submissions.

I want to round out my previous answer as to the cases where the representation in front of the relevant commission was handled by the department. I am reminded that my previous answer simply went to the Australian Industrial Relations Commission. The Australian government did intervene in the Queensland redundancy test case, which is also listed in appendix 12 under the state industrial relations commissions. That intervention involved exclusively representation by a departmental officer.

**Senator WONG**—So the Queensland state redundancy case was departmental?

**Mr Cole**—Yes.

**Senator WONG**—Thank you for reminding me and bringing me back to this, Mr Cole, because I was derelict in this. Do I understand that the other cases under the state commissions, like the High Court case and the Federal Court case, involved external counsel as well?

**Mr Cole**—They did.

**Senator WONG**—Again, if you could take it on notice to provide us with the cost of those matters.

**Mr Cole**—Yes, I will be able to do that.

**Mr Hoy**—Could I add to my answer in response to a question from Senator Collins earlier about when the draft provisions relating to the Victorian common rule provisions were provided to the Victorian officials. It was on 2 September and we physically met with them on 9 September.

**Senator WONG**—Returning to advocacy, apart from your team, was actual advocacy or support in terms of briefing and appearance in court in relation to any of those matters provided by persons outside the advocacy team?

**Mr Cole**—I thought it was understood from my previous remarks that the advocacy team is certainly assisted in its role by other relevant areas of the department. In preparing, for example, to present oral submissions there may well be issues on which advice is sought or contributions are naturally provided from other relevant areas—from the policy group or the legal group as the case may be.

**Senator WONG**—Yes, I think we have had that discussion before. What I would like to know is, in terms of actual hearing days, in any of these cases were officers other than the advocacy group required to attend court or commission?

**Mr Cole**—It certainly does happen, depending on the nature of the case, that there may be departmental officers from other areas of the department attending the proceedings on particular days, as need be, to provide advice and assistance.

**Senator JACINTA COLLINS**—Is there any way to measure the scope of that?

**Mr Cole**—Not that I can think of.

**Senator JACINTA COLLINS**—It is relatively easy for us to get a feel for that in terms of the number of external briefs, advice and representation sought, but is there any way we can measure how internal resourcing has changed over time?

**Mr Cole**—I think it would be extremely difficult or indeed impossible. No particular record is kept as to which departmental staff may or may not have been required to attend on a particular day or days of a particular proceeding. Some of those proceedings, as you would understand, extend over some weeks. Different people may have been in attendance for a day or so or part of a day at different times depending on the nature of the issues. Occasionally people would be in attendance who have contributed to the development of the Commonwealth's submissions. Their purpose would be to provide further assistance but also, on occasion, to understand and experience at first-hand the way that the proceedings are conducted, which is beneficial to them in assisting to develop material for future cases

**Senator JACINTA COLLINS**—What would be the largest number of departmental officials you have had present at a hearing for a particular case?

**Mr Cole**—As the advocate involved, it is not a matter that I am especially mindful of. You would appreciate that, as the Commonwealth's principal representative in the commission, I am at the bar table facing the commission. At times I am mindful of the fact that there are officers present to provide advice on particular issues that might be expected to arise on that occasion, but it is not part of my role to be a constant observer, so to speak, as to who may be attending in a variety of capacities.

**Senator JACINTA COLLINS**—No, I appreciate that.

**Mr Cole**—It would not be uncommon for the advocate to be assisted by—

**Senator JACINTA COLLINS**—Is this an external advocate?

**Mr Cole**—No, a departmental advocate—at least one other person. That would not be uncommon. There would certainly be occasions when there would be other people in attendance for part of proceedings for the sorts of reasons I have explained. But beyond that, there is no way I can provide any useful estimation.

**Senator JACINTA COLLINS**—If there is an external advocate engaged in an intervention, how many departmental officials would that ordinarily involve?

**Mr Cole**—If there is an external advocate, by definition, I am probably not present. Mr Smythe might be able to assist you.

**Mr Smythe**—Usually one.

**Senator JACINTA COLLINS**—Just one to assist?

**Mr Smythe**—One to attend the hearing. In terms of preparation, for the same sorts of issues that Mr Cole has raised, it would be impossible to quantify how many people might have been involved in the preparation of a particular matter.

**Senator JACINTA COLLINS**—No; although Mr Cole might be able to apprise us, from his experience, what is the largest number he has been aware of being present with him in a matter.

**Mr Cole**—It is not a matter I could even guess at. At times there has been more than one person present assisting. Whether that was for a day or part of a day is something I cannot recall. Frankly, my memory does not extend to trying to assimilate and recall that sort of detail.

**Senator JACINTA COLLINS**—Have there been cases where you have had two advocates representing the department assisted by another two?

**Mr Cole**—I mentioned that it is not unusual for the advocate to be assisted by another person. That other person might be someone whose prime role is advocacy. However, it might be somebody who is in attendance but not in a capacity as an advocate. There would be occasions where there have been two persons of an advocacy bent in respect of whom formal appearances have been ended in the matter. So they would be the formal government representatives and there would be other officers in attendance for part of the time advising or being of assistance in the way I have described.

**Senator JACINTA COLLINS**—So you could have two representatives for the department formally appearing at the commission.

**Mr Cole**—Yes, you could. Of course, that is not unusual in the way in which parties are commonly represented in the Industrial Relations Commission. When one thinks of union parties, it is certainly very common in my experience that they would have more than one person at the bar table formally representing the union interest. The same could be said in respect of some of the employer groups.

**Senator JACINTA COLLINS**—Yes, for instance, for a union it is often an office holder and an industrial officer. But from the department's point of view, the usual arrangement would be one advocate assisted by one other officer. Is that correct?

**Mr Cole**—It is not uncommon—as was my answer before—for the primary advocate, the primary government representative provided by the department, to be assisted by another officer who may or may not be a person whose prime focus is advocacy. The person might be a subject matter specialist, usually from the policy group and occasionally from the legal area.

**Senator WONG**—It has just occurred to me that I may not have clarified this but, in relation to the appendix 12 matters, you were going to provide us with the cost of external legal services for those in which they were engaged. I just want to confirm with you that that is all external legal services in relation to those cases, whether on the basis of solicitor work or counsel work.

**Mr Smythe**—Yes, that is what I understood the question to encompass.

**Senator WONG**—Thank you. Would the legal fees for such work come out of 2.2.1 or elsewhere?

**Mr Hoy**—That comes out of 2.1.1.

**Senator WONG**—So advocacy only relates to Mr Cole's team. And 2.1.1, policy advice and legislation development—the \$17.4 million-odd—would include the cost of the legal services that we have been discussing.

**Mr Hoy**—Yes.

**Senator JACINTA COLLINS**—Do you have any trend data on the level of interventions for the last eight years?

**Mr Hoy**—No.

**Senator JACINTA COLLINS**—I can recall a conversation a few years ago when I think it was accepted that Minister Reith was the most interventionist minister with respect to these matters. I am curious about how times have changed since then.

**Dr Boxall**—We do not have that data available.

**Senator JACINTA COLLINS**—You do not. Then I had better ask you to prepare it for me then, please. I would like the number of interventions from 1996 through to this year.

**Dr Boxall**—We will take that on notice.

**Senator JACINTA COLLINS**—Thank you.

**Senator WONG**—I have one final question. How many cases has the minister intervened in since the annual report—so since 30 June?

**Mr Smythe**—Just bear with me for a moment; I should be able to give you the answer to that. There were 10 new matters.

**Senator WONG**—Ten matters since June?

**Mr Smythe**—That is right.

**Senator JACINTA COLLINS**—What are those matters?

**Mr Smythe**—There are two matters in the High Court in which the minister is a party, but they are not new matters; in a sense they are new because they are in the High Court.

**Senator WONG**—Are you able to provide the list of those?

**Mr Smythe**—I can tell you what the new matters are: Belandra Pty Ltd v. AMIEU; Endeavour Operations—formerly Elura Mines—v. AWU and New South Wales Industrial Relations Commission; and Skilled Engineering Ltd v. AMWU. Those three matters are in the Federal Court. The new matters in the Australian Industrial Relations Commission are: MBA (Vic, NSW and ACT) v. CFMEU; the work and family test case; CPSU v. Sensis Pty Ltd; CEPU v. Telstra Corporation Ltd; applications under section 501 of the Australian Workplace Relations Act by the Australian Nursing Federation and others for adjustment of minimum wage orders in various Victorian industry sectors; and CEPU v. Siganto & Stacey Pty Ltd.

**Senator JACINTA COLLINS**—What is the Commonwealth's interest in that Victorian nurses minimum wage application case?

**Mr Smythe**—I think that is one of Mr Cole's.

**Mr Cole**—I suspect that would relate to the flow through to the Victorian minimum wage orders of the increase awarded by that Industrial Relations Commission at the last national safety net review case. The Commonwealth supported the quantum and made some submissions about an operative date.

**Senator JACINTA COLLINS**—What was the nature of the operative date submissions?

**Mr Cole**—That the commission should be mindful of its principles about prospectivity in determining whether to approve what was largely an agreement between the employer and the union parties to the matter.

**Proceedings suspended from 12.30 p.m. to 1.39 p.m.**

**CHAIR**—We now resume on output 2.2.

**Senator JACINTA COLLINS**—I think that I was in the middle of asking Mr Cole why the Commonwealth was intervening in the Victorian case.

**Mr Cole**—I think you were, and I think I had already explained that the Commonwealth was supporting, in fact, the flow-on of the quantum awarded in the federal Safety Net Review to the Victorian minimum wage orders. The other issue in the case was—

**Senator JACINTA COLLINS**—Timing.

**Mr Cole**—the operative date, and the parties—the trade unions and the employers—had essentially come to an agreement that involved a limited departure from what the commission calls its 12-month rule. The Commonwealth position was that it neither supported nor opposed departure from the agreed operative date, but it did remind the commission that it would require careful consideration of the commission's own principle for the commission to go ahead and accept the departure from the 12-month rule. In its decision, the commission—among other things, noting that it was only a very limited departure—did in fact approve the agreement of the parties, and that was the end of the matter.

**Senator JACINTA COLLINS**—I thought it was the Commonwealth's general position to encourage these matters to be determined by agreement of the parties.

**Mr Cole**—Indeed, that matter was resolved consistently with the agreement of the parties. As I have said, the Commonwealth in no way opposed that outcome.

**Senator JACINTA COLLINS**—For such a marginal interest in that one, why did the Commonwealth intervene?

**Mr Cole**—The 12-month rule is a critical part of the commission's wage fixing principles. Certainly, it is something that the Commonwealth sees as very important. The Commonwealth was aware that there was a proposed departure and it was concerned to ensure, at least in the eyes of the commission, that it was amply justified. As I have said, the commission in that particular instance was satisfied that the departure was justified.

**Senator JACINTA COLLINS**—Mr Smythe, I think there was still one further matter.

**Mr Smythe**—That is right. I was reading out a list of the new matters in which the minister has intervened on the part of the Commonwealth since the annual report—since 30 June. There was one more on the list: Boral Masonry Ltd v. Construction, Forestry, Mining and Energy Union.



**Senator JACINTA COLLINS**—Thank you for that.

**Senator WONG**—Ms Bennett, I go back to something we covered prior to lunch; namely, the advice sought by the department of the three legal firms that are on your panel in relation to the Cole commission recommendations. Did the department request advice in relation to all or only some of the recommendations?

**Ms Bennett**—The department sought the views of those companies on the proposed legislative reforms in the recommendation to the royal commission, which means that they received the whole report, and we asked their views, particularly on the legislative reforms proposed.

**Senator WONG**—Can I just make sure that I understand what you are talking about. It was only on those recommendations which were relevant to or articulated proposed legislative reform or the draft bill?

**Ms Bennett**—No, not the draft bill.

**Senator WONG**—Can you please explain to me what you mean?

**Ms Bennett**—We did not list the recommendations on which we were seeking a view. It was a broad perspective on the package proposed by the royal commission in relation to legislation, so we did not say ‘a view on X recommendation’.

**Senator WONG**—When was that advice sought?

**Ms Bennett**—I do not have the dates. We are coming back with the cost for you at the moment; I will see if I can get the date at that point.

**Senator WONG**—Could you take that on notice?

**Ms Bennett**—It was just following receipt of the royal commission’s report.

**Senator WONG**—So it was sometime after the report was tabled?

**Ms Bennett**—Yes; after the report was released by the minister in February.

**Senator WONG**—I am sure you will want to take this on notice, Dr Boxall, but I am requesting a copy not of the advice received but of the letter seeking the advice from the three legal teams.

**Dr Boxall**—Certainly, Senator Wong.

**Senator WONG**—Where were we? I think, Mr Smythe, you indicated to me that there were some aspects of a previous question before lunch that you had not finished answering. Is that right?

**Mr Smythe**—I have already answered those to Senator Collins. I was just mentioning that there was one other new matter in which the ministry intervened since 1 July. That was Boral Masonry Ltd against the CFMEU. I also have the cost of the external legal providers in the interventions mentioned in the annual report that I can read out to you now if you wish.

**Senator WONG**—Yes, please.

**Mr Smythe**—As noted, the first six mentioned in the annual report were in-house matters. The first one is the Maintenance Resource Engineering case. The external legal provider was Blake Dawson Waldron—

**Senator WONG**—Sorry, I just need to find the appendix.

**Mr Smythe**—It is on page 373. The Maintenance Resource Engineering matter's external provider was Blake Dawson Waldron and the cost was \$19,987. For the next one, the various section 45 appeals, the external legal provider was Blake Dawson Waldron and the cost was \$222,542. In the AMOU matter, the external provider was the Australian Government Solicitor and the cost was \$20,253. In the Grocon matter, the external provider was Blake Dawson Waldron and the cost was \$71,725. In the Bulga Coal matter, the external provider was Freehills and the cost was \$71,323. In the Chubb Security matter, the external provider was Minter Ellison Lawyers and the cost was \$41,257. In the pilots' matter, the external provider was Corrs Chambers Westgarth and the cost was \$36,749.

Going down to the state industrial relations commissions, in the Queensland state redundancy test case, the external providers were a barrister, whose costs were \$4,427, and the Australian Government Solicitor, whose costs were \$2,099. In the Burgess and Mount Thorley matter, the external provider was the Australian Government Solicitor and the cost was \$46,804. In the Broken Hill Chamber of Commerce matter, the external provider was the Australian Government Solicitor and the cost was \$39,356. In the Kellogg matter, the external provider was the Australian Government Solicitor and the cost was \$17,000.

In the High Court matter of the Australian Sports Drug Agency et cetera, the external provider is Phillips Fox Lawyers and the cost to date is \$35,887. The next listed matter is the Electrolux Home Products case. The external provider is Blake Dawson Waldron and the cost to date is \$163,928. That matter is no longer in the Federal Court. As you would appreciate, Senator, it is now the subject of an application to the High Court. In the Woodside Energy matter, the external provider was Mallesons and the cost was \$86,257. In the next matter, AIG against the AFMEPKIU, the external provider was the Australian Government Solicitor and the cost was \$32,530. In the Transfield matter, the external provider was Freehills and the cost was \$52,547. In the Gribbles Radiology matter, there are two external providers: Freehills, whose costs to date have been \$77,006, and the Australian Government Solicitor, whose costs are \$4,278. In the Amcor matter, there are costs to date to Phillips Fox, of \$110,091, and to a barrister, of \$3,025. Again, regarding those last two matters—Gribbles and Amcor—are also no longer in the Federal Court but are subject to High Court interpretation.

**Senator WONG**—For an interpretation of a particular issue?

**Mr Smythe**—Yes.

**Senator WONG**—On notice, could you also provide similar information in relation to the interventions to date?

**Mr Smythe**—The ones I read out this morning, the new ones?

**Senator WONG**—Yes.

**Mr Smythe**—I can do that now if you wish.

**Senator WONG**—Do you have that in a form—

**Mr Smythe**—Not in a form I can give you. It is handwritten. I can give it to you on notice or I can read it out now, whichever you wish.

**Senator JACINTA COLLINS**—If you could give it on notice today, that would be helpful, rather than taking time to read it and rather than us having to wait the full notice period. That is probably the best compromise.

**Mr Smythe**—I will get it typed up.

**Senator WONG**—Thank you, Mr Smythe.

**Dr Boxall**—Senator Wong, we can give you the costs of the external advice on the building royal commission report.

**Ms Bennett**—You asked when we sought their views. That was in April. The three firms, as I previously advised, were Freehills, \$25,000; Minter Ellison, \$7,382.65; and, Black Dawson Waldron, \$9,280.04. In addition, the department sought advice from the Australian Government Solicitor on specific legal issues that arose during the policy and legislative development process. As at 13 October, the total cost of that advice was \$55,239.25.

**Senator O'BRIEN**—And that is ongoing costs to date, is it?

**Ms Bennett**—As at 13 October.

**Senator WONG**—That file is obviously not closed. Is that what I infer from your answer?

**Ms Bennett**—For the AGS advice, yes.

**Senator WONG**—Yes, for the AGS. Is there any reason why Freehills, given the brief was identical, is at \$25,000?

**Ms Bennett**—They undertook different levels of analysis and provided different views—each of those firms.

**Senator WONG**—Was there a cost limit given to any of the firms or any indication of how much work was expected?

**Ms Bennett**—I would have to take that on notice.

**Senator WONG**—I have nothing further on 2.2.1. I propose to move to 2.2.2.

[1.52 p.m.]

**CHAIR**—We shall move to 2.2.2.

**Senator WONG**—While people are reassembling, Dr Boxall, I assume you have not had the opportunity to consider the question I asked earlier, which you took on notice, about provision of advice relating to appointments to the AIRC?

**Dr Boxall**—Senator Wong, if you would like to ask that question again, I will see whether I can answer it.

**Senator WONG**—I would like to know on which occasions over the term of this government the department has provided a list of names for the minister's consideration in appointments to the AIRC.

**Dr Boxall**—As I indicated earlier, since I have been secretary of the department, these things often come up in discussions during meetings. Sometimes the department provides a

short-list of names for the discussion; sometimes the department does not and it is just discussed with the minister and the minister's advisers. Sometimes the minister just proposes an appointment and progresses that through the normal framework that the government has for making appointments. So it is pretty difficult to answer the question.

**Senator WONG**—Perhaps I could be more focused. Are you able to give me the dates on which the department provided a short-list of names?

**Dr Boxall**—No, I am not, Senator Wong, because, as I said, it comes up in discussions.

**Senator WONG**—A written short-list of names.

**Dr Boxall**—No, we are not able to do that, Senator Wong, because it comes up in discussions. Sometimes the discussion arises and we do not have a short-list; other times we take a short-list. To be honest, I cannot remember how many times we attended a discussion with a short-list and without a short-list. They are not formal briefs.

**Senator WONG**—I am not asking about discussions; I am asking on how many occasions you have provided a short-list of names in writing to the minister.

**Senator Abetz**—Yes, and you have just been told.

**Senator WONG**—If you want to take that on notice, Dr Boxall—

**Dr Boxall**—I could take it on notice, Senator Wong, but I can tell you from experience, because I sit in these meetings, that I cannot remember how many times the departmental officials took a list of names and how many times they did not. I simply cannot remember. They are not formal briefs—it is not as though we can go to a file and dig it out for you.

**Senator JACINTA COLLINS**—Has the Office of the Status of Women ever raised this process as an issue of concern—

**Dr Boxall**—Not that I am aware of.

**Senator JACINTA COLLINS**—the fact that these appointments are dealt with through an informal, unrecorded process?

**Dr Boxall**—But, Senator Collins, they are not dealt with in an informal, unrecorded process. As I understand it, this is really a question for the Department of the Prime Minister and Cabinet. As I understand it, ministers make appointments, they make suggestions to the Prime Minister and the Prime Minister either approves them or he takes them to cabinet for cabinet approval. That is the process. The question that I think Senator Wong was getting at—but I am happy to be corrected—was: what input has the department had before the minister actually takes the appointment to the Prime Minister? And I have tried to answer that.

**Senator JACINTA COLLINS**—Your answer is that there is no formal input.

**Dr Boxall**—That is correct: there is no formal process.

**Senator JACINTA COLLINS**—That was my point. My next question is: has the Office of the Status of Women ever raised with your department a concern about that?

**Dr Boxall**—Not that I am aware of.

**Senator WONG**—Has the department ever written to the minister including a short-list of names?

**Dr Boxall**—I am not trying to be difficult, Senator. I have tried to answer that. As far as I recollect, the department has never put up a formal brief with a list of names but the department officials, including me, have attended meetings with a minister where we have provided a short-list of names for discussion purposes. The ministers in my experience also have ideas themselves about appointments that they might make.

**Senator WONG**—And I am not asking you about that aspect, obviously, Dr Boxall. To my way of thinking, it is not relevant whether or not there was a formal brief. I am asking on which occasions a short-list of names in written form was provided by the department to the minister. And I would ask you, if you are not able to answer that, to take it on notice.

**Dr Boxall**—Senator Wong, even if that is taken on notice, we cannot answer it because we do not have a record of every time we attended a meeting with a short-list of names. It is like asking us how many times the minister raised an issue with us in meetings.

**CHAIR**—Senator, that has been covered already. Perhaps we could move on.

**Senator JACINTA COLLINS**—I think actually that Dr Boxall might be correct in that this might be a more important issue for the Office of the Status of Women. My understanding is certainly that some departments do maintain records of the recommendations that they make and, if the minister is seeking advice—even if it is informal meeting type advice on such matters—it is perhaps a concern that is not recorded.

**Senator Abetz**—More paperwork. More bureaucracy. More briefs.

**Senator WONG**—This is a statutory appointment to a very important quasi-judicial position.

**Senator Abetz**—Exactly right.

**Senator JACINTA COLLINS**—The question is being raised, Minister, only because the performance is so obviously poor.

**Senator WONG**—Do I understand from your answer, Dr Boxall, that the department has never been asked for formal advice in the form of provision of a short-list of names by the minister?

**Dr Boxall**—Yes, my answer was and is: I have no recollection, since I have been secretary of the department, of putting up a formal brief with a list of names for these positions.

**Senator WONG**—And your evidence to this committee is that you, as DEWR, are not able to advise of how many occasions you have even provided a short-list to any minister on this issue.

**Dr Boxall**—No, my evidence to the committee is that the department does not keep a record every time they discuss these things with the minister, including on the number of occasions they might or might not have produced a short-list of names.

**Senator WONG**—Dr Boxall, at the last estimates hearing we discussed the issue of the Australia Post facility at Tullamarine. My recollection of the June estimates is that, when we were asking questions regarding the department's role in assessing compliance of tenders with the national code of practice, you stated:

In theory, Australia Post could do it itself. It does not have to ask us whether something complies with the code or not.

... ..

But they elect to ask our advice. They ask for our advice and we give it.

Do you recall that was your evidence on the last occasion?

**Dr Boxall**—That is correct.

**Senator WONG**—Thank you. Australia Post has obviously given evidence to the estimates committee this week. From that evidence, I want to briefly go through the process as it appears to have taken place. The first round of tenders closed in May. Then, expressions of interest were called for in June, and a second tendering process commenced in September which closed in October. Australia Post's evidence was that, after the original tenders closed in May without a successful tenderer being identified, players were asked for expressions of interest. The negotiations thereafter were conducted directly with the Department of Employment and Workplace Relations.

**Dr Boxall**—I happen to have the Australia Post transcript here, Senator Wong.

**Senator WONG**—I am referring to page 72, down the bottom.

**Dr Boxall**—That is the page I am on. Mr Howard, from Australia Post, says:

When we were here last we talked about the original tenders which closed in May with no successful tenderer. We then invited players for expressions of interest, and as part of that the respondents conducted relationships directly with the Department of Employment and Workplace Relations.

**Senator WONG**—That is then repeated further down by Mr Howard where he says:

They conducted discussions directly with the Department of Employment and Workplace Relations.

**Dr Boxall**—Where is that? Down below?

**Senator WONG**—Yes. You would agree with that?

**Dr Boxall**—That is what is in the transcript, and your question is?

**Senator WONG**—It seems to me to be a somewhat different process. Mr Howard then goes on at the next page to talk about the fact that tenderers dealt directly with the department of workplace relations. My suggestion, Dr Boxall, is that it appears that DEWR is wrong and that it is significantly beyond that of simply giving advice to Australia Post. You are involved in direct negotiations with the tenderers for this project.

**Dr Boxall**—That is not my impression, Senator Wong. If Australia Post refers people to us, we talk to them. We talk to lots of people on these sorts of issues, such as employee organisations, employer organisations, contractors and people like that. If Australia Post as part of their tendering process elects to refer somebody or to suggest that they come to us, we talk to them, just as we talk to anybody else who comes to us on an item of business such as this.

**Senator WONG**—Senator Mackay's question was:

They dealt directly with the department of workplace relations?

Mr Howard responded:

Yes, to see if they could gain compliance on the national code of conduct.

Senator Mackay then asked:

Did they deal with the department directly?

Mr Howard responded:

As far as we are aware, they dealt with the department to discuss their compliance or attempt to comply with the national code.

So, in effect, DEWR is conducting the discussions with tenderers rather than Australia Post, for the purpose of determining compliance with the national code.

**Dr Boxall**—The situation is as I outlined it in the last estimates process, which you quoted accurately—that is, Australia Post is responsible for the letting of this contract. If they want to get our advice on whether something complies with the code they can do that, and we will do it. If the nature of getting that advice is to send somebody directly to us, accompanied by them or not accompanied by them, we will still deal with those people. The bottom line is that we are not responsible for the letting of the contract. We are only responsible for providing advice on whether something complies with the code. Indeed, as I said last time, Australia Post could do this whole thing themselves without coming to us, but they elect to refer people to us, they elect to call us up, and we respond.

**Senator WONG**—Perhaps we have a different understanding of what the word ‘advice’ means. My understanding, from your answer, would be that you would provide advice to Australia Post. That certainly was the tenor of Ms Bennett’s answers to my questions on the last occasion. What has been detailed here is, clearly, that you are doing more than simply providing advice to Australia Post. You are, in fact, engaging in direct discussions with potential tenderers for the purpose of ensuring their compliance with the national code.

**Dr Boxall**—Often construction companies unrelated to Australia Post will come to the department and seek advice on what might or might not pass the code of conduct, and we give that advice. We answer those questions as best we can.

**Senator WONG**—Mr Howard was asked this question:

Senator MACKAY—So, rather than re-call for requests for tender, Australia Post called for expressions of interest and—you will pardon the pun—Australia Post was essentially a postbox on to the department of workplace relations?

Mr Howard—To follow your pun, after reviewing the commercial terms and conditions, yes—

**Dr Boxall**—That is how Australia Post conducts its business. It is their business, and they are held accountable for it.

**Senator WONG**—I appreciate that that is their decision. I am simply pointing out to you that your answers in June that you were simply providing advice to Australia Post were inaccurate and that, in fact, what you were doing was conducting direct negotiations and discussions with tenderers.

**Dr Boxall**—We are not negotiating and discussing with tenderers.

**Senator WONG**—Are you discussing with tenderers?

**Dr Boxall**—I said that we are not. I just said that we are not negotiating with tenderers. We are not conducting discussions with tenderers. We are responding to requests from contractors who might or might not be involved in the tender for Australia Post. We also respond to employers, industry associations, employee organisations and anybody else, including government departments, who ask questions on the code of conduct. We are not a player. The department is not a player in the letting of the contract by Australia Post. Australia Post are responsible for that, and they are answerable for it. It is not surprising that they do check with us in some instances and that they might refer various players to us for advice. But they do not have to refer those. It is not part of the process that they do that.

**Senator WONG**—No, but compliance with the code is compulsory.

**Dr Boxall**—Correct.

**Senator WONG**—I find it hard to accept your answer that you are not discussing with the tenderers. Mr Howard was asked that direct question:

Mr Howard—From what we understand, we have one tenderer who has been negotiating with the department.

Senator MACKAY—Workplace Relations again?

Mr Howard—Yes.

That would seem to be—

**Dr Boxall**—I cannot answer for Mr Howard.

**Senator WONG**—Mr Howard's evidence is that a tenderer is negotiating directly with your department. Are you saying that that is incorrect?

**Dr Boxall**—But we do not negotiate directly with tenderers. We just do not do it.

**Senator WONG**—Are you having discussions with the tenderers?

**Dr Boxall**—I am sure that we have had discussions with companies that have tendered, or might be considering tendering, for the Australia Post project. But we have also had discussions with companies that have nothing to do with Australia Post, and with industry associations that have nothing to do with the Australia Post project.

**Senator WONG**—I accept that. I am not asking about that. I am sorry, Dr Boxall, but I thought that in response to an earlier question you said, 'We do not hold discussions with tenderers', but—

**Dr Boxall**—No, what I said was that we are not part of the process. We do not negotiate with tenderers and we do not discuss with tenderers in the context of the letting of the contract. After all, that is Australia Post's job. That is not our job.

**Senator WONG**—You are in discussions with a tenderer for the Australia Post job in relation to their compliance with the national code, aren't you?

**Dr Boxall**—You would have to give me a list of the tenderers and then we could match that up with the list of discussions we have had with various companies, and I am sure there will be an overlap. There is no question about it.



**Senator WONG**—Dr Boxall, can I say to you that your answers regarding this process paint a rather different picture from the one Mr Howard painted. He seemed to be quite clear that the department of workplace relations was playing an active role in having discussions with tenderers. This project is, I suppose, a year overdue now. There has still not been a successful tender finalised, as I understand it, and the primary issue is compliance with the national code, which you are discussing with these tenderers.

**Dr Boxall**—The question is that that is Australia Post's responsibility and they are held accountable for whether they let the tender or not.

**Senator WONG**—Are you aware of who the potential tenderers are?

**Dr Boxall**—I personally am not.

**Senator WONG**—Is Ms Bennett aware?

**Ms Bennett**—Australia Post has written to us about a number of companies that were tenderers at the point in the process for that Tullamarine project.

**Senator WONG**—Isn't it the case, Dr Boxall or Ms Bennett, that on 24 September 2003 Australia Post representatives made public comments in support of the Hansen Yuncken deal and its compliance with the code and that subsequently the department provided advice that the tender did not comply with the code?

**Ms Bennett**—I am not aware of those public statements.

**Senator WONG**—What about the rest of the question? Did the department veto or provide advice in September or thereafter indicating that the tender did not comply with the code?

**Ms Bennett**—We explained the process before. When they tender, the tendering or purchasing agency—in this case Australia Post—refers issues included in that tender about workplace relations to seek advice as to whether it complies with the code. We do not know what the rest of the tender is or what information the tenderers have provided. All we do is consider the statements that they make in their documents and the material that they provide in relation to their workplace relations arrangements and its compliance with the code.

**Senator WONG**—Mr McCloskey, the Corporate Secretary of Australia Post—and this is at the bottom of page 71—said:

The particular arrangement that Hansen Yuncken have come to with the CFMEU in regard to a site specific agreement for the Tullamarine project was subject to confirmation by the Department of Employment and Workplace Relations that in fact it was compliant with the government's national code ...

I put it to you, Dr Boxall, that that is an accurate reflection of the department's role.

**Dr Boxall**—No, that is not an accurate reflection of the department's role. We have explained before that Australia Post conducts the tender. Australia Post can seek our advice or ask questions about whether or not something complies, but at the end of the day it is their responsibility. There is nothing in the tender documentation or government purchasing arrangements which says that they have to have our tick-off on something.

**Senator WONG**—So you disagree with Australia Post's evidence?

**Dr Boxall**—I do not agree or disagree with Australia Post's evidence. I am just telling you what the department's position is. I am not second-guessing what Australia Post might or might not have given as evidence.

**Senator WONG**—They said, and I am quoting exactly:

... subject to confirmation by the Department of Employment and Workplace Relations that in fact it was compliant ...

**Dr Boxall**—I have just explained—and none of my staff has advised me that I am getting it wrong—that the responsibility is Australia Post's. There is nothing that I know of in the purchasing guidelines which says that they have to get a tick-off from the Department of Employment and Workplace Relations. It does not work like that. What the guidelines say is that they have to comply with the code of conduct, and what Australia Post have elected to do in a number of instances is check with us as to whether or not something complies. That is partly I guess because they do not want to undertake that process themselves. But, if they wanted to, they could undertake that process themselves.

**Senator WONG**—Mr McCloskey goes on to say that there are discussions occurring between Hansen Yuncken and the department regarding the issue of compliance with the code. Again, I refer you to pages 71 and 72 of the ECITA transcript. Would you indicate who is conducting those discussions?

**Ms Bennett**—As Dr Boxall explained, they were one of a number of companies that approached us. We provide formal advice to Australia Post on this project in relation to the companies they have written to us about.

**Senator WONG**—I understand that, Ms Bennett. Who is discussing this issue with Hansen Yuncken? Who in the department has responsibility for that?

**Ms Bennett**—I have met with Hansen Yuncken.

**Senator WONG**—On how many occasions?

**Ms Bennett**—Once.

**Senator JACINTA COLLINS**—Is that before or after 24 September?

**Ms Bennett**—Prior to 24 September.

**Senator WONG**—Has there been any further communication between DEWR and Hansen Yuncken since 24 September?

**Ms Bennett**—Post 24 September? Yes.

**Senator WONG**—Could you please provide a copy of that correspondence?

**Senator JOHNSTON**—That is obviously commercial in confidence.

**Senator WONG**—Hang on; Dr Boxall says they are not doing the tender process, so this cannot be about the tender process.

**Senator JOHNSTON**—But one of the conditions is clearly that they comply with the code. Australia Post have set the condition. They asked these people to confirm whether they comply. That is it in a nutshell, surely.

**Senator JACINTA COLLINS**—Yes, and there should be no confidentiality problems with the nature of the advice from the department as to whether they complied with the code or not.

**Senator JOHNSTON**—That is a matter for Australia Post. Obviously it is in confidence as to whether the tenderers comply.

**Senator WONG**—My question stands.

**Senator JOHNSTON**—They do not have to answer it I wouldn't have thought.

**Senator WONG**—Do you have an answer, Dr Boxall?

**Dr Boxall**—As Senator Johnston said, this is information that we might provide to Australia Post. It is for them to release or not release. I would consider that we just could not put that out.

**Senator WONG**—I am not asking for the advice you provide to Australia Post because I would accept that that would not be appropriate. I am asking for a copy of correspondence provided to Hansen Yuncken. On what basis do you say that that is not properly provided to the committee?

**Dr Boxall**—That is correspondence; a firm or an industry association or an employee organisation in the private sector approaches the department and corresponds with the department. I do not quite see how we can just release that advice unilaterally.

**Senator JACINTA COLLINS**—Let us start by confirming the nature of that advice and see if that really is the issue or the problem. What was the nature of the advice, Ms Bennett?

**Senator JOHNSTON**—I do not see how this department can disclose advice to a tenderer in a tender process.

**Senator JACINTA COLLINS**—That was not my question, Senator Johnston.

**Senator JOHNSTON**—You just cannot discuss these matters in a tender process.

**Senator JACINTA COLLINS**—Senator Johnston, that was not my question.

**Senator JOHNSTON**—I think the question is out of order.

**Senator JACINTA COLLINS**—The question is not out of order. I can ask any question about process. It is the content that this issue.

**Senator Abetz**—Whether it will be answered or not is the issue.

**Senator WONG**—Open and accountable government, Minister.

**Senator JACINTA COLLINS**—I am asking a question about the process. The letter that you wrote to Hansen Yuncken post 24 September 2003—what was the nature that correspondence?

**Ms Bennett**—Australia Post wrote to us about Hansen Yuncken's agreement. We provided advice to Australia Post. As a follow-up of that advice, which Australia Post forwarded on—

**Senator JACINTA COLLINS**—What date did you provide advice to Australia Post?

**Ms Bennett**—if I can finish for a moment—to Hansen Yuncken, Hansen Yuncken approached us for further clarification. We elaborated on what was required in the code

guidelines to bring clarity to the point we had raised with Australia Post and how that related to their agreement.

**Senator JACINTA COLLINS**—Let us go back to the original dates. Australia Post sought advice from you on what date?

**Ms Bennett**—My records would indicate that the first request we received from Australia Post in relation to Hansen Yuncken was on 23 December 2002.

**Senator JACINTA COLLINS**—And then after that? Was there anything before then and when you met?

**Ms Bennett**—I met with Hansen Yuncken on 24 July 2003.

**Senator JACINTA COLLINS**—Did you meet with Australia Post before then? What was the response to the request from Australia Post on 2 December?

**Ms Bennett**—On 23 December.

**Senator JACINTA COLLINS**—Was it 23 December? I wrote the 2nd.

**Ms Bennett**—It was on 23 December 2002. My office spoke to Australia Post again on 17 January.

**Senator JACINTA COLLINS**—I am sorry? On 2 December you got the request—

**Ms Bennett**—The first time Australia Post contacted us about Hansen Yuncken was on 23 December 2002.

**Senator JACINTA COLLINS**—The response to that was in January?

**Ms Bennett**—It indicates here that there was a telephone call between my staff and Australia Post on 17 January. I do not have a record of whether there was a conversation between 23 December and then.

**Senator WONG**—My recollection is that you gave evidence previously about the telephone advice in December.

**Ms Bennett**—On 23 December, yes.

**Senator JACINTA COLLINS**—So it was on 17 January, and then you met with Hansen Yuncken on 24 July. Was there anything intervening there?

**Ms Bennett**—There were many telephone conversations about possible tenders, and perhaps emails asking what something might mean in the code. They were about companies that Australia Post was considering through its process to consider the building of the Tullamarine project.

**Senator JACINTA COLLINS**—At the moment we are concentrating on the Hansen Yuncken case. We are up to your meeting with Hansen Yuncken on 24 July.

**Ms Bennett**—I understand that we spoke to Australia Post again on 11 February about Hansen Yuncken.

**Senator JACINTA COLLINS**—And then on 24 July you met with the company.

**Ms Bennett**—Yes.

**Senator JACINTA COLLINS**—What happened after that?

**Ms Bennett**—What do you mean by what happened after that?

**Senator JACINTA COLLINS**—That was the last contact you had in relation to that company, from either Hansen Yuncken or Australia Post?

**Ms Bennett**—There were various contacts with Australia Post. A written advice was provided to Australia Post.

**Senator JACINTA COLLINS**—What date was that?

**Ms Bennett**—I have not got the date.

**Senator JACINTA COLLINS**—Would you take that on notice. I presume the department has got a copy of the correspondence somewhere.

**Ms Bennett**—On 25 August Australia Post wrote to us.

**Senator JACINTA COLLINS**—Are you still checking for that?

**Ms Bennett**—No, I gave you the date.

**Senator JACINTA COLLINS**—You gave me the date of 25 August—

**Ms Bennett**—I will just go through the sequencing. On 24 July I met with them.

**Senator JACINTA COLLINS**—That was with Hansen Yuncken?

**Ms Bennett**—Yes. I received some correspondence from Hansen Yuncken on 12 August, following up on the meeting and asking for further clarification in regard to an aspect of the code. I received further correspondence from Hansen Yuncken—which was also, I understand, provided to Australia Post—on 14 August. I responded to Hansen Yuncken on 20 August and I included Australia Post in that correspondence.

**Senator JACINTA COLLINS**—Was there any further communication in relation to Hansen Yuncken beyond that date?

**Ms Bennett**—On 21 August, Hansen Yuncken asked for something else from my email of 20 August. We wrote to Hansen Yuncken on 5 September. They wrote back to us on 10 September. On 24 September we and Australia Post were provided with a copy of Hansen Yuncken's certified agreement. We wrote to Australia Post providing advice on that agreement on 25 September. They provided that advice to Hansen Yuncken directly. Hansen Yuncken then sought further clarification on 30 September. We provided further response to that correspondence of 30 September on 3 October. They then wrote to us again on 14 October, and to Australia Post. That appears to be it, to date.

**Senator JACINTA COLLINS**—Okay.

**Ms Bennett**—Sorry, on 20 October we received further correspondence.

**Senator JACINTA COLLINS**—Your correspondence to Australia Post on 26 December—

**Ms Bennett**—Sorry, there is another page. We received an email from Hansen Yuncken on 22 October.

**Senator WONG**—I just missed one thing, Ms Bennett. What was the correspondence of 14 October?

**Ms Bennett**—We received a fax from Hansen Yuncken clarifying points in their certified agreement. We sent an email to Hansen Yuncken on 22 October. That is it, to date.

**Senator WONG**—Apart from Hansen Yuncken, has there been any other direct contact between any other companies tendering for the project or considering tendering for the project at Tullamarine?

**Ms Bennett**—We have been contacted by Australia Post about other companies that they were considering for that project.

**Senator JACINTA COLLINS**—How many other companies?

**Ms Bennett**—I do not think it is appropriate to give that number or that name because it relates to Australia Post's—

**Senator JACINTA COLLINS**—I am not asking for the name. I am just asking for the number.

**Ms Bennett**—I understand from the transcript that Australia Post provided that answer to the committee.

**Senator JACINTA COLLINS**—Okay.

**Senator WONG**—Have you met with any proposed tenderers other than Hansen Yuncken?

**Ms Bennett**—I would not know. They were referred to us by Australia Post.

**Senator WONG**—They were referred by Australia Post. Have you met with—

**Ms Bennett**—Yes, I just answered that we have provided advice to Australia Post and we have met with a range of companies, not necessarily in the context of the Australia Post project but in respect of how the code applies and any questions that they might have about the code.

**Senator WONG**—Have you met with McConnell Dowell Constructors?

**Ms Bennett**—I said to you that the number of companies we have met with that have sought advice about how the code works is quite extensive. We have previously said that it would not be appropriate to discuss who the companies approaching the department for advice are and what we talk about with them.

**Senator WONG**—You have just given a lot of evidence about contact with Hansen Yuncken.

**Ms Bennett**—That is supporting Australia Post.

**Dr Boxall**—That is because Hansen Yuncken were raised by Australia Post in that transcript.

**Ms Bennett**—They provided that information.

**Senator WONG**—So that is the line.

**Dr Boxall**—Yes.

**Senator WONG**—Has there been any contact with the minister's office on compliance with the code in relation to the Australia Post project?

**Ms Bennett**—At the last hearing I explained to you that this is obviously an issue of interest and that we provide regular updates to the minister's office. That has continued to be our practice.

**Senator WONG**—Over the period July to October, for which you have detailed quite extensive interaction between the department and Hansen Yuncken, would it be correct to say that that has been with the knowledge of the minister's office?

**Ms Bennett**—My records show that we provided an update to the minister's office on 22 October.

**Senator WONG**—That is the most recent update on this issue?

**Ms Bennett**—Yes.

**Senator WONG**—Was any other update or advice provided to the minister's office in relation to the Hansen Yuncken issue between July and October?

**Ms Bennett**—As I explained, we provide regular updates to the minister's office.

**Senator WONG**—Has the minister's office been provided with copies of the correspondence provided to Hansen Yuncken?

**Ms Bennett**—Not that I recall.

**Senator WONG**—Has the minister's office been provided with copies of the correspondence giving advice to Australia Post?

**Ms Bennett**—We are going into the issues being provided to the minister's office.

**Senator WONG**—I am not asking what is in the advice.

**Ms Bennett**—No, not that I recall.

**Senator WONG**—Has the department done any work on changes to the national code of practice?

**Ms Bennett**—No.

**Senator WONG**—Has the department done any work on the policy as to the application of the code?

**Ms Bennett**—No.

**Senator WONG**—Has the department provided any advice in the last six months to departments indicating any change in the application of the code?

**Ms Bennett**—The code has been the same since 1997 and the guidelines, which I provided last time, have been the same since 1997.

**Senator WONG**—Has there been any change to the code itself this year?

**Ms Bennett**—No.

**Senator JACINTA COLLINS**—I think Senator Wong is asking whether there has been any refinement or clarification or advice on the application of the code over that period.

**Ms Bennett**—No. It is the same code and the same guidelines since 1997.

**Senator JACINTA COLLINS**—There has been no change in the advice of the application of that code that the department has given?

**Ms Bennett**—We have reminded agencies that it is important that the code applies, that they assure themselves that it applies and that the monitoring regime will be adhered to.

**Senator JACINTA COLLINS**—Let me give you an example. Has there been a change in the interpretation of what constitutes a preference agreement?

**Ms Bennett**—No.

**Senator JACINTA COLLINS**—And there are no other similar examples of other provisions within the code?

**Ms Bennett**—No.

**Senator WONG**—Has there been any advice to departments or correspondence with departments indicating that compliance with the code requires that the contracts do not have any reference to a collective agreement or enterprise bargaining agreement?

**Ms Bennett**—We do not need to do that. The guidelines are very clear about what freedom of association means. It is there for all agencies and it is available publicly. It has quite detailed explanations about what the workplace relations requirements for the code are.

**Senator WONG**—As to the advice you referred to previously about the additional advice or reminder to the departments about what the code means, when did that go out?

**Ms Bennett**—Following the royal commission and the criticism of the government in administering and monitoring the code, we reminded agencies that it was government policy. But could you explain what you meant by the application of the code? I just want to make sure that I provide the correct answer.

**Senator JACINTA COLLINS**—I thought my example showed a way of giving—

**Ms Bennett**—Do you mean the terms of workplace arrangements?

**Senator JACINTA COLLINS**—I mean how the code is meant to be interpreted.

**Ms Bennett**—No, there has been no change.

**Senator JACINTA COLLINS**—What concerned you—what did you think I might have been meaning when I asked what could have changed?

**Ms Bennett**—It was just that—

**Senator Abetz**—Let us not go there. The important thing is that your question has now been answered to your satisfaction. In the event that you want to ask another one—

**Senator JACINTA COLLINS**—All right, I will ask another one. How has there been change?

**Ms Bennett**—There have been no changes to the code. What is on the Internet and what we provided for you at the last hearing is still the same code—

**Senator JACINTA COLLINS**—That was not my question.



**Ms Bennett**—The royal commission said that we needed to be more rigorous in monitoring. I suppose the fact that we have reminded agencies says that we are just making sure. We are reminding them of their obligations.

**Senator JACINTA COLLINS**—So one of the changes has been an increase in the rigour of monitoring?

**Ms Bennett**—Yes.

**Senator WONG**—Given that policy decision which has been taken as a result of the commission's recommendations, has the department subsequently advised construction companies regarding the increased rigour in how the code will be applied?

**Ms Bennett**—Yes.

**Senator WONG**—Does the department operate from the interpretation that collective agreements per se would contravene the code?

**Ms Bennett**—No.

**Senator JACINTA COLLINS**—We are going to try to move through some things a bit more quickly, so some of these will be put down as questions on notice and we will provide those to you.

**Senator Abetz**—At this rate, we will be finished by afternoon tea!

**Senator WONG**—We are anxious to allow Senator Campbell and Senator Webber the opportunity to ask questions.

**Senator Abetz**—I lived in hope.

**Senator GEORGE CAMPBELL**—We will be finished by afternoon tea tomorrow.

**Senator Abetz**—You will be pretty lonely from 11.00 a.m. onwards!

[2.40 p.m.]

**Senator WONG**—Could we move to output 2.2.4, Workplace relations services. I should let you know, Dr Boxall, that I was intending also to ask questions in relation to the Working Women's Centres. On the last occasion, Dr Boxall, you will recall that I asked for disaggregation of this output. You indicated that, as yet, that was not available—that is, the \$19,876,000—because the decisions had not been made. So I would ask if you could provide a disaggregation of that output item.

**Ms Connell**—What level of disaggregation were you seeking on the budget? Are you referring to 2.2.4?

**Senator WONG**—That is correct. What level do you have it at?

**Ms Connell**—We have it at a branch level within workplace relations services for this year.

**Senator WONG**—Are you able to provide us with figures that enable us to see the amount spent, for example, on prosecutions, funding Working Women's Centres and Wageline? They are all functions within that output, are they not?

**Ms Connell**—We do not have the figures for the activity based funds to the level of compliance and Wageline.

**Senator WONG**—You do not have figures as to how much money the government puts into Wageline?

**Ms Connell**—Not a total figure, because it varies state by state. The output is measured by its performance indicators. So Wageline is delivered—

**Senator WONG**—You must have it at least for the first quarter.

**Ms Connell**—Each state would have a figure for what it spends on Wageline. I do not have those figures.

**Senator WONG**—Each state government or each state branch?

**Ms Connell**—Each state office. We have three state offices.

**Senator WONG**—Perhaps you could take that on notice. I appreciate that you may not have that now. I would like disaggregated figures for that output. I am particularly interested in looking at what is allocated to Wageline and to compliance activities.

**Ms Connell**—I can provide those by state.

**Senator WONG**—Thank you—I would appreciate that, and also inspectors under the OWS. Do you have that?

**Ms Connell**—The number of inspectors?

**Senator WONG**—Yes, and the budget allocation for them.

**Ms Connell**—Certainly.

**Senator WONG**—I appreciate that. Are you able to provide us with this information: how many complaints regarding either underpayment or non-payment of wages have been received by the department in the last quarter?

**Ms Connell**—There were 1,872 investigations on breaches finalised in this quarter.

**Senator WONG**—That is to 30 September, is it?

**Ms Connell**—Yes, the September quarter.

**Senator WONG**—I was also interested in actual notification of complaints. Do you track those figures?

**Ms Connell**—We do not actually have the figure on the number of complaints received, but we have the figure on those that were finalised by the department.

**Senator WONG**—Do you collate the statistics on complaints received?

**Ms Connell**—We can, but we do not have those with us.

**Senator WONG**—If you are able to, I would appreciate it.

**Senator JACINTA COLLINS**—What proportion of finalised complaints relate to complainants being advised to recover their entitlements, unassisted, through, for instance, small claims mechanisms?

**Ms Connell**—I am sorry, we do not have those figures.

**Senator JACINTA COLLINS**—You do not have them on you at the moment, or you do not collect them?

**Ms Connell**—We can provide those figures for you.

**Senator JACINTA COLLINS**—Yes, and if you could provide us with the circumstances that the department applies to determine when that is the appropriate resolution.

**Ms Connell**—Senator, are you asking how many of the complaints are referred through to small claims? Is that your question?

**Senator JACINTA COLLINS**—No. Let us take the 1,872 in the last quarter. What proportion of those cases involves complainants being advised to seek to resolve their complaint, unassisted, through small claims processes? What are the guidelines as to the circumstances when that advice would be provided to people?

**Ms Connell**—We can do that for you.

**Senator JACINTA COLLINS**—The rest of the questions in relation to prosecutions we will put on notice.

**Senator WONG**—I have some questions about the funding of working women centres. When did the centres have their funding confirmed for this financial year?

**Ms Connell**—When were they advised of their funding?

**Senator WONG**—Perhaps I should go back. At the last estimates, Mr Jasprizza gave evidence that there had not yet been a decision made for funding for that financial year. This was on 2 June 2003. I would like to know whether the department determined to provide funding for the centres.

**Ms Connell**—The centres were advised of their funding on 27 June.

**Senator WONG**—I am asking when the department made the decision.

**Ms Connell**—The decision would have been made between Senate estimates and before the centres were advised. I could not give you an exact date.

**Senator WONG**—You cannot give me a date?

**Ms Connell**—I cannot give you an exact date, no. But I can tell you that the centres were advised of their funding on 27 June.

**Senator WONG**—What is the internal departmental process for making that decision?

**Dr Boxall**—The process is that, after the setting of the budget, the department looks at the budgets across the various output groups and, in the case of the working women centres, the department makes a recommendation to the minister.

**Senator WONG**—When was that recommendation made?

**Dr Boxall**—We do not know. It would have been somewhere between the last Senate estimates and 27 June.

**Senator WONG**—I am sure even you, Dr Boxall, would agree that we are allowed to ask and have answered questions about the process. When was the decision made regarding the working women centres funding?

**Dr Boxall**—Senator Wong, the department makes a recommendation to the minister and sends up correspondence, and the minister actions the correspondence. The minister actioned the correspondence and the working women centres were advised.

**Senator WONG**—Fair enough. When was the correspondence sent from the department to the minister?

**Ms Connell**—I do not have that on me.

**Dr Boxall**—We would have to take that on notice, because we do not have that date on us.

**Senator WONG**—Dr Boxall, are you aware that a journalist from the *Australian* contacted your department regarding the failure to advise working women centres of that funding for this financial year?

**Dr Boxall**—No, I am not aware of that.

**Senator WONG**—You are not aware that a journalist spoke to a Mr Jasprizza from your department?

**Dr Boxall**—I am not aware of it.

**Senator WONG**—Are you aware that the journalist's understanding is that, within 24 hours, the funding was advised to the working women centres?

**Dr Boxall**—Senator Wong, I am simply not aware of the issue to which you are referring.

**Senator WONG**—Is there anyone here who could assist with this?

**Ms Connell**—Mr Jasprizza has confirmed that a journalist did contact him at some stage and queried the funding for the Working Women's Centres. He was told a decision was to be made. I believe that was the extent of the conversation.

**Senator WONG**—Is it correct that this was a day before the Working Women's Centres were finally told that their funding would be continued?

**Ms Connell**—I cannot confirm the dates, I am sorry.

**Senator WONG**—Is Mr Jasprizza able to confirm the dates?

**Ms Connell**—It was around the time, but again we cannot confirm the exact date.

**Senator WONG**—Can you assist us, Mr Jasprizza?

**Mr Jasprizza**—I recall that there was an inquiry from a journalist. I cannot recall the exact date but it was around the time or soon after a journalist contacted the department that a decision was made, but of course that had no influence on the decision.

**Senator WONG**—Did you communicate to the minister's office the fact that the journalist had contacted you regarding this issue?

**Mr Jasprizza**—I do not recall doing so.

**Senator WONG**—To your knowledge, was the minister's office informed?

**Mr Jasprizza**—Not that I recall.

**Senator WONG**—Who is your direct supervisor or who would usually deal with those issues? Is it you, Ms Connell?

**Ms Connell**—It would be me, yes.

**Senator WONG**—Did you provide advice to the minister in relation to this?

**Ms Connell**—No. Actually, I was not aware that the journalist had contacted Mr Jasprizza.

**Senator WONG**—Mr Jasprizza, where was the decision making regarding this issue at the time you were contacted by the journalist?

**Mr Jasprizza**—It would have been at the minister's office at that stage.

**Senator WONG**—In relation to the funding contracts for the Working Women's Centres that were discussed on the last occasion, you may recall, Dr Boxall, that I asked some questions regarding the contractual requirement that the centres promote the government's workplace relations agenda. Is the department aware of whether or not any centres have received any inquiries regarding AWAs since the operation of the new contracts?

**Ms Connell**—The centres do provide us with a quarterly report on their activities and they do give us some breakdown on the nature of the inquiries. We cannot be sure of whether they would provide the number of people they have discussed AWAs with.

**Senator WONG**—Is one of the performance requirements that they have held discussions on AWAs?

**Ms Connell**—Not specifically, no, it is not.

**Senator WONG**—It is just that general promotion of the workplace relations agenda?

**Ms Connell**—In their contracts there are a number of things they are asked to focus on. Agreement making, unfair dismissal, freedom of association and such things are part of that.

**Senator WONG**—Thank you, Ms Connell. I have finished on that.

[2.53 p.m.]

**CHAIR**—We will now move to output 2.2.8, Interim building taskforce.

**Senator JACINTA COLLINS**—I think this is where we go back to the discussion we were having earlier about staffing levels. With respect to the increase in the number of staff from 25 to 47, can you give me a state-by-state breakdown of that figure and the new roles or reasons for those increases?

**Ms Bennett**—The interim building task force was established in October. It built up its staff. At the end of the first financial year of its operations it had 25 staff. Its full staffing capacity is now 47. We can provide the information on a state-by-state basis shortly. It will take us until some time this afternoon, but we can provide it.

**Senator JACINTA COLLINS**—That is fine. Also, I am interested in what standard of training officers of the task force receive in occupational health and safety.

**Ms Bennett**—Occupational health and safety is a state arrangement—a state legislative requirement.

**Senator JACINTA COLLINS**—Yes, but it is a significant issue in the building history, as I am sure you are aware.

**Mr Hadgkiss**—All inspectors are required to complete courses before undertaking inspections. They receive a card in their various jurisdictions.

**Senator JACINTA COLLINS**—A card?

**Mr Hadgkiss**—A card to show that they have successfully completed a course.

**Senator JACINTA COLLINS**—What is the nature of the course?

**Mr Hadgkiss**—The course is carried out by the master builders associations and various union movements in each jurisdiction.

**Senator JACINTA COLLINS**—Is it accredited in any way? What is its standing?

**Mr Hadgkiss**—I am unable to answer that.

**Senator JACINTA COLLINS**—Perhaps you can take that on notice.

**Mr Hadgkiss**—Sure.

**Senator JACINTA COLLINS**—So the explanation for the increase in staff to 47 is an issue of reaching full capacity rather than an increase in the role or objective of the task force?

**Mr Hadgkiss**—It has expanded as a result of the workload.

**Senator JACINTA COLLINS**—How would you indicate the workload has expanded? What is the measure of increased workload?

**Mr Hadgkiss**—As of 30 June the task force had received 829 calls for its 1800 number or independently; by 30 October this year it had received 1,124 calls.

**Senator JACINTA COLLINS**—Do you have any break-up of the nature of those calls?

**Mr Hadgkiss**—Of the 829 calls, 739 were formal reports. As at 30 June the task force had 108 investigations, it had visited 701 different sites around Australia and had served 190 notices to produce on various entities. By last week there were 118 investigations on foot, 1,303 sites have been visited and 312 notices have been served.

**Senator JACINTA COLLINS**—Do you have up-to-date data in terms of the outcome of notices served and the outcome of investigations?

**Mr Hadgkiss**—As at 30 October there were 51 active investigations; there were 23 on hold or with a watching brief; 16 matters have been referred to state police and other external agencies; 13 briefs of evidence were with the task force's internal legal section; there were nine matters before various courts around Australia; four briefs of evidence had left the task force and gone to external legal service providers; and two briefs of evidence were being compiled by investigators. The total comes to 118 investigations.

**Senator JACINTA COLLINS**—Two briefs of evidence are being compiled by internal investigators?

**Mr Hadgkiss**—Yes; by the inspectors of the task force.

**Senator JACINTA COLLINS**—So, in a sense, two were being prepared to be described in the way the 13 internal briefs were categorised—is that correct?

**Mr Hadgkiss**—No, that is before they go to the lawyers formally. That is in addition.

**Senator JACINTA COLLINS**—These two briefs are being prepared to become external?

**Mr Hadgkiss**—No, the process is that the investigators receive a complaint, they work upon it to see if there is sufficient evidence and it is in the public interest to take action, and then they compile a brief of evidence. The brief of evidence is submitted to one of the task force's internal lawyers, who in turn adjudicates upon the matter; and if, in the view of that lawyer, there is again sufficient evidence and it is in the public interest, it goes to external legal providers, who in turn again go through that process, and they will then take action on behalf of the task force.

**Senator JACINTA COLLINS**—So in terms of action being taken on behalf of the task force, of the total of 118 there are four that have been through the full process and have had action—

**Mr Hadgkiss**—No, nine matters are before the court that have gone through that full process. A further four are with external lawyers—

**Senator JACINTA COLLINS**—Getting ready to.

**Mr Hadgkiss**—Yes, with a view to action being taken.

**Senator JACINTA COLLINS**—So then it is a total of 13.

**Mr Hadgkiss**—Yes, that have been through the hands of external legal providers.

**Senator JACINTA COLLINS**—So 13 of the 118 at this point in time have culminated in action?

**Mr Hadgkiss**—No, only nine have culminated in action.

**Senator JACINTA COLLINS**—Sorry, I was adding the other four that are about to.

**Mr Hadgkiss**—Yes, as in court action.

**Senator JACINTA COLLINS**—When inspectors enter sites, are they expected to identify themselves?

**Mr Hadgkiss**—Yes.

**Senator JACINTA COLLINS**—How—in what manner?

**Mr Hadgkiss**—By introducing themselves and showing their identification. Ordinarily—

**Senator JACINTA COLLINS**—They have a particular pass which indicates that they are an inspector of the interim task force?

**Mr Hadgkiss**—They have an instrument signed by me as an inspector and/or as an authorised officer under the act.

**Senator JACINTA COLLINS**—Has it been the case that some have identified themselves as police officers?

**Mr Hadgkiss**—No, not to my knowledge.

**Senator JACINTA COLLINS**—Are you aware of an incident concerning your officers, Hanlon and Clark, who attended a site controlled by Silent Vector Pty Ltd, trading as Sizer Constructions at Belmont in Western Australia, on 25 March 2003, where your officers attended a meeting between the company and the union? When the union organiser sought

identification from your officers, he was told that it was none of his business. Are you aware of that incident?

**Mr Hadgkiss**—Yes, I am aware of that alleged incident.

**Senator JACINTA COLLINS**—What happened in relation to that alleged incident?

**Mr Hadgkiss**—An investigation was carried out and a reply was sent to Mr Kevin Reynolds, the State Secretary of the CFMEU. I was prepared to visit Mr Reynolds and discuss the matter further. I gave him the results of my investigation and I received no reply.

**Senator JACINTA COLLINS**—What were the results of your investigation?

**Mr Hadgkiss**—I do not recall. It is contained in a letter that I sent to Mr Reynolds, but in fact it was no business of the entity that was making the inquiries. There was an intimate conversation, as I recall, between the inspectors and a site manager. As I recall, a Mr Joe Macdonald interrupted and asked what was going on and he was told that it was none of his business.

**Senator JACINTA COLLINS**—Was there a failure of one of your inspectors to identify himself on-site?

**Mr Hadgkiss**—No, not to my knowledge. He had already been identified to the Sizer site manager.

**Senator JACINTA COLLINS**—Would you say that is the only person to whom the inspector needs to identify himself?

**Mr Hadgkiss**—If he is there for a bona fide reason to talk to the site manager, yes.

**Senator JACINTA COLLINS**—What about an employee?

**Mr Hadgkiss**—If he needs to talk to an employee, he will show his identification and introduce himself as such.

**Senator JACINTA COLLINS**—If an employee inquires as to the identity of an inspector on a site, what do you regard as that inspector's obligation?

**Mr Hadgkiss**—If that employee has a bona fide right to inquire, he would explain the reasons.

**Senator JACINTA COLLINS**—What is a bona fide right to inquire?

**Senator JOHNSTON**—It is defined in the Western Australian act, isn't it? It is set out in the Western Australian act.

**Mr Hadgkiss**—I am not sure.

**Senator JOHNSTON**—It is.

**Senator WONG**—He does not know that, so it cannot be that particular definition, can it?

**Senator JOHNSTON**—The site is controlled by the laws in Western Australia.

**Senator JACINTA COLLINS**—I still have not had my question answered. What is a bona fide right to inquire?

**Senator JOHNSTON**—Read the law.



**Senator JACINTA COLLINS**—Senator Johnston, if you want to cross sides and advise us on that, that is good, but I am actually asking the officers before us.

**Senator JOHNSTON**—You need to know it.

**CHAIR**—Senator Johnston is just trying to enlighten us.

**Mr Hadgkiss**—In the instance concerned, there was a bona fide need to know on the part of the person asking. I think, in the judgment of the inspector concerned, there was no immediate right. He was having a private conversation with an employee.

**Senator JACINTA COLLINS**—So the characterisation of this that I just read to you, which was that your officers attended a meeting between the company and the union, is not an accurate description of what occurred?

**Mr Hadgkiss**—I do not recall the instance. That was not my recollection, no.

**Senator JACINTA COLLINS**—Can I ask you to provide on notice to me the result of your investigation.

**Mr Hadgkiss**—Yes, and my written reply to Mr Reynolds.

**Senator Abetz**—Mr Reynolds should be able to get it to you a lot quicker, I am sure.

**Senator JACINTA COLLINS**—I do not know Kevin.

**Senator WONG**—I have never met him.

**Senator Abetz**—I do not know why you would ask questions on his behalf.

**Senator JOHNSTON**—Mr Hadgkiss, is that matter currently the subject of prosecution or inquiry?

**Mr Hadgkiss**—I understand the Sizer matter is of an operational nature, yes, Senator.

**Senator JOHNSTON**—Is it appropriate to release information in that regard pending an inquiry?

**Mr Hadgkiss**—I am happy to make available the letter that was sent to the secretary for Western Australia of the CFMEU. Whether Mr Reynolds needs to also give his permission, I do not know.

**Senator JACINTA COLLINS**—I do not think it is a response to Mr Reynolds, so it is probably not an issue.

**Mr Hadgkiss**—No, he wrote to me.

**Senator JACINTA COLLINS**—He made the original request?

**Mr Hadgkiss**—Yes.

**Senator WONG**—Mr Hadgkiss, you referred to your investigation into this issue. Who conducted that investigation? Was it only you?

**Mr Hadgkiss**—No, it was the deputy director.

**Senator WONG**—Who is that?

**Mr Hadgkiss**—A Mr Draffic.

**Ms Bennett**—I can answer Senator Collins's questions in regard to the state breakdown. In Victoria, the interim task force has 25 staff; in New South Wales, 11; in Western Australia, six; in Queensland, four; and in South Australia, one—equalling 47.

**Senator WONG**—None in Tassie.

**Senator Abetz**—But we are on the way. A very distinguished senator has made a request that there in fact be a permanent office down there.

**Mr Hadgkiss**—Can I take on notice the release to you of my communication to Mr Reynolds?

**Senator JACINTA COLLINS**—You can. I am actually more interested in the substance of the report. That you chose to detail that in response to Mr Reynolds is an issue for you. I am more interested in what the investigation found. If I can move to the Buckeridge matter, since we last raised this matter with you has any action been taken to refer to police the death threats made by the Western Australian builder Len Buckeridge?

**Mr Hadgkiss**—No.

**Senator JACINTA COLLINS**—Is there a reason for that?

**Mr Hadgkiss**—It is not within the remit of the task force.

**Senator WONG**—He said he wanted to kill some union officials and you do not think it is in the brief of the task force. Is that right, Mr Hadgkiss?

**Mr Hadgkiss**—That is correct.

**Senator WONG**—But you would take action against a CFMEU official for making a similar sort of threat?

**Mr Hadgkiss**—If it is within our remit, yes.

**Senator WONG**—So, if a union official makes a threat, that is within your brief; if an employer makes a threat, it is not within your brief. Is that how it works?

**Mr Hadgkiss**—It is not. The first instance is a matter clearly under the crimes act of Western Australia—

**Senator JOHNSTON**—The criminal code.

**Mr Hadgkiss**—the more recent example comes within the Workplace Relations Act of the Commonwealth.

**Senator JACINTA COLLINS**—How many of the 392 cases of allegedly unlawful conduct arising from the Cole royal commission have been referred to the task force?

**Mr Hadgkiss**—Forty.

**Senator JACINTA COLLINS**—Forty of the 392 cases?

**Mr Hadgkiss**—If that is what the figure is, yes.

**Senator JACINTA COLLINS**—Of these, how many have now been finalised without proceeding to court?

**Mr Hadgkiss**—Sorry, 40 will not be referred for prosecution.

**Senator JACINTA COLLINS**—Let me go back to my question: how many of the 392 cases of allegedly unlawful conduct arising from the Cole royal commission have been referred to the task force?

**Mr Hadgkiss**—Fifty-two.

**Senator JACINTA COLLINS**—Of these 52, how many have now been finalised without proceeding to court?

**Mr Hadgkiss**—Forty.

**Senator JACINTA COLLINS**—So there are another 12 that will proceed to court or are in the process of doing so; is the right?

**Mr Hadgkiss**—Two are currently under review, 10 are under actual investigation and one matter is before the court.

**Senator JACINTA COLLINS**—How many relate to alleged breaches of laws by union officials or members and how many relate to alleged breaches by employers?

**Mr Hadgkiss**—I am sorry, Senator, I do not have that at my fingertips. I will take that on notice.

**Senator JACINTA COLLINS**—Do any relate to alleged breaches by employers?

**Mr Hadgkiss**—Yes, the matter before the court does.

**Senator JACINTA COLLINS**—What steps has the task force taken to liaise with the Australian Taxation Office or ASIC in relation to tax evasion or phoenix companies? How many matters have been referred to these agencies in respect of such matters?

**Mr Hadgkiss**—Working relationships have been established with each of those agencies in each of the jurisdictions. I understand 16 matters have been referred to external agencies.

**Senator JACINTA COLLINS**—Can you indicate which agencies?

**Mr Hadgkiss**—Various state police, the tax office, ASIC, ACCC and various state IR departments.

**Senator JACINTA COLLINS**—On notice, can you give me that breakdown?

**Mr Hadgkiss**—Yes.

**Senator WONG**—Can you clarify something for me, Mr Hadgkiss. When you say ‘you understand’, does that mean it has not been the task force which has done that?

**Mr Hadgkiss**—No, I think it is 16. I can give the exact figure, but I will take that on notice. I understand the figure is 16.

**Senator WONG**—I appreciate that, but I am asking: who actually has made the decision to refer these 16 matters to those various bodies? Is it you or is it made at another level?

**Mr Hadgkiss**—Ordinarily it would be at task force legal officer level. He or she would examine the matter and say it was best to go to another department, such as the ACCC, ASIC et cetera.

**Senator WONG**—So people under your direction make these decisions?

**Mr Hadgkiss**—Yes.

**Senator WONG**—So you will provide us with details of those?

**Mr Hadgkiss**—Yes.

**Senator WONG**—And you are not aware as to whether or not any of them relate particularly to the issue of phoenix companies?

**Mr Hadgkiss**—Yes, the matters going to ASIC would be relating to phoenix companies.

**Senator WONG**—You say officers only have to identify themselves if the person is requesting for a bona fide reason.

**Mr Hadgkiss**—No, ordinarily when they go onto a site they ask for the site manager and they produce their identification and they explain the reason why they are there.

**Senator WONG**—Were you aware—certainly it is what has been put today—that the request for identification was asked in the context of a meeting involving the company and the union. If that is the case, and I appreciate that maybe your investigations have taken you to a different view, do you think it would be unreasonable to expect your officers to identify themselves when asked?

**Mr Hadgkiss**—Ordinarily, it would be the case that they identify themselves to people who have a bona fide reason to ask.

**Senator WONG**—What do you say is a bona fide reason, Mr Hadgkiss, and how are they supposed to discern that?

**Mr Hadgkiss**—I think it is a matter of commonsense. If they were involved in an intricate inquiry and the cleaner went by and said, ‘Who are you and I demand to see your identification,’ they would probably not be told. They would be politely told that they have got bona fide business and it is no business of theirs who they are.

**Senator WONG**—Do you have any written instructions setting out when people should or should not be identifying themselves when visiting sites?

**Mr Hadgkiss**—I think it is in the legislation.

**Senator WONG**—What is your understanding—to identify themselves only if there is a bona fide reason?

**Mr Hadgkiss**—When they are investigating matters under the Workplace Relations Act, upon entering a site they will explain who they are. Indeed, most records of interview—which commence when they talk to people—contain a preamble where they have identified themselves to that particular interviewee as an inspector or as an authorised officer under the Workplace Relations Act.

**Senator WONG**—Did you come to a view here that the request was not bona fide?

**Mr Hadgkiss**—From my recollection, there was justification for the officers’ actions.

[3.15 p.m.]

**Senator WONG**—Thank you. I have finished with this output. I wonder if we could turn to GEERS. I am looking at the budget for 2003-04 in GEERS. I am just trying to find the comparison with the 2002-03 financial year. Can you direct me to that?

**Ms Connell**—That is because it is a new output.

**Senator WONG**—Has there been a reduction in the allocation to the GEERS budget?

**Mr Maynard**—The allocation for 2003-04 is an increase over the allocation for 2002-03. It was \$73,183,000 in 2002-03, and for 2003-04 it is \$74,365,000.

**Senator WONG**—I have some brief questions about deeds of company arrangements. I think we discussed this on the last occasion. On how many occasions are you aware that what one would call a discriminatory deed—that is, a deed where the priority of creditors under the Corporations Law is altered—has had the effect of disentitling persons to GEERS payments?

**Mr Maynard**—To my knowledge there was one case.

**Senator WONG**—What was the name of the company?

**Mr Maynard**—The case in question was the subject of a press release by the minister, and the company's name was Open Telecommunications.

**Senator WONG**—In the context of another Senate committee, we have had some submissions from ex-employees of a company called Universal Telecom. I understand that that is a different company from Open Telecommunications. Is that correct?

**Mr Maynard**—I simply do not know.

**Senator WONG**—They have provided our committee with correspondence indicating that they are not entitled to GEERS, for the precisely the same reason—that is, there is a question of the effect of the deed. Are you familiar with this issue?

**Mr Maynard**—No, I am not familiar with that particular case.

**Senator WONG**—Can anyone assist? It is some 70 employees.

**Mr Maynard**—There is nobody here who could assist with that matter, but if you have specific questions—

**Senator WONG**—What about the Swish Group?

**Mr Maynard**—The company is one that we are continuing to have discussions with the insolvency practitioners on. We have not yet made the decision as to whether or not the claimants from that company would be formally ineligible. We are hoping that the insolvency practitioner would modify the deed of company arrangement.

**Senator WONG**—On your answer that there is only one company, is that the only company in relation to which you have made a decision as to formal ineligibility?

**Mr Maynard**—Yes, Senator.

**Senator WONG**—But there would be quite a number of other companies where the issue is still the subject of negotiation.

**Mr Maynard**—I am aware that the Swish Group is a company that we are currently in negotiation with; I was unaware of the other company that you mentioned.

**Senator WONG**—Is the rationale for excluding these employees from GEERS simply that the Commonwealth wants the best possible chance of getting its money back and, therefore, if the priority payments scheme is altered, it does not want to take the risk?

**Mr Maynard**—No, it is not to do with the level of recovery. It has to do with the application of the priority that is set out in the Corporations Act and the expectation that the employer will apply whatever resources are available so that they meet their obligations to the employees.

**Senator WONG**—Is the position of the government that if the deed is discriminatory—that is, alters the priority of the ordering—it will not pay out under GEERS?

**Mr Maynard**—That is correct. That is the government policy.

**Senator WONG**—Why does the government not then outlaw discriminatory deeds?

**Senator Abetz**—What the government does or does not do is not for officers to answer.

**Senator WONG**—Mr Maynard, are you aware that the Australian Taxation Office has in fact recommended that discriminatory deeds be prohibited?

**Mr Maynard**—No, I was unaware of that.

**Senator WONG**—Are you able to provide this committee with the number of employees that have been denied GEERS payments as a result of discriminatory deeds?

**Mr Maynard**—I would have to take that on notice, but it would be the employees within Open Telecommunications.

**Senator WONG**—I have already given you the name of other companies. Can I clarify: I do not only want people where you have made a decision as to final eligibility; I would like to know all employees where the issue of a deed of company arrangement is currently preventing them from accessing GEERS. I am happy for you to take that on notice.

**Dr Boxall**—Senator Wong, that is a very broad question. Mr Maynard is only aware of cases which have been processed where employees have not been eligible—it is not a question of being denied; they are just not eligible—for GEERS payments if the deed of company arrangement changes the priorities. As he has said, he is only aware of one case. It is a bit difficult for us to answer regarding other cases which may be floating around and which may or may not come to him.

**Senator WONG**—Mr Maynard, the committee in question—the Parliamentary Joint Committee on Corporations and Financial Services—in the insolvency inquiry was actually provided with correspondence from you discussing the non-entitlement under GEERS, so I find it hard to understand how you indicate you are not aware of anyone other than Open Telecommunications.

**Dr Boxall**—He said he was aware of one other, but your question was to provide the numbers of employees that were rendered ineligible because a deed of company arrangement changed the list of priority. There is only one company that Mr Maynard has finalised, and that is Open Telecommunications. We can give you the number of employees in Open

Telecommunications, but we are not able to add other companies to it because we have yet to process the whole result.

**Senator WONG**—Please take that on notice. Could you also take on notice the number of employees that were previously employed by the Swish Group, and also by Universal Telecom, where there has been a GEERS claim? If you can also take on notice if there are any other companies of which you are aware where this issue has arisen in the application for GEERS. I understand you say there is only one; I have now indicated to you that there are at least two more.

**Mr Maynard**—Are you asking me where directors have proposed a deed that may have or where it has resulted in?

**Senator WONG**—No, where there has been a deed agreed. I do not think it would be fair to you to take the proposition only.

**Mr Maynard**—I am merely trying to clarify it. So, to be clear, it is those cases where a deed has denied people access to GEERS.

**Senator WONG**—Thank you. The remainder of my questions I shall put on notice. Thank you, Dr Boxall.

**Dr Boxall**—Thank you, Senator Wong. Mr Chairman, we have here the typed-out interventions since 1 July and the costs, so we could table these now for the committee.

**CHAIR**—Is there any objection? There being no objection, it is so ordered.

**Senator WEBBER**—Given the constraints of time and the fact that I am anxious not to spend all evening here, even if other people seem to think it is a lovely idea, we may jump around a bit but it will be in order of priority. I have a whole stack of stuff.

**CHAIR**—What range of topics, Senator? Are you staying with output 2.2?

**Senator GEORGE CAMPBELL**—Outcome 1.

**Senator WEBBER**—I thought we might kick off with some stuff about the job seeker classification instrument.

**CHAIR**—Senator, can you just confirm with me which program you want to ask questions about?

**Senator WEBBER**—I do not have your list in front of me.

**Senator GEORGE CAMPBELL**—It is outcome 1, An effectively functioning labour market.

**CHAIR**—Have we completed all questions on 2.2?

**Senator GEORGE CAMPBELL**—Yes.

**Senator WEBBER**—Yes.

[3.27 p.m.]

**CHAIR**—Thank you. We will now move to outcome 1, An effectively functioning labour market. We will deal with output 1.1, Labour market policy and analysis, and output 1.2, Labour market program management and delivery.

**Dr Boxall**—We have everybody here from outcome 1. Senator Collins asked a question earlier which, as it turns out, was an outcome 1 question.

**CHAIR**—You might like to start with that.

**Dr Boxall**—We can start with that if you like.

**CHAIR**—You have some extra information?

**Mr Correll**—Some additional information. This morning Senator Collins asked a couple of questions, and I wanted to bring some information back on those two questions. The first question related to contracts in the annual report relating to hma Blaze and Starcom Worldwide. They are both whole-of-government contracts for non-campaign advertising. They represent public advertising for a series of information sessions held around the country relating to the request for tender information and also fee-for-service advertising. They also include public advertising advising job seekers of changes to employment services, as a result of the active participation model and public advertising advising of changes to Job Network services. This included early access to Job Search training and also covers people in drought affected areas. The amount also includes advertising for general recruitment action and the employment service contract tenders associated with outcome 1. They represent whole-of-government contracts that are used for standard advertising action. That was the first question. The second question related to the 2001-02 portfolio budget statements relating to A Fair Go for Mature Age Workers. My colleague Mr Matheson can respond to that one, I think.

**Mr Matheson**—Senator Collins asked a question earlier today, as Mr Correll said, about a measure for mature age workers. We have tracked back to the 2001-02 PBS to identify the measure that Senator Collins was referring to. As Mr Correll said, it was a measure called A Fair Go for Mature Age Workers, at page 37 of the PBS. It involved expenditure of about \$851,000 over three years. Senator Collins, I think, had referred to around \$1 million. It is in the order of \$1 million—\$851,000 over three years. The measure in fact included a range of initiatives for the mature age. By far the largest component was around half a million dollars for a series of workshops for mature age job seekers on the changing nature of the labour market. The department engaged the Council on the Ageing National Seniors Partnership to conduct these workshops. Together with COTA National Seniors we have run about 20 workshops around the country in both regional and metropolitan areas and in all states. There were four pilots run in 2001-02 and a further 16 workshops in 2002-03.

From the feedback we have had, they have been highly successful. We have got very positive feedback from the participants. They were particularly appreciative of the information they were providing to mature age job seekers on the changes in the labour market and the sorts of services that are now available to mature age job seekers. There were a number of other initiatives included in that measure. There was a small business management information component, which was specifically directed at potential NEIS participants. There was also a survey of NEIS participants. We surveyed them at three months, six months and 12 months to get a better handle on what the issues were for them. There was money also, which has gone to the Department of Health and Ageing, to attempt to achieve national consistency in death certificate information about the occupations of deceased



persons. There were a number of initiatives in the overall measure that Senator Collins referred to this morning.

**Ms Caldwell**—Just to add to evidence from Mr Matheson, I can advise that the information package Mr Matheson referred to was made available for distribution through Centrelink and that the survey of these businesses at three-, six- and 12-month intervals was in fact published in July 2002.

**Senator GEORGE CAMPBELL**—What was the age definition of ‘mature’?

**Mr Matheson**—For the purposes of this, it was 45 and over.

**Senator GEORGE CAMPBELL**—And the Council of the Ageing ran the seminar?

**Mr Matheson**—The Council of the Ageing did run the seminars—

**Senator GEORGE CAMPBELL**—At 45 you would take offence.

**Mr Matheson**—Personally I would, having just recently turned 45, but there you go. That is the definition.

**CHAIR**—We are now turning to outcome 1: An effectively functioning labour market.

**Senator WEBBER**—I want to start off by spending a bit of time on the job seeker classification instrument. It is my understanding that in April the department revised the instrument as part of its quality assurance program and in preparing for the introduction of ESC3. Is that correct?

**Mr Pratt**—Yes, there was a review undertaken of the JSCI in April of this year.

**Senator WEBBER**—The department estimated that there would be 110,000 eligible for ISCA—that is, intensive support assistance—at the start of Job Network 3. Is that right?

**Mr Pratt**—We estimated that there would be about 110,000—perhaps 100,000—at the start of ESC3 allocated for the intensive support customised assistance service.

**Senator WEBBER**—But when providers started to have cash flow problems then one of the things an outside observer might have assumed would happen was that the government would actually increase the number of people who were considered to be most disadvantaged to help people out, because the higher a person’s disadvantage rating the greater amount the provider receives.

**Mr Pratt**—I know some outside observers have speculated that that is the case. I am glad to be able to categorically say that that was not the case. What in fact happened was shortly into the start of ESC3 we had about 150,000 job seekers allocated to the intensive support customised assistance service, 40,000-odd more than we originally anticipated, and all of those were in fact very long-term unemployed—people who were unemployed for more than two years.

**Senator GEORGE CAMPBELL**—A margin of error of 40 per cent is quite high. Why did you get it so wrong when you did the initial assessment?

**Mr Pratt**—They were only initial estimates. As I said earlier, we were estimating about 110,000 to 100,000. That was based on estimates done before the announcement of the ESC3 contracts. In addition, with the start of ESC3, we were in a position to be able to bring

forward some of the very long-term unemployed people and give them access to employment services in a number of locations in order to smooth out the numbers across the country.

**Senator GEORGE CAMPBELL**—But wouldn't you have built that into your model initially? It is not that you were starting with a blank bit of paper; you had the previous two systems as a guide in terms of intensive assistance. Wouldn't you have allowed for that when you made the initial assessment?

**Mr Pratt**—In fact, we did allow for that. We advised the market throughout 2002, when we were consulting with them and informing them about the new arrangements, that we would have these very long-term unemployed job seekers in reserve that we would use as a balancing item to smooth out the numbers in intensive support as needed.

**Senator GEORGE CAMPBELL**—So was it your intention always to have it around 150,000 or 110,000?

**Mr Pratt**—There is a difference between an intention and an estimate. We were projecting around 110,000, subject to the outcome of the tender process and the allocation of people to Job Network members. We also said, though, that we had the option to bring in people from the largish group of very long-term unemployed people as necessary. As it turned out, both of those things occurred. We had extra people translate across as a result of the outcome of the tender process, and also we used the opportunity to bring some extra very long-term unemployed people in.

**Senator WEBBER**—Where did these extra 40,000 people come from?

**Mr Pratt**—These were people we were intending to allocate into intensive support customised assistance from January next year. Some of them, probably about 30 to 40 per cent of them, have come in a bit earlier.

**Senator GEORGE CAMPBELL**—Why was that done? Was that to assist the cash flow? Were there cash flow problems with the providers?

**Mr Pratt**—In part, but it was more to assist with ensuring we had a relatively smooth number of job seekers in intensive support customised assistance across the various sites and across the Job Network members.

**Senator GEORGE CAMPBELL**—I do not understand what you are saying. You said you planned for 110,000. You had 40,000 you intended to bring in from 1 January next year but you brought them forward.

**Mr Pratt**—Not all of them.

**Senator GEORGE CAMPBELL**—In part that was to assist the cash flow and in part it was to smooth things out. Why was there a need to smooth things out? Did you have a profile of where the intensive support was across the system? Were there gaps in it that you used these long-term unemployed people to fill?

**Mr Pratt**—Some sites, as a result of the transition process, might have had 15 per cent of the case load as highly disadvantaged and others might have had 25 per cent. We wanted to ensure that everyone was at around at least 20 per cent.

**Senator GEORGE CAMPBELL**—With regard to the 40,000 who were brought forward, can you identify for us in what areas of the Job Network they were brought forward to smooth things out or lift the number to the average number?

**Mr Pratt**—It was across the country generally. There are, of course, thousands of sites, and it depended on each site's profile. We particularly looked at providers in rural and remote locations and providers who specialise in certain highly disadvantaged job seeker groups in order to make sure that they had enough of that clientele available.

**Senator GEORGE CAMPBELL**—But you would have known what their numbers were in regard to the 110,000?

**Mr Pratt**—That is right.

**Senator GEORGE CAMPBELL**—So you must have had a profile of where you believed there to be deficiencies in some of those providers. Can you provide us with the areas you targeted in bringing forward the long-term unemployed?

**Mr Pratt**—I believe we could. We could identify the ESAs and the categories of specialists where we have done that.

**Senator GEORGE CAMPBELL**—Can you take that on notice?

**Mr Pratt**—Yes, we will take it on notice.

**Senator WEBBER**—That would be helpful. When the department writes to providers and talks about bringing forward these 40,000 people, this obviously has a positive impact on revenue; therefore, the implication is that this is actually a cash flow problem.

**Mr Pratt**—If you look at the communication, you will see that we did not claim that we did this in order to have a positive impact on cash flow. What we said was that it had happened and that in itself would have a positive impact on cash flow. In relation to those people I was talking about with Senator Campbell, we did bring some very long term unemployed job seekers forward in order to ensure relatively smooth levels of highly disadvantaged job seekers across sites.

**Senator WEBBER**—In your communications to the providers you also talked about the increased numbers in ICSA offsetting somewhat the lower than expected attendance rates. Is that correct?

**Mr Pratt**—That is correct.

**Senator WEBBER**—What percentage of job seekers were eligible for the highest form of assistance under Job Network 2?

**Mr Pratt**—Typically, in the last two years, it was averaging from 42 to 45 per cent.

**Senator WEBBER**—What percentage of job seekers did the modelling show would be eligible for the highest form of assistance under Job Network 3?

**Mr Pratt**—On a flow basis, the JSCI is meant to have about 10 per cent. The average of the flow to date is, I think, about 11.1 per cent.

**Senator WEBBER**—What accounts for the change between those two figures—the 42 to 45 per cent for Job Network 2 and the 11 per cent—

**Mr Pratt**—We have substantially re-engineered the model. Under ESC3—

**Senator WEBBER**—To make it harder to attract?

**Mr Pratt**—No, it was not that. It was to ensure that—

**Senator WEBBER**—They got the highest form of assistance?

**Mr Pratt**—It was to ensure that the most disadvantaged job seekers got early access. That was one thing. But at the other side we changed the arrangements so that all job seekers are entitled to customised assistance once they have been unemployed for 12 months or longer.

**Senator WEBBER**—What kinds of job seekers are no longer eligible for the highest form of assistance?

**Mr Pratt**—Job seekers whose JSCI score exceeds 23 points.

**Senator WEBBER**—How do you get 23 points?

**Mr Pratt**—It is through a combination of things. When a Centrelink officer applies the job seeker classification instrument, he or she will ask you a series of questions which will cover things like your age, your education background, where you were born and whether you have certain barriers to employment, like literacy and numeracy needs.

**Senator WEBBER**—But what are the key factors?

**Mr Pratt**—Disability, geographical status—if you are living somewhere a long way away from a job—low education levels, being born in certain non-English speaking countries and things of that sort. Indigenous job seekers get many points for—

**Mr Matheson**—Age is also a significant factor.

**Senator WEBBER**—Would it then be fair to assume that the JSCI was changed to decrease the number of people deemed to be eligible for the highest form of assistance?

**Mr Pratt**—It was refined to ensure that the most disadvantaged job seekers would get immediate access, in the knowledge that we had redesigned the service so that everyone got access after 12 months.

**Senator WEBBER**—When did that refinement take place?

**Mr Pratt**—That was in April 2003.

**Senator WEBBER**—Has there been any further refinement since then?

**Mr Pratt**—No.

**Senator WEBBER**—So there are an extra 40,000 people, but there has not been any further refinement?

**Mr Pratt**—The extra 40,000 are all job seekers who are very long-term unemployed. They have been unemployed for two years or more. There was no recategorisation of job seekers to make them long-term unemployed.

**Senator WEBBER**—So it is not that the JSCI was not going to pick those people up at all?

**Mr Pratt**—That is correct.

**Senator WEBBER**—Are there any disadvantages that are not necessarily being picked up by the new JSCI? Are we confident that the refinement is working?

**Mr Pratt**—That is what the refinement was designed to do—to enhance it from the previous version of the JSCI to ensure that those characteristics which statistically indicated a likelihood of long-term unemployment were the ones which were used in the JSCI and given the appropriate weight.

**Mr Matheson**—I would add that extensive modelling work was done to develop the weights for the JSCI, and a re-estimation was done earlier this year to develop the new set of weights. We used actual administrative data. We looked at a very large data set, which included all these factors relating to job seekers, and we were able to use that data, coupled with data on their treatment by programs and their likelihood of exit from benefits, to do that modelling. Because the modelling was based on actual data and done with a very large data set, we have a high degree of confidence that we have picked up and given appropriate weight to the factors which genuinely signal disadvantage in job seekers.

**Senator WEBBER**—Who did that modelling?

**Mr Matheson**—It was done in house in my group.

**Senator WEBBER**—That is another group of people who have been very busy.

**Mr Matheson**—We have done the modelling for previous iterations of the JSCI as well.

**Senator WEBBER**—What is the differing cost to the program to have more than 110,000 people in the highest needs group?

**Mr Pratt**—I would have to take that on notice. I expect that, having brought forward these people, it may not have any additional cost. But in any event this is all within budget.

**Senator WEBBER**—But surely it would mean that there is more money flowing to Job Network providers?

**Mr Pratt**—It is a timing thing. If we have high numbers in intensive support customised assistance across the contract, yes, it will cost us more money on that particular element of the service.

**Mr Correll**—It is really a timing question. As very long term unemployed job seekers, these people would have gone into intensive support customised assistance. It is just that, for the factors outlined by Mr Pratt, they were able to come into intensive support customised assistance a little earlier than would otherwise have been the case.

**Senator WEBBER**—The department has stated in the past that the current modelling indicates that the higher than projected levels of job seekers in ISCA will continue. Given that the department has already said that there are now some 150,000 job seekers in ISCA, do you think that this figure could now grow to 200,000? Are we still planning on bringing more people forward?

**Mr Pratt**—At this stage we do not see a need to bring more people forward. We will do that as necessary. If we do that, this means that we are effectively using the Job Network funding to ensure that the most disadvantaged of the job seekers get the most intensive service. At different periods during the contract, the number actually receiving customised

assistance will go up and down, depending on where people are during that six-month period. Across the course of this year we will easily, I imagine, have 200,000 people commence in customised assistance.

**Senator WEBBER**—So that would be your top estimate?

**Mr Pratt**—I have not done an estimate of that but it would be in that ballpark.

**Senator WEBBER**—Does the fact that there are more people needing higher levels of assistance tell you anything about the characteristics of job seekers and their needs for retraining and reskilling?

**Mr Pratt**—There are not more people needing—

**Senator WEBBER**—Well, there are more people getting it currently than we estimated.

**Mr Pratt**—That is right. As Mr Correll mentioned, these people were going to receive that service anyway. They are just receiving it earlier.

**Senator WEBBER**—So there is nothing new to learn in that?

**Mr Pratt**—No, we have not seen any significant change in the make-up of the labour market.

**Senator GEORGE CAMPBELL**—If you bring them forward, Mr Pratt, what pressures does that put on the providers in terms of their being able to adequately provide the services? Let us say you have calculated for 110,000 people.

**Mr Pratt**—All of the providers I have talked to have indicated that they have more than enough capacity to absorb additional customised assistance clients and they are delighted to have that opportunity.

**Senator GEORGE CAMPBELL**—Which could be double what was initially assessed?

**Mr Pratt**—We are not expecting it will go that high.

**Senator GEORGE CAMPBELL**—So how high are you expecting it to go—150,000?

**Mr Pratt**—At the moment there are in fact 170,000 people. As I mentioned to Senator Webber a moment ago, we expect that across the course of this financial year there could be of the order of 200,000 people actually commence in customised assistance.

**Senator GEORGE CAMPBELL**—And the system can comfortably handle 200,000?

**Mr Pratt**—Yes.

**Senator GEORGE CAMPBELL**—Can it handle more?

**Mr Pratt**—Conceivably, yes.

**Senator GEORGE CAMPBELL**—Do you have a ballpark figure on what its peak is for intensive service?

**Mr Pratt**—No, but of course if we had very significant numbers in customised assistance then we would probably need to go back to government for additional funding.

**Senator GEORGE CAMPBELL**—So this really is about funding?

**Mr Pratt**—No. We have more people in customised assistance than we originally projected for the reasons I have outlined. Essentially they are there earlier than we expected. We are not seeing any budget pressures on this, Senator.

**Senator GEORGE CAMPBELL**—I think you said that part of that was related to cash flow for network providers.

**Mr Pratt**—In the sense that, for a number of sites—and I will provide you with the information—we actually brought up the numbers of those highly disadvantaged in order to have a smooth level of the proportion of clients on caseloads who were highly disadvantaged.

**Senator GEORGE CAMPBELL**—Was it Econtech that did the modelling?

**Mr Pratt**—Yes, Econtech worked with us on the modelling.

**Senator GEORGE CAMPBELL**—Can we have a copy of the full report on the modelling?

**Mr Pratt**—I will have to take that on notice. In principle, yes—I cannot see that there is any problem with that.

**Senator GEORGE CAMPBELL**—How was the modelling developed?

**Mr Correll**—I will answer that question; I was probably around more at that time.

**Senator GEORGE CAMPBELL**—I thought you were trying to duck for cover!

**Mr Correll**—Basically Econtech drew on a range of data and effectively developed a model which used a large number of parameters—there are about 200 different parameters that exist in the model. It basically looks at: the flow of job seekers through the active participation model and that continuum of service; the various service activities and estimates of job seeker flows through the model. On that basis, it was used to estimate the numbers going through particular levels. It was also used to estimate the overall dollars that would be generated as well.

**Senator GEORGE CAMPBELL**—Were these assumptions based on experiences with Job Network 2 or were there theoretical assumptions in there?

**Mr Correll**—Yes, they were based on experiences with Job Network 2 but, probably more accurately, they were also based on experiences that we have had with the overall labour market; for example, in the proportion of job seekers who move into employment after between one and three months duration of unemployment. The modelling was based on experience that the department has had to date in the overall levels of flows and of course drew on the specialist knowledge of Econtech, which is a highly specialised organisation in the area of labour market modelling.

**Senator GEORGE CAMPBELL**—Did it draw on aggregated figures? Are there any specific examples of job seekers that were used to base the modelling on?

**Mr Correll**—There would have been, clearly, overall estimated numbers of job seekers flowing through at the time of the original modelling being done. That would have been consistent with the overall estimated numbers of job seekers included originally in the tender documentation.

**Senator GEORGE CAMPBELL**—When did it become apparent that the modelling was incorrect and that, in fact, there were only 480,000 of the 500,000 eligible job seekers?

**Mr Correll**—The modelling was never incorrect. We have recently had Econtech come back and review the model based on the experience to date and that review has in fact validated the model as being sound. The model was not changed. When we originally put out tender documentation the overall number of registered job seekers—this was not an estimate; this was the actual number of registered job seekers with Centrelink, Newstart and youth allowance recipients plus some non-activity tested job seekers—was 780,000. By the time we had got to March 2003, the 780,000 had come down to 720,000, consistent with the reducing unemployment levels. Quite simply, those new numbers were notified to all members of the industry at that time—they were clearly published. It was simply a factor of the overall number of registrants coming down. So there was no change or problem with the model; it was simply the number of registrants.

**Proceedings suspended from 4.00 p.m. to 4.17 p.m.**

**Senator GEORGE CAMPBELL**—Mr Matheson, can I come back to the answer you gave us at the start about the mature age workshops. I think you said you spent \$500,000 on 20 workshops.

**Mr Matheson**—I think it was actually more.

**Senator GEORGE CAMPBELL**—Do you know how many people attended each of the workshops?

**Mr Matheson**—I could get you those figures. I know that around 1,000 people attended the workshops in total.

**Senator GEORGE CAMPBELL**—That is about 50 to a workshop.

**Mr Matheson**—That is right. The numbers were bigger in the capital cities than they were in some of the metropolitan areas. We ran them in, for example, Bundaberg, Launceston and Albany. There were some larger attendances in some of the capital cities. We did try and limit the numbers in attendance to something in the order of 100 maximum because part of the program was breakout sessions, breaking up into groups, and to keep that kind of format workable there were some limits. In fact, the workshops in some areas were oversubscribed.

**Senator GEORGE CAMPBELL**—Could you give us a breakdown of where the workshops were held, the numbers that attended each of those workshops and, if it is possible, a picture of the age profile of the attendees at each of the workshops?

**Mr Matheson**—I am not sure whether we would have collected that information. I will take that on notice. We certainly collected a lot of feedback information from the participants but I am not sure we asked age. I will follow it up. We certainly can give you numbers at the workshops.

**Senator GEORGE CAMPBELL**—Was it the Council of the Ageing that conducted all those workshops across the country?

**Mr Matheson**—The Council of the Ageing and the National Seniors Partnership had the contract. We worked very closely with them. The format for the workshops involved



presenters from the department, the Council on the Ageing and also relevant people from the particular area in which the workshop was being done, so we would bring in people from the Job Network providers and CWCs. We would bring in people who were able to give a perspective to the job seekers on the local labour market. The actual presenters and facilitators were tailored to the individual region.

**Senator GEORGE CAMPBELL**—Would there have been an agenda for each of these workshops that would have set out the sessions and who the presenters were?

**Mr Matheson**—Yes, there would be.

**Senator GEORGE CAMPBELL**—Can I get a copy of those as well?

**Mr Matheson**—Yes, if we have all of them. I will at least be able to give you an illustration. That should not be any problem all.

**Mr Pratt**—I have an update on a figure we talked about before the break. The model estimates that there would be 246,000 commencements in customised assistance across this financial year and that includes people who will start in customised assistance 1 and 2.

**Senator GEORGE CAMPBELL**—So that will be the total?

**Mr Pratt**—That will be their second go. That is what the model estimates.

**Senator GEORGE CAMPBELL**—And that is over the financial year.

**Mr Pratt**—That is right.

**Senator GEORGE CAMPBELL**—So it can give you the figures at any given time in the year?

**Mr Pratt**—I can tell you at the moment that there are 170,000 people allocated against customised assistance.

**Senator GEORGE CAMPBELL**—Just before the break, I was about to ask you how many eligible job seekers did the model ensure would be in the system in March of this year.

**Mr Cornell**—The answer to that is 720,000. When we said ‘the model showed’, that was the input level to the model because that was the overall registered number at that stage.

**Senator GEORGE CAMPBELL**—Was that the same in May?

**Mr Pratt**—We did not do an estimate in May. However, the current number is in that order. It is it between 700,000 and 730,000.

**Senator GEORGE CAMPBELL**—That was what it would have been around May?

**Mr Pratt**—It would have been around that; it fluctuates up and down.

**Senator GEORGE CAMPBELL**—Would it have been the same in July?

**Mr Pratt**—Yes, in that order.

**Senator GEORGE CAMPBELL**—What about in September?

**Mr Pratt**—Yes.

**Senator GEORGE CAMPBELL**—What is the reason for the modelling being incorrect, or do you say that it is not incorrect?

**Mr Correll**—The modelling is not incorrect. As we were just discussing, effectively it is changes in the labour market conditions that are driving this. Mr Pratt has indicated that the current figures are in the order of 700,000 to 730,000. There really are two components to that. One is the overall labour market conditions with the improving unemployment rate and improving labour market position now down to 5.6 per cent, which is reducing the activity tested group. At the same time, through initiatives that are coming into play under Australians Working Together, we are seeing progressive growth in the number of non activity tested job seekers coming into services through Job Network progressively as well. So with those two factors, we are looking to project for the year ahead the overall level of eligible job seekers. At the present stage, we see that being in the order of 800,000 at the end of the year, assuming a relatively flat position with the labour market from the current position.

**Senator GEORGE CAMPBELL**—Mr Correll, I am confused. Did the minister tell the NESAC conference on 22 August that there was nothing wrong with the modelling done by KPMG, that there was nothing wrong with 720,000 job seekers?

**Mr Correll**—Correct.

**Senator GEORGE CAMPBELL**—I am still trying to grapple with why there is a discrepancy between the 480,000 to 500,000 and the 700,000 to 730,000.

**Mr Pratt**—They are completely different things. There is a view around that the market size is actually 480,000 or 500,000. That view is wrong. At any given time, there are over 600,000 people on either Newstart allowance or Youth allowance. That number has been dropping, as Mr Correll indicated. Of those people, about 570,000 are currently eligible for Job Network services—that is, they are not in a disability employment support program or something of that sort. Of that 570,000, you will find at any given time that between 100,000 and 130,000 job seekers might be temporarily exempt from the activity test because they are doing another program, such as the personal support program, or because they have a medical certificate or because they have some part-time work. These are job seekers, though, who are still eligible for Job Network services and who will still register with their Job Network member and receive services over the course of the year. But, at any given time, they are exempt from the activity test. Hence the confusion. Already, Job Network have allocated to their caseloads over 700,000 job seekers. Already they have signed up nearly 500,000 of those.

**Senator GEORGE CAMPBELL**—But is it not true that the job providers, who are now in Job Network III, were predicating their operations on the basis of 720,000?

**Mr Pratt**—That is correct.

**Senator GEORGE CAMPBELL**—Whatever the reason may be, from their point of view, they have been concerned that there has been a significant shortfall in meeting that figure.

**Mr Pratt**—Yes. There has been a misperception by some commentators that their market is much smaller than we indicated in March. That is not the case.

**Senator GEORGE CAMPBELL**—Why would they have got it so wrong?

**Mr Pratt**—I think the basic reason is that they have had difficulty getting hold of those 700,000 job seekers because there has been high non-attendance at the interviews programmed for the job seekers.

**Senator WEBBER**—That raises a couple of points. Did the model take into account people moving in and out of activity test type events?

**Mr Pratt**—Yes.

**Senator WEBBER**—You talked about people failing to turn up for interviews and the like. My involvement with these programs goes way back to a community based SkillShare in the northern suburbs of Perth, Western Australia, which has now been through every evolution there has been. Being on that committee, we always knew that people would not turn up for interview. This is not something new. Surely we should have been able to expect that.

**Mr Pratt**—That is correct.

**Senator WEBBER**—We used to double and triple book people because we knew that the greater the disadvantage the less likely they were to front, particularly among long-term unemployed. Surely this should not have created a problem.

**Mr Pratt**—What happened was that the level of non-attendance was even higher than either we or the industry expected.

**Senator WEBBER**—What was the level of non-attendance?

**Mr Pratt**—In the early part of the transition, between 60 per cent and 70 per cent of people who were referred to appointments did not show for their first appointment.

**Senator WEBBER**—That is an alarming figure, there is no doubt about that. But it would match my assumption from years back of double and triple booking. It is not a huge jump from time-honoured practice.

**Mr Pratt**—That has been our experience with similar sorts of exercises—with the caveat, of course, that we have never done what we did in the transition before. We have never called in every single job seeker on the register to get their vocational profile put onto the system to have them signed up with their Job Network member. We were boldly going where no department had gone before. The non-attendance rates would be in the order of 50 per cent higher than we anticipated.

**Senator WEBBER**—Were the non-attendees rebooked?

**Mr Pratt**—Many times.

**Senator WEBBER**—It was widely reported in the media, towards the end of September, that there would be changes to the way Centrelink dealt with people who failed to turn up to interviews. Is that right?

**Mr Pratt**—That is correct.

**Senator WEBBER**—Can you outline those changes?

**Ms Caldwell**—At the end of September, there was the introduction of full suspension arrangements, as they are described. That means that job seekers who are subject to both administrative and activity related non-attendance at interviews are subject to suspension

action—suspension of their income support—if they are not able to provide good reason to Centrelink why that action should not be taken. My colleague, Ms Caldwell, might expand on that a little further.

**Ms Caldwell**—As Mr Correll was saying, at the heart of the new arrangements was the requirement for rapid reconnection of job seekers. The model worked on the basis that, where there is a non-attendance, or other participation matter, the job network member would make two attempts to contact the job seeker. On receipt of that report, Centrelink would also make two independent reports—usually in a quick period of time, but obviously longer in the case of regional and remote job seekers. In the event that the job seeker fails to respond to the contact attempt by Centrelink, the suspension arrangements come into play. As a trigger for that reconnection, Centrelink then rebooks the job seeker, once they are in contact, restores the suspended payment, and their re-engagement is effected.

**Senator WEBBER**—One of the wonderful things about coming to these sessions is that, every few months, I learn about some new terms—and I now have another. What does ‘rapid reconnection’ mean? It sounds painful.

**Ms Caldwell**—Not at all. The focus of that term is about engaging the job seeker with the services available to them. The emphasis is on making contact with the job seeker and, if they fail to respond and furnish advice as to their circumstances, to trigger them to get in contact with Centrelink. That enables a further booking to be made, which rapidly reconnects them with the next available appointment of their service provider.

**Senator WEBBER**—Who came up with this great concept?

**Ms Caldwell**—This was an arrangement—

**Senator WEBBER**—Was it your idea, Mr Correll, to rapidly reconnect?

**Ms Caldwell**—No. This is good for the job seeker, because it is about getting back into service with your job network member as quickly as possible. All the research evidence suggests that, the faster we can get people into service, the better chance they have of getting a job. When people miss an interview, we want them to get back for an interview quickly, so they have the best possible chance of getting work.

**Senator WEBBER**—With the missing of interviews, is the change to the compliance system a direct result of the failure of people to turn up to the vocational profile interviews, or is it something else?

**Ms Caldwell**—No. I think the suspension model to which we refer had been work in progress for some time, independent of transition experience—simply because of the interest of the concerned agencies, and of government, to ensure that people were connected. As you mentioned, the need for a connection is a longstanding issue. Suspension arrangements had been in place for some time around certain types of breaches. This was effectively an extension to the non-attendance at interview space as well.

**Senator WEBBER**—Was it actually brought forward, or was this the time frame that was originally planned?

**Mr Correll**—No, it was the planned implementation time frame. It coincided with systems changes that had to be made for it. They had been planned well ahead.

**Senator WEBBER**—What are the likely cost implications of this changed approach?

**Ms Caldwell**—I would have to get some information on that for you, Senator. I do not have it with me.

**Senator WEBBER**—You can take that on notice if you like.

**Mr Correll**—My colleague Ms Caldwell will check, but I would not envisage any additional cost implications.

**Senator WEBBER**—The cost implication may be a decrease if we are suspending—

**Mr Correll**—Indeed. If it succeeds as we would expect in providing a much better framework for supporting people to attend their interviews, it should reduce downstream costs.

**Mr Pratt**—The saving that Mr Correll is talking about there is not necessarily in income support as a result of suspension; it is in relation to the fact that a job seeker is reconnected earlier with his or her Job Network member and therefore has a better chance of getting a job and therefore going off income support.

**Senator WEBBER**—My colleague Senator George Campbell was talking earlier about some of the different numbers. The minister has stated many times that 60,000 job seekers would be suspended because they failed to meet their requirements. In fact, I think he referred to that at the NESAs conference. How many people have actually been suspended?

**Mr Pratt**—A whole range of issues arise from those statements. The minister made it clear in parliament about the 60,000 people. According to *Hansard* of 18 September, he said:

The 60,000 people that I refer to are job seekers that in August had not attended interviews.

So at that point in time there were 60,000 job seekers who had not attended an interview that had been made for them and they had not advised their Job Network member of a valid reason for not attending. The details of those people were provided to Centrelink who then investigated the circumstances of those people. Quite separate from that in terms of the number of people who have been suspended during the transition period, I understand from Centrelink that that number is over 13,000. It is not linked to the 60,000 people; they are quite different things. They are apples and oranges.

**Senator WEBBER**—Does such a large number in terms of non-attendance not suggest some problems with the system if they are completely separate things?

**Mr Correll**—No. The non-attendance would support the notion of the introduction of the new suspension arrangements.

**Ms Caldwell**—If I may return to our earlier discussion, I am advised that there is no additional cost to our department under the suspension arrangements.

**Senator GEORGE CAMPBELL**—Just on that issue, Mr Correll, are you aware of the information that Centrelink tabled in this hearing this morning?

**Mr Correll**—Yes, Senator.

**Senator GEORGE CAMPBELL**—There is a very significant discrepancy between those figures and what the minister was claiming.

**Mr Correll**—I do not believe so. As Mr Pratt has indicated, the minister has not indicated a figure of 60,000 suspensions; he indicated a figure of 60,000 job seekers who had not attended interviews for adequate reasons at a particular point in time.

**Senator GEORGE CAMPBELL**—That was a subsequent qualification that the minister made in the parliament after stating to the NESA conference that 60,000 people had breached.

**Mr Pratt**—No, there is a distinction there between what was reported in the media and what he said. Let me quote from his speech at the NESA conference. He mentions the 60,000 figure on three occasions. I hope I can do justice to the minister's words. He said:

Today, as I stand before you, there are more than 60,000 Australians who have received unemployment who you have made numerous attempts to get through your doors, who have had letters, who have had phone calls from you and from Centrelink ... Who have had no valid reason.

There are those with valid reasons, but we are talking 60,000 Australians plus, people who you anticipated you would be assisting. And you are not.

Then, later on, the minister says:

That group of the 60,000 we want to re-engage.

He never talked about the suspension of those 60,000.

**Senator GEORGE CAMPBELL**—He never mentioned the word 'suspension'?

**Mr Pratt**—Not in that context in this speech or anywhere around the 60,000.

**Senator GEORGE CAMPBELL**—That is a figure that was reported, I think, in the media at the time the speech was made.

**Mr Pratt**—I cannot comment on what media reports—

**Senator GEORGE CAMPBELL**—No, but I am just wondering whether or not the text of the speech was followed to the letter.

**Mr Pratt**—This is the transcript, Senator.

**Senator GEORGE CAMPBELL**—Can we get a copy of the transcript?

**Mr Pratt**—Yes.

**Senator WEBBER**—But, this morning, Centrelink gave evidence that 15,000 of that 60,000 had attended interviews and had actually completed their vocational profile.

**Mr Pratt**—That is correct. The details of the 60,000 people who had not attended an appointment and had not advised their Job Network member of a valid reason were passed to Centrelink for them to examine the circumstances of those people. Over a period of time, that examination was undertaken and many of those people eventually did get a vocational profile.

**Senator WEBBER**—In fact, I do not think you quite did justice to the minister's quote. He says that they had letters and phone calls, and even had their doors knocked on. I am most intrigued—I did not realise that, as part of this new regime, they did doorknocking as well.

**Mr Pratt**—The minister apparently had anecdotes from Job Network members who said they actually did employ that strategy to try and find the job seekers to get them to connect with them.

**Senator WEBBER**—So there are 60,000, 15,000 of whom have done their interviews. Over what period of time did that happen?

**Mr Correll**—The material that was tabled this morning by Centrelink made it clear that, of the 60,000—or, precisely, 59,418—job seekers who had not advised their Job Network member of a valid reason for not attending a vocational profile interview on 22 August, there was still some 35,000 of that group who had not attended a vocational profile interview by 12 September. That is in that document and it is very consistent with every piece of information that has come forward on this one.

**Senator WEBBER**—And they had given no valid reason for not doing so?

**Mr Correll**—Correct.

**Senator GEORGE CAMPBELL**—At that conference we have been talking about, I understand that the minister promised the conference that Job Network providers would get every cent. He said:

I hear what you say that you have not been paid for that and that is unreasonable. You will be.

How is this going to be done?

**Mr Correll**—What the minister was referring to at the conference was the fact that, because nobody had anticipated the high non-attendance rates at interviews during the transition period to Job Network 3, the way the system had been set up and designed to make an initial fee-for-service payment to a Job Network member was on the basis of the point of actual attendance at the interview with the Job Network member. That meant that the system was not recognising all the work that the Job Network member was undertaking to attempt, with multiple contacts and re-bookings of appointments to get the job seeker in to attend the interview. He was referring to that work that was simply not recognised and not being paid for because of the way the system had been set up in relation to those high non-attendance rates. As a result, administrative changes were made so that that work which had been performed by the Job Network members was in fact recognised and properly paid for.

**Senator GEORGE CAMPBELL**—How is it recognised? If you did not recognise it initially, how are you now recognising it?

**Mr Correll**—Effectively by changing the point for the payment of the Job Network member service fee relating to particular contacts—focusing on the actual number of job seekers who will be called in to attend the Job Network member at particular appointment times rather than on their point of actual commencement. That recognises and pays for the service fees and costs involved in the call-in process, even when people are still not attending the interview.

**Senator GEORGE CAMPBELL**—I do not quite follow you. I can understand how you can measure the payment at the point when someone has attended the interview. Explain to me how you measure the work that has been carried out before that. Is it at the point they pick up the telephone and ring them to tell them to come in?

**Mr Pratt**—We can measure that in a variety of ways. Under the previous payment arrangement, the Job Network member got paid once the job seeker came through the door. They in fact only received their funding when the job seeker turned up. That did not reflect

the workload that they were doing on behalf of the government. They were calling people in for interviews, they were doing interviews, they were scheduling and rescheduling appointments, they were ringing people up to provide reminder calls and that sort of thing, they identified changes in circumstances for the job seekers and they advised Centrelink of changes in circumstances. They did all those things, many of which they did not get paid for if the person did not turn up. As Mr Correll explained, we changed the payment point. It is an administrative change so that they are paid in advance each quarter. In terms of how we verify that they do all that—

**Senator GEORGE CAMPBELL**—It is paid in advance?

**Mr Pratt**—The fee is paid quarterly. It is aggregated and paid quarterly.

**Senator GEORGE CAMPBELL**—In advance?

**Mr Pratt**—That is correct.

**Senator GEORGE CAMPBELL**—So you pay it on an estimate rather than an actual figure?

**Mr Pratt**—It is based on their market share of the total number of people who are expected to have a vocational profile or to have contacts with the Job Network member during that period.

**Senator GEORGE CAMPBELL**—So it is an estimate rather than an actual figure?

**Mr Pratt**—That is correct. Verification is fairly straightforward in the sense that there is an incredibly strong incentive for the Job Network member to get the person in because, if they do not get the person in, they cannot start to get the substantial service fees for providing things like intensive support job search training and customised assistance services. If they cannot do that, of course, they cannot start placing job seekers in jobs and get the outcome fees which come from placing job seekers in jobs. Contrary to some of the speculation, there has been no change in the ratio between service fees and outcome fees. Outcome fees under this model remain at 50 per cent of the total, which is in fact an increase from the last contract, where the ratio was 60 to 40. Verification comes through things like the numbers of appointments and re-appointments they make, the amount of advice they provide to Centrelink and the success they ultimately have in getting job seekers onto their books relative to other Job Network members. There is a whole host of things that we can use to measure their performance in doing this.

**Senator GEORGE CAMPBELL**—If you base the payment in advance on the assessment of the number of job seekers who will go through the provider, at the end of the quarter is there a cost recovery mechanism available if there is a discrepancy between the assessment and the actual number?

**Mr Pratt**—No, there is not. It is based on their share of the market—in other words, their share of the number of job seekers who will be referred to Job Network members over the quarter and the number of contacts that they are expected to make for the various job seekers who are on their case load.

**Senator GEORGE CAMPBELL**—But isn't that a significant change in the program from the original proposal?



**Mr Pratt**—No. There has been a change to the payment point. They were always intended to get this funding and would have got this funding if the job seekers had attended at the rate we expected.

**Senator GEORGE CAMPBELL**—But you just said that the original proposal was that they would be paid on actuals through the door.

**Mr Pratt**—That is right, with an expectation of high attendance.

**Senator GEORGE CAMPBELL**—But now you are saying that they will be paid on a calculation or an estimate of what is likely to come through the door and, if that estimate is different from the actuals, there is no cost recovery for any overclaim that there might be.

**Mr Pratt**—There are swings and roundabouts in these things. If there were substantial shifts in the number of job seekers in a location—for example, unemployment went up or down significantly—then there might be a re-estimation of their next quarterly fee, and that is part of the arrangement. But these arrangements are not subject to a line-by-line acquittal for every telephone called made or every appointment rescheduled. The administrative costs associated with doing something like that would be unrealistic.

**Senator GEORGE CAMPBELL**—But they were in the original, weren't they?

**Mr Pratt**—No. They were simply based on whether a job seeker attended for an appointment or attended a contact.

**Senator GEORGE CAMPBELL**—So it was based on an actual? They did not get paid under the original draft of this scheme if the job seeker did not turn up.

**Mr Pratt**—Yes and no. Some of the payments were what we called 'chunked'.

**Senator GEORGE CAMPBELL**—You had better explain 'yes and no' to me.

**Mr Pratt**—I figured the minute I mentioned the term 'chunked' that I was going to have to explain this. Essentially, in order to avoid administrative overload, we know that a job seeker who is referred, as an example, to a Job Network member to receive a customised assistance service will have multiple contacts with that provider over a period of time. Rather than every single time the job seeker turns up the Job Network member having to go into the system and say, 'Job seeker turned up. Pay me a small amount of money,' we have chunked together those fees and paid them up front. The chunking of those fees takes into account average rates of drop-out, people getting employment and so forth. Some of the fees are treated in that fashion. That is why I gave you a yes and no answer.

**Senator GEORGE CAMPBELL**—I understand what you are saying, but I still come back to the point that the original design of the scheme was that they would get paid when the job seeker came through the door and registered on their books. That was the point at which they said, 'We've now got this person. We're entitled to a payment for servicing them.'

**Mr Correll**—I understand what you are saying, but that was not in fact the case. In the original concept there was no policy intent for the point of payment to be dependent on the arrival of job seekers. That was simply the payment point as constructed within the system.

**Senator GEORGE CAMPBELL**—That was how you measured it.

**Mr Correll**—That was the point at which the payment trigger was developed within the system, but the policy intent was to ensure that, as the Job Network member was taking action to call those job seekers in, the processes and costs associated with doing that would be properly covered by their service fee. The fact that the payment trigger occurred at the commencement point in the context of high non-attendance rates immediately created an administrative problem that we had to correct.

**Senator GEORGE CAMPBELL**—I think you are actually saying what I am saying but you are trying to say it very carefully. You still have not convinced me about the initial design of the system—which I think is sensible and logical. Of course, there is a whole range of administrative stuff in the process. If I am a plumber and I am looking for a job and I am ringing up looking for employment, you do not pay me for ringing up; you pay me when I actually get there and fix the pipes, as the saying goes. So it is logical that you would design a system and say, ‘Once the person gets there, they have established the contact and developed the relationship, and that is the point of payment.’ You would have to say that this is a very unusual process of payment, paying in advance based on an assessment of what the likely throughput or contact will be. How would you audit that? You say it is an aggregate payment, but you are paying in advance. If the person does not turn up—if they are a no-show—how do you audit whether all of these contacts were even attempted to be made? What is to stop me saying to you as a job provider, ‘I have rung Bob Correll 20 times this month and he has not turned up; therefore, I am entitled to payment’?

**Mr Correll**—The reason is that—and it goes to the management of risk in the case—if you are a Job Network member and you are not actively attempting to get your job seekers in through the door, you will not stay in the Job Network business for much longer than the next milestone point. The reasons for that are twofold. The first is that 50 per cent of your finance is in the outcome fees that you earn. You will not be able to run your business on service fees alone. The second point is that at the end of each milestone period a new set of star ratings on your performance is issued and, if you have not got your job seekers in through the door and you have not got people outcomes, your star ratings will be at the very low end of the scale and you will in fact lose substantial business share.

**Mr Pratt**—There is also an easy administrative way for us to identify whether that happens. If a job seeker is on the Job Network member’s case load but they have not been signed up, we ask the member, ‘Why haven’t you signed this job seeker up? Where is the evidence that you have reported changed circumstances to Centrelink? Where is the evidence that you put a participation report in?’ You have to do that on our system.

**Senator GEORGE CAMPBELL**—They may not. You say they are being paid for the administrative work they did pre the job seeker being signed up.

**Mr Pratt**—I am saying that both Mr Correll and I have pointed out the incredibly strong incentives there are for Job Network members to actually get the job seeker on. That is one side of it. The other side of it is that we have means by which we are able to identify whether Job Network members are not chasing up these job seekers.

**Senator GEORGE CAMPBELL**—But is it not true that this new method of payment was designed during the NESAC conference in Melbourne when the minister made the commitment

that we will give you the full \$760 million and that you are not going to fall short, because they were threatening to walk out of the system, and this is a convenient method of passing the money through to satisfy the outcry that occurred at that conference?

**Mr Correll**—No, that is not the case. The department had been working on this issue of the low attendance rates at interview for some time and, in fact, had been in extensive dialogue with the industry over it. We had been looking at this issue from two perspectives. The first was how we could take measures to increase attendance rates. The second was what action we should take to address the administrative issue that was emerging, which was the trigger point for payment that had been built into the system.

**Senator GEORGE CAMPBELL**—But the real issue that was emerging was the 200,000 difference between the expectation and the reality. Isn't that what triggered the uproar at the NESAs conference in July? Isn't that the underlying reason for you changing the administrative processes? Isn't that why the minister made the commitment to pay the full \$760 million?

**Mr Correll**—The underlying issue was the issue of attendance rates. As we have seen with the current overall case load figures, just over 700,000 job seekers are on the case loads of Job Network members today. The issue of attendance rates has been the major issue throughout this matter. The perspective of Job Network members and the concerns at the NESAs conference were: 'Here we are doing lots of work to try and get job seekers to attend. We are not getting those job seekers to attend and we are getting no fee payment because the trigger point set up administratively is after the event.' That was the fundamental issue.

**Senator GEORGE CAMPBELL**—I understand what you are saying in that context, but the reality is that they have 700,000 on their books and there is a 200,000 discrepancy between what they have on the books and what is attending. That is what was underlying the dispute that occurred at the NESAs conference. Isn't it true that the minister made a commitment at that conference that they would get the full \$760 million irrespective of the number of people they put through, that the allocated funds of \$760 million would be paid to the Job Network providers? Did he or did he not make that commitment?

**Mr Pratt**—No, he did not make that commitment. He said that the \$670 million, which the modelling projected to be the revenue for Job Network in a given year, would be used in Job Network to get people into jobs.

**Senator GEORGE CAMPBELL**—That is right.

**Mr Pratt**—He did not say he was just going to give the \$670 million to the Job Network.

**Senator Abetz**—It was available on the basis of outcome. Is that right?

**Mr Pratt**—That is right. Half of the money comes as a result of outcomes, so Job Network obviously has to get the outcomes to get the money.

**Senator GEORGE CAMPBELL**—Yes. But he made a commitment that the full \$670 million—is it \$670 million or \$760 million?

**Mr Pratt**—It is \$670 million.

**Senator GEORGE CAMPBELL**—would be paid into the network.

**Mr Pratt**—Sorry—I am misunderstanding what you are asking.

**Senator GEORGE CAMPBELL**—I understand that the minister made a commitment at that NESAs conference that the full \$670 million would be available to the network.

**Mr Correll**—The clear commitment from the minister at the NESAs conference was that Job Network members would be paid for the work that they did and that, with the overall estimates of the number of job seekers to be serviced, they would be paid for the work that they performed. His address was to ensure that Job Network members did not leave that conference with the view that they would be not paid for the work that they were undertaking associated with calling in job seekers. It went to that issue and not beyond that.

**Senator GEORGE CAMPBELL**—But you have changed the method of making the payment available to ensure that the money flowed through. It would not have flowed through under the system that you originally designed.

**Mr Pratt**—It is correct that we changed the payment arrangements to make sure that the money flowed through as we originally intended.

**Senator WEBBER**—Is part of that change the definition of the work from a completed interview to an attempted interview?

**Mr Pratt**—No. The payment is based around the variety of things I talked about—whether doing a vocational profile interview, doing one of the regular intensive support contacts or all of the work associated with trying to book and rebook job seekers who have not attended, chasing them up, providing the minor calls to them, reporting changes of circumstances et cetera.

**Senator WEBBER**—The minister did refer to the \$670 million. He said:

The \$670 million is the money that goes to you to underpin the services that you provide, the personnel that you provide, the offices that you provide, the technology that you provide.

And that money is rightfully and will be spent on job seekers and you will be the ones spending it.

So he did say they were getting it.

**Mr Pratt**—I am not sure what we have a disagreement on here. The minister basically was saying that \$670 million is appropriated for the purposes of providing employment services to job seekers and that the government has a commitment to making sure that \$670 million is spent—

**Senator GEORGE CAMPBELL**—Yes.

**Senator WEBBER**—Is spent—that they are going to get it.

**Mr Pratt**—on providing employment services for job seekers.

**Senator GEORGE CAMPBELL**—You have based that on modelling which said there would be 700,000 to 730,000 job seekers in the system.

**Mr Pratt**—That is correct.

**Senator GEORGE CAMPBELL**—There are 500,000 in the system.

**Mr Pratt**—That is not correct.

**Senator GEORGE CAMPBELL**—You said there were 700,000 in the system and only 500,000 who have attended—

**Mr Pratt**—So far.

**Senator GEORGE CAMPBELL**—Yes, so far—and sought assistance. On the original scheme you devised, they would have been paid only for the people who sought the assistance.

**Mr Pratt**—Senator, there was never any expectation that all 700,000 job seekers would turn up on day one.

**Senator GEORGE CAMPBELL**—That is true. There was never any intention either, Mr Pratt, when we last discussed this issue, that the Job Network providers would be paid in respect of the number of job seekers they serviced. I think you used the term that it was a competitive model.

**Mr Pratt**—That is correct, Senator. No-one is saying that Job Network members will be paid irrespective of whether they service job seekers or not. To get half of the funds, they have to get people into jobs.

**Senator GEORGE CAMPBELL**—But they are being paid now for services that they are providing in an attempt to attract job seekers to them. Is that a better way to put it?

**Mr Pratt**—Partially, in the sense that—

**Senator GEORGE CAMPBELL**—Tell me what part of it does not fit the partial!

**Mr Pratt**—Maybe I should come at it from another angle. We are talking here, with these quarterly payments, about only 15 per cent of the Job Network members' revenue. My estimate—and this is off the top of my head—is that probably 70 or 80 per cent of that will be paid for actually doing vocational profiles and having regular interviews. These are relatively small interventions with the job seeker—45-minute or half-hour interviews. The remainder of that—the 20 per cent of that 15 per cent—would be there to pay them for the work associated with attempting to get the job seekers in, which is a useful function for us. The remainder of their funding—about 35 per cent—is paid when they actually provide a substantial service, like job search training or customised assistance, to the job seeker.

**Senator GEORGE CAMPBELL**—I understand, but it still remains to be seen whether or not there is a decline in that end of the funding model.

**Mr Pratt**—Senator, I will go back to something I said before. Under the employment services contract 2, where we were very happy with the outcomes and the performance of that contract, the service fees versus the outcome fees were on a ratio of 60 to 40: 60 per cent for service fees; 40 per cent for outcomes. Under the active participation model, the incentive for Job Network members to place people in employment has increased. The funding is now split fifty-fifty. They will not get that 50 no matter what; they have to place people in jobs before they get that payment.

**Senator GEORGE CAMPBELL**—Yes, but they are going to get the other 50 no matter what.

**Mr Pratt**—No, Senator. Thirty-five of that 50 is only paid to them when they actually provide a substantial service, like job search training or customised assistance.

**Senator GEORGE CAMPBELL**—They are going to get 15 per cent of that 50 no matter what—

**Mr Pratt**—As I was saying before—

**Senator GEORGE CAMPBELL**—which was not in the original design. Is that what you mean by partially?

**Mr Pratt**—That is right, but it is a subset of that 15 per cent.

**Senator WEBBER**—You could be forgiven for the interpretation that says there was a cash flow problem and that was the fix.

**Mr Correll**—Senator, if I could come in here. Senator Campbell, you indicated that it was not in the original design. What was not in the original design was the very low attendance rates at interviews. Had we or anybody known about the very low attendance rates, there would have been no way in the world we would have designed a system where a fee-for-service payment was made at the point after the job seeker had actually attended, because it would have been grossly unfair to the provider to structure the fee in that way. We had to make the adjustment because the thing that happened that was not anticipated by anybody—by the industry and by those providers that have been out there for a long time—was the very high level of nonattendance at interview. Nobody has ever called in 700,000 job seekers in a short time frame before in Australia. That has been the key driver that has affected this and resulted in us having to administratively change the payment point.

**Senator GEORGE CAMPBELL**—I understand that. I am not arguing with that. I am trying to correlate the guarantee for the full payment with the method you have put in place to ensure that that occurs. I understand that a commitment to the job providers under Job Network 3 at the NESAC conference was that they would get the full \$670 million. As Senator Webber said, the suspicion that a lot of people had is that this is simply a fix to ensure that you resolved the cash flow problem. What led to the low number of job seekers attending? It wasn't the computer issue?

**Mr Correll**—No, the fact of the matter is that attempting to call in job seekers, many of whom had been unemployed for considerable periods of time, created a set of events that had not been tested before. It found that many unemployed needed significant prompting encourage them to come in to gain employment assistance. Indeed, the document that was tabled by Centrelink this morning points to some of the factors that were involved in those high nonattendance rates. We have been working very actively since that time to try to maximise the attendance and to ensure that both Job Network members and Centrelink at a local level are working closely together to try to ensure the highest levels of attendance rates.

What we have been seeing with the new job seekers who are registering and who are coming in through the new streamlined referral arrangements is an enormous improvement in attendance rates, which are now up around 75 per cent for those job seekers who are booked in to an interview within five days. This experience has shown to us the vital significance of active engagement with the job seeker. Those job seekers who in the past have not been

engaged with have been the key group we have not been able to get into interview. Where there is active engagement, rapid contact and rapid referral and connection into the Job Network member, we see the results. We are already seeing the results coming through in terms of those people going into work.

**Senator WEBBER**—That is a nice, old-fashioned concept, really. But how is it possible that these people need so much prompting to turn up for an interview when they have to lodge their fortnightly unemployment form and they do not seem to have much of a problem with that?

**Dr Boxall**—This is whole point that Mr Correll has just explained. We have been dealing with a stock of people who have been receiving benefits, have not had to turn up for interviews and have not had to actively engage. With the introduction of the new active participation model, as it turned out, we underestimated the nonattendance rate, primarily for these people, which is in a sense not surprising because this has never been done before. But given that, it meant there were fewer job seekers on the books of the Job Network members and, as Mr Correll and Mr Pratt have explained, Job Network members were doing considerable work to get these people to turn up for interview and the payment trigger was changed. That is what happened.

**Senator WEBBER**—Despite that, Dr Boxall, these people do have to go in and put in fortnightly forms, so they are obviously capable of doing that. From what I can gather from what you are saying, once the system got a lot more personalised and hands on, these people responded a lot better. So in fact computer-generated letters from some remote place like Canberra was not the ideal way of interacting with these people.

**Dr Boxall**—Mr Correll just explained that, amongst those people who were in the stock of unemployed who had very little attachment to the job search, as it turned out there the nonattendance rate there was higher than anticipated and modelled. But where we have people who have become unemployed since 1 July and entered the system since 1 July, because those people have entered the new system, the flow-through that we are finding is that attendance rates are much better. This goes to the very strength of the new active participation model.

The government, in a sense, has had to clear a backlog. We are confident that, based on experience thus far, once we clear that backlog, people who enter the system from now on will tend to have a rather high attendance rate and we will not have the same problems again. We have moved from a system with limited engagement for large numbers of job seekers to assist them where they need to engage.

**Senator WEBBER**—So we are saying that the old system failed those people, because it did not engage them?

**Dr Boxall**—Under the old system, because a number of job seekers were receiving benefits and had very limited engagement—some had very little engagement—there was not much action on the Job Search side of it.

**Senator GEORGE CAMPBELL**—You assessed what the attendance rates would be?

**Dr Boxall**—Yes, and, as explained, we—

**Senator GEORGE CAMPBELL**—How was the assessment done and how did you get it so wrong?

**Mr Correll**—It was done in conjunction with the modelling work with Econtech and it relied on the experience in the labour market. But the experience in the labour market had never included a process of calling in all the current unemployed at one point in time. That simply had not happened. In addition, it was not just our experience that was relied on, we also worked in conjunction with the industry. The very low attendance rates came as a surprise to all.

**Senator GEORGE CAMPBELL**—Is that a lesson not to trust economic modellers?

**Dr Boxall**—It is a lesson not to have a stock of outstanding people not connected with the job market.

**Senator WEBBER**—You sent out all these letters to job seekers telling them that they have an appointment. Isn't it true that part of the nonattendance could be due to the fact that you sent letters to people who were not eligible?

**Mr Correll**—That could only apply to a very small component of that. It should be noted that it was not just letter contact that was used; there was extensive use of call centres for follow-up contact with job seekers. Job Network members made multiple contacts with job seekers. There were multiple communication efforts used to get through to job seekers and to try to get the attendance rates up as high as possible.

**Senator WEBBER**—Do you have any idea how many incorrect letters were sent out—for instance, people who in the meantime had got a job, become a mother or had some change in circumstance but you had written to them saying that they should come and have an interview?

**Dr Boxall**—The issue is not the ones who were contacted who were not eligible; it is the ones who were contacted who were eligible and who were meant to attend but did not. Clearly, if somebody—

**Senator WEBBER**—We have that information disaggregated. We do not just have this lump of people who did not attend; you can actually tell me who did not attend who should have attended and those who were sent this letter saying, 'You must appear at this place at this time,' but they were not eligible so it should not have applied to them.

**Mr Correll**—I draw attention to the document tabled by Centrelink this morning, which looked at a detailed analysis of the group of 59,418. It shows quite a detailed picture for that group who had not attended as at 22 August—exactly what the status was at 12 September for that group. You can see the various different circumstances involved.

**Dr Boxall**—And you can see that some of them were clearly eligible and should have attended and that there were some who had a valid excuse for not attending.

**Senator WEBBER**—Indeed.

**Mr Pratt**—There is another aspect to this issue. You can send a letter to a job seeker at the beginning of the week and the job seeker might receive the letter at the end of the week. Between the beginning and the end of the week they might advise Centrelink that they have a



job or have become unwell. That is not someone who is not eligible, that is someone whose circumstances have changed in a short period.

**Dr Boxall**—This attachment has a forensic analysis of the 59,418.

**Senator WEBBER**—Excellent.

**Senator GEORGE CAMPBELL**—You have simply confirmed what we expected to be the case anyway when the figure of 60,000 was first raised.

**Mr Correll**—Perhaps it is worth also drawing to your attention paragraph 12 in the document that was tabled, which sets out clearly that, overall, 80 per cent of activity tested job seekers eventually attend an appointment or become inactive or exempt. The remaining 20 per cent are repeat nonattendeas, and that is where something like the new suspension arrangements is very important in ensuring that repeat nonattendeas of interviews do in fact get to their interviews.

**Mr Pratt**—I also want to make the point that, of those 59,000, according to the data of 12 September, 19,000 had a vocational profile by then—in other words, they had eventually got a vocational profile. But at that point there were still 40,000 who had not. There are a variety of reasons for that, but the fact is that a number of weeks later 40,000 had not had a vocational profile done. This is the issue which the Job Network has been dealing with during this period.

**Senator GEORGE CAMPBELL**—Mr Correll, have any of the Job Network providers laid off any staff as a result of the lower level of business activity?

**Mr Correll**—That would be a commercial decision taken by individual Job Network members. I would expect that Job Network members would be changing their employment consultant numbers on a rolling basis, based on their overall case load levels. One key feature of the active participation model is that it is driven by the flow of job seekers, which, in turn, is determined by labour market conditions. Therefore, Job Network members are always going to be in a position where they are going to be putting on and putting off employment consultants based on their best estimate of business levels, like many businesses have to do. I am not aware of specific instances of Job Network members putting on and off employment consultants, but I would be very surprised if it were not happening all across the country all the time with varied estimates of business levels in local labour markets.

**Senator GEORGE CAMPBELL**—I understand what you are saying in that context, but perhaps I can put my question in a different form. Are you aware of any Job Network providers who have laid off staff as a result of the business activity being lower than was expected at the commencement of Job Network 3?

**Mr Pratt**—I do not have any specific details. I have heard that some, relatively few, Job Network members may have done such a thing, but that has been third-hand and anecdotal evidence. I am not aware of any specific information about organisations doing that. As Mr Correll says, this would happen throughout the contract anyway; it has in every other contract.

**Senator GEORGE CAMPBELL**—I understand that it may fluctuate up and down. But I am talking here about the specific circumstances of this unforeseen activity as opposed to what may be normal trading patterns based on the 700,000 being in the system.

**Mr Pratt**—Anecdotally, I have heard that there may possibly be a few. I do not have specific advice that X Job Network member has done so.

**Senator GEORGE CAMPBELL**—Mr Correll, you advised the committee at the last estimates session that no broad-ranging cash flow issue was identified at the meeting of NESAs CEOs in the last week of May. When was the cash flow issue finally identified?

**Mr Correll**—It was emerging progressively beyond that time. We were increasingly watching it on the basis of what were growing alarm bells over the attendance rate issues. We had been maintaining and continued to maintain very close dialogue with the industry to keep on tap. At the early stages there had not been any consistent picture emerging, but progressively as time moved on through the implementation processes it became clearer that the issue of attendance rates was not isolated or patchy; it was an issue right across the board. Certainly it was worse in some locations than others, but it was clearly an across-the-board issue. As soon as that became clear, we started looking at what approaches could be undertaken to address that, given that the trigger point had been connected essentially at the wrong point in the system because of those low attendance rates.

**Senator GEORGE CAMPBELL**—Is it true that Job Network providers threatened to walk out of the system if there was not radical surgery applied?

**Mr Correll**—I do not know of that, no.

**Senator WEBBER**—If the CEOs were concerned about cash flow in May, when was the decision actually taken to fix the cash flow problem?

**Mr Correll**—There was not a clear picture in May. Remember the whole system effectively kicked off in the middle of April—and that was the transition processes—and so there was not any clear picture emerging. The operation of the full Job Network 3 did not in fact start until 1 July. So there was no picture on this clearly emerging until the July-August time frame.

**Senator GEORGE CAMPBELL**—Moving on to the issue of job seeker training accounts, can you tell us how much money has been allocated this year for these accounts?

**Mr Pratt**—It is \$180 million.

**Mr Correll**—When we say allocated, this again is a client driven issue, but that is what is estimated in the modelling that we will be putting into those accounts, based on the flows through the various gateways.

**Senator GEORGE CAMPBELL**—Have you had the modelling revised?

**Mr Pratt**—We continually monitor the parameters which are being fed into the model and revise them as necessary. The model itself requires no revision. Sometimes the parameters change, of course.

**Mr Correll**—Senator, it has been brought to my attention that you mentioned the job seeker training account. The job seeker account is a figure of \$180 million in our modelling; our estimate of the training account is a further \$18.4 million.

**Senator GEORGE CAMPBELL**—Do you know what percentage of the notional budget has been allocated so far?

**Mr Pratt**—For the job seeker account it is \$129 million.

**Senator GEORGE CAMPBELL**—How much is it for the training account?

**Mr Pratt**—I can answer that shortly. I do not have that figure to hand.

**Senator GEORGE CAMPBELL**—Can you also tell us what percentage of job seekers have accessed their job seeker training account?

**Mr Pratt**—I do not believe I have that to hand, in terms of the number of job seekers who have had the job seeker account spent on them. I will have to take that on notice.

**Senator GEORGE CAMPBELL**—On the job seeker training accounts, can you identify what the money has been spent on?

**Mr Pratt**—I can give you a break-up: interpreter services, fares and petrol assistance, clothing and equipment, professional services, training, transport assistance, work related licences, relocation assistance, employer incentives, self-employment, job seeker incentives, Job Network member transport and Job Network member contacts. We also have a ‘bulk’ category which covers the Job Network members purchasing things like clothes, equipment, fares and so forth on behalf of the job seeker.

**Senator GEORGE CAMPBELL**—That presumes there is a range of activity on the job seeker account.

**Mr Pratt**—That is the job seeker account, yes.

**Senator GEORGE CAMPBELL**—Can you identify what the money is being spent on out of the training account?

**Mr Pratt**—Yes, I can probably give you a break-up of that. I think we have actually answered this question in previous estimates. There is training, of course, with a particular focus on computer skills training, occupational health and safety, and things like heavy vehicle licences and hospitality. I do not seem to have a comprehensive break-up of the types of training.

**Senator GEORGE CAMPBELL**—Can you give us an itemised list of both those accounts?

**Mr Pratt**—Yes, I will take that on notice.

**Senator GEORGE CAMPBELL**—If you could break them down on the item list that was provided at the last estimates session, that would be helpful. Has the department been satisfied with the take-up rate?

**Mr Pratt**—In fact, the take-up has been greater than we modelled, but departmentally we would have liked to see more early use of the job seeker account. Given the issues with the job seeker attendance, though, it is not very surprising that it has not been as high as we would like.

**Senator GEORGE CAMPBELL**—I think we also spoke on the last occasion about the literacy and numeracy issues, particularly about young people 15 to 19 years old. You were going to take that on board and do something about it. Can you tell us what has happened in that area?

**Mr Pratt**—I do not have a specific recollection of what was discussed. I do recall that the issue came up. Certainly, job seekers are accessing literacy and numeracy training via Job Network. For example, so far over 500 job seekers have been referred to the Language, Literacy and Numeracy Program. As part of the job seeker account and training account expenditure, I imagine some of that would have been on literacy training. I am not sure that I can identify that at this stage, though.

**Dr Boxall**—Senator Campbell, I think the last time we met we said that with the new job seeker account we should be able to get a better idea of the demand and usage of the literacy and numeracy program. As Mr Pratt said, we seem to have had about 500 thus far, isn't it?

**Mr Pratt**—Yes, there have been just over 500 who have been referred to the literacy and numeracy program.

**Senator GEORGE CAMPBELL**—I was particularly concerned on the last occasion—Dr Boxall, I am sure you would be aware of this—about 15- to 19-year-olds.

**Dr Boxall**—Yes.

**Mr Pratt**—We do not have an age break-up on that. We will take that on notice.

**Senator GEORGE CAMPBELL**—Thank you.

**Senator WEBBER**—One of the other great new changes we have had since 1 July has been the use of SMS. How many messages have been sent out to job seekers and how is that going?

**Ms Caldwell**—We have issued approximately 2.3 million SMS messages. This also reflects the considerable increase in our vacancy database as well as the number of the vocational profiles that are available through that.

**Senator WEBBER**—How many of those 2.3 million messages have actually resulted in a person being placed in job?

**Ms Caldwell**—The 2.3 million includes public employers, so we have no measure for approximately 17 per cent of that. So for around 20 per cent of the 2.3 million we do not have a measure as to whether the placement occurred, because employers were directly utilising our vacancy database methodology to contact job seekers or to lodge their vacancies. The results went directly from employers through the matching machine to job seekers; it was through direct contact rather than through our agency. For the remaining 80 per cent, I think at this stage we have 26,000 placements—I will have to confirm that for you. I would also add that both Job Network members and job placement organisations normally have 28 days in which to notify us of a placement. They may also be waiting for the placement to take before they get back to us. So that figure would be a very conservative estimate of the mature operation of the system at this stage.

**Senator WEBBER**—What has been the reaction of job seekers to the use of SMS? Has it gone down well? Are they happy with it? It is an awful lot of messages to get.

**Ms Caldwell**—I am sorry, Senator, did you have a question?

**Senator WEBBER**—Just as to the reaction of job seekers—there are an awful lot of message out there. Have they responded positively?

**Ms Caldwell**—Overall, I think it has been very positive.

**Senator WEBBER**—How does the payment for the SMS system work? Who pays?

**Ms Caldwell**—The department pays.

**Senator WEBBER**—So you pay even for those 20 per cent of other people who access the system?

**Ms Caldwell**—As part of our public exchange services we pick up the cost. That is free to employer services to be able to lodge a vacancy on the Australian Job Search site.

**Senator WEBBER**—Is it your view that it has been effective in getting people jobs?

**Ms Caldwell**—The department's view is that, in the early days, it has been very encouraging. We would not want to be in a position yet to conclude, until we have done our normal post program monitoring, as to its mature success rate. But, certainly, the analysis we have done to date has been very encouraging as to its effectiveness, and to its cost effectiveness in particular.

**Senator WEBBER**—Do you have any information on what percentage of job seekers actually have a mobile phone so that they can get hold of these messages?

**Ms Caldwell**—I do not have it with me in the room. I will ask one of my colleagues and, while we are talking, give you some advice on the share of job seekers who have nominated SMS as their preferred communication. As part of the access to vocational profiles, job seekers are able to elect which method of communication would best suit them individually. They have a choice, for example, of personal pagers on the kiosk sites, as well as SMS, telephone and postal address.

**Senator WEBBER**—Perhaps while you are looking at that, you could have a look at the total cost of the SMS service to date.

**Ms Caldwell**—Looking at the result rate, SMS is both one of our more popular message systems among job seekers and the one with the best response rate, because of the immediacy of the message getting to them.

**Mr Correll**—It is fair to say that it is, of course, early days. But so far SMS messaging has been a bit of a surprise packet in the extent to which there has been both take-up and use of it and also in the extent to which it is resulting in job placement outcomes. From the monitoring we have been doing so far, it has clearly been very successful from that point of view. It would appear that, again, it goes to the notion of speed with connection. It means more rapid provision of information on the job opportunity to a job seeker, enabling them to follow up with the Job Network member or, in some cases, employer more rapidly than through other communication channels.

**Ms Caldwell**—I can add more information to my earlier response. Our preliminary analysis at this stage is that SMS messages are three times as effective as email messages and twice as effective as notifications to the personal web pages. I am sorry, I thought I had a figure as to the share of job seekers who have elected SMS as their preferred communication.

**Senator WEBBER**—At the June estimates hearings, we explored the issue of the overnight automated matching system. The evidence was:

What we have eventually settled on is a process which weights various factors. It takes into account geography ... It also takes into account the job title and the occupation category. Then it scans through the description of the job, pulls out all of the noise words, settles down to just the key words and does a ranked match against some of the information that is on the job seeker vocational profile—the matching preferences part, in particular.

Given that, what was it on a job seeker's record that would have allowed them to be matched to an escort agency job in July?

**Ms Caldwell**—The case to which you are referring is not in fact a result of an overnight job match. The job seeker concerned did a search on our quick find listings. So the job seeker was not matched against their records. The job seeker sought all listed vacancies. The job in question had been obtained from a reputable job board who had assured us that unsuitable jobs, such as those prohibited from our cited conditions, had been removed from their data file before it was lodged on our system, and that proved not to be the case in that instance.

**Senator WEBBER**—So somehow or other that job found its way onto your system?

**Mr Parsons**—Can I just chime in there and say that at the start of the market we had what I thought was a very exhaustive list of job titles. We had some 2,500 job titles against which we screened the vacancies that were coming from job boards. Job boards did not have anything like that. Where we could not find a match, we would put them into a general category. What we have done as the market has matured is increase the number of job titles that we match against from 2,500 to 10,200. That dramatically increases the screening that we can perform on the jobs.

**Senator WEBBER**—Is there any filtering of any of that?

**Mr Parsons**—Yes, there is. All of the job board jobs are put to one side before they are matched against our list. If there is no match found, they do not go into the matching.

**Senator WEBBER**—Can you take me through as much as you can—you have alluded to this a bit—the systems you have in place to stop that incident ever happening again? When were those systems put in place?

**Ms Caldwell**—I think Mr Parsons has covered off the most important of those. There has been a range of enhancements to the system, which have been brought on over time really as part of our ongoing continuous improvement progress. We engage as a matter of course in all our services with our user groups and with industry and, in addition to our ongoing releases, we have essentially many enhancements that go out on a weekly basis. Indeed, early in the market, as we gained experience in the operation of some of these features on the ground, they were going out more often than weekly. We have been working with job agencies, Job Network members, from essentially the beginning of the market to garner their experience. We have been looking at the data as to the most effective means of communication; the emerging picture—it is still early days—of the types of communication methods that are preferred by job seekers; what gives us the greatest success rate with those; where the share of vacancies are falling in the new market—the type of most common job occupations, for example, that are occurring; as well as the other distinguishing features that lead to a successful placement outcome.

As Mr Correll mentioned, it is very early days so we would not want to overstate the rigour of the initial data at this stage, but we are getting very positive outcomes, including positive correlations between the position of the vocational profile and the successful job outcome through these methodologies. We are also seeing an emerging picture of positive correlation between SMS as both a preferred methodology and a very effective one in our range.

In terms of the additional screens, it has been essentially a picture of increasing enhancements for public employers who may lodge directly on our site. There has always been a range of screens and filters that are available through the system. In the case of job boards, the nature of the input data is a bit different. Typically, newspaper advertisement listings do not go into the full location details, for example, that an employer lodging might. They might say ‘in the northern suburbs of Sydney’ or ‘in Western Perth’. Additional screens have been built around that to give us additional assurance. As well there is a quality sampling process that we internally run. So we have upfront screens to check for words that may be indicative of the problem and we then have a quality sampling exercise as well.

**Senator WEBBER**—But have we done anything to prevent the lodging of inappropriate vacancies?

**Ms Caldwell**—Yes. As both Mr Parsons and I have said, we have an up-front screening tool based on key words. So in future, an ad that contained language such as ‘escort’ or ‘agency’, or any proxy for that, would not be able to be loaded and the record would be rejected.

**Senator WEBBER**—But it does not prevent people from trying to do that?

**Ms Caldwell**—They could try but it would not display on the screen because it would fail that filter tool and it would be subject to scrutiny by one of our operators, who would check that it was not a valid vacancy.

**Senator WEBBER**—What processes were in place with previous versions of IT that prevented these kinds of jobs from being—

**Ms Caldwell**—Essentially, the filters that were in place at the time of the incident to which you referred—

**Senator WEBBER**—With the development of these new systems, is it the same degree as before?

**Ms Caldwell**—Mr Parsons can correct me if I am wrong but, essentially, the changes around 1 July to the matching tool had nothing to do with the front-end filters. So we entered the market with the front-end filters as they had worked successfully without incident in the past. We found that, in an expanded market, we were getting many more players lodging vacancies with us—which of itself has been very fortunate for us—and we found that the existing screens did not cover the full range of vacancies that we now have access to.

**Senator WEBBER**—What action is taken when a job is deemed to be inappropriate?

**Ms Caldwell**—In the first instance, if the inappropriate nature of a job is discernible—for example, an escort job—it would not be lodged on the screen—full stop. So it would be rejected all together.

**Senator WEBBER**—But if by some bizarre fluke—because with the joys of technology there is not a 100 per cent guarantee that everything will work all the time—the job did end up there, then what action is taken?

**Mr Correll**—Can I just chime in there and say that if you are a Job Network member and you attempt to lodge such a vacancy on the jobs database you would be in breach of contract. It is a contractual provision.

**Senator WEBBER**—You would then take action against them?

**Mr Correll**—We are taking action. This particular case did not come from a Job Network member; it came from a job board listing. It was our expectation that that job board listing had done its own checks. That did not prove to be the case and this job got through. That was unacceptable and we did not like that one little bit. We have tightened up on things, using the enhancements to the front-end checking tools, to ensure that we do not have those sorts of jobs getting through. But it is certainly unacceptable from our point of view for jobs like that to appear in the national jobs database.

**Senator WEBBER**—Absolutely. Are there any Job Network providers that have tried to lodge inappropriate jobs?

**Mr Correll**—I am not aware of that.

**Senator WEBBER**—I am not for one minute suggesting that they are all trying to solicit for escort agencies, but there are other inappropriate jobs, too.

**Senator GEORGE CAMPBELL**—Mr Correll, I would like to follow up an issue that I discussed with you before. You have the Job Network providers and you were talking about job boards. There is a facility now available under the new system for labour hire companies to register their vacancies and get payment for those to be filled. Do they come under the jobs board category or do they come under the job provider category?

**Ms Caldwell**—In addition to what Mr Correll referred to in terms of Job Network members, the feature that you are referring to is of course our job placement licensing arrangement, whereby any of a range of commercial or other organisations may apply not to provide full Job Network services but to provide us with vacancies and to receive a payment should they place an eligible job seeker into a qualifying position. Labour hire companies would fall into that category should a job placement licence organisation have an on-hire service.

**Senator GEORGE CAMPBELL**—Can you tell us how many companies you now have in this category of job licensing arrangements and the number of jobs that have been—

**Ms Caldwell**—We have 416 job placement licences. Licences are also provided to Job Network members as well as to our other providers, such as providers of the New Enterprise Incentive Scheme. We do not classify job placement licence holders by whether they are labour hire companies or otherwise. In the main, there is quite a range of commercial recruitment agencies and quite a diversity of community groups or other people who are active in the broad range of recruitment services across Australia. So some of them will have labour hire organisations and some of them will not.



**Senator GEORGE CAMPBELL**—I understand that. I am not so interested in the Job Network providers side of it. I am interested in this group in that they are purely registering their jobs on the system.

**Ms Caldwell**—Of the job placement licensed organisations, excluding job placement licences only, we would not categorise them as essentially being labour hire companies or otherwise. They are recruiting professionals who have met our licence conditions. We do not differentiate in the categories.

**Senator GEORGE CAMPBELL**—I am sorry, Ms Caldwell; I am not asking you to differentiate. I am asking you how many of them there are.

**Ms Caldwell**—There are 416.

**Senator GEORGE CAMPBELL**—But that includes your Job Network providers?

**Ms Caldwell**—No. That is in addition to.

**Senator GEORGE CAMPBELL**—So the 416 are exclusive of the Job Network providers?

**Ms Caldwell**—Yes.

**Senator GEORGE CAMPBELL**—Can you give us the figures for the number of vacancies that they have put on the system?

**Ms Caldwell**—I certainly can. As at 24 October it is 27,992, and they are vacancies and not positions.

**Senator GEORGE CAMPBELL**—Do you have a figure for how many of those were filled?

**Ms Caldwell**—I do not have that figure broken up against job placement only organisations. I could get that for you.

**Senator GEORGE CAMPBELL**—Would you take that on notice and provide that?

**Ms Caldwell**—Yes, I think we should be able to settle that one in the room.

**Senator GEORGE CAMPBELL**—And that was at 24 October?

**Ms Caldwell**—Yes.

**Senator WEBBER**—Perhaps while you are hunting for that you could also have a look at how many long-term unemployed people have actually got into those jobs.

**Ms Caldwell**—I can advise you, relevant to an earlier discussion, that 24 per cent of active job seekers have specified SMS as their preferred communication.

**Senator WEBBER**—Thank you, that is excellent. I bet most of them are young.

**Ms Caldwell**—I do not have that breakdown.

**Senator WEBBER**—I want to return briefly to the topic of inappropriate jobs. Have there been any sanctions against any organisation for attempting to lodge an inappropriate vacancy?

**Mr Corell**—I am not aware of any. I would be happy to take that on notice, because we would need to track right back through employment services contracts 1 and 2 to absolutely verify that—but I am not aware of any.

**Senator WEBBER**—I am more than happy for you to take that on notice. I also want to raise the case of the Tasmanian woman who was reported in the press in July this year as having been told to remove her age from her resume. Does the department sanction that kind of approach?

**Ms Caldwell**—The information that a job seeker chooses to put on their resume is their own election. We have a range of information on the person's vocational profile that is worked up with their employment service provider. It is then essentially a matter for the job seeker to decide which of those details they wish to make public.

**Senator WEBBER**—She is alleging that she was advised to remove that. I am just wondering whether the department sanctions that kind of approach.

**Ms Caldwell**—The department does not have a view on the choices that the job seeker will make other than—

**Senator WEBBER**—Does the department have a view on the advice that the Job Network provider would offer a job seeker in drawing up this resume?

**Mr Correll**—I do not believe that the department would have a concern with that advice being provided to the job seeker. No discrimination should be practised by any employer in relation to the age of a job seeker; that should be immaterial. It is relatively common practice today for age not to be shown on a resume.

**Senator WEBBER**—Just changing topics, when glancing through the annual report I noticed that the department provided labour market advice on more than 110 operational labour agreements with employers and industry associations seeking to recruit workers from overseas. You may well need to take these questions on notice. It will come as no surprise to you that I want to know how many of those agreements are in WA.

**Mr Matheson**—We will have to take that on notice, but we can do it quite easily. Some may operate nationwide as well and we might not be able to strictly distinguish Western Australian in all cases. We will do that.

**Senator WEBBER**—When you are looking at those, please be aware that I am particularly interested in how many involve the Western Australian Chamber of Commerce and Industry. Just off the top of your head, do you think we need to bring from overseas at the moment people such as fitters, metal fabricators, general electricians and welders?

**Mr Matheson**—I cannot comment on the extent to which labour agreements might be being used in that area. There are areas where they are more typical. In areas like IT they have been used quite extensively—although, with the way the IT market has gone, they are probably being used less so now. Accountants have been a large area. Health workers have been another big area; there are quite a few labour agreements covering nurses. There have been labour agreements in the tourism sector, and that has been another large area. I am not aware of the extent of any particular usage in the area that you mention.

**Senator GEORGE CAMPBELL**—What about fertiliser engineers?

**Senator WEBBER**—Fertiliser plant manufacturers, yes; they are a very specialist group. But fitters and what have you are skill sets that would exist within the Australian labour market.

**Mr Matheson**—That is right, yes. As we know, in some of the metal trades there have been longstanding skill shortages also. I will have to come back to you on numbers. Off the top of my head, I do not know of particular examples.

**Senator WEBBER**—I will give you some other questions on notice about that, anyway. What exact monitoring does the department undertake once persons come into Australia on one of these labour agreements?

**Mr Matheson**—The particular monitoring arrangements are detailed in the labour agreements themselves. In fact, the monitoring arrangements attached to labour agreements are far more stringent than monitoring agreements attaching to individual employer nominations—we do have a document where we get certain commitments from the employer. They will vary.

**Senator WEBBER**—Do we have a template kind of agreement?

**Mr Matheson**—They do vary. We are looking at reports on an annual basis. Typically, labour agreements might operate over several years. So the numbers that can be brought in in subsequent years will be conditional on the employer meeting certain benchmarks. With the way labour agreements are often structured, the importation of labour is not meant to be a substitute for training Australian workers. Typically you will often have labour agreements that not only involve bringing in overseas workers but also commitments to increasing the level of training by the firm, and those sorts of commitments will be monitored. In other cases the monitoring arrangements might be more stringent than that; for example, they might require six-monthly reports. They are tailored to the individual circumstances but typically have far more stringent monitoring arrangements attached to them than other visa categories.

**Senator WEBBER**—So how do you monitor training or career path progression within agreements like this?

**Mr Matheson**—It might be done, for example, on the basis of a commitment to spend a certain amount or percentage of payroll on training. It might involve a commitment to taking on a certain number of Australian graduates—because, as I said, a lot of these operate in some fairly skilled areas. For example, we might say that company X, as part of its agreement to bring in 20 people, commits itself to increasing from five to 10 its recruitment of Australian graduates or whatever. It might have to establish a training package or training arrangement that might not have been in existence. We will often ask a company to work with local training providers to develop training arrangements. There is a whole range but no template as such. It is fashioned according to the circumstances of the employer.

**Senator WEBBER**—If the Chamber of Commerce and Industry in Western Australia were to import a whole range of fitters and metal fabricators, would the agreement then put the onus on it to take on and train up apprentices within Australia, or are we just going to keep on allowing them to come in from South Africa?

**Mr Matheson**—The labour agreements are with the employers, and I do not know the details of the particular case you are talking about.

**Senator WEBBER**—I will provide you with those details later.

**Mr Matheson**—I am not really in a position to answer anything to do with the specifics of that case.

**Senator WEBBER**—But generally?

**Mr Matheson**—Generally they are with an employer, and that is how you ensure that you can have these commitments met.

**Senator GEORGE CAMPBELL**—Are these guest workers that come into the country sponsored by the employer?

**Mr Matheson**—When you say ‘guest workers’, are you talking here about people who come in under labour agreements?

**Senator GEORGE CAMPBELL**—Yes.

**Mr Matheson**—People who come in under labour agreements do so as either permanent or temporary entrants and have to conform to the relevant visa category. They are not guest workers; they are people who get a visa to enter Australia and work on either a temporary basis or a permanent basis.

**Senator GEORGE CAMPBELL**—If an employer seeks entry for these workers, presumably it is on the basis of there being a shortage.

**Mr Matheson**—Because these labour agreements involve an agreement with the employer, there is certainly an element of labour market testing in the agreement; that is right.

**Senator GEORGE CAMPBELL**—In the main, do they have a restricted visa?

**Mr Matheson**—They have work rights.

**Senator GEORGE CAMPBELL**—But presumably they are restricted to that employer?

**Mr Matheson**—Yes. Typically, they are employer nominated and have to stay with the employer.

**Senator GEORGE CAMPBELL**—Are they required to have a contractual arrangement with the employer?

**Mr Matheson**—I would have to get advice on that. Our department does not have any role in the issuing of visas; that obviously is the responsibility of the Department of Immigration and Multicultural and Indigenous Affairs. Our involvement in it is from the labour market perspective; it is not from the visa issuing and enforcement perspective. Some of these questions are probably more in DIMIA’s area.

**Senator GEORGE CAMPBELL**—But, presumably, you do not have any special provision that facilitates these individuals which fast-tracks them through the DIMIA processes?

**Mr Matheson**—Not from our perspective, no. Labour agreements are a fairly time consuming exercise, because of their nature. Often they are for larger numbers of entrants and

they come with a series of agreed conditions attaching to them. They typically take quite a while to negotiate. It is not the way to fast-track people in if you want to fast-track people.

**Senator WEBBER**—When you say large numbers, what do you mean by large? I have one here that is for eight people.

**Mr Matheson**—When I say ‘large’—

**Senator WEBBER**—A couple of fitters?

**Mr Matheson**—Employer nominated visas typically apply to one individual so, whenever you want to bring in more than one individual at a time, labour agreements may be an avenue that you would want to pursue. Some of these will be quite large. For example, labour agreements signed with some of the state health departments have involved quite large numbers of nurses—in the hundreds.

**Senator WEBBER**—Or the welders that came in from Korea. That was quite a large number as well. With these agreements, what happens if the commitments are not met?

**Mr Matheson**—It is possible to terminate the agreements. More typically, they would not get another agreement. If commitments were not being met during the course of the agreement, we would try to ensure that they rectified the situation. You would expect that if they were serious offenders in terms of not meeting their agreement, they would not be able to get another one.

**Senator GEORGE CAMPBELL**—Dr Boxall, on youth unemployment the department has provided policy advice and contributed to policy papers such as *Youth and the labour market*. You have also spent a great deal of time and effort providing young people with information about employment and training but not much on testing new programs or projects that might break down some of the barriers, particularly those in respect of groups of disadvantaged young people. Can you outline for us any new initiatives that are being tested?

**Mr Carters**—A number of proposals are being worked on in a whole-of-government sense looking at better ways to assist young unemployed people. We have something called a simple service solution which is working with Family and Community Services and Centrelink to service young people in a way that looks at their particular needs and which has a look and feel that is attractive to young people. Another approach is a new web site called Job Juice which is up and running. It is designed to be very appealing to young people. Young people access the Job Juice web site and through that site they have access not just to DEWR services but to a whole-of-government suite of services. We are also looking at improving our links for young people who are at risk of leaving school and we are looking at ways to assist them to remain in school. However, if they do decide to leave school, we ensure that they can access our Job Network services very quickly. At the moment there tends to be a bit of a lag between people leaving school and when they access our services. As well as that we have the early access to job search training coming up in July 2004, which is a new initiative announced in last year’s budget. That will bring forward that access from the three-month gate which would have existed before then. Young people, including young people not on income support, are also eligible for the full range of Job Network services. If they are unemployed, they are able to access the full range of Job Network services.

**Senator GEORGE CAMPBELL**—Are all these initiatives that you have outlined in the process of being piloted, or are they programs that are up and running as full programs?

**Mr Carters**—It is a mixture. Some are up and running, obviously, and others are still being developed.

**Senator GEORGE CAMPBELL**—Can you separate the ones that are being piloted from those that are up and running as full programs?

**Mr Carters**—The early access to job search training does not start until July 2004, as I said, so that one is still being worked through. The assistance for young people at risk of leaving school is something that we are also working on. We are working with our colleagues in the Department of Education, Science and Training on that to improve our services to those young people.

**Senator GEORGE CAMPBELL**—Presumably, you have targets, or outcomes, that you expect from these various programs. To save you going through them all, can you take it on notice to provide us with a list of those programs that are up and running, those that are in the piloting process and those that are being developed and what the targets, or outcomes, are for each of those programs?

**Mr Carters**—Yes, we can do that where we do have targets and expectations, but in some cases that is not an appropriate condition through which we set up a particular process.

**Senator GEORGE CAMPBELL**—You must at least have some outcomes in mind that you will achieve from the program that you set up or establish.

**Mr Pratt**—I will draw your attention to the annual report, in which we list outcome rates for young people under some of our services and the previous Job Network arrangements. Positive outcomes as measured by our post program monitoring service shows that in 2002-03 young people had 73.3 per cent positive outcomes from systems under job matching, 52.7 per cent under Job Search training and 56.3 per cent under intensive assistance. The average across the total Job Network services was 63.9 per cent.

**Senator GEORGE CAMPBELL**—Thank you, Mr Pratt, but I am particularly interested in the new initiatives that are being developed, which Mr Carters has referred to. Mr Carters, what does the department think of the JPET program and the outcomes it delivers for young disadvantaged kids?

**Mr Carters**—The JPET program is not delivered by us. It is delivered by the Department of Family and Community Services.

**Mr Pratt**—We have entered into an agreement with the Department of Family and Community Services for the JPET program to be listed on our system as a complementary program, to which Job Network members would refer job seekers who would benefit from that program. We see it as a service which could complement the Job Network services.

**Senator GEORGE CAMPBELL**—Are you aware, Mr Pratt, that the funding for JPET will go early next year?

**Mr Pratt**—I was not aware of that.

**Senator GEORGE CAMPBELL**—So the department has not considered taking over this program and funding it itself?

**Mr Correll**—No.

**Senator GEORGE CAMPBELL**—How long has the department been producing and circulating monthly regional estimates of teenage unemployment?

**Mr Matheson**—We do not do that. We produce quarterly estimates of regional unemployment at a very disaggregated level through our publication called *Small area labour markets*. We provide unemployment estimates for around 1,300 statistical local areas across Australia, but that is at the aggregate level.

**Senator GEORGE CAMPBELL**—Who receives copies of these estimates?

**Mr Matheson**—They are made very widely available. I think most parliamentarians get them. They certainly go to the Parliamentary Library, which then redistributes them according to federal electorates so that we get federal electorate estimates. The biggest audience, though, for the publication—and I could not say exactly how many people were on our mailing list—are basically the local authorities. The councils in different areas are very interested in knowing what is happening to unemployment. So there is a very wide distribution of it. We also put it up on our web site so it is there for anyone who might want to access it that way.

**Senator GEORGE CAMPBELL**—Could you give us a list of all the parties who currently receive the documentation, including government ministers?

**Mr Matheson**—Yes, I should be able to do that.

**Senator GEORGE CAMPBELL**—Can you confirm that, on 17 July 2003, incorrect estimates of teenage unemployment were circulated?

**Mr Matheson**—I am not sure if I could. I could try and get to the bottom of that issue, but I am not aware of it. As I said, our estimates are not for teenage unemployment; they are for all people at all ages.

**Senator GEORGE CAMPBELL**—Can you or the department confirm if either Minister Abbott or Minister Anthony or any of their staff contacted the department on 22 July about the estimates of youth unemployment which had been sent to local media?

**Mr Matheson**—I would have to take that on notice and follow that one up for you.

**Senator GEORGE CAMPBELL**—Can the department confirm that, between 22 July and 18 August 2003, it notified the Parliamentary Library that estimates on regional teenage unemployment would no longer be circulated?

**Mr Matheson**—Again, I will have to take that one on notice.

**Senator GEORGE CAMPBELL**—Does that mean that you are not aware whether that contact was made?

**Mr Matheson**—Yes, that is right. I am going to have to follow that one up.

**Senator GEORGE CAMPBELL**—Is anyone at the table or in the room aware of that contact being made?

**Mr Correll**—I am not aware of it, Senator. I am surprised, because the Minister for Employment and Workplace Relations put out a press release today commenting on the full-time unemployment to population ratio for young people having fallen from 4.8 per cent to 4.4 per cent. That is in the public domain.

**Senator GEORGE CAMPBELL**—If that is correct and if that contact was made, can you find out on notice the reasons why the circulation of the estimates of regional teenage unemployment were withdrawn?

**Mr Matheson**—I will certainly try and find out the circumstances of it if such a thing happened.

**Senator GEORGE CAMPBELL**—If such a thing happened, can you confirm whether or not it was as a result of a complaint about the figures being circulated and published by the media in the Richmond Tweed electorate?

**Mr Matheson**—Yes, I will do that.

**Senator GEORGE CAMPBELL**—Are you aware of any other figures that are produced for the federal government on youth unemployment rates in Australia?

**Mr Matheson**—The Australian Bureau of Statistics prepares the data on youth unemployment. To my knowledge, that is the principal source. It is certainly the only source that we would rely on.

**Senator WEBBER**—Do the department circulate their figures?

**Mr Matheson**—We would do briefings—for example, to our minister—on a regular basis on youth unemployment, certainly. Whenever there is new data available from the ABS on youth unemployment, we brief our minister.

**Senator GEORGE CAMPBELL**—Are the figures that you produced—the regional figures—the only ones that are produced, to your knowledge?

**Mr Matheson**—To my knowledge, they are the only data that are produced to that level of disaggregation. The ABS produces labour force data to a certain level of disaggregation, but, as far as I know, no-one else produces labour force data to the extent of disaggregation that we do. That is why our data are fairly popular amongst local councils and so forth.

**Senator WEBBER**—If there is a parliamentary web site that refers to monthly teenage unemployment estimates—

**Mr Matheson**—They would have to be ABS data, not our data. A week after the labour force data at a national and state level are released—and those were the data which were released today—the ABS releases more detailed data at the regional level and at the age level. It would be based on the data that the ABS releases monthly in the week following the release of the national employment figures. That would be the only source of teenage unemployment figures.

**Senator GEORGE CAMPBELL**—I have a couple of other questions while we are on that. Can you also confirm that either Minister Anthony or Minister Abbott or their staff instructed that the estimates of regional teenage unemployment no longer be circulated to either the library or any of the opposition parties?



**Senator Abetz**—How do you think that Larry Anthony would instruct this department? I have noticed a few questions about Mr Anthony.

**Senator GEORGE CAMPBELL**—I am just asking the department to confirm if they did or they did not.

**Senator Abetz**—Requests may have been made from other ministers, but to suggest that Mr Anthony instructed seems to be wrong given that he is not a minister in the portfolio area. I am trying to help. If the question is whether he instructed—

**Senator GEORGE CAMPBELL**—I will modify my question to ‘requested or instructed’.

**Senator Abetz**—I would have thought it would be very easy for all of them to be answered ‘no’, because he has no capacity to instruct. If you want information—

**Senator WEBBER**—But Minister Abbott would have had the capacity to instruct. We want to know about him as well.

**Senator Abetz**—It is very clear that he did have the capacity.

**Senator GEORGE CAMPBELL**—Finally, can the department provide any correspondence, including email correspondence, which was received or circulated between 17 July 2003 and 18 August 2003 dealing with youth unemployment estimates, specifically the decision to cease the circulation of the estimates?

**Mr Matheson**—As with the other issues, we will investigate it.

**Senator GEORGE CAMPBELL**—So there is a series of questions. Maybe a ‘no’ will suffice to answer all of them.

**Senator WEBBER**—You were talking about the ABS data. Has the department ever circulated averages of that ABS data?

**Mr Matheson**—The one thing that we do is produce a publication on a quarterly basis called *Australian regional labour markets*. All that is is an average of the three months of ABS regional labour force data. The reason we do that is that, the more you disaggregate these data, the more variable they become or the more subject to variability they become. The more you disaggregate labour force data, the more subject to variability they are. So for quite a long time we have produced a publication which essentially just averages three months worth of ABS regional data.

**Senator WEBBER**—But you have not done anything that is monthly specific; it is more quarterly?

**Mr Matheson**—That is a quarterly one.

**Senator WEBBER**—There is nothing monthly?

**Mr Matheson**—That is an average across three months of ABS regional labour force data.

**Senator GEORGE CAMPBELL**—We have a number of other questions but we can put them on notice.

**Senator WEBBER**—We thought we would be very kind and put them on notice.

**Proceedings suspended from 6.25 p.m. to 7.39 p.m.**

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**Equal Opportunity for Women in the Workplace Agency**

**Senator KIRK**—I have some questions on paid maternity leave. Could you tell the committee whether your organisation conducts research into paid maternity leave and the workplace?

**Ms Krautil**—Yes. One of the things we do with reporting every year is an ABS approved survey where we ask employers to report to us some key questions around particular matters of interest to women in the workplace. This year we have asked questions again around paid maternity leave. We asked that two years ago and we have used the same questions. We are hoping to be able to analyse the data in the next couple of weeks and to release it with our Business Achievement Awards in the third week of November. I am sorry that I cannot tell you at the moment what it is going to say. It will be very useful data, because we will be able to see how it has increased. We are seeing an increase in more companies paying maternity leave and we will be able to get a feel for what is happening. I suppose it is at the top end of town with medium and large employers in terms of the level of community debate out there. Anecdotally, we believe that we are seeing more employers paying it. We get stories every day: ‘My CEO heard Pru Goward on the radio and came in and said, “Let’s do paid mat leave,” and it happened that day.’ I wish that would happen in more places! We also believe that there are a lot of companies waiting to see what the government is going to do in this area. We will have the numbers for you in two weeks, hopefully.

**Senator KIRK**—At the next round of estimates, in February, we will be able to ask those questions. I would just like more details about the nature of the survey. How many companies do you survey?

**Ms Krautil**—This year with reporting we actually had 2,744. That is the number registered as reporting organisations. Of that group, 199 were waived under the act for this year. So we had 2,500, approximately, that actively reported to us this year.

**Senator KIRK**—So they actively report to you on a whole range of issues?

**Ms Krautil**—They report to us under the act. They have to consider the seven employment matters and they have to identify the issues for women in the workplace. They have to prioritise them and then, under the act, they are required to action at least one or two of the matters. They provide us with a written report; that is required under the act. Those reports are on our web site. This year’s have not yet been loaded up onto the web site, but last year’s are there and by Christmas we will have loaded this year’s. So they are publicly available reports.

**Senator KIRK**—Those seven matters do not include paid maternity leave, do they? That is an additional matter.

**Ms Krautil**—No, but they include conditions of employment. So we will pick up, for example, if a company chooses to tell us, whether a company has introduced paid mat leave under that employment matter. There is also an employment matter on pregnancy and breastfeeding. So we can take it up there as well. We are not prescriptive in terms of the headings under which companies tell us. We are very well positioned to look at the whole work and family area, because our employment matters pick it up. Even though it is about women, you actually pick it up in terms of whether they are just addressing women or addressing men as well.

**Senator KIRK**—The survey you refer to was in addition to your reporting—

**Ms Krautil**—We do that in addition to the legislation. We also asked some questions around part-time managers this year, because we have got some energy around whether we are seeing any shift in work design around the management jobs. We believe that is a key thing we need to see, and we are just testing the water there. That is in the annual report, related to the question: what are the three major barriers to your organisation being able to address these matters? The analysis of that data is in the annual report. We did that to try to get a handle on what our educational material needs to be and how we need to position our material.

**Senator KIRK**—Completion of that survey would not have been compulsory then for the companies, would it?

**Ms Krautil**—No, but we strongly encourage it. It is not legislatively required, but we try to do everything possible to get the data. When you see the final data it will not be from 2,500 companies. Last year we had 1,900 out of 2,500. The statisticians tell me it is very valid data to be able to draw conclusions from.

**Senator KIRK**—So you are expecting this year to be about the same?

**Ms Krautil**—I cannot confirm that, but I would expect it to be similar.

**Senator KIRK**—Could you provide the committee with a copy of the survey of the questions that you asked the companies?

**Ms Krautil**—Yes, I can do that.

**Senator KIRK**—That would be good, thank you. And perhaps you could also provide the committee with the outcome of the survey as well when you have the results.

**Ms Krautil**—Outside the hearing process?

**Senator KIRK**—If possible.

**Ms Krautil**—I will do that through DEWR.

**Senator KIRK**—And then we could look at it prior to the next round of estimates. I wonder whether you have any views about the limitations of an enterprise-by-enterprise approach to paid maternity leave.

**Ms Krautil**—From where we sit, we do not prescribe to companies whether they pursue equal opportunity for women through their industrial relations regime or whether they pursue it through their policy regime. It is actually not something that we gather data on specifically, but it is sitting on my list because I think it would be interesting to have a look at. We at EOWA are very interested in what drives the change process. I think that is really where our energy is. I think the enterprise-by-enterprise approach works in some industry sectors particularly well. I am not convinced that it is giving us great outcomes in some of the very traditionally male sectors where there just are not the numbers of women to vote to get work and family practices in there. That frustrates me a little bit. Yet, if you look at the banking sector, a lot of the work and family outcomes for women, which are very important for women, were driven through enterprise bargaining.

**Senator KIRK**—Do you think that your survey will assist you in forming a view on this question of whether or not an enterprise-by-enterprise approach is a good one?

**Ms Krautil**—Probably not specifically to the degree that I think you are looking for. Have a look at the questions when they come, because I cannot remember them all. We would certainly have asked whether paid maternity leave is available to all staff. We are interested in how many companies just pay it for managers and how many pay it for all staff. Usually, if it is there for all staff, it is linked into the certified agreements and the enterprise agreements. That is what I mean: you would be drawing conclusions. If it is available for all staff, that is probably where it is sitting. I can certainly have a look at the data for you and see what we can draw from it.

**Senator KIRK**—That would be useful. I might ask you next time. That would be good. What is your view in EOWA about a national paid maternity leave scheme?

**Ms Krautil**—I think it is a very important piece of the jigsaw we have to put together to enable women to work. I think EOWA is on the public record as supporting paid maternity leave. We put a submission into the HREOC inquiry. We see with leading employers that where companies offer paid maternity leave, flexibility around start and finish times, part-time work, leave and assistance with child care—not necessarily child-care centres but help lines and flexibility around when people work, such as not forcing you to work on Wednesday if you cannot get child care on Wednesdays—those companies are getting a 100 per cent return rate of women from maternity leave. Again, that is something we are noticing anecdotally this year with our ‘Employers of Choice for Women’, which we will name in a couple of weeks. They are getting very high return rates from women and they stay. I believe that paid maternity leave is just part of the picture. If we are serious about working women in Australia—and we know that 44.6 per cent of the work force is female—we need to stop playing around the edges of work practices. We have to get serious about what women need to be able to fully participate. We are the second-last country in the OECD world not to pay it, so I think it is time.

**Senator KIRK**—And, as you say as well, it is not just about paid maternity leave; it is the other benefits as well—assistance for child care and those kinds of flexibility arrangements.

**Ms Krautil**—We have to provide all of that and I think at EOWA we can demonstrate that when you do provide it, even within the company box, you see the outcomes. I think Australian industry needs those outcomes. The other bit of data we now have is that 57 per cent of university graduates are female. We are doing really well in this country at educating girls and getting them through university, and we just have not created inclusive workplaces. We have to do more than pay maternity leave. It is a piece—

**Senator KIRK**—Of the whole package.

**Ms Krautil**—and the child care is another piece and the flexibility is another piece.

**Senator KIRK**—Absolutely. I have some questions arising out of your report. On page 26 of your report I was interested to look at some of the figures that you referred to just a moment ago. Towards the bottom of page 26 you say that:

Data collected from the 1859 reports assessed by 19 August 2003 showed that:

- 45% of employees are women
- 29% of managers are women ...

I wondered, on the basis of those figures—which show a reasonably high figure for managers—whether or not you would have concerns about the proportion of women who are being promoted to senior positions in organisations.

**Ms Krautil**—Absolutely. I do not know if you saw the Women in Leadership Census, which we released on 2 October. It sits on top of that. The Women in Leadership Census looks at the top 200 companies on the stock exchange in Australia and at the number of women in the top levels of those organisations, both on boards and in senior management. We use methodology that we can compare with the US and with Canada, and we are very pleased because next year we are going to be able to compare with Europe—probably Norway. We use a methodology that we have licensed from Catalyst in America. They are expanding overseas to do censuses across the globe. We had—I guess for us—an amazing level of media interest in these statistics. This year the census challenged the idea that time will fix it. I think Sandra Yates was in the quotable quotes section of *BRW* saying that this puts the nail in the coffin of the idea that time is going to fix it. This was the second census. We had done it last year, and this year we showed that there had been no significant change in the number of women in management in those top companies. We are talking about a change from 8.4 per cent to 8.8 per cent. We are talking about less than 10 per cent of positions in decision making.

**Senator KIRK**—That had not changed very much from the previous year?

**Ms Krautil**—It is not significant. Sorry?

**Senator KIRK**—It remains the same as the previous year thereabouts.

**Ms Krautil**—It is statistically the same; it is a 0.4 per cent change. In the US when they did the second census they got a 1.3 per cent increase. It is too early to talk statistically but the trend data does not look fantastic. What it is about is that we have to do more. That is why we are doing the Women in Leadership Census; to engage business leaders. We will be sending a copy of that to all members of parliament and business leaders, so you should receive one of those. We are using it to create the public debate.

**Senator KIRK**—Great.

**Ms Krautil**—Our data at EOWA have always showed management levels higher than the ABS data. I believe the legislation makes the difference and that by reporting under our act companies at least are doing something in this area.

**Senator KIRK**—How many companies participate in the census?

**Ms Krautil**—There are 200.

**Senator KIRK**—They are top companies?

**Ms Krautil**—Under the methodology, it is the top 200 on the stock exchange and the line is cut off at 30 March. We are shifting it next year. ANZ are our strategic partner for the census and, if they agree to support us again, we will look at doing it with the financial year. We think it will be a 30 June cut-off, which we believe will be even more powerful because it

will go into the planning financial year. We are always looking at how we can make more out of the data.

**Senator KIRK**—Out of interest: how does that 8.4 per cent figure compare with the United States and Canada?

**Ms Krautil**—The US data is 15.7 per cent for corporate offices, which is equivalent to top tier, and their board statistics are, I think, 12.7 per cent. They look at the Fortune 1000, so they are talking about the biggest companies in the world. With respect to our statistics, we are running 10 or 15 years behind the US on women in leadership in the business sector.

**Senator KIRK**—That is a lot of years.

**Ms Krautil**—It is a great concern.

**Senator KIRK**—Our figure of eight per cent is almost half of 15 per cent.

**Ms Krautil**—Correct. The positive thing—well, it is not positive—is that we started at the same place they did. The US research shows that you get what you measure. That is why we at EOWA launched the census; we did that because we have not been measuring it. The US experience shows that every year they have seen an increase, so you can see a positive rise. With the level of public debate we are seeing, I believe it will be positive if we can keep the interest. We are trying to also do functions around the census. It gives us a fabulous piece of research that is very practical, and you can bring a group of business leaders around to talk about it and about why this is so terrible. We have something that actually says, ‘time will not fix it’ and we can say, ‘what are you guys are going to do about it?’

**Senator KIRK**—That was my next question. How do you see your agency’s role in assisting organisations to promote women to senior positions?

**Ms Krautil**—We do it strategically in a number of ways. We do it through the act. If you look at page 27 and, even better, page 28 of the annual report, you can see the curve for the years 2000, 2001 and 2002. We are slowly seeing companies action more employment matters. When we started, the average company was only really looking at three employment matters out of the seven. If you look at page 25, it shows the seven employment matters. It is probably quicker for you to read them on the graph in figure 3 than it is for me to tell you. They are all the key people management practices. It is quite a positive thing to say that in 1991, on average, companies were working three of those employment matters, in 2002 they were working three and now, this year, they are working four. I have been publicly stating that we are seeing a positive step in the right direction. But I also believe that if we only work with HR people—which is whom we are working with—with the act, we will be here a long time.

There was a piece of research done before I came in which said that at the rate of change we were at it was going to take us 177 years to achieve gender equity. So we at EOWA also have strategies around engaging business leaders. That is why we did the census and that is why we do our business achievement awards. The next awards will be the third awards we have done. We have seven corporate sponsors who support it. We recognise the leading CEO for the advancement of women, the leading diversity champion, the best company over 500, the best company under 500, best practice, best outcomes and we give an encouragement award. We have positioned it as a prestigious business event. In the first year we had 26 CEOs

come, last year it was in Melbourne and we had 46 CEOs, and this year 61 have sent RSVPs. So we believe we position that as an inspirational event with the goal that they will walk out of there saying, 'Why can't I do that?' So that is a strategy.

We are writing a book at the moment. We have interviewed 10 of our leading CEOs. We have Sue Vardon from the public sector as well. We have three women and seven men. They are telling their stories of why they do what they do. People like John McFarlane from ANZ are in it, because he is doing amazing things at ANZ. Brian Schwartz from Ernst and Young is in it. We have manufacturers. We have a broad range of CEOs. It is called *Chief Executives Unplugged: Business leaders get real about women in the workplace*. At the moment we are debating—again, we are going to mail it out to the world—whether we actually sell it, because it is actually proving to be very rich. So that is another tool that we will encourage companies to buy for their managers and supervisors.

We also do a newsletter for employers. We have the two-monthly *ActionNews*, where we share what companies are doing, and we have a fantastic web site. I am saying it is fantastic because people feed back to us that it is very practical. It has been designed so you can come on as a company and identify whether you are just starting out, just doing one employment matter, moving forward or leading the way. The constant feedback we get is that it is very practical. And we also do workshops. We do national workshops around the country. We find that if we can get people to workshops we get a significant shift in the quality of what the company is doing. So we do a lot of work around trying to get one-to-one interaction with people as well.

**Senator KIRK**—Do you see very many differences between the public and private sector in their participation?

**Ms Krautil**—We do not look at the public sector. In terms of the act, of those companies that report, 80 per cent are private sector and 20 per cent are non-profit. So we do not look at government at all. The figures on Commonwealth government boards are very good: 33 per cent of board positions are occupied by women. I think the Commonwealth can be very proud of that. I do not actually know about the heads of departments. That is not something that is our core business, so I cannot really compare, but I know what is happening in the private sector and the non-profit sector. Paid maternity leave is interesting. We see a lot of the non-profit sector paying it, which I think challenges some of the arguments that you cannot afford it.

**Senator KIRK**—What I was leading to is the concern that a number of people have: in the industrial relations field we have seen that women are unrepresented. But it is also the case that they are unrepresented on the Australian Industrial Relations Commission and on a number of other statutory bodies, such as the judiciary and the like. My figures say that since 1996 there have been 15 new members appointed to the AIRC and only one of those appointments was a woman. The question that arises is: why would the private sector seek to increase the number of senior positions that are occupied by women when they look to government and see that they are not setting a very good example? Do you find that that is an issue?

**Ms Krautil**—I believe that government should lead the way. You can see that globally—for example, in Sweden and New Zealand, just to cite two countries. Government has a role to lead the way. The other challenge, which we have in the private sector as well—it was identified in the census—is that women have to get the operational experience to compete for these roles. I do not know enough about AIRC appointments but certainly in the legal profession and in corporate Australia there are certain seats that a woman has to fill as part of her career development to aspire to those top jobs, and that is something that we have identified in the census. Women are sidelined early in their careers and they end up running the human resources department or the legal department, which is very important but it is not a stepping stone to the top jobs. Through our public work, we are encouraging women in Australia to look at the steps that they take and not to languish in roles that are not leading anywhere. We are also saying that there is a case for the women and then there is a case for the organisation—for example, the AIRC or the legal profession. They personally have to take action. There are interventions and we know that female talent is still invisible, which I just cannot believe.

**Senator KIRK**—It makes no sense.

**Ms Krautil**—There was an article in the paper this week which said that the only women who have made it to the legal bar were women who got there through affirmative action. How can somebody say that in the 21st century?

**Senator KIRK**—They are very wrong.

**Ms Krautil**—Yet people are still out there saying that. So it is very important for the leaders of those organisations to take action.

**Senator KIRK**—Absolutely. As you say, government really should take the lead role.

**Ms Krautil**—I believe that.

**Senator KIRK**—Do you have any opinions on how your organisation could assist the government in ensuring more gender balanced appointments in senior government roles, including in the AIRC?

**Ms Krautil**—I have conversations with government—obviously, being a government person—with the OSW and some of the state women's departments, which all have a lot of energy around getting women on boards. It is the \$50,000 question at the moment: what else can government do? Government has registers. In the end, the people making appointments have to feel comfortable with the women, which means that they need to be mentored and they need to be in the informal networks. Government boards are a very important stepping stone for women. I am encouraged by the level of energy that I see in federal and state government around getting women onto boards. The things that the EOWA can share include what you have to do to fix it, because we have the leading companies that show us how to do it. So we can share that expertise. In the end we have to engage the men. It is a bit of a challenge.

**Senator KIRK**—Indeed. You are really saying that you people have the information that you could share with government to show them the benefits of appointing people to these high positions.



**Ms Krautil**—The census, for example, identifies the top women. Through doing the census we have their names, the companies they are working for and their titles. So we have a list of women at the moment. Because of privacy reasons and so on we cannot do anything at the moment, but it is a potential opportunity and government could do more. I was in a conversation in New South Wales this week about what else government can do. I would like to see our continuing to have those discussions in government and the EOWA being part of that.

**Senator KIRK**—Do you have those discussions with people in the federal government as well?

**Ms Krautil**—Yes, I have. I have already met with the new head of OSW, who has raised the issue of women in leadership as something in which she is particularly interested in doing more. We have had a register but I do not know that it has been working as effectively as we would like. She and I have a lot of energy around that. It is probably more through those informal networks that we are working together on improving it.

**Senator KIRK**—Is your census made available to the government and the Office of the Status of Women?

**Ms Krautil**—Yes. They may not have received it yet but we are mailing it out that the moment. The Office of the Status of Women actually sponsored it last year; they were one of the sponsors.

**Senator KIRK**—Could you make that available to the committee as well? I would like to see it.

**Ms Krautil**—Yes. Would you like both, last year's and this year's, to compare?

**Senator KIRK**—Why not? You can never get too much information. Thank you.

On page 14 of your report you set out what the primary role of the EOWA is. You mention that it is to provide information, advice, education and communication to reporting organisations and members of the broader community to achieve equal opportunity for women in the workplace. You refer to members of the broader community. How do you go about providing information, advice et cetera to the broader community?

**Ms Krautil**—With our *Action News* we do one hard copy *Action News* magazine after our awards and we have a mailing list of 8,000 for that. Wherever we go we do a lot of speeches for the general community. We are always—I was going to say marketing but it is not marketing—encouraging people to register with us if they would like to get our newsletter.

**Senator KIRK**—How do they register: by email?

**Ms Krautil**—They send us their email address or business card. It is usually through email. And everywhere we go we encourage people to come to our web site because that is a very important starting place and through that you can have a look at the newsletter and see whether it is something you want to know about. Since October last year with the first census we have been incredibly successful in getting coverage in the local newspapers and on radio. We do not do too well on television but we have done a little bit of television this year for the first time. Certainly the press coverage has been across both papers like the *Financial Review*, which is very important to me because it is the business sector I really want to influence, and

also the *Daily Telegraph* and the *Herald Sun*. We have magazine articles running right through the year. So I think the general media communication has been much broader in the last 18 months through having something like the census that everyone is interested in, and then we leverage off that to educate the broader community, and ask questions: why is this the way it is? That is how we do it.

**Senator KIRK**—Are you able to measure the community's awareness of these issues? Obviously you can measure employer awareness, but this is much more difficult. How do you do that assessment?

**Ms Krautil**—We probably do not have a strategy around it. I am currently evaluating how employers value our service. We do web site hits and things like that, and not just hits; we also do activity—I do not have the language; it is in my report—where people actually come on and do sessions on the web site.

**Senator KIRK**—What sort of figures are you getting on that?

**Ms Krautil**—It is in the annual report, but we had six million hits, I think, which we were rapt about, and I think about 258,000 user sessions, compared to 151,000 a year before. For us that is a huge shift in terms of usage of the site. As you say, it still does not meet what you are talking about, and I would love to see an Australian census question and ABS really doing some of their surveys that capture that, because I really do not capture it at EOWA.

**Senator KIRK**—It is difficult, that is true. So you have not really conducted any research of your own into the community's awareness?

**Ms Krautil**—Not really. We gauge it from the radio talkback, but it is not quantitative.

**Senator KIRK**—The addition of an ABS question might be the way to go.

**Ms Krautil**—I think that would be well worth considering.

**Senator KIRK**—Thank you very much. They are all of the questions I had for you tonight. I appreciate you coming along.

[8.10 p.m.]

### **National Occupational Health and Safety Commission**

**Senator KIRK**—Good evening, Mr Stewart-Crompton. I just wanted to follow up on some of the matters that were raised with you during the June estimates. In reading the transcript, I can see that there was some discussion between you and Senator Wong in relation to your national priorities. You mentioned at one point that one of your priorities was to establish a national standard and codes of practice, if I read this correctly. I see that you limited that to occupational health and safety in the building and construction industry in particular. Could you give us an update on where that is at at the moment?

**Mr Stewart-Crompton**—Before I turn to the building and construction regulatory material that we are developing, I should explain that the National Occupational Health and Safety Commission has produced a number of core standards that deal with the areas that the commission regards as the greatest risks. The new proposed standards in the building and construction industry will supplement a range of existing standards, some of which have an application across all the industries. The commission decided, after considering the

performance of the building and construction industry in the context of the national strategy, that it merited something which the commission does not normally do—that is, developing standards specific to a particular industry. The other standards have dealt with particular hazards and risks rather than hazards and risks in a given industry. But the performance in the construction industry is a matter of notorious concern, so the commission has started work developing potential material in this area—a national standard and some codes of practice to support the standard.

The Workplace Relations Ministers Council will be meeting later this month and will consider a recommendation from the commission that we proceed to the next stage of seeking public comment on those draft standards. Assuming the ministers agree, we will then go to a process sometime in the new year of putting out a draft standard, and at least one draft code dealing with falls from heights, for public comment. That would then come back to the commission and go back to the ministers. In line with the normal process, if agreement was reached all round, it would be declared and would then influence the legislation of all the jurisdictions. Any work that is done in this area would also be complemented by guidance material and other educational material.

The work in relation to the construction industry is not confined to new regulatory material. There are a number of other initiatives that the commission is taking under the strategy, which will affect this industry and others, as I mentioned. For example, there is work being done to revise an existing national standard on manual handling. There are a number of steps that have been taken, such as a review of how to improve the occupational health and safety work of designers which, again, would have important implications for this industry.

**Senator KIRK**—You said that the decision was taken to develop the national code of practice for the building and construction industry as a consequence of the performance of that industry and, as you said, it is well-known for not meeting standards. I wondered how you reached that decision. Did you do some research, or was it just from anecdotal evidence?

**Mr Stewart-Crompton**—The commission maintains national data on occupational health and safety performance. That data is predominantly drawn from workers compensation information, but over recent years we have developed, and are developing, other sources of information about OH&S performance. We know from this data that the construction industry is one of the three poorest performing industries in terms of the severity of injuries, the incidence of fatalities and, indeed, the incidence of non-fatal injuries. These all mark it out as one of the most dangerous industries in Australia. That is not unique to Australia; the building and construction industry is a hazardous industry around the world.

**Senator KIRK**—You mentioned that three industries stood out amongst the data. Which are the other two?

**Mr Stewart-Crompton**—The other industries that are of particular concern are transport and storage, and manufacturing. But a number of industries perform more poorly than the national average, and they include mining, agriculture, forestry and fishing.

**Senator KIRK**—Are there any moves afoot to develop national standards for these other industries that you have referred to?

**Mr Stewart-Crompton**—Not at this stage. As I said, the traditional approach taken by the commission is to have what might be described as horizontal standards—that is, standards that apply to hazards that go across all industries.

**Senator KIRK**—Are these horizontal standards that you are developing in relation to the building and construction industry?

**Mr Stewart-Crompton**—That could be described as a vertical standard because it deals with a particular industry.

**Senator KIRK**—You mentioned that you have draft standards already prepared. Are these going to be presented to the workplace ministers council?

**Mr Stewart-Crompton**—Sorry, I may have given you the wrong impression. We are preparing the standard and associated codes. We will be putting a recommendation to the ministers.

**Senator KIRK**—So you have not actually prepared the draft code at this point?

**Mr Stewart-Crompton**—We are very advanced in the drafting of a standard and code. This is being developed through tripartite discussions. We expect to have a meeting in December of the tripartite construction reference group, which consists of a number of technical experts, and we would expect that to put us in a position to finalise the material so that, if the ministers agree, it can be released for public comment next year.

**Senator KIRK**—When it is released for public comment, does your organisation still have the oversight role of receiving the public comment?

**Mr Stewart-Crompton**—Yes. Again there would be analysis of the comment, there would be further discussion within the expert working group, and the national commission would, in due course, consider the outcome of all this and make a recommendation to the ministers about the next steps. If all goes well, the next steps will be for the declaration of the standard and associated codes.

**Senator KIRK**—From your discussions—no doubt you have had informal discussions—are you optimistic that that is going to proceed?

**Mr Stewart-Crompton**—I think it is always best to let ministers make their own decisions, but certainly amongst the industry parties there is strong support for the material.

**Senator KIRK**—One of the priority industries that you have identified is, of course, building and construction. Is it identified as a priority industry just as a consequence of your analysis of the national data? Is that how you arrived at that?

**Mr Stewart-Crompton**—Yes. The commission considered the evidence that was available about the areas of greatest hazard and risk and the incidence and severity of injury. This led the commission to decide to focus on four industries in 2003-04. They are: transport and storage, construction, manufacturing, and health and community services. Those four industries together are responsible for about 50 per cent of all workers compensation claims and about 50 per cent of all compensated fatalities.

**Senator KIRK**—So the commission determines its own priorities. Is that correct?

**Mr Stewart-Crompton**—That is correct.

**Senator KIRK**—So there is no direction or advice from the minister in relation to that?

**Mr Stewart-Crompton**—No. The commission does, however, report regularly to the Workplace Relations Ministers Council, where the ministers who have responsibility across Australia meet to discuss a number of things, including occupational health and safety, and the commission seeks guidance from the ministers about their priorities and takes that into account in considering the development of its business plan each year.

**Senator KIRK**—So it is really just an advisory role that the ministers play, and then the commission makes its decision?

**Mr Stewart-Crompton**—In effect. It is important to note as well that the ministers on that council not only endorsed the National Occupational Health and Safety Strategy that was developed by the commission last year but also made a formal commitment to the aims of the strategy. So there is a close working relationship between the commission and the council.

**Senator KIRK**—Could you inform the committee what involvement, if any, your organisation has had in advising the government about the outcome of the Cole royal commission?

**Mr Stewart-Crompton**—It has not been the role of the commission to provide advice to the government about the Cole royal commission. There were a number of recommendations made by the royal commission that involved work to be performed by the National Occupational Health and Safety Commission. One of those was for the development of the type of regulatory material that the commission is developing. There were a number of other recommendations which the minister has indicated to the commission he supports and that the commission will in due course carry out.

**Senator KIRK**—Just repeat for me the recommendations that are requiring some action. Is it just the regulatory material?

**Mr Stewart-Crompton**—One of the recommendations, as I mentioned, went to the development of regulatory material. There was also a recommendation that the commission, in reporting on the national strategy to the Workplace Relations Ministers Council, also report on the performance of the building industry. It was recommended by the royal commission that the National Occupational Health and Safety Commission convene a building industry conference each year to review performance in the industry and to identify ways of improving it. We expect to hold the first of those conferences next year.

The royal commission called for the continuation of a project which has been running for some years, in which the national commission has been involved, and that is the so-called *Comparative performance monitoring report* which compares the OH&S performance within all jurisdictions and across industries, and of course the building industry is reviewed on an annual basis in that report. The commission has in fact been asked by the ministerial council to take a greater role in leading the work on the comparative performance monitoring. Also it was recommended by Commissioner Cole that the national commission should investigate a legislative technique used in the UK relating to the obligations of designers in the construction industry. The UK has something called the Construction (Design and Management) Regulations. The national commission is reviewing those and will take into

account the experience in the UK of those regulations, both in developing the proposed national standard and also in its work more generally on improving safe design in Australia.

**Senator KIRK**—Is there any sort of time frame for the implementation of those recommendations that you have just mentioned?

**Mr Stewart-Crompton**—There is work under way for all the recommendations. As I mentioned, we would expect to see continuing developments on the regulatory material over the coming year. The conference will be held next year. Subject to the outcome of that, we would expect it to be held on a regular basis thereafter. We are already committed to reporting each year to ministers about the national occupational health and safety strategies, so material relating to the building industry can be incorporated in that. The work reviewing the construction design and management regulations of the UK is already under way.

**Senator KIRK**—Excellent. In addition to developing these national codes of practice for the building and construction industry, are there any other activities that the commission is involved in regarding that industry?

**Mr Stewart-Crompton**—I mentioned earlier that there is other work that the commission is undertaking that will be important for that industry. There were the two areas that I mentioned before, and I would just reinforce the importance of those. There is the review of the existing national standard on manual handling. This is a very major cause of injury in the building and construction industry. We are also doing work to improve the capacity of designers to take into account OHS consideration. Again, this is important for building construction. To supplement that, we are undertaking work for skills development, which goes to the competencies of workers in a number of vocations.

One of the areas that is very important is the certification of those involved with plant in the construction industry and other industries. This is an issue of concern to all jurisdictions at the moment, and the commission is involved in looking at existing regulation in this area and other measures that might help improve skills. We are undertaking work on occupational disease. There are a number of exposures in the building and construction industry which are of considerable concern. Exposure to asbestos has been prominent for some time. The minister has accepted a recommendation from NOHSC some years ago about the prohibition of the new uses of asbestos. That prohibition will take effect on 31 December this year. NOHSC is undertaking follow-up work on a national code of practice for the safe removal of asbestos. This, again, is of some significance for the building and construction industry.

**Senator KIRK**—What sort of cost are we looking at for the implementation of these initiatives?

**Mr Stewart-Crompton**—All the work that has been done by the commission and by the National Occupational Health and Safety Commission office, which I head, has come out of the funds made available by the parliament. The states and territories will face some costs of their own in picking up the outcome of this work. They also make a contribution towards development costs by their involvement. But the actual funding for the National Occupational Health and Safety Commission is provided by the Commonwealth.

**Senator KIRK**—I think I have covered everything I wanted to. Thank you very much.

[8.29 p.m.]

### Comcare Australia

**CHAIR**—We will now move to Comcare Australia.

**Senator KIRK**—I had cause to look at the interim report of the Productivity Commission on national workers compensation and OHS frameworks and I saw that it proposes to allow large private national employers to opt out of state workers comp schemes and join Comcare. Is that a correct reading of the report?

**Mr Leahy**—That is one of the recommendations. The Productivity Commission on the workers compensation side proposed a phased approach, and that would be the first and second phases. The current legislation that governs workers compensation in the Commonwealth allows for organisations to seek to join the scheme if they are in competition with current Commonwealth authorities or organisations that have been Commonwealth authorities. The first phase proposed in the interim report basically recommends opening up those provisions and encouraging organisations to take them on.

**Senator KIRK**—So when is that first phase due to begin?

**Mr Leahy**—The report is only an interim report. It is now out for comment by all those who are interested. The final report is due in March next year. It will then be a matter for government to consider whether or not it adopts the recommendations, so it is really in the hands of the government.

**Senator KIRK**—So it is not until the recommendations are adopted, if they indeed are, that this will be opened up for organisations to join Comcare?

**Mr Leahy**—It is open to the government now under the legislation to make such declarations.

**Senator KIRK**—But it has not done so to date?

**Mr Leahy**—We have actually got 10 self-insurers at the moment, including organisations like Telstra, Australia Post and Australian Defence Industries. The government has in years gone by accepted such organisations into the jurisdiction. The debate is about whether or not it should accept more and the extent to which the application of the legislation should occur.

**Senator KIRK**—How many government departments and agencies are covered by Comcare at present?

**Mr Leahy**—About 170. Including the self-insurers, we cover on the workers compensation side about 300,000 employers. On the occupational health and safety side, we would cover slightly more—around 300,000 employees.

**Senator KIRK**—What is the range of size of these agencies by number of employees?

**Mr Leahy**—On the occupational health and safety side, the largest organisation would be the Australian Defence Force. That organisation also includes cadets, so we are talking about—in terms of total employees and not full-time equivalents—maybe close to 100,000. But in the Commonwealth, big organisations like Centrelink and the Taxation Office have got 20,000 to 25,000 people. We go right down to very small organisations of half-a-dozen people.

**Senator KIRK**—It seems you have big organisations like Centrelink and ADF with perhaps the majority of the employees covered. Is that correct? Then you have some smaller organisations perhaps covering even a handful of employees in some cases?

**Mr Leahy**—That is right. Probably in terms of the proportion of organisations the bigger proportion would be smaller organisations, as is the case in the economy generally. But the larger organisations would cover 80 per cent of the employees.

**Senator KIRK**—I am just trying to get my head around these figures. So the larger ones would represent about 80 per cent of employees, compared to the 20 per cent represented by the smaller organisations. Is that correct?

**Mr Leahy**—That is right, roughly speaking.

**Senator KIRK**—Is it possible to tell us the average premium paid under Comcare?

**Mr Leahy**—Yes. It is in fact contained in this magnificent document, which is the annual report. At the moment, the average premium for this financial year is 1.43 per cent of payroll. I have actually increased that significantly over last year, when it was 1.13 per cent, but we still are the cheapest scheme in terms of premiums in Australia.

**Senator KIRK**—I was looking at the transcript of the discussion that you had with Senator Wong in June this year and you suggested that in some circumstances there is a sort of ‘smoothing or capping process for premiums’. Can you elaborate on that for my benefit?

**Mr Leahy**—In setting premiums we operate like most insurance companies. If we relied purely on the performance of an organisation in the past 12 months, then you would have dramatic changes, particularly for small organisations, in their premium based on fairly minor changes in the number of cases. Because they are such small organisations, one additional case could represent very significant impact on their costs. We calculate premiums on the basis of performance over the last four years and, generally speaking, the actual premium outcome for larger agencies reflects performance pretty strongly. For smaller agencies, their performance has an impact but there is also a pool effect. So if there is an increase in the total premium pool, which this year was about 27 per cent, then broadly speaking premiums for smaller agencies will go up roughly by 27 per cent, plus some variation to reflect their performance over the last four years.

**Senator KIRK**—I am just trying to work out how that works and whether or not smaller agencies would be disadvantaged by that kind of capping process.

**Mr Leahy**—We have actually had a look at this. There have been suggestions from the larger agencies that they are subsidising the smaller agencies and from the smaller agencies suggesting that they are subsidising the larger agencies. We are reviewing the premium model at the moment, but we think the model is pretty good and generally pretty reflective of performance with that smoothing I have talked about already. If you want to take out premium shocks that only reflect small experience changes, then you have got to have, particularly for the small agencies, some smoothing. Generally speaking, we think the model is pretty good, but we are reviewing it at the moment.

**Senator KIRK**—Tell me about the review. When did that commence?



**Mr Leahy**—It commenced about a month ago and we have engaged an independent actuary to have a look at the model that we have got and provide us with advice on whether there are alternatives that we might adopt: for example, whether there are ways that we could reduce the smoothing for smaller agencies, or whether in fact we should reduce it. We have given the consultant who is doing the work a free rein to come up with alternative approaches.

**Senator KIRK**—Is this review being conducted perhaps in anticipation of the changes that I mentioned at the beginning—that is, allowing the large private employers to enter into Comcare?

**Mr Leahy**—No, it was something that I decided that we should undertake because the model has been in place reasonably untouched—although we have tinkered with it a little bit recently—for a number of years and I thought it was time to have a substantive review. What the Productivity Commission recommends in its interim report for the first phase—and for the second phase, in fact—is to only allow self-insurers in; so they are not subject to premium payments at all. It is not until the third phase that the Productivity Commission recommends the Commonwealth establish a fully fledged national scheme which allows for premium-paying agencies as well as self-insurers.

**Senator KIRK**—When are you expecting the review to be completed?

**Mr Leahy**—It is an internally conducted review; probably within the next couple of months. We will have had time to consider it then, and we will probably provide some advice to the Safety Rehabilitation and Compensation Commission on the outcomes of the review and have a series of discussions about where we take it from there.

**Senator KIRK**—You said that you had an independent actuary involved. Is that an external person?

**Mr Leahy**—Yes.

**Senator KIRK**—What is the cost of the review?

**Mr Leahy**—I have not got that. I will take it on notice and provide you with that answer.

**Senator KIRK**—That is all I have, Chair. Thank you very much.

**CHAIR**—Thank you very much to the minister and the witnesses. That concludes the supplementary Senate hearings for Employment, Workplace Relations and Education. I thank the officers.

**Committee adjourned at 8.40 p.m.**