



COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

## SENATE

EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION  
LEGISLATION COMMITTEE

ESTIMATES

**(Budget Estimates)**

MONDAY, 31 MAY 2004

CANBERRA

BY AUTHORITY OF THE SENATE



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

**Monday, 31 May 2004**

**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, Carr, Cook, Marshall, Webber and Wong

**Committee met at 9.05 a.m.**

**EMPLOYMENT AND WORKPLACE RELATIONS PORTFOLIO**

**In Attendance**

Senator Abetz, Special Minister of State

**Department of Employment, Workplace Relations**

**Portfolio overview and major corporate issues**

**Portfolio overview**

Dr Peter Boxall, Secretary

Mr Bob Correll, Deputy Secretary, Employment

Mr Rex Hoy, Acting Deputy Secretary, Workplace Relations

Ms Vanessa Graham, Acting 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 Richard Millington, Acting Assistant Secretary, Parliamentary Performance and Communications 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 Simon Gotzinger, Senior Specialist Lawyer, Corporate Legal Team

Ms Malisa Golightly, Chair, Indigenous Economic Development Transition Steering Committee

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

Ms Jo Caldwell, Group Manager, Job Search Support Group

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

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

Mr Jeremy Grainger, Director, JobSearch/Workplace, Employment Exchange Branch, Job Search Support Group

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

Ms Margaret Kidd, Assistant Secretary, Work Experience Branch, Job Search Support Group

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 Samantha Wilson, Director, Job Seeker Services, Employment Services Performance Branch, Intensive Support Group

Ms Chris Langsford, Acting Assistant Secretary, Intensive Support Operations Branch, Intensive Support Group

Ms Jennifer Taylor, Group Manager, Employment Analysis and Evaluation Group

Mr Graham Carters, Group Manager, Employment Policy Group

Ms Carolyn McNally, Assistant Secretary, Priority Group Policy Branch, Employment Policy Group

Mr Michael Manthorpe, Group Manager, Employment Business Services 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, Assistant Secretary, Legal Policy 1, 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

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, Building Industry Branch, Workplace Relations Implementation Group

Mr Michael Maynard, Assistant Secretary, Public Sector Branch, Workplace Relations Implementation Group

Mr Nigel Hadgkiss, Director, Building Industry Taskforce

Ms Jenet Connell, Group Manager, Workplace Relations Services Group

Mr Steve Kibble, Assistant Secretary, Workplace Relations Services Branch, Workplace Relations Services Group

Mr Mark Jasprizza, Assistant Secretary, Remuneration Tribunal Secretariat, Workplace Relations Services Group

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

Mr James Coleborne, Assistant Secretary, Employee Entitlements Branch, Workplace  
Relations Services

**Office of the Employment Advocate**

Mr Jonathan Hamberger, Employment Advocate

Mr David Rushton, Senior Legal Manager

Mr Peter McIlwain, Deputy Employment Advocate, Client Services Network

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

Ms Susan Biggs, Acting Director

**Comcare**

Mr Barry Leahy, Chief Executive Officer

Mr Noel Swails, Deputy Chief Executive Officer

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

Mr Matt Goldrick, General Manager, Claims Policy and Systems Improvement

Mr Terry Langton, General Manager, Corporate Management Division

**Australian Industrial Registry**

Mr Nicholas Wilson, Industrial Registrar

Mr Terry Nassios, General Manager

**National Occupational Health and Safety Commission**

Mr Robin Stewart-Crompton, Chief Executive Officer

Ms Helen Bull, Executive Manager

Mr Tom Fisher, Senior Executive Manager

**CHAIR**—I declare open this meeting of the Senate Employment, Workplace Relations and Education Legislation Committee. 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 its agencies to this public hearing. On 11 May 2002, the Senate referred to this committee the particulars of proposed expenditure for the year ended 30 June 2005 for the Employment and Workplace Relations portfolio. The committee has resolved that the answers to questions on notice be lodged with the committee by Friday, 23 July 2004, and the committee will report to the Senate on 17 June 2004.

I remind officers that, in its orders of continuing effect, the Senate has resolved that there is no area in connection with expenditure of public funds where any person has discretion to withhold details or explanation from parliament or its committees unless the parliament has provided otherwise. I also remind officers they shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of them to superior officers or the minister. I remind participants that oral evidence and documents in estimates proceedings are part of the public record. Minister, would you like to make an opening statement?

**Senator Abetz**—No, I would not, other than to say I understand that officials are ready to answer questions.

**CHAIR**—Thank you, Minister. We will proceed to considering matters relating to the Office of the Employment Advocate.

[9.07 a.m.]

**Office of the Employment Advocate**

**Senator WONG**—Mr Hamberger, I want to ask you about the question I asked previously requesting information on what proportion of AWAs contain various provisions, including for paid maternity leave, family responsibilities and so forth, which was question on notice W323-04. Are you seriously saying that there is no way your office—or in fact anyone in government—can determine whether or not some of these important provisions actually occur in AWAs?

**Mr Hamberger**—Actually, since we responded to this we have commissioned ACIRRT, of Sydney university, to do a coding exercise of a sample of AWAs. I saw the results just last week. It was based on a sample. We should be able to respond to this. The results have come back since this reply was done.

**Senator WONG**—How big was the sample?

**Mr Hamberger**—Off the top of my head, I think it was about 500 AWAs.

**Senator WONG**—There are how many current AWAs?

**Mr Hamberger**—There are getting on for half a million, but it is a reasonably representative sample.

**Senator WONG**—Half a million active?

**Mr Hamberger**—No. There would be just under a quarter of a million active.

**Senator WONG**—You have done a sample of 500?

**Mr Hamberger**—I think it was 500; it was quite a major, expensive exercise.

**Senator WONG**—What was the cost of the contract?

**Mr Hamberger**—I will have to take that on notice.

**Senator WONG**—You do not have that here?

**Mr Hamberger**—I do not believe so. I will take it on notice.

**Senator WONG**—You have received the results from the survey?

**Mr Hamberger**—We have, yes.

**Senator WONG**—What do they show?

**Mr Hamberger**—I do not have them here with me.

**Senator WONG**—Can you provide them?

**Mr Hamberger**—Yes. Do you want us to cover the same questions? I am sorry we did not have this at the time.

**Senator WONG**—I want you to cover the same questions, but I would also like to see the results of the survey. I presume that it canvassed wider issues than the ones I specifically asked about.



**Mr Hamberger**—Yes.

**Senator WONG**—Perhaps you could do both.

**Mr Hamberger**—Yes.

**Senator WONG**—Is there a problem with that?

**Mr McIlwain**—No.

**Senator WONG**—Have you given me the information on the freedom of association survey yet?

**Mr Hamberger**—I believe that we have sent it to the committee.

**Senator WONG**—I am only a lowly participating member so I may not have it.

**Mr Hamberger**—I am not trying to dob anybody in. My understanding is that we have sent it.

**Senator WONG**—Do you have a copy here?

**Mr Hamberger**—This is my only copy. Do you have access to our web site?

**Senator WONG**—Yes.

**Mr Hamberger**—We have a summary.

**Senator WONG**—Can you remind me again of the cost for this?

**Mr Hamberger**—It was just over \$200,000.

**Senator WONG**—Did that go to tender?

**Mr Hamberger**—Yes, it did. I do have the full report.

**Senator WONG**—That is fine; if it has been provided to the committee we can get it. Your budget allocation for 2003-04 was \$16.658 million, wasn't it?

**Mr Hamberger**—Yes.

**Senator WONG**—The budget papers estimate that your actual spending this financial year will be somewhat more than that, at \$17.466 million.

**Mr Hamberger**—Yes, our expenditure for this year nearly finished.

**Senator WONG**—What about the budget allocation for next year?

**Mr Hamberger**—Again, that has gone up a bit. It will be \$18.13 million for the forthcoming financial year.

**Senator WONG**—Would you explain, firstly, the budget overrun?

**Mr Hamberger**—We got an agreement, which was included in the additional estimates, that we would expend more money than originally allocated. It was not really an overrun in that we actually had an agreement to adjust our expenditure during the course of the financial year. Basically, as I think we have talked about previously, we have had a very big increase in the number of Australian workplace agreements lodged with the Office of the Employment Advocate. To be able to assess those agreements in a reasonable time frame we have had to employ additional staff, and we have even had to take on additional accommodation and all

the associated costs such as PCs and so on. Essentially, that additional money was spent on taking on additional staff. It was not a full-year cost, because some of those staff were taken on during the course of the financial year.

**Senator WONG**—Was the totality of the additional moneys spent on the items you have identified—that is, additional staff and accommodation for the processing of AWAs?

**Mr Hamberger**—I have it here.

**Senator WONG**—May I ask what it is that you are reading from?

**Mr Hamberger**—It is just my brief. In the portfolio additional estimates an additional \$0.7 million was allocated to the Office of the Employment Advocate for the current financial year, which increased it to \$17.358 million. I think we will come in pretty close to that. The funding was given based broadly on the increase in the number of lodgments, but it was broken up essentially in terms of an extra \$100,000 or so for additional scan, print and post costs. In other words, when Australian workplace agreements are lodged with the OEA they are scanned.

**Senator WONG**—Yes, I am aware of that.

**Mr Hamberger**—So, obviously, those costs go up.

**Senator WONG**—So that is \$100,000.

**Mr Hamberger**—Secondly, there was \$300,000 extra for additional property costs, and some of that was a one-off cost for fitting out new accommodation to accommodate additional staff. But there was also \$300,000 for additional salary overheads and administrative costs for the AWA operations staff. That is the area that files and assesses AWAs.

**Senator WONG**—Is that it?

**Mr Hamberger**—Yes.

**Senator WONG**—How much of the \$300,000 was for new staff and how much of it was for increases for existing staff?

**Mr Hamberger**—It was all new staff.

**Senator WONG**—How many new staff?

**Mr Hamberger**—This is a part-year cost. It was an additional 15 staff. They were engaged through the course of the year, the second half of the financial year.

**Senator WONG**—They are on contract, presumably.

**Mr Hamberger**—They are permanent public servants.

**Senator WONG**—What are the additional property costs?

**Mr Hamberger**—We had run out of space to accommodate additional staff, so we had to rent or lease additional property, and also fit it out.

**Senator WONG**—Are you intending to retain those staff?

**Mr Hamberger**—Yes. We may have to look at taking on some additional staff over the next few months.

**Senator WONG**—Which property was rented out?

**Mr Hamberger**—This is 477 Pitt Street in Sydney. We took on some additional space in that building.

**Senator WONG**—Any other additional space?

**Mr Hamberger**—No.

**Senator WONG**—And \$300,000 was the total cost of the fit-out and additional rent?

**Mr Hamberger**—In this financial year.

**Senator Abetz**—Very cheap in comparison to Centenary House, no doubt.

**Senator WONG**—It is good to see you have a one-track mind, Minister. How much was for the fit-out and how much was for the rent for that period?

**Mr Hamberger**—I would have to take that on notice.

**Senator WONG**—You are not aware?

**Mr Hamberger**—I do not have those details here. Some fit-out costs are depreciated over a period of years. Some costs are actually expended immediately in the financial year. I will give you those details.

**Senator WONG**—You will not take too long to do that, Mr Hamberger? We have still got 12 questions outstanding for this committee. I am not sure if anything comes from your office.

**Mr Hamberger**—I think we have answered all our questions.

**Senator WONG**—Are you able to get that to me reasonably soon?

**Mr Hamberger**—Yes. If you would like it sooner than the agreed date, we could do that.

**Senator WONG**—The Community Partnerships program, I understand from the secretary that we received copies on Friday afternoon of this.

**Mr Hamberger**—I thought it was earlier.

**Senator WONG**—Which is why I hadn't got it. When was it made public—April?

**Mr Hamberger**—Yes, end of April. I am sorry it took us longer than it should have to send you a copy. It was put up on our web site. But I guess that is not an excuse.

**Senator WONG**—I am interested in your work, but I do not log on every week, Mr Hamberger.

**Mr Hamberger**—No, fair enough. The date was 29 April.

**Senator WONG**—In regard to your Community Partnerships program, I notice from your web site that you have quite a number of community partners listed there. I would like to go through and find out how much each of those services that are listed in the Community Partnerships program gets. I presume you have figures not only for this financial year but for the 2004-05 budget.

**Mr McIlwain**—The figures for the next two-year period will be the same as the figures for the current two-year contract.

**Senator WONG**—So they are two-year contracts.

**Mr McIlwain**—Yes.

**Senator WONG**—If we go through them, are you able to give me how much each of them is getting?

**Mr McIlwain**—Yes.

**Senator WONG**—The Western New South Wales Community Legal Service?

**Mr McIlwain**—The amount for the Western New South Wales Legal Service is \$136, 991.

**Senator WONG**—These are biennial figures?

**Mr McIlwain**—These are for a two-year period, the period of the contract.

**Senator WONG**—And the forward estimates are precisely the same? There has been no increase in cost?

**Mr McIlwain**—There will be no increase.

**Senator WONG**—The Macquarie Legal Centre?

**Mr McIlwain**—The Macquarie Legal Centre—\$159,823.

**Senator WONG**—The New South Wales Working Women's Centre?

**Mr McIlwain**—\$68,496.

**Senator WONG**—ACT Welfare Rights and Legal Centre?

**Mr McIlwain**—\$57,080.

**Senator WONG**—Job Watch?

**Mr McIlwain**—\$228,319.

**Senator WONG**—Queensland Working Women's Service?

**Mr McIlwain**—\$82,195.

**Senator WONG**—South West Brisbane Legal Service?

**Mr McIlwain**—\$159,823.

**Senator WONG**—Northern Community Legal Service in South Australia?

**Mr McIlwain**—\$159,823.

**Senator WONG**—The same as the South West Brisbane Legal Service?

**Mr McIlwain**—Yes, it is.

**Senator WONG**—Working women's centres?

**Mr McIlwain**—In South Australia, \$54,797.

**Senator WONG**—In the NT?

**Mr McIlwain**—\$54,797.

**Senator WONG**—In Launceston?

**Mr McIlwain**—\$102,743.

**Senator WONG**—The Tasmania Working Women's Centre?

**Mr McIlwain**—\$54,797.

**Senator WONG**—Employment Law Centre in WA?

**Mr McIlwain**—\$159,823.

**Senator WONG**—Presumably there is additional funding for working women's centres, for example, from Workplace Services; is that right?

**Mr McIlwain**—I am not—

**Senator WONG**—You are not aware of that? You are not aware whether that is the total amount of funding to those services?

**Mr McIlwain**—No, I do not know.

**Senator WONG**—It is open to an employer to publicly release details of an AWA, isn't it?

**Mr Hamberger**—Of an employer, yes.

**Senator WONG**—And there are staff in the OEA covered by AWAs?

**Mr Hamberger**—Yes.

**Senator WONG**—Are you able to provide us with some representative AWAs, names deleted, that apply to OEA staff?

**Mr Hamberger**—Yes.

**Senator WONG**—I have nothing further for you, Mr Hamberger.

**Senator Abetz**—Thank you. Moving right along.

**Senator WONG**—I think you should go and buy a lotto ticket.

**Senator Abetz**—I hope this is a precedent for the rest of the day.

**Senator WONG**—You never know.

**Senator Abetz**—We will finish by dinnertime and go home tomorrow.

**CHAIR**—We are now moving to questions on cross portfolio issues.

**Senator WONG**—Mr Symon, on the last occasion we were discussing at some length your letters of offer to graduates which only reflect the signature of an AWA. My recollection is—but I cannot find it in the questions on notice—you were going to tell me where they were directed to that actually showed them that there was a certified agreement alternative.

**Mr Symon**—That is right. I said to the secretariat that we would send to the secretariat all the information that goes to graduates pertaining to both AWAs and certified agreements, which we did.

**Senator WONG**—What is the index number of the question on notice?

**Mr Symon**—The question number is W334-04.

**Senator WONG**—Yes, page 5. Let us go through that. So they get presumably a little leaflet which has all of these things?

**Mr Symon**—That is right.

**Senator WONG**—Let us go to what is page 9 in my little pink book. I do not know whether you have this—

**Mr Symon**—Mine is not paginated. I have the Internet site. Is that what you are looking at?

**Senator WONG**—The secretary is going to give you a copy of this book of the questions on notice so we are working off the same copy. On page 9 you will see that under ‘work conditions’ it says:

Graduates will be offered an Australian Workplace Agreement ... you might like to look at a certified agreement ...

**Mr Symon**—That is right.

**Senator WONG**—It says:

Graduates will be offered an Australian Workplace Agreement with an attractive remuneration package. For further information, you may like to look at the department’s current certified agreement ...

**Mr Symon**—That is correct. And of the graduates that have come, none that I am aware of have sought to revert to the certified agreement.

**Senator WONG**—I have to say it is not clear to me that that means there is a choice. It seems a pretty clear statement by the employer that you will be offered an AWA.

**Mr Symon**—And they were offered AWAs; that is correct.

**Senator WONG**—And of course we have the letter as well. Is the letter in the question on notice or do I have to go back to—

**Mr Symon**—No, you gave me a copy of the letter last time.

**Senator WONG**—Because you had not seen it?

**Mr Symon**—No, I had; I signed it.

**Senator WONG**—The covering letter of offer says that ‘Part A provides an AWA ... action required: that you read the material and by 30 September you sign and return it or contact your group manager ... or if you wish to further negotiate your AWA prior to commencement.’

**Mr Symon**—That is correct.

**Senator WONG**—There is no reference to a certified agreement, is there?

**Mr Symon**—No, not in that letter.

**Senator WONG**—So has there been a decision by the department that new graduates will be offered AWAs and that is the preference?

**Mr Symon**—The HR area of the department has a relationship with outcome 2, much like other departments. We go to them for advice to check that what we are doing is consistent with government policy. It is consistent with government policy and that is the way the management board decided to make offers to graduates.

**Senator WONG**—So is there a new policy decision in DEWR that your preference is for AWAs?

**Mr Symon**—Things have moved through time. Obviously at one point you had to go on the certified agreement; you could not have an AWA. Then it was either/or. Now they have an offer of an AWA. As I said, none of the graduates as yet have come to us and said they would like to go on the certified agreement.

**Senator WONG**—Why would they? You have given them a letter saying that you are going to be offered an AWA. The letter of offer says nothing about a choice to go on a certified agreement. I cannot see why anyone in those circumstances would understand that there was a choice. It is given as: ‘This is part of your letter of offer and these are the terms and conditions we are offering you.’

**Mr Symon**—That is right.

**Senator WONG**—Dr Boxall’s evidence last time that the department’s decision was there is a choice has been replaced in respect of graduates with the department’s position is an AWA.

**Mr Symon**—No. What the secretary said was exactly right.

**Senator WONG**—How does that fit with the answer you previously gave me?

**Mr Symon**—It fits exactly.

**Senator WONG**—Perhaps you can explain.

**Mr Symon**—I referred you to the Internet site—in fact, you read it to me—where it says: For further information, you may like to look at the department’s current certified agreement ...

**Senator WONG**—Correct me if I am wrong—maybe I am being a bit obtuse here—but how does ‘further information’ mean that this is an alternative which you are entitled to choose in the context of a letter of offer saying, ‘Here’s an AWA—sign it and get it back to us.’

**Mr Symon**—It is made perfectly clear that there is a certified agreement. The graduates, if they wish, may go and have a look at that. None of them as yet that I am aware have asked to go onto the certified agreement.

**Senator WONG**—Where in the documents they were provided with are graduates told they have a choice to either go on the AWA or enter the certified agreement?

**Mr Symon**—I just read to you what is in the Internet site and they were referred to the Internet site where it says:

For further information—

**Senator WONG**—Mr Symon, my question is: where are they informed that they have a choice?

**Mr Symon**—On the Internet site.

**Senator WONG**—This one here:

Graduates will be offered an Australian Workplace Agreement—

**Mr Symon**—The Internet site says:

For further information, you may like—

**Senator WONG**—Is your position that ‘for further information’ implies you have a choice and you can choose to be on a certified agreement?

**Mr Symon**—That is right.

**Senator WONG**—That is your position.

**Mr Symon**—Yes, it is.

**Senator WONG**—Don’t know you think it is a bit of newspeak?

**Mr Symon**—No.

**Senator Abetz**—Mr Chairman, whether somebody thinks it is newspeak or whatever—that is his position, that is what he is sticking with. Let us move on.

**Senator WONG**—I am not going to proceed with it.

**CHAIR**—Order! In my opening remarks, I said officers should not be asked for their opinion. Asking if it is newspeak is asking for an opinion.

**Senator WONG**—Mr Symon, is there anything apart from your ‘for further information’ that you can point to which indicates that people are told they have a choice?

**Mr Symon**—We are in the middle of a certified agreement negotiation at the moment. I would be very surprised if all of the graduates did not know that there was a certified agreement.

**Senator WONG**—That was not my question.

**Mr Symon**—No.

**Senator WONG**—Can you point to any documentation that graduates have received where they are clearly told that they have a choice?

**Mr Symon**—I point to the Internet site, as I did last time.

**Senator WONG**—‘For further information’ is the total sum of your answer.

**Mr Symon**—Yes, that is right. The Internet site where it refers to the certified agreement.

**Senator WONG**—Has this change in policy been discussed with the minister’s office?

**Mr Symon**—If it was that would be between the department and the minister’s office, but I was not involved in any discussion.

**Senator WONG**—Mr Hoy, has this change in policy been discussed with the minister’s office?

**Mr Hoy**—I am not aware of that.

**Mr Symon**—I have certainly not been in any discussions with the minister’s office.

**Senator WONG**—Ms Bennett, can you help us?

**Ms Bennett**—No, as far as I am aware. It is government policy—we discussed this at the last estimates—that there is nothing in the policy premise for the Public Service, the Workplace Relations Act or the Public Service Act that prevents an agency offering and indicating a preference for AWA for new entrants.



**Senator WONG**—I accept that that is the position; I am wondering how it fits with Dr Boxall's previous evidence to this committee that the position of the department is that people have a choice. No-one can assist me?

**Ms Bennett**—It goes back to my answer that, as Mr Symon has said, there is an issue about a preference and expressing a preference does not deny choice.

**Senator WONG**—Where is choice communicated?

**Mr Symon**—On the Internet site.

**Senator WONG**—'For further information'—

**Mr Symon**—That is right.

**Senator WONG**—in the context of a letter of offer which only refers to an AWA and the opening paragraph on the Internet site relevant section says, 'Graduates will be offered an AWA'.

**Mr Symon**—That is right.

**Senator WONG**—It does not appear to me that there is any indication to graduates that they actually have a choice. You mentioned the certified agreement, Mr Symon.

**Mr Symon**—Yes.

**Senator WONG**—The current agreement is an LJ agreement.

**Mr Symon**—Currently, it is an LJ, yes.

**Senator WONG**—The department's current preference is for an LK agreement.

**Mr Symon**—That is correct.

**Senator WONG**—A non-union agreement.

**Mr Symon**—An LK, yes.

**Senator WONG**—Is it or is it not a non-union agreement?

**Mr Symon**—There are terms in LK agreements that I understand mean 'for direct participation between employers and employees'.

**Senator WONG**—Is it or is it not a non-union agreement?

**Mr Symon**—It is direct negotiations with staff.

**Senator WONG**—Without a union's involvement?

**Mr Symon**—The union can come and meet and confer with me, and that has been made very apparent to them. That offer is there.

**Senator WONG**—The union is not proposed to be a party to an agreement?

**Mr Symon**—The union—the CPSU and perhaps the MEAA in our case—are able to and have been made welcome to meet with me to confer. I am sorry—those are the terms of the arrangement.

**Senator WONG**—Would an LK agreement have the union as a party?

**Mr Symon**—It is a matter for the union as to whether or not they want to meet and confer with us. But, no, there would not be a staff agreement team, as previously, where there is a negotiation process with a staff agreements team on one side and me as management on the other. We are doing it directly with employees.

**Senator WONG**—Would the union be a party to an LK agreement, if certified?

**Mr Symon**—I do not believe so.

**Senator WONG**—So your preference is for a non-union agreement?

**Mr Symon**—Our preference is for one under the LK provisions of the act.

**Senator WONG**—Was the department's decision to go for an LK to replace the current LJ agreement a matter discussed with the minister's office?

**Mr Symon**—Not in any discussion that I was involved in. I do not know.

**Senator WONG**—Mr Hoy, was it a matter discussed with the minister?

**Mr Hoy**—I do not know.

**Senator WONG**—You cannot help me, Ms Bennett?

**Ms Bennett**—No.

**Senator WONG**—Where is Dr Boxall, by the way? Is he absent?

**Mr Symon**—He is in the car park, I think.

**Senator WONG**—You have circulated, have you, a draft LK agreement?

**Mr Symon**—Yes, we have.

**Senator WONG**—Can I have a copy?

**Mr Symon**—Can I take that on notice? I will get you a copy today.

**Senator WONG**—Presumably you have circulated only one copy. There has been no revision?

**Mr Symon**—No. We have changed our position in relation to it. Our first position had certain provisions, for example, in relation to TPL—temporary performance loading—and so forth. We have had lots of meetings around the department, at branch level normally, we have had feedback from staff and we have made our offer more generous in some terms.

**Senator WONG**—In some terms?

**Mr Symon**—Yes.

**Senator WONG**—In what areas is it less generous?

**Mr Symon**—In the second formulation there are no areas where it is less generous. It is more generous in every term—that is, where there are changes.

**Senator WONG**—Why is the preference for a non-union agreement?

**Mr Symon**—We believe that speaking directly with employees means that there is more involvement by staff than there would be if it were done in a small committee room with a staff agreement team.

**Senator WONG**—In a small committee room by people who are elected by staff and who consult with them?

**Mr Symon**—That is right. I was involved in the last process, and I have been involved in this process. The view of the department is that it gives more involvement from staff, and that has been the case in my opinion. That is purely my opinion. The door is open—

**Senator WONG**—It gives the department more bargaining power, too, doesn't it?

**Mr Symon**—I do not know that I agree with that.

**Senator WONG**—Is it the case that quite a number of employees have put a view that their preference is for an LJ agreement?

**Mr Symon**—None that have approached me, but I have no doubt that that is the case.

**Senator WONG**—None that have approached you. It has never been put to you?

**Mr Symon**—No, not that I am aware of formally. I have been in meetings where people have said that their preference would be for an LJ.

**Senator WONG**—I presume you provided some documents to staff about the proposed certified agreement.

**Mr Symon**—Yes.

**Senator WONG**—Does the current agreement expire in November or December?

**Mr Symon**—On 31 December 2004.

**Senator WONG**—There is no cooling-off period included in any provision of the act in relation to LK negotiations, is there?

**Mr Symon**—Not that I am aware of.

**Senator WONG**—Can you explain to me why in the frequently asked questions the department has indicated that it will not negotiate between July and November if the LK proposal is rejected?

**Mr Symon**—It is hypothetical in that it depends on there being a no vote, and we are very hopeful that there will be a yes vote. But in the instance where there is a no vote we will obviously need to go back to management and have a look at what feedback we have had from staff, and we will need time to formulate a different version.

**Senator WONG**—It will take you four months to revamp an agreement from an LK to an LJ?

**Mr Symon**—I am not saying that we would change it from an LJ to an LK. It would depend upon the feedback from staff in the hypothetical instance that there is a no vote.

**Senator WONG**—But that is clearly what you have told staff, isn't it?

**Mr Symon**—We have been very transparent about it, yes.

**Senator WONG**—You are saying to staff, 'If you vote no, we're not going to negotiate with you until the end of November.'

**Mr Symon**—You have the frequently asked questions there, and the answer we give is the department's view.

**Senator WONG**—Isn't that just a stick to try to get employees to vote in July in the way that you want them to?

**Mr Symon**—No.

**Senator WONG**—On what possible basis can you say to people, 'If you want this you can vote for it now. If not, we're not going to negotiate with you until December'?

**Mr Symon**—As I said before, in the hypothetical instance that there is a no vote we will need time to look at the feedback we get from staff, to rewrite the agreement in some instances and to put it to staff for another vote, and that takes time.

**Senator WONG**—Four months.

**Mr Symon**—That is right.

**Senator WONG**—You do not think that this is a bit of a threat to employees?

**Mr Symon**—That is right, Senator; I do not think that.

**Senator WONG**—It might be how some of them take it, Mr Symon.

**Mr Symon**—We are in the midst of having meetings. We get feedback from those meetings, and I will obviously be listening to the feedback that we get from staff.

**Senator WONG**—Welcome, Dr Boxall.

**Dr Boxall**—Thank you, Senator Wong.

**Senator WONG**—I am sorry that I was too quick with the Office of the Employment Advocate.

**Dr Boxall**—I understand that Mr Symon has handled your questions admirably.

**Senator WONG**—Yes. He is putting the department's view very clearly. Firstly, who made the decision to seek an LK as opposed to an LJ agreement?

**Dr Boxall**—It was the management board's decision.

**Senator WONG**—Who is on the management board?

**Dr Boxall**—It is listed in the annual report.

**Senator WONG**—I am sure that you could tell me more easily.

**Dr Boxall**—The chair of the management board is the Secretary, and it comprises the Deputy Secretary, Employment; the Deputy Secretary, Workplace Relations; the General Manager, Corporate; and the Chief Financial Officer.

**Senator WONG**—Was the issue of the department seeking an LK as opposed to an LJ agreement discussed with the minister's office?

**Dr Boxall**—The decision was the management board's decision, and the minister's office was advised of our decision.

**Senator WONG**—When were they advised?

**Dr Boxall**—In between the management board making the decision and the issuing of the proposed agreement to staff.

**Senator WONG**—Were they advised prior to the decision?

**Dr Boxall**—Obviously it is not possible to advise somebody of a decision prior to taking the decision.

**Senator WONG**—Did you advise them of your intention prior to making the decision?

**Dr Boxall**—I just said, Senator Wong, that the management board made the decision; it was the management board's decision.

**Senator WONG**—Yes, I understand that. I heard the answer, Dr Boxall. I am asking whether you advised the minister's office of your intention.

**Dr Boxall**—I cannot recall. But the issue is that it was the management board's decision, and after we made the decision the minister's office was advised orally.

**Senator WONG**—By you?

**Dr Boxall**—I cannot remember whether it would have been me or some other member of the management board.

**Senator WONG**—Was the decision to, essentially, refuse to negotiate for four or five months if there is a no vote a decision of the management board as well?

**Dr Boxall**—There was no decision to refuse to negotiate for four or five months if there is a no vote.

**Senator WONG**—The frequently asked questions say that if there is a no vote, there will be a cooling-off period until the end of November—that is four-and-a-bit months.

**Dr Boxall**—And that is the position that Mr Symon just put.

**Senator WONG**—I appreciate that. Was that a decision of the management board?

**Dr Boxall**—Yes.

**Senator WONG**—When was that decision made?

**Dr Boxall**—It is part of the whole process that the management board prepared for the certified agreement discussions.

**Senator WONG**—Was that decision communicated or discussed with the minister's office?

**Dr Boxall**—I cannot recall.

**Senator WONG**—Can you take that on notice?

**Dr Boxall**—There will be no way of being able to verify that because there would have been no brief to have a discussion on an issue like that. This is a departmental management decision.

**Senator WONG**—What is the motivation or the reason behind refusing to negotiate for four or five months if there is a no vote.

**Dr Boxall**—There is no decision to refuse to negotiate for four or five months.

**Senator WONG**—A cooling-off period, as I understand it, means there will be no further negotiations. When is the vote scheduled?

**Dr Boxall**—The vote has not been scheduled yet.

**Senator WONG**—If there is a no vote, it is suggested that there will be no further discussions until the end of November.

**Dr Boxall**—My recollection is that there would be a cooling-off period.

**Senator WONG**—And no further negotiations during the cooling-off period.

**Dr Boxall**—No, not necessarily.

**Senator WONG**—What is the reasoning behind no further negotiations for that period?

**Dr Boxall**—There is no decision for no further negotiations. Mr Symon has already put the position that there is a cooling-off period. You have the frequently asked questions there. As Mr Symon just explained, there is nothing in the frequently asked questions that I know of that says we would refuse to negotiate.

**Mr Symon**—There is not.

**Senator WONG**—What do you mean by ‘cooling-off period’?

**Mr Symon**—As I said before, it gives us time—and remember this is in the hypothetical instance that we get a no vote—to adjust our position, which we would need to do. During that time the CPSU would still be most welcome to meet and confer with me. There would be things going on during that period. It is not as if we just go into gridlock.

**Senator WONG**—If the cooling-off period is supposed to be time for you to consider the response, does it or does it not mean that you will not have any further negotiations at the point?

**Dr Boxall**—No, the cooling-off period is a time for both sides to cool off and look at things again.

**Senator WONG**—I think Mr Symon has already indicated there is no requirement for any cooling-off period in the context of these provisions under the act. This is a management decision by the department.

**Dr Boxall**—That is correct.

**Senator WONG**—Is it the department’s intention that during the cooling-off period there would be any further negotiations?

**Dr Boxall**—The department is yet to get to that point. The department will assess that in the event that we get a no vote. We will look at the information available and make a decision at that time.

**Senator WONG**—So what is the cooling-off period then?

**Dr Boxall**—The cooling-off period indicates that it is a chance for management and for staff to reassess the situation.

**Senator WONG**—Is the department’s mind closed on an LJ agreement?

**Dr Boxall**—The department has put its position, and its preferred position is clearly an LK agreement. The department prefers to deal directly with staff in the department.

**Senator WONG**—And avoid dealing with the union?

**Dr Boxall**—No. The department prefers to deal directly with staff.

**Senator WONG**—But you do not want an LJ agreement dealing directly with the union.

**Dr Boxall**—The department is quite clear what the department's position is. We have put a proposed certified agreement on the table, and that says that our proposal is an LK agreement. That is quite clear.

**Senator WONG**—Have you received any feedback from employees whose preference is to have an LJ as opposed to an LK agreement?

**Dr Boxall**—Through our consultation process, we have received feedback on just about every item of the agreement, including LJ versus LK.

**Senator WONG**—And there has been quite a number of staff that have put the view that their preference is an LJ, hasn't there?

**Dr Boxall**—Some staff have put that view. Some staff have put views on travel arrangements. Staff have put views on performance pay. They have put views on just about every item of the agreement.

**Senator WONG**—This is simply an anti-union agenda, isn't it? You do not want to have to negotiate with the union; you do not want an agreement with the union.

**Dr Boxall**—It is not an anti-union agenda. It is an attempt by management to talk directly with staff, which is permitted under the Workplace Relations Act. It is completely within the law.

**Senator WONG**—I do not disagree with that. This government has an act of law which enables that to occur.

**Dr Boxall**—I did not hear that, Senator.

**Senator WONG**—I do not disagree with your analysis of the legislation; it is the department's policy position I am questioning.

**Dr Boxall**—The department's policy position is very clear. You could not be more clear than put out a proposed certified agreement with a preference for LK. You could not be more clear than that. That is the department's position.

**Senator WONG**—Is the department's position that it is still a choice for people to go onto a certified agreement or an AWA?

**Dr Boxall**—Indeed.

**Senator WONG**—Despite the fact that the letters of offers to graduates only refer to AWAs and ask them to sign and return them?

**Dr Boxall**—Indeed it is. I heard Mr Symon deal with all those questions earlier today. Indeed, there is an answer to that question on notice. The department does not have anything further to add.

**CHAIR**—We have been through all this, Senator Wong.

**Senator WONG**—As I recall, Chair, Dr Boxall was not here for that aspect of the questioning.

**CHAIR**—It is on the Senate record.

**Senator Abetz**—Are you expecting different answers out of Dr Boxall?

**Senator WONG**—I would like to have heard Dr Boxall's response.

**Dr Boxall**—Chair, I heard Mr Symon's response to Senator Wong this morning.

**CHAIR**—We have been through it, Senator. Perhaps we can move on.

**Senator WONG**—I will ask the questions I want to ask, Chair.

**CHAIR**—You are wasting our time. You have got the answers.

**Senator Abetz**—Good morning, Deputy Chair. Good to see you arrive.

**Senator GEORGE CAMPBELL**—Good morning, Minister. How are you?

**Senator Abetz**—Very well. I am just returning the compliment that Senator Wong made to somebody else at the table earlier. Both sides can play that game, Senator Wong.

**Senator GEORGE CAMPBELL**—I was here at five minutes to nine.

**Senator WONG**—He was actually here before you, Minister Abetz.

**Senator Abetz**—He was here before nine o'clock. I accept that, but he left again.

**CHAIR**—Could we move on with the estimates.

**Senator Abetz**—More important things to do, no doubt.

**Senator WONG**—Then I wonder why you are raising it, Minister.

**CHAIR**—Senator Wong, questions please.

**Senator WONG**—I did not raise this. You want to talk about delaying tactics.

**CHAIR**—Then return to questions.

**Senator Abetz**—I was being very courteous and welcoming the deputy chair to the floor, following your great example, Senator Wong.

**Senator WONG**—I am waiting to see if the minister has anything further to add, Chair.

**CHAIR**—Do you have any questions, Senator?

**Senator WONG**—I certainly do.

**CHAIR**—Let us get on with it.

**Senator WONG**—Do you have a copy of the proposed agreement here, Mr Symon?

**Mr Symon**—I can get you a copy, Senator. I have not got one in my package of material here.

**Senator WONG**—Have you received any petitions in relation to this proposal?

**Mr Symon**—Not as yet, no, but I believe there is one being circulated.



**Senator WONG**—Has the department ruled out, if the LK agreement goes down, an LJ agreement?

**Mr Symon**—That is hypothetical, Senator Wong. We will look at the results of the vote and make a decision then.

**Senator WONG**—Dr Boxall, on the AWA issue with graduates, do I understand the department's policy position to be, 'We will offer AWAs to graduates; we will not advise them clearly that they have a choice'?

**Dr Boxall**—Mr Symon has already answered those questions this morning, and the minister answered them on notice from last Senate estimates. Mr Symon has given the department's position.

**Senator WONG**—Which is the fact that the letter says, 'Here's the offer—return it.' The only reference to the certified agreement is on the Intranet site where people can go to the CA for information, but there is no statement that they actually have a choice.

**Dr Boxall**—Mr Symon has given the department's position this morning and the minister answered this question on notice, and we have nothing further to add. Mr Symon has already answered these questions—I heard him.

**Senator WONG**—Dr Boxall, I am hearing your answer. I just want to make sure I understand that the only reference to the certified agreement—the only reference that you rely on to communicate to people and indicate that they have a choice—is one line on the Internet web site, that says 'for further information'.

**Dr Boxall**—Senator Wong, Mr Symon has answered this question, and that is the department's position.

**Senator WONG**—Dr Boxall, you can keep looking at the chair and hope that he will rule me out, but I will keep asking the question and we can sit here for some time.

**CHAIR**—Order, Senator! You keep asking the same question, and it has been answered. Can we move on so you are not wasting time?

**Senator WONG**—I want to clarify that the only reference is the phrase 'for your information'. Is that correct, Dr Boxall—you cannot point to anything else?

**Dr Boxall**—The answer to the question is that Mr Symon answered this question this morning. I have nothing to add to Mr Symon's answer. He has given the department's position correctly.

**CHAIR**—Senator Wong, you know that is the secretary's prerogative. Can you move on please?

**Senator WONG**—Who is responsible for the *Key contacts for your toolbox* booklet?

**Dr Boxall**—What area is this?

**Senator WONG**—I am asking whom I should ask about the toolbox booklet.

**Dr Boxall**—Is that building?

**Senator WONG**—I have no idea. It just says DEWR on the back. I do not know who published it.

**Dr Boxall**—What is the heading?

**Senator WONG**—*Key contacts for your toolbox*, as I said.

**Dr Boxall**—That is building, so that is outcome 2.

**Senator WONG**—That is fine. I am happy to deal with it then. Just to clarify also, was the database for the provision of that also the responsibility of the building task force or was it across the portfolio?

**Dr Boxall**—It is outcome 2.

**Senator WONG**—How many departmental laptop computers have been stolen or lost in the past six months or year?

**Mr Symon**—We will have to take that on notice.

**Senator WONG**—You do not know?

**Mr Symon**—Not off the top of my head, no.

**Senator WONG**—I want to turn now to management retreats and training—question on notice W344-04. How many people attended the SES futures forum in Manly?

**Mr Symon**—It was the department's SES officers. There would have been approximately 50 who attended.

**Senator WONG**—And the executive leadership program?

**Mr Symon**—I will have to take that on notice. I think about 28 people are on the executive leadership program.

**Senator WONG**—Whom does that comprise?

**Mr Symon**—That comprises a range of people—from APS6 to SES band 1—whom the department believes have high potential.

**Senator WONG**—For 28 people it was \$306,000. That is a lot of money.

**Mr Symon**—That would also be paying for the consultants. It is not an internal program—it is not departmental officers giving the instruction. We have consultants doing it, so it would include that as well.

**Senator WONG**—Who are the consultants?

**Mr Symon**—Chris Farrell Consulting.

**Senator WONG**—Was that process put to tender?

**Mr Symon**—Yes, it was.

**Senator WONG**—Do you have the total value of the consultancy?

**Mr Symon**—Total value for all consultants?

**Senator WONG**—No, for that consultancy.

**Mr Symon**—We can get you that information.

**Senator WONG**—Is it in the annual report?

**Dr Boxall**—Yes.

**Senator WONG**—On what page? Do we have a reference?

**Mr Symon**—We have someone going back to the department now to get you that information.

**Dr Boxall**—It is on page 351 of the annual report.

**Senator WONG**—The contract value was \$318,000. I presume that will cover a number of courses. Is that right?

**Mr Symon**—Yes, that is right.

**Senator WONG**—How many courses?

**Mr Symon**—We are running one per year, so there will be another one next year.

**Senator WONG**—What is the time frame for the contract?

**Dr Boxall**—The issue is that the course goes for about 12 months—for a calendar year—and, as part of the whole program, there are a number of courses during the year. That is why the amount might seem larger than the SES retreat.

**Senator WONG**—Is the \$318,000, which is listed as the contract value, for one 12-month period? What is the period of the contract that that refers to?

**Mr Symon**—That is the contract value, as I understand.

**Senator WONG**—I understand that. How long is it for?

**Mr Symon**—It is a three-year contract and that amount is for the full three years.

**Senator WONG**—Did I understand your answer correctly, Dr Boxall—is it one training session per year, or how many?

**Dr Boxall**—No, it is a number of sessions per year.

**Senator WONG**—Can you tell me from the terms of the contract how many sessions or how many days per year that equates to?

**Mr Symon**—That would have been part of the contract.

**Ms Moore**—The executive leadership program consists of a number of workshops. There are about six or seven of them. One of them is a residential component, which is the lead module, which is on leadership and team development. They run from two to three days over a period of 12 months. It also comprises some diagnostic tools to assist the participants in developing their leadership skills. It has coaching components to it too.

**Senator WONG**—Are you able to give me the total number of days of training the contract encompasses?

**Ms Moore**—For the three years or per year?

**Senator WONG**—As I understood the answer earlier, the \$318,000 is only for one year.

**Ms Moore**—We can take that on notice.

**Mr Symon**—The amount is for the three years.

**Senator WONG**—It is about \$100,000 a year. Is that right?

**Ms Moore**—That is right.

**Senator WONG**—There are six or seven sessions. You are not able to tell me how many days?

**Ms Moore**—No, we will take that on notice.

**Senator WONG**—How many days was the SES Futures Forum?

**Ms Moore**—It was 2½ days.

**Senator WONG**—Was there just the one?

**Ms Moore**—Yes.

**Senator WONG**—It was \$70,000 for 2½ days?

**Ms Moore**—Yes. That included an external consultant to facilitate.

**Senator WONG**—Who was the external consultant?

**Ms Moore**—Lynette Glendinning from PALM Consulting.

**Senator WONG**—Where does that appear in the consultancy expenditure in the annual report?

**Dr Boxall**—From memory, that will be in the next annual report.

**Mr Symon**—Can I correct something I said before. It is 1½ days, not 2½ days, I am advised.

**Senator WONG**—It was 1½ days for \$70,000. What proportion of that is the consultant's contract?

**Ms Moore**—Can we take that on notice, please?

**Senator WONG**—You do not have that?

**Dr Boxall**—In answer to question on notice W344-04, there is a breakdown of transport, accommodation and meals and other, and the consultancy fees are within the other. We will get you the exact amount of consultancy fee on notice.

**Senator WONG**—Was it Chris Farrell Consulting that did the executive leadership consultancy?

**Ms Moore**—Yes, that is correct.

**Senator WONG**—In relation to the \$153,000 for executive leadership, which is identified on the first page of that answer, who was the consultant there?

**Dr Boxall**—Chris Farrell Consulting.

**Senator WONG**—How many days was that for?

**Dr Boxall**—That is the question you just asked, which we are going to get for you on notice. It is a 12-month program and there are a number of sessions during the 12 months. You asked 'How many days?' and we said we would get that on notice.

**Senator WONG**—The separate identification there refers to two different retreats, but they are both under the same contract. Is that right? There is one on the first page and another on the second page of the question. That is why I was asking both questions.

**Dr Boxall**—One is for 2002-03.

**Senator WONG**—I do not have the dates for them.

**Dr Boxall**—They are in the minister's answer to question No. 344-04. One table is financial year 2002-03 and the other table is financial year 2003 up to February 2004.

**Senator WONG**—Are you able to say how many days were involved in the expenditure for Batemans Bay?

**Dr Boxall**—No, because that is what we are going to get for you on notice. The executive leadership in 2002-03 was for the first six months of the calendar year 2003 program, and we are going to get you on notice how many days were involved.

**Senator WONG**—The column 'other' includes consulting fees, contractor fees and equipment hire. There is one figure of \$285,000 and another of nearly \$145,000. The value of the consulting is \$318,000. Is that for three years or one year?

**Dr Boxall**—Three years.

**Senator WONG**—A significant proportion of fees in the 'other' column must be for other than consultant fees?

**Dr Boxall**—A proportion is 'other', but we do not know how much.

**Senator WONG**—In relation to those two, can you provide a break-up of what is for consultant fees and what is 'other'?

**Mr Symon**—Yes.

**Senator WONG**—Is there funding in the 2004-05 budget for the AWIR Survey?

**Dr Boxall**—That is in outcome 2.

**Senator WONG**—Do you want me to ask it tomorrow, Dr Boxall?

**Dr Boxall**—We can answer it.

**CHAIR**—When we get to it.

**Senator WONG**—That is fine.

**Senator WEBBER**—What advertising campaigns does the department have booked for the next 12 months?

**Mr Correll**—I am not aware of any advertising campaigns for the next 12 months.

**Senator WEBBER**—There are no plans to do any advertising at all?

**Mr Correll**—There is periodic advertising—job advertisements and those sorts of things—in the paper, but I am not aware of any prospective campaign as such.

**Senator WEBBER**—There are no plans for targeted campaigns? The last time we met we talked about some specific advertising that was done to target certain labour market programs,

job vacancies and programs with employers. We talked about taking out ads in some retail magazines and what have you. There is nothing at all like that planned?

**Mr Correll**—No. I was responding to the question from the point of view of prospective campaigns. Previously an employer campaign was conducted. There is no further advertising campaign as such at this point.

**Senator GEORGE CAMPBELL**—There is no advertising campaign for Job Network?

**Senator WEBBER**—There is nothing planned for the next 12 months for Job Network or anything.

**Mr Correll**—Not in any way that I would describe as a campaign. There was just the normal publication of brochures, materials and continuing awareness. Job Network members individually are always out there promoting their operations but there is no specific campaign for Job Network at the present stage.

**Senator WONG**—Has the department entered into any contracts for purchasing media space in the next six months?

**Mr Correll**—Not that I am aware of.

**Senator WONG**—There is no media buy?

**Mr Correll**—I do not believe so. Perhaps I could take the precision of that question on notice to make sure that there were not any ad hoc purchases that might be in the pipeline but there is nothing that I would describe as a campaign.

**Senator WONG**—That was not actually my question. I asked: has the department either entered into or is the department negotiating a media buy to apply to the next six months?

**Mr Correll**—Not from an outcome 1 perspective.

**Senator Wong**—I thought we were on cross-portfolio questions.

**Mr Correll**—Indeed. I am about to hand over to my colleague.

**Ms Bennett**—We have booked some media space to inform the public, particularly employees of the building industry, that the department will be conducting an audit of employee entitlements. It is partly educative and partly a phone number if you have a concern or a complaint. There will be a series of ads of not quite a quarter of a page about three weeks in a row.

**Senator WONG**—Only print?

**Ms Bennett**—Yes, only print.

**Senator WONG**—When are they booked for?

**Ms Bennett**—We are confirming dates at the moment between the people who are doing the ads but it will be later in June.

**Senator WONG**—What will the cost be of those?

**Ms Bennett**—I do not yet have the final costing.

**Senator WONG**—Can you provide that?

**Ms Bennett**—We will not be able to until we confirm what they look like, which will be colour.

**Senator WONG**—Can you take that on notice?

**Ms Bennett**—Yes.

**Senator WONG**—Is there to be any other media buy in the next six months?

**Ms Bennett**—No.

**Senator GEORGE CAMPBELL**—Nothing on New Apprenticeships?

**Ms Bennett**—New Apprenticeships belongs to Education, Science and Training.

**Senator WONG**—There is to be no other media buy?

**Ms Bennett**—Not that we are aware of.

[10.12 a.m.]

**CHAIR**—There being no other cross-portfolio issues, we will move to output 1.1, Labor market policy and analysis.

**Senator GEORGE CAMPBELL**—Mr Correll, are you familiar with the media release issued by Minister Brough on 21 April entitled, ‘Three out of Four Jobless Teens Dip Out under Labor Jobs Plan’?

**Mr Correll**—I have a recollection of that media release. I am not familiar with it verbatim.

**Senator GEORGE CAMPBELL**—You are not familiar with it?

**Mr Correll**—I have a recollection of it.

**Senator Abetz**—Perhaps he can be given a copy of it. Can it be made available?

**Senator GEORGE CAMPBELL**—I have a copy of it if I need to give Mr Correll a copy, but maybe someone else in the department is more familiar with it than he is. Mr Correll, is there anyone in the department who is more familiar with the press release than you?

**Mr Correll**—No.

**Senator GEORGE CAMPBELL**—Did the department provide the minister’s office with a draft of this release?

**Mr Correll**—I would want to take that on notice. I would want to check that fact.

**Senator GEORGE CAMPBELL**—Isn’t there anyone here who would know the answer to that?

**Mr Correll**—Is it possible to see that media release you are referring to, just to help? There is no graph attached to this media release.

**Senator GEORGE CAMPBELL**—No, I do not have the graph.

**Mr Correll**—Having now reviewed this media release that you are referring to, to my knowledge the department did not draft this media release.

**Senator GEORGE CAMPBELL**—So the department was not involved; this was done in the minister’s office?

**Mr Correll**—The department did not draft this media release. It may have provided factual information to the minister's office in relation to any data used in the release.

**Senator GEORGE CAMPBELL**—What is the normal practice with media releases? Is the department normally involved in drafting the releases or is it normal for you just to provide detailed information to the minister's office?

**Mr Correll**—It would depend on the circumstances involved. This is a media release that is making commentary on what is referred to as 'Labor Jobs Plan' and in those circumstances I would not have expected the department to be drafting the media release.

**Senator GEORGE CAMPBELL**—You said that the department provided the minister's office with some of the information provided in the media release.

**Mr Correll**—In response to questions from the minister's office, we would have provided straight factual information in response to those questions.

**Senator GEORGE CAMPBELL**—Can you tell us what information was provided to the minister's office?

**Mr Correll**—I cannot say what information or advice was provided to the minister's office.

**Senator GEORGE CAMPBELL**—For example, did the department provide the information that four out of five people would miss out under this jobs Link-Up plan?

**Mr Correll**—The department would have provided just straight factual information in terms of the numbers of job seekers in various age groups.

**Senator GEORGE CAMPBELL**—The question I am asking, Mr Correll, is: did you do an analysis of Labor's Link-Up plan, and was the department's advice that four out of five young people would miss out under that plan?

**Mr Correll**—No, we did not do any analysis of the Link-Up plan.

**Senator GEORGE CAMPBELL**—From that, I assume the analysis was done in the minister's office.

**Mr Correll**—I cannot answer that.

**Senator GEORGE CAMPBELL**—If you did not do it, presumably that is where it was done. Did you provide the definition of 'teens' that is used in the release, and the information?

**Mr Correll**—I understand that the definition that has been used is the 15- to 19-year-old age group, which is consistent with the ABS data.

**Senator GEORGE CAMPBELL**—So you provided information in relation to the 15- to 19-year-old age group?

**Mr Correll**—In terms of providing factual information, we would have based that on the 15- to 19-year-olds ABS data.

**Senator GEORGE CAMPBELL**—At the time you provided that information, were you aware that the Link-Up program is for 15- to 18-year-olds?



**Mr Correll**—We would simply have provided factual information on youth unemployment numbers and based that on the available data, drawing on the ABS data.

**Senator GEORGE CAMPBELL**—If you provided ABS data for 15- to 19-year-olds, and the Labor plan is based on 15- to 18-year-olds, then the assertion that four out of five would miss out has to be statistically wrong. Isn't that correct?

**Mr Correll**—I cannot really comment on that particular assertion, because I do not know how the analysis has been undertaken. The department has simply provided factual information in terms of the number of 15- to 19-year-olds involved.

**Senator GEORGE CAMPBELL**—Let me ask the question another way. If you had done an analysis of 15- to 19-year-olds and a separate analysis of 15- to 18-year-olds, would you expect to get the same result?

**Mr Correll**—That is a very hypothetical question.

**Senator GEORGE CAMPBELL**—Mr Correll, you have been dealing in the area for some considerable time. I do not think there is any hypothetical about the question.

**Dr Boxall**—Mr Correll has testified that the department has not done an analysis and the department has responded to questions with factual information to the office.

**Senator GEORGE CAMPBELL**—I am simply asking Mr Correll—because I do not want to get this wrong—whether, if he had done an analysis based on 15- to 19-year-olds and had done a separate analysis on 15- to 18-year-olds, he would get a different result.

**Dr Boxall**—That depends on the data. It is theoretically possible you would get exactly the same result, and it is theoretically possible you would get a different result.

**Senator GEORGE CAMPBELL**—How is it theoretically possible you would get exactly the same result?

**Dr Boxall**—It depends whether the numerator and the denominator are the same, and you get the same ratio. But this is a question that the department is not in a position to answer because we have not done the analysis.

**Senator GEORGE CAMPBELL**—I understand what you are saying. I understand that you do not want to be put in a position of embarrassing your minister, but I think you have answered the question for us. In the press release that the minister issued, he said that this year around 31,000 teen job seekers will be assessed as being highly disadvantaged. Is that figure referring to 2003-04?

**Mr Correll**—Yes.

**Senator GEORGE CAMPBELL**—Can you give us the projected figures for 2004-05 and 2005-06?

**Mr Correll**—We would have to take that on notice.

**Senator GEORGE CAMPBELL**—It is possible for you to give us those figures?

**Mr Correll**—We would have to take that on notice, to examine whether it is possible to extract the information and then to provide it if it is.

**Senator GEORGE CAMPBELL**—I am just asking the question because I saw behind you a head moving horizontally. I was not too sure whether that was saying, ‘We haven’t got them now,’ or, ‘We can’t get them.’

**Mr Correll**—We will take it on notice.

**Senator GEORGE CAMPBELL**—Is the department aware that the Link-Up program was actually an extra program, that no programs were going to be cut and that there was nothing going to be taken away?

**Mr Correll**—We are not aware of the detail of the Link-Up program. There has been no consideration or examination of that program.

**Senator GEORGE CAMPBELL**—The department has not studied it? That would be an unusual one.

**Dr Boxall**—The department will be studying programs from both sides of politics during the caretaker period, and we will be ready to brief the incoming government from either side of politics, having studied the alternative programs in detail.

**Senator GEORGE CAMPBELL**—I understand that, Dr Boxall, but you are surely not asking me to believe that that the department has not had at least a cursory glance at a program that was released two or three weeks ago and at what it means?

**Mr Correll**—Obviously, yes, we have seen the program, but as I indicated in my earlier response we have done no analysis of the program.

**Senator GEORGE CAMPBELL**—Were the figures that you provided to the minister for use in the press release based on the figures that were in the Link-Up program and were they specifically generated to contradict the figures in the Link-Up program? Were you aware of why the figures were being generated?

**Mr Correll**—The data that was provided to the minister’s office was provided in direct response to requests for information. That data was directly provided.

**Senator GEORGE CAMPBELL**—You were not aware of why the data was specifically requested?

**Senator Abetz**—To inform the minister.

**Mr Correll**—We were simply, as we do on an ongoing basis, responding promptly to requests from the minister’s office for data.

**Senator GEORGE CAMPBELL**—That is not the question I asked you, Mr Correll. I asked you: were you aware or not aware of why the data was being specifically requested?

**Mr Correll**—I think we would have understood the context in which the data was being requested, yes.

**Senator GEORGE CAMPBELL**—If you understood the basis on which the data was being requested, why was data provided based on a different set of parameters from what appeared in the Link-Up program?

**Mr Correll**—The data that was provided would have been based on available data consistent with the ABS categorisation of the youth cohort.

**Senator GEORGE CAMPBELL**—I understand that is what you provided. What I am asking is: why was the data not measured against what was proposed in the Link-Up program? In other words, why was a different set of data used?

**Dr Boxall**—We cannot divulge the nature of the advice. If the minister or his office asks us for a particular set of data, we can give that set of data to the minister or his office and we may or may not provide comments, but we cannot go into what we may or may not have advised the minister's office.

**Senator GEORGE CAMPBELL**—I am not asking you what you go into in the minister's office. Mr Correll has already said he was aware of why the data was being requested. I am simply asking: if he was aware of why the data was being requested, why wasn't the data that was provided provided on the same parameters as that identified in the jobs Link-Up program?

**Dr Boxall**—And the department's position in response to that question is that we received a request from the minister's office and we responded to that, and then the minister issued a press release. We have not been asked to do an analysis of the Labor jobs plan and we have not done it. We will do that in the caretaker period.

**Senator GEORGE CAMPBELL**—So I have to assume that either the minister's office did not understand what Labor was proposing, and, therefore, has responded to some mythical scheme or the department did not understand what Labor was proposing. The press release that was put out on 21 April was purportedly a critique of what Labor proposed in the Link-Up plan, and the data was statistically based on a different set of data.

**Dr Boxall**—I might suggest that that issue be taken up with the minister.

**Senator Abetz**—I can assist to a certain extent. I understand the table that was attached to the media release is that information which is available on the ABS web site headed 'April 2004 12 month average teenage full-time unemployment data', where 'teenage' is defined as 15- to 19-year olds. I understand Mr Latham's policy, quoting these figures—the rates—indicates that Link-Up would only be for 15- to 18-year-olds. Therefore, Mr Latham has been using the same figures as Mr Brough but then trying to make them apply to only 15- to 18-year-olds and not the 19-year-olds as well. That is the difficulty that I think Mr Latham has got himself into, rather than anybody else.

**Senator GEORGE CAMPBELL**—I think the difficulty is in your minister's office, because the Labor program only applies to 15- to 18-year-olds—19-year-olds are not included in the process—and, therefore, the statistical data you used to criticise it was wrong. I am pleased that at least you have been pleased to admit it, albeit with the advice of Minister Brough's staff.

**Senator Abetz**—I do not think Labor is in a particularly strong position to argue facts and figures. We have had the \$8 billion super blooper, the child-care policy had about \$350 million missing and I dare say the same is happening in this area as well. I do not think it is particularly strong ground for Labor to be arguing on.

**Mr Correll**—If I can make one point of clarification here, the 15- to 19-year-old cohort relates to the unemployment rate and to the ABS data. The 31,000 figure, which is the direct

number of job seekers moving through the employment services, is based on departmental data which is relating directly to 15- to 18-year-olds.

**Senator GEORGE CAMPBELL**—I understand what you are saying to me now, which answers the question I was about to ask you, is that the ABS data is in fact different from the number of teams that go through the Job Network.

**Mr Correll**—Yes, there are differences between those two numbers.

**Senator GEORGE CAMPBELL**—Can you tell us what the difference between those numbers are?

**Mr Correll**—They go to a different definition of counts.

**Senator GEORGE CAMPBELL**—Do you have a rough estimate of what the difference is?

**Ms Taylor**—There is a difference between the ABS data and those who are on benefits. They are not necessarily the same numbers at all.

**Senator GEORGE CAMPBELL**—So for a program that is looking at kids specifically within the Job Network it would be wrong statistically to use ABS data to counteract that? In other words, it has some relationship to it but the two figures are different measurements?

**Ms Taylor**—There is some relationship, but it depends whether you are talking about the unemployment rate and the ABS data as opposed to those who are on benefit or allowance.

**Senator WEBBER**—Did the department provide the table of teenage unemployment for the month of April 2004 by regional area used by the minister in his press release?

**Senator Abetz**—I have just indicated that figure was obtained from the ABS.

**Senator WEBBER**—I am just asking whether the department provided it or whether the minister got it himself from the ABS.

**Mr Correll**—Yes, the department provided it.

**Senator WEBBER**—Has the department provided these teenage employment statistics for the month of April to the Minister for Employment and Workplace Relations, Kevin Andrews, or his office or simply to Minister Brough?

**Mr Correll**—Yes, it has been provided to both ministers.

**Senator WEBBER**—When were they provided?

**Mr Correll**—It was part of the normal regional labour market briefing.

**Senator WEBBER**—Do we know when that took place?

**Ms Taylor**—We can take that on notice and get the exact date, but I believe the regional briefing was provided about three weeks ago.

**Mr Correll**—We can in fact give you the precise date: it was 20 May.

**Senator GEORGE CAMPBELL**—Can I just clarify one thing with you. I think I understood you right, but the 31,000 is the ABS figure.

**Mr Correll**—No, it is the other way round: the 31,000 is the departmental figure in terms of numbers going through employment services.

**Senator GEORGE CAMPBELL**—They are the ones in the Job Network.

**Mr Correll**—Yes. To be precise, the 31,000 represents the number of 15- to 18-year-olds who have commenced intensive support customised assistance in the current financial year.

**Senator GEORGE CAMPBELL**—They are 15- to 18-year-olds who have commenced assistance from 1 July last year.

**Mr Correll**—Correct.

**Senator GEORGE CAMPBELL**—So that number will change.

**Mr Correll**—It is identifying those 15- to 18-year-olds who have been referred into intensive support customised assistance during the current financial year who are highly disadvantaged. That means they would have been directly referred from the start of services into intensive support customised assistance services.

**Senator GEORGE CAMPBELL**—That number will presumably change by 30 June.

**Mr Correll**—Yes.

**Senator GEORGE CAMPBELL**—Do you provide a monthly or a quarterly brief to the minister's office on these statistics?

**Mr Correll**—We provide regular performance information to the minister's office. I do not believe this specific data is included in that normal performance report.

**Senator GEORGE CAMPBELL**—This would have to have been requested specifically.

**Mr Correll**—Yes.

**Senator GEORGE CAMPBELL**—How often do you provide statistical data performance reports? Are they monthly or quarterly?

**Mr Correll**—Monthly.

**Senator GEORGE CAMPBELL**—Are they confidential advice to the minister or are they put up on your web site?

**Mr Correll**—No, it is a report to our minister. It is not published.

**Senator GEORGE CAMPBELL**—So it is a confidential report to the minister.

**Mr Correll**—Yes.

**Senator WEBBER**—Minister Brough, in his press release of the 30 April when talking about the Job Network, says:

The new model has proved highly effective in achieving real jobs for job seekers ...

Does the department have a definition of what a real job is?

**Mr Correll**—Yes, the department uses very clear definitions in measuring performance—definitions covering both job placement outcomes and long-term employment outcomes. The long-term employment outcomes represent 13 weeks continuous employment for an interim

outcome and 26 weeks for a final outcome. Those are the standard measures that have applied for performance outcomes for the Job Network since its inception.

**Senator WEBBER**—Do you have a number of hours per week that that job should be worked to be a real job?

**Mr Pratt**—Yes, in relation to job placements the standard definition is 15 hours of employment over five days. For the interim outcomes it is typically measured by job seekers coming off income support or having a substantial reduction in income support for a period. Some job seekers, particularly those who have disabilities or parenting responsibilities, may be assessed as having a reduced work capacity which is measured in terms of hours. It might be that a person with a disability can work 12 hours per week and if they achieve 12 hours per week of work for 13 weeks that is an interim outcome.

**Senator WEBBER**—I am happy to place these questions on notice, but if I were to give you a number of bands of hours per week would you be able to tell me how many real jobs—

**Mr Pratt**—No.

**Senator WEBBER**—If I asked you how many of these real jobs are in the 15 to 20 hours per week—

**Mr Pratt**—We do not record the number of hours and report on that.

**Senator GEORGE CAMPBELL**—But they must work the minimum of 15 hours over five days.

**Mr Pratt**—That is correct. They will enter that information into the system, but it is not something that we extract in a report.

**Senator GEORGE CAMPBELL**—Is that five days in a week?

**Mr Pratt**—Yes.

**Senator GEORGE CAMPBELL**—So five out of seven or a normal working week?

**Mr Pratt**—It is five continuous days. It might be that someone starts work on a weekend and works 15 hours across the week or starts work on a Friday and then works 15 hours over the next five days.

**Senator GEORGE CAMPBELL**—It has to be five continuous days?

**Mr Pratt**—That is correct.

**Senator WEBBER**—So you extract the data to the point that you know they are doing 15 hours but you do not look any deeper into that?

**Mr Pratt**—We do not analyse whether it is 15 hours, 16 hours or 18 hours, because it varies of course.

**Senator WEBBER**—Or 35 hours?

**Mr Pratt**—That is right. Job Network members will put that information into their systems. We do not extract it.

**Senator WEBBER**—Why not?

**Mr Pratt**—Simply because it varies so much. It is not something which is particularly relevant to the arrangements we have. We are interested in people who get substantial employment and we need to verify that they get that substantial employment in order to pay Job Network members for their outcomes or job placements.

**Senator WEBBER**—And ‘substantial employment’ is 15 hours?

**Mr Pratt**—That is correct.

**Senator WEBBER**—Is there a definition of long-term jobs?

**Mr Pratt**—Yes. Mr Correll has provided that. That is the interim outcome—

**Senator WEBBER**—So that is the 13 weeks.

**Senator GEORGE CAMPBELL**—Is that 13 weeks continuous?

**Senator WEBBER**—I presume it is 13 weeks continuous.

**Mr Pratt**—Correct.

**Proceedings suspended from 10.43 a.m. to 11.06 a.m.**

**CHAIR**—We are considering output 1.1.

**Senator WEBBER**—Before we had our break, I was discussing Minister Brough’s press release of 30 April. In his press release he talks about some 385,000 job seekers that have been assisted. Of those 385,000 job seekers ‘assisted into jobs since 1 July 2003’, how many were still employed 13 weeks later?

**Mr Pratt**—We have not done post program monitoring surveys on those clients at this stage. It takes some time to get that information. We have to wait until three months after their placement, and then we conduct the survey. Those surveys are happening at the moment, but the results are not in. In terms of historical performance in this area, it is in the range of 65 to 70 per cent that are in employment or full-time education or study three months later.

**Senator WEBBER**—When you do that analysis, do you then have a look at it for those that are employed after 26 weeks?

**Mr Pratt**—It is a different thing. There have, in the past, been surveys which have looked at the sustainability of those post program monitoring outcomes. Interestingly, they tend to rise. More people are more likely to be in employment six or nine months down the track. In relation to the interim outcomes 13 weeks later, we also pay a 26-week outcome payment. Those are the final outcomes, so we monitor those. Typically, historically, the 13-week outcomes becoming 26-week outcomes is in the range of 70 per cent.

**Senator WEBBER**—When do we expect to have that evaluation of the 13-week outcomes available?

**Mr Pratt**—I cannot answer that question.

**Ms Taylor**—The post program monitoring surveys are conducted 12 months after people have left the program, so we would expect to see those of the new employment services contract 3 starting in July.

**Senator GEORGE CAMPBELL**—I may have misunderstood what you said but, in this press release by the minister, which was dated 30 April, he said that ‘about 385,000 job seekers have been assisted into jobs since 1 July 2003’. He then went on to say:

In the December 2003 to March 2004 period, record numbers of long-term job outcomes were achieved for disadvantaged job seekers.

“The number of jobs achieved in March 2004 was 92 per cent more than in March last year ...

How does he make the claim that record numbers of long-term job outcomes were achieved if you have not yet done the post program analysis?

**Mr Correll**—Those figures are based on the interim outcomes. The long-term job outcomes are based on the interim outcomes being achieved not on the post program monitoring activity, which, as Ms Taylor has indicated, occurs subsequently. The post program monitoring methodology has been used consistently to provide a long-term view of the effectiveness of the employment services. The interim outcomes represent the direct 13 weeks employment outcomes, and that data is quite accurate. Indeed, the results against the three key indicators of performance for Job Network, which are vacancies, placements and long-term job outcomes, are showing record high levels across all of those indicators at the present stage.

**Senator GEORGE CAMPBELL**—Is this comparing like with like?

**Mr Pratt**—Yes.

**Senator GEORGE CAMPBELL**—The figures recorded here measure those people in the December to March period who were in employment and who had 13 weeks or more continuous employment?

**Mr Correll**—Yes. That information can now be updated. In fact, I think Mr Pratt has some information available on the overall latest figures to the end of April, which he can table if the committee wishes.

**Senator GEORGE CAMPBELL**—Can you table those now?

**Mr Pratt**—Yes. Would it be helpful if I take you through the figures?

**Senator GEORGE CAMPBELL**—It would be very helpful. I am just wondering how you get this figure, given the huge dip in January.

**Mr Pratt**—I will explain that. This handout is the performance profile that we have been releasing in recent months as a publicly available document. As Mr Correll indicated, it covers the period from July 2003 to April 2004 for the three key indicators of Job Network performance—that is, new vacancies, total job placements and long-term jobs. If you have a look at the top graph you can see that, after the establishment phase of the new contract very quickly into the market in about September, Job Network 3 started achieving at the same rate of vacancy lodgment as Job Network 2 had done in the previous year, and very soon after that it increased rapidly past the numbers of vacancies lodged in the previous year. That is indicated by the red line as compared with the black dotted line.

You can see that there is a very large dip around the December-January period. Unfortunately, that is Christmas and activity tails off during that period, but it comes back



very quickly in January. You can see that the red line exceeds the black line from then on. I guess the key indicator there is that, if you compare April 2004 with April 2003, you can see that there is an increase of 42 per cent on April 2003, when we had 68,000 new vacancies lodged in that month. Similarly, total job placements has the same picture. You can see that in April 2004 the number of job placements recorded by Job Network members and job placement organisations is 55 per cent higher than in April 2003, keeping in mind, of course, that the last year of Job Network 2 was a very good year because Job Network was at its peak performance in the first part of that year.

The most telling indicator and the one which we are most pleased with is the long-term jobs, which are the interim outcomes we have been talking about this morning. You can see that early in the establishment phase of Job Network 3 we ran a bit lower than in the previous year. That is simply because the outcomes that are recorded for the first 13 weeks are the residual outcomes from ESC2. It is not physically possible to get an ESC3 outcome until 13 weeks after the start of the market. Very rapidly after that period, the Job Network 3 was achieving interim outcomes at the same rate as the previous year and then from January has vastly exceeded the performance of the previous year to the extent where, in April 2004, we had 9,400 long-term job outcomes, which was 80 per cent higher than in April 2003. Naturally, we are very pleased with the very strong performance of Job Network 3 so early into the new contract.

**Senator GEORGE CAMPBELL**—Presumably you would expect an increase in the vacancies and placements, given that Job Network 3 is a much wider number of organisations out there putting their jobs on the network.

**Mr Pratt**—That is correct. The new arrangements for ESC3 have vastly increased the performance possible from Job Network.

**Senator GEORGE CAMPBELL**—The one I do not understand is the period December to March. Does the claim that the minister makes in the press release mean that those long-term jobs created over December-March were in addition to that blip in January?

**Mr Pratt**—What that is saying—and you can see the equivalent data from December to April 2004; it is the second last point on the page, the equivalent—is that between December 2003 and April 2004 the total number of interim outcomes recorded is 47 per cent higher than for the same period in 2002-03. Yes, it certainly takes into account the seasonal drop in outcomes which occurs every December-January because of Christmas and New Year.

**Senator GEORGE CAMPBELL**—So we are saying that that increase in long-term jobs of 13 weeks was not impacted by that drop?

**Mr Pratt**—That is correct.

**Senator GEORGE CAMPBELL**—The number that you give for people who have been unemployed for 13 weeks or longer are people who have been able to get through that trough?

**Mr Pratt**—It is simply the number of 13-week outcomes which are recorded during that period.

**Senator GEORGE CAMPBELL**—Presumably these outcomes are staggered.

**Mr Pratt**—In what sense?

**Senator GEORGE CAMPBELL**—They would not all start on 1 November and finish on 31 January.

**Mr Pratt**—That is correct. Job seekers are placed across the course of the year and then 13 weeks after that becomes an interim outcome if they—

**Senator GEORGE CAMPBELL**—When you measure the period December to March, that could include people who have completed their 13 weeks on 2 December?

**Mr Pratt**—That is correct.

**Senator GEORGE CAMPBELL**—It is people who within that period compared to the 13 weeks; it is not necessarily the number of people who have worked 13 weeks in that three-month period.

**Mr Pratt**—That is correct. For everybody who, for example, is recorded as having an interim outcome at the end of January, that means that they were placed in their employment three months before that.

**Senator GEORGE CAMPBELL**—But anyone who finished their 13 weeks on 2 December, for example, you would include in the statistics for the December-March period?

**Mr Pratt**—That is correct.

**Senator GEORGE CAMPBELL**—When you look at the figures for April, again that would move the datum point?

**Mr Pratt**—That is right. Job seekers achieving an outcome in April were first placed in employment in January.

**Senator BARNETT**—I have a couple of questions on these results, which are obviously very encouraging. Do you have a state and territory breakdown of these figures?

**Mr Pratt**—That is possible. I do not have it with me.

**Senator BARNETT**—Could you take that on notice?

**Mr Pratt**—Yes.

**Senator BARNETT**—Thank you. Do you have a view on the reason for the strong growth in that period from Christmas through to April this year? Is there any particular reason? Obviously there is the strong economy and a growing demand, but are there any other reasons you would want to put to us?

**Mr Pratt**—I attribute it to two reasons. One reason is the enhancements from the active participation model—the actual new policy arrangements free up the Job Network to get even more placements and long-term outcomes. The other reason is that we have the highest performing Job Network members contracted in ESC3, and you can see between each contract that the performance continues to ratchet up as we move more business to the higher performing providers.

**Senator BARNETT**—You have moved the active participation model from the previous Job Network program to that. Can you clarify for me when that was?

**Mr Pratt**—It happened on 1 July 2003.

**Senator BARNETT**—As far as you are concerned you are getting greater productivity, and that has been demonstrated in these figures?

**Mr Pratt**—Yes, the Job Network is performing even better than it was under Job Network 2—and we were pretty pleased with the performance under Job Network 2.

**Senator BARNETT**—You have 111 Job Network members and they are located in 2,700 sites across Australia. Is that right?

**Mr Pratt**—The Job Network members and job placement organisations currently operate from around 2,700 sites.

**Senator BARNETT**—There has been a 55 per cent increase from April 2003 to April 2004 for job placements—that is a very high increase. Is there any particular reason you put that down to, or just the reasons you have already provided?

**Mr Pratt**—In addition to the reasons provided, we have job placement organisations which are increasingly contributing vacancies and placements of eligible jobseekers to the Job Network. I also think the Job Network is becoming more experienced with the delivery of the active participation model, and also in this period—we see this phenomenon quite regularly during the contract—as we go to release the star ratings, you can see that very much encourages the Job Network members to perform at the highest possible level.

**Senator BARNETT**—So they are benefiting from it. And those new procedures have helped with long-term jobs, where you have an 80 per cent increase from April 2003?

**Mr Pratt**—Certainly, yes.

**Senator WEBBER**—While we are on Job Network, has the department moved any business to high performing providers since 1 July last year?

**Mr Correll**—Not as yet, no.

**Senator WEBBER**—When you say that this new Job Network scheme frees people up to get more jobs—that is the Job Network providers themselves—how do you achieve that? What happens?

**Mr Correll**—The new service delivery model has basically enabled a greater flow of vacancies to be available to unemployed Australians, and that is reflected in the graphs in the tabled document. That in turn has led to more placements and also very strong results in long-term jobs. We believe that the new service arrangements, particularly innovations such as the Jobseeker Account, have contributed strongly to the results being achieved. We are also looking at targeting initiatives to industries where significant job growth is occurring. That has been a key part of the strategy being applied under the services as well. We believe the combination of those factors is driving very strong results. The role of the Job Network is to contribute to the effectiveness of the labour market. We are also seeing the broad effectiveness indicators of the labour market improving significantly through reductions in frictional unemployment rates and also reductions in the duration of long-term unemployment.

**Senator WEBBER**—Surely it can also reflect the strong demand for labour, and therefore the increases can flow from that.

**Mr Correll**—Yes, the labour market is strong at present.

**Senator WEBBER**—Exactly.

**Mr Pratt**—Another element of the active participation model which contributes to the strong results is the active in the APM. Our Job Network members are working even more regularly with their job seekers to assist them into employment.

**Senator WEBBER**—Can the department provide the number of casual, seasonal and temporary job outcomes for each program in the Job Network?

**Ms Caldwell**—I do not have that breakdown with me today. I would have to take that on notice.

**Senator WEBBER**—If you could take that on notice, that would be good. In the media statement, it says that in December 2003 to March 2004 a record number of long-term job outcomes was achieved for disadvantaged job seekers. What is the definition of ‘disadvantaged job seekers’?

**Mr Pratt**—What we are measuring with the long-term outcomes are job seekers who have been identified as highly disadvantaged—in other words, they have severe barriers to employment, and that might include things like disabilities, low levels of education, and a range of things which are picked up through the application of the job seeker classification instrument. If you wish, I am happy to run through those sorts of things. We have discussed that in the past. In addition to that, it is long-term unemployed job seekers—people who have been unemployed for more than 12 months—and also, those job seekers who have been unemployed for more than three months.

**Senator GEORGE CAMPBELL**—Mr Pratt, just coming back to this document, at the top of the back page, there is additional material. It says you have job placement organisations operating for more than 2,700 sites across Australia. How many of those 2,700 sites are providing the full suite of programs under Job Network?

**Mr Pratt**—I do not have the exact figure, but the full suite of Job Network services would be provided from I think it is in the order of 1,100. Some of the other Job Network services, such as NEIS and Harvest Labour Service, are on top of that.

**Senator GEORGE CAMPBELL**—About 1,100?

**Mr Pratt**—That is for the full set of Job Network services.

**Mr Correll**—There was a question on notice from a previous hearing that I think raised that very question. My colleague, Mr Manthorpe, might want to add something.

**Mr Manthorpe**—The total number of Job Network sites is 1,471.

**Senator GEORGE CAMPBELL**—How do we get 2,700 sites?

**Mr Manthorpe**—The other sites are job placement only sites.

**Mr Manthorpe**—The 1,471 Job Network sites—

**Senator GEORGE CAMPBELL**—I was just about to ask that question, but thank you for anticipating it.

**Mr Manthorpe**—In addition to those, there are 1,329 job placement only sites which, as at about the end of last week, brings the total up to 2,800 sites.

**Senator GEORGE CAMPBELL**—Sorry; I misunderstood. You said 1,471 and then you gave another figure for—

**Mr Manthorpe**—Job placement only sites.

**Senator GEORGE CAMPBELL**—Okay. So it is 1,329—

**Mr Manthorpe**—Yes, which adds up to exactly 2,800.

**Senator GEORGE CAMPBELL**—Do you have a map or a graph layout of where these sites are located?

**Mr Manthorpe**—We have got that information in the department. I would have to take that on notice.

**Senator GEORGE CAMPBELL**—Can you do it for both the people who are providing the full suite of programs and the job placement only ones?

**Mr Manthorpe**—Yes. I would have to take that on notice.

**Senator GEORGE CAMPBELL**—Can you identify them separately? Surely you can.

**Mr Manthorpe**—I would have to take that on notice.

**Senator WEBBER**—Does the 385,000 figure include people who are not on any income support—that is, people who are just using the job matching services only?

**Mr Pratt**—The job placements figure—if that is the 385,000, which I assume is the analogue of the 416,000 that is in the one I just handed out—will be for all people who are eligible for Job Network services. It will include those on income support, those on non-activity tested forms of income support, such as parenting payment, disability support pension and so forth, and it will include non-allowance youth—young people who are under the age of 21 who are eligible for the full suite of services. It will also include job seekers who are, at this stage only, eligible for job placement services.

**Senator WEBBER**—The 385,000 is not necessarily 385,000 individual job seekers, is it? It could be a person who got a job for a few weeks, then there was a lapse and then they came back and got another job.

**Mr Pratt**—I think that is correct.

**Senator WEBBER**—So you could count them twice.

**Mr Pratt**—I think it is the count of the number of placements. If someone were to get placed twice, they would be counted twice.

**Senator GEORGE CAMPBELL**—Are you able to tell us how many are dual or multiple placements?

**Mr Pratt**—I will check. I imagine that it is a relatively small subset of that, but I will take it on notice.

**Senator WEBBER**—Of those outcomes, do you know how many were for job seekers on wage subsidies?

**Mr Pratt**—No, I do not know that. I know for the long-term jobs that about seven per cent of the usage of the job seeker account goes for wage subsidies, so that could give you an

indicator. Of the long-term jobs, approximately half of those from the period January to February were for job seekers assisted with the job seeker account. On that basis, I would estimate two or three per cent for the long-term jobs.

**Senator WEBBER**—Is there any way of working out in dollar terms the average of the wage subsidies that are included?

**Mr Pratt**—I happen to know the average: it is about \$800.

**Senator WEBBER**—Does the department monitor the Job Network providers using wage subsidies?

**Mr Pratt**—Yes.

**Senator WEBBER**—How do you do that?

**Mr Pratt**—Through a range of means—and this could take a while. We, of course, track all of the usages of the job seeker account through our system, so we are able to identify where a Job Network member has used a job seeker account to pay a wage subsidy. We can go and look at their records, both on the system and at their sites, and that happens as part of the normal contract monitoring. We survey the job seekers who have been placed, through our post program monitoring outcomes. We sometimes directly survey employers and job seekers for other purposes as well. There is a whole suite of measures that we use to monitor job seeker account usage.

**Senator WEBBER**—Do you think that is being used effectively at the moment? You do not have any concerns about it?

**Mr Pratt**—As we have discussed at previous estimates, very much the usage of the job seeker account is up to Job Network members. The thing that we are most interested in is, of course, the actual outcomes that Job Network members get. Certainly there are early indications with the job seeker account that those providers who have been using the job seeker account substantially are also the ones who are getting the higher outcomes. In terms of the outcome rate, as I said earlier, we are delighted with the higher level of outcomes. Usage of the job seeker account to pay wage subsidies is relatively moderate. As I said, it is about seven per cent.

**Senator WEBBER**—You are happy with the way that is going in terms of the use for wage subsidies? You do not have any concerns?

**Mr Pratt**—No concerns, at this stage.

**Senator GEORGE CAMPBELL**—Are the 385,000 job placements as of 1 July 2003?

**Mr Pratt**—I think that was the July to March figure. The July to April figure is 416,000.

**Senator GEORGE CAMPBELL**—How many of the 416,000 were placed by Job Network providers who have the full suite of programs and how many were placed by the job placement only organisations?

**Mr Pratt**—Roughly 85 per cent are provided by Job Network providers. I will correct that if that estimate is out substantially, but it is of that order.

**Senator GEORGE CAMPBELL**—Is that 85 per cent by those that provide a full suite or programs, as opposed to the job placement only providers?

**Mr Pratt**—That is correct.

**Senator GEORGE CAMPBELL**—Does the 385,000 include persons who have got a job within three months of being unemployed?

**Mr Pratt**—Yes. The total job placements are of any eligible job seeker who has been placed in employment by the Job Network or the job placement organisations.

**Senator GEORGE CAMPBELL**—Do you know what percentage of the 416,000—as it is now—are persons who were unemployed for less than three months?

**Mr Pratt**—If you will bear with me, I will see if we have that information available. I will come back with the information shortly.

**Senator GEORGE CAMPBELL**—Do you have a breakdown of the types of jobs that were obtained for persons who were unemployed for less than three months?

**Mr Pratt**—I would have to take that on notice.

**Senator GEORGE CAMPBELL**—On average, how much money was spent per successful job seeker from the job seeker account?

**Mr Pratt**—The average expenditure per job seeker to date is \$324—and that has gone up quite a bit since the last estimates—and the average expenditure per job seeker assisted by the job seeker accounts in intensive support customised assistance is \$377. I have an answer to your earlier question, and this relates to the very latest data. The total job placements by 21 May were 451,000, so that is an advance on the 416,000 at the end of April. The number of jobs for people unemployed for up to three months is just under 140,000, so it is about 30 per cent.

**Senator GEORGE CAMPBELL**—Mr Pratt, you have been around this business for a while. Under Job Network 2, people who were unemployed for less than three months were not shown in the figures. If you take the 140,000 out of the 451,000, how does Job Network 3 compare with Job Network 2?

**Mr Pratt**—That is also a good news story: 37 to 38 per cent of job placements under ESC2 for the equivalent period were made in less than three months. As you can see, the new fee structure and the new arrangements are seeing a lean further towards the slightly longer term unemployed job seeker.

**Senator GEORGE CAMPBELL**—But I thought under Job Network 2 they were not able to use the network until they were unemployed for three months.

**Mr Pratt**—That is not correct.

**Senator GEORGE CAMPBELL**—Can you break down the figures for the amounts of money that you have indicated have been spent on successful job seekers by \$100 lots?

**Mr Pratt**—Are we turning to the job seeker account?

**Senator GEORGE CAMPBELL**—Yes.

**Mr Pratt**—Not exactly. I can give you a break-up—and this is an update on the answer to a question on notice we took at the last estimates. Purchases of up to \$100 went to 37 per cent of job seekers, which is in the order of just over 100,000 job seekers; purchases of between \$101 and \$500 went to 44 per cent of job seekers, which is a bit over 120,000 job seekers; and purchases of more than \$501 went to 19 per cent of job seekers, which is around 54,000 job seekers.

**Senator GEORGE CAMPBELL**—Coming back to this other question about the comparison of Job Network 2 and Job Network 3, under Job Network 2 you did not have to use the Job Network if you were unemployed for less than three months.

**Mr Pratt**—No, that is not correct. Eligibility for Job Network services since 1998 has always been job seekers on activity tested forms of income support such as newstart allowance and youth allowance; job seekers in receipt of nonactivity tested forms of income support such as parenting payment and disability support pension; young people aged up to 21 who are not on an allowance are eligible for the full set of services; and also CDEP participants who register with the Job Network. You can be from any of those categories, be unemployed for one day and be immediately eligible for job placement and, if you are highly disadvantaged, the intensive support services.

**Senator GEORGE CAMPBELL**—But are you saying to me—and I will put it in simple terms—that, in terms of measuring the employment outcomes under Job Network 3, the way in which you are treating people who have been unemployed for less than three months is exactly the same way they were treated under Job Network 2?

**Mr Pratt**—That is correct. We are using exactly the same measures as we were.

**Senator GEORGE CAMPBELL**—So it is comparing apples with apples?

**Mr Pratt**—That is right.

**Senator GEORGE CAMPBELL**—Can you give us a breakdown of what goods and services the money was spent on for the job seekers?

**Mr Pratt**—Yes. Would it be helpful if I updated the answer I gave at the last hearing?

**Senator WEBBER**—Yes.

**Mr Pratt**—This is until 17 May. I will just add a qualification. At about today expenditure under the job seeker account is about \$90 million. The break-up figures I am going to give you are to 17 May when the total was \$82 million. I will round these figures. Expenditure on bulk items is \$7,486,000.

**Senator GEORGE CAMPBELL**—What are ‘bulk items’?

**Mr Pratt**—That includes clothing, equipment, employer incentives, fares and petrol assistance, Job Network member transport costs, job seeker incentives, professional services, training and transport assistance. I can give you other examples if you wish. Some of those items of course are covered by other items, which I will cover off shortly.

**Senator GEORGE CAMPBELL**—What are ‘job seeker incentives’?

**Mr Pratt**—The job seeker account has been used in this area for driving certificates, motivation courses, child-care assistance, stationery and diaries—the sorts of things that



would help a job seeker commence employment. The second category of clothing and equipment is \$11,925,000. Employer incentives is \$5,856,000.

**Senator GEORGE CAMPBELL**—What are the ‘employer incentives’ out of the job seeker account?

**Mr Pratt**—Typically, those are wage subsidies.

**Senator GEORGE CAMPBELL**—Was it always intended that the job seeker account would be used to provide wage subsidies?

**Mr Pratt**—Yes.

**Senator GEORGE CAMPBELL**—Can you give us some examples of the wage subsidies that are being provided?

**Mr Pratt**—Typically, they are wage subsidies which have been individually negotiated with the employer, so they will range in value. The average, as I mentioned before, is about \$800.

**Senator GEORGE CAMPBELL**—They are not negotiated between the job seeker and the employer, are they?

**Mr Pratt**—No, the Job Network member and the employer.

**Senator GEORGE CAMPBELL**—What is the value of those?

**Mr Pratt**—The value in helping a job seeker to get a job?

**Senator GEORGE CAMPBELL**—No, the monetary value—how much is being used.

**Mr Pratt**—It ranges. It is up to the Job Network member to determine the right amount. I imagine it would range from a few hundred dollars up to several thousand dollars.

**Senator GEORGE CAMPBELL**—What is the total value?

**Mr Pratt**—As I mentioned before, \$5,856,000 by 17 May. That is about seven per cent.

**Senator GEORGE CAMPBELL**—How much money is in the job seeker account that has not been used?

**Mr Pratt**—Notionally, each year the job seeker account has a credit of about \$180 million.

**Senator GEORGE CAMPBELL**—And how much has been used this year?

**Mr Pratt**—To date, about \$90 million.

**Senator GEORGE CAMPBELL**—Of which about \$5 million has gone to incentives to employers?

**Mr Pratt**—That is correct; just under \$6 million.

**Senator GEORGE CAMPBELL**—Is this in addition to other incentives they get?

**Mr Pratt**—Such as?

**Senator GEORGE CAMPBELL**—I do not know. I am just asking: is it in addition to other incentives—for example, traineeships?

**Mr Pratt**—Yes, it is in addition to traineeships.

**Senator GEORGE CAMPBELL**—So they are double dipping in the public purse. That is one way of putting it.

**Mr Pratt**—No.

**Senator GEORGE CAMPBELL**—They are not?

**Mr Pratt**—No, we do not permit double dipping. But, if an employer were to qualify for payments under the traineeships scheme, any wage subsidies negotiated by the Job Network member would be separate to that.

**Senator GEORGE CAMPBELL**—Are there any circumstances applying where Job Network is paying for the wages of people in employment?

**Mr Pratt**—I cannot say. I guess it is possible.

**Senator GEORGE CAMPBELL**—So we may actually have a situation where the unemployed are paying for other unemployed people's wages?

**Mr Pratt**—I do not understand your point there. The job seeker account may be used to pay a very substantial wage subsidy for a very disadvantaged job seeker. That has happened in the past.

**Senator GEORGE CAMPBELL**—What I am saying is that nominally each job seeker has an amount of money in the job seeker account. Is that not correct?

**Mr Pratt**—The job seeker account has a notional credit for each job seeker. It is in fact the Job Network member's job seeker account, and together with the job seeker they will work out the appropriate amount that will be spent on each job seeker based on the job seeker's needs and local labour market conditions.

**Senator GEORGE CAMPBELL**—But if the Job Network member is either paying the wages or substantially paying the wages of job seekers is that not taken away from the amount of resources available to other job seekers?

**Mr Pratt**—If you are asking whether it is possible under the job seeker account for more to be spent on one job seeker than on another, certainly that is true.

**Senator GEORGE CAMPBELL**—No, I am not saying that at all. I understood right from the start that it is an aggregated amount. But if it is being used substantially to subsidise employment, and de facto in some respects the Job Network member as the employer is paying the wages, is that not robbing other job seekers of resources that could be available to them for training, for additional resources et cetera?

**Mr Correll**—No. I think you need to appreciate that the job seeker account is no more and no less than a tool that the Job Network member can use to maximise their performance outcomes, those long-term job outcomes. It is the long-term job outcomes that are the key drivers for the star ratings and the performance of the Job Network members. On that basis then, it follows that Job Network members will make judgments in the use of the job seeker account to maximise employment outcomes. For a given job seeker they might choose to invest significantly in a wage subsidy because they believe that will make the difference in achieving an employment outcome. On the other hand, for the next job seeker who comes through the door they might choose to use a different type of intervention to achieve the

outcome. But, in all cases, the Job Network member would only be hurting their own outcomes if they were not gearing the use of the job seeker account to maximising their performance. That will ripple through into the performance review process, where we look at the star ratings and then look at adjusting business levels on that basis. So there is a very strong incentive in the operation of the active participation model to ensure that the job seeker account is used to maximise outcomes.

**Senator GEORGE CAMPBELL**—Yes, I understand that. They get paid just on outcomes, or that is the intent of it.

**Mr Pratt**—As I was saying before, the use of the job seeker account for wage subsidies is quite moderate. In terms of the seven per cent, we are talking about 5,000 job seekers to date. It is not a large number.

**Senator GEORGE CAMPBELL**—I must say that I have heard rumours of very substantial payments being made—for instance, in the range of \$12,000 subsidies. I have not raised it here because I have not been able to check it out personally.

**Mr Pratt**—Certainly the highest payment made to date is less than that.

**Senator GEORGE CAMPBELL**—If it is less than that, what is it—\$11,000?

**Mr Pratt**—Updating the answer we gave in the question on notice last time, the highest payment was about \$10,900, and it was for a sequence of training.

**Senator GEORGE CAMPBELL**—For a sequence of training, not a wage subsidy?

**Mr Pratt**—That is correct.

**Senator GEORGE CAMPBELL**—What is the highest amount that has been paid for a wage subsidy?

**Mr Pratt**—I would have to take that question on notice.

**Senator GEORGE CAMPBELL**—Yes, please take it on notice and provide us with an answer.

**Senator WEBBER**—On that issue, is the department doing any monitoring of the use of wage subsidies to ensure that an employer does not take a person for 13 weeks with a subsidy and then replaces that person with another job seeker with a subsidy?

**Mr Pratt**—That is something that we monitor very closely. Going back to Senator Campbell's point about high wage subsidies, they can be considered quite appropriate if they are used to help a very disadvantaged, very long-term unemployed job seeker into sustained employment. We are interested very much in sustainability. As we discussed before in terms of monitoring, we measure the extent to which people are on unemployment at 13 weeks and at 26 weeks, and then we look at the post program monitoring surveys past that. If we were to detect that Job Network members had very low sustainability of outcomes following the use of wage subsidies, we would be looking into that very closely.

**Senator GEORGE CAMPBELL**—Mr Pratt, it can also be used by Job Network members to up their star rating if they are starting to drop off. There is an incentive for them to get as many people into employment as possible because that affects their star rating.

**Mr Correll**—We certainly hope so, and that is the very reason for it.

**Senator GEORGE CAMPBELL**—But the thing to be measured, Mr Correll, is whether in the end you have created real jobs or illusionary jobs over a short period of time, whether these are short hits.

**Mr Correll**—That is very true, and that is why we monitor very closely. Indeed, Job Network members themselves, as part of the performance reporting that goes out to them, receive a picture of the profile of usage of the job seeker account against the durations of unemployment of their job seekers on their active cash load. For example, if we see that there is inappropriate use of the job seeker account, it would immediately result in performance based discussions with the Job Network member and our contract managers. There is very close monitoring of job seeker account usage, and every single transaction that goes through the account is logged through the department systems, which is why Mr Pratt is able to give such current, up-to-date information on usage.

**Senator GEORGE CAMPBELL**—You said there were about 5,000 people who have had a wage subsidy—

**Mr Pratt**—That is right.

**Senator GEORGE CAMPBELL**—How many of that 5,000 have actually been employed for 13 weeks or more?

**Mr Pratt**—I would have to take that on notice. Adding to the point before in relation to the star ratings, the star ratings reward sustained outcomes. In other words, if Job Network members are successful in getting people with very long-term job outcomes, that counts towards their higher star rating.

**Senator GEORGE CAMPBELL**—My understanding is that, at the last estimates, we had a discussion about the use of job seeker accounts. I think you said that you wanted to see some more creative uses of the accounts being put in place. I also understand, Mr Correll, that you have been visiting Job Network organisations in the past few months to encourage them to more effectively utilise their job seeker accounts. What sort of methods are being encouraged? What creativity is happening out there with these accounts to get people into employment?

**Mr Correll**—The answer is yes, we have been visiting Job Network members to encourage better practice in the use of the job seeker account and to tailor-make the use of the accounts to the individual circumstances of job seekers. We are now seeing a very wide variety of different types of interventions being made through the job seeker account, ranging from assistance with dental care for job seekers to help them in their presentation at interviews to a case where a security dog has been purchased for a job seeker to assist them to obtain an employment outcome and cases where there have been effectively significant personal development and grooming for job seekers to help them move into a preferred area of employment. So there has been, we believe, a maturing usage of the job seeker account. We believe that is now underpinning some of the strong growth in outcomes being achieved.

**Senator GEORGE CAMPBELL**—All of those appear to be reasonable uses of the Job Network account—even the dental care, if you are a receptionist. I suppose it is important that

you have a decent smile to greet people. I asked this at last estimates or the one before. We had a discussion about literacy and numeracy. What is happening in that area with the job seeker accounts?

**Mr Pratt**—I cannot actually tell you the extent to which the job seeker account has been used to purchase literacy or numeracy assistance. We do not collect the data in that fashion, and often the literacy and numeracy training is provided in a vocational context. It is part of a general training course or something of that sort. What I can tell you, to update you on answers I gave to you last estimates, is that the number of referrals to language, literacy and numeracy training to the end of April is 2,846.

**Senator GEORGE CAMPBELL**—I did raise a specific issue in relation to literacy and numeracy, and that was school leavers. In another inquiry of this committee, concerns were raised about the level of literacy and numeracy of school leavers. I think you agreed with me, Dr Boxall, that that was an area that needed to be specifically addressed. Has that been given particular attention?

**Mr Correll**—In the response to question 360/04, there was an age profile breakdown of the referrals to literacy and numeracy. It was showing at that time—Mr Pratt has just updated the total number of referrals to a more current figure—the number of job seekers who had been referred to that program who were aged less than 21, 21 to 25, et cetera.

**Senator GEORGE CAMPBELL**—I have not seen that document. Are there any other creative, innovative ideas going on out there that we ought to know about?

**Mr Correll**—There are a very wide range of ideas and approaches being used. We want to encourage very much a personalised approach that is going to help unemployed Australians get into work as quickly as they can. We see that. We have a strong regime of risk management controls through our national contract management framework to manage any risks associated with that. Some examples that have just been brought to my attention are petrol vouchers to help job seekers to attend interviews, return Countrylink train fares to attend job interviews in the city, purchase of specialised equipment—in one case, a larger screen for a vision impaired job seeker. Other examples are workplace modifications for disabled job seekers, mobile phones, chef's knives, a camera for a photographer, interview clothing, work boots and shoes, driving certificates, motivational courses, various forms of training intervention, costs of obtaining a birth certificate—you name it, whatever it takes to help someone to get into work.

**Senator GEORGE CAMPBELL**—The door is open. Does that include paying the rent of a job seeker who might have to travel substantial distances to get employment? Are there any examples of that occurring?

**Mr Correll**—Not that I am aware of. In a case involving, say, relocation assistance for a job seeker, some costs might be able to be met. Something like the rent at the destination point might be able to be met in the short term but certainly not in the long term.

**Senator GEORGE CAMPBELL**—I am talking in the short term.

**Mr Correll**—Yes. One would expect that, if there were a job outcome there, the wage would then be able to pay for that on an ongoing basis.

**Senator GEORGE CAMPBELL**—Are you aware of any Job Network organisations using money from job seeker accounts to pay staff?

**Mr Correll**—Yes. It would be legitimate usage of the job seeker account where the Job Network member had formed a view for a particular job seeker that additional contacts over and above the service guarantee—service standards—were required to maximise their chances of gaining employment, or where specialist, perhaps occupational psychology, services were being provided. Some Job Network members have those services available through in-house staff.

**Senator GEORGE CAMPBELL**—So the Job Network provider would be paid an additional amount for his staff to provide those services?

**Mr Correll**—Effectively, the service is simply being purchased using the job seeker account to provide additional services. In some cases a Job Network member may have, for example, occupational psychology services available within the organisation; in other cases they may not and would purchase it from another contracted organisation.

**Senator GEORGE CAMPBELL**—When a Job Network member contracts it from another organisation, they are not paying their own staff. If they are paying their own staff, does this mean that they are not being paid adequately to deliver the services?

**Mr Correll**—No.

**Senator GEORGE CAMPBELL**—Do you know of any examples where they are paying their own staff?

**Mr Pratt**—They are not allowed to use the job seeker account to fund their own overheads or administrative costs, but they can certainly use the job seeker account to purchase a service from themselves as though they would from some other organisation.

**Senator GEORGE CAMPBELL**—How closely is this monitored, Mr Pratt?

**Mr Pratt**—Quite closely. Job Network members use it relatively moderately to purchase services from themselves and from related entities.

**Senator GEORGE CAMPBELL**—Do you know on how many occasions it has been used?

**Mr Pratt**—I know it represents less than 20 per cent of the expenditure.

**Senator GEORGE CAMPBELL**—What was the total amount you said had been expended?

**Mr Pratt**—Expenditure to date is \$90 million.

**Senator GEORGE CAMPBELL**—Twenty per cent of that is close to \$20 million.

**Mr Pratt**—That is likely to be things like purchasing occupational psychology services, as Mr Correll pointed out, and substantial training courses. Of course, many of our providers are registered training organisations. There could be specialist services in relation to people with disabilities.

**Senator GEORGE CAMPBELL**—How specifically are they monitored? How do you confidently say that there is no fraud occurring in this area? Presumably, it would not be

difficult for a Job Network provider to say, 'We're giving them special training services,' when all they may be doing is having a chat with them. How confident are you that there is not fraud occurring in this area and that the services being provided are legitimate and genuine?

**Mr Pratt**—Where Job Network members are spending money on job seekers we require those Job Network members to record on the system for the job seekers the following things: who they are purchasing from—including whether they are purchasing it from themselves—the amount, what the purchase is for and a range of other pieces of information. As I mentioned before, we survey job seekers to see how they have gone. With our monitoring visits we go in and check samples of records to see that the job seekers have had the services delivered. We look for documentary evidence on the Job Network member's file of the types of services. For example, we get invoices, purchase orders and that sort of thing. Without repeating the range of monitoring practices that we utilise, they are quite extensive.

**Senator GEORGE CAMPBELL**—How widely is that 20 per cent spread across the Job Network providers?

**Mr Pratt**—It spreads across the Job Network widely. I cannot tell you at this stage how many Job Network members have utilised the services in that fashion.

**Senator GEORGE CAMPBELL**—Can you take that on notice and provide us with an answer as to the number of providers who have contracted to themselves?

**Mr Pratt**—Yes.

**Mr Correll**—I just emphasise that the pricing structure for the Employment Services Contract 3 makes that use of the job seeker account neither surprising nor at all inappropriate. The service fee component in the pricing structure is designed around a set of minimum service standards, which are defined within the service guarantee component of the services. So if a Job Network member believes that additional interventions or service contacts with a job seeker will deliver better results for that job seeker then it is a very legitimate choice to be made. But the final analysis for the Job Network member is that the day of reckoning comes with the outcomes being achieved and their overall star ratings in performance. If those sorts of interventions turn out to be the wrong interventions because they are not delivering strong outcomes then it will impact on that Job Network member in the form of loss of business share.

**Senator GEORGE CAMPBELL**—I understand what you are saying, Mr Correll. It may well be that I am chasing rats up a spout on this issue. But I think that we have to be confident that the system is not capable of being manipulated in such a way that funds are syphoned off purportedly on the basis of providing additional services that are not genuinely adding to the capacity of the job seeker to obtain employment. My other question in relation to that, Mr Pratt, was: where job seekers have had the job seeker account drawn on by the provider, what percentage of those job seekers have been successful in finding employment, particularly for 13 weeks or more?

**Mr Pratt**—I mentioned earlier that, for the period January to March 2004, of all those job seekers who obtained an interim outcome, 52 per cent of them were assisted through the job seeker account.

**Senator GEORGE CAMPBELL**—But I am talking specifically about those who actually had job seeker account money drawn on by the job provider to provide additional services—that is, additional payments to the job providers as opposed to providing petrol vouchers or—

**Mr Pratt**—I will have to take that on notice; I am not sure I have that figure.

**Senator GEORGE CAMPBELL**—Can Job Network providers collect an interim outcome payment for job seekers on a wage subsidy?

**Mr Pratt**—Yes.

**Senator GEORGE CAMPBELL**—That was always provided for?

**Mr Pratt**—Yes.

**Senator GEORGE CAMPBELL**—Do you know what percentage of the 385,000 fall into that category?

**Mr Pratt**—I mentioned before that, of all the people assisted through the job seeker account, around 5,000 had been assisted with a wage subsidy, so it would be a subset of that.

**Senator GEORGE CAMPBELL**—I suppose that is close enough.

**CHAIR**—Do you have any more questions on output 1.1?

**Senator GEORGE CAMPBELL**—Yes, we have.

**Senator WEBBER**—How many 15- to 19-year-olds have had an entitlement to the job seeker account since its commencement?

**Mr Pratt**—Job seekers under 21 represent 21 per cent of transactions through the job seeker account and about 20 per cent of the expenditure.

**Senator WEBBER**—When you have allocated job seeker accounts, how much has been spent and how much is unspent?

**Mr Pratt**—As we were discussing before, job seekers do not have an individual allocation. The job seeker account is credited to the Job Network member and it is up to them how much they spend on each client, based on the needs of the client and the local labour market.

**Senator WEBBER**—But we would know how much money they have been spending, though, because they had to get it from you.

**Mr Pratt**—The Job Network members, as at 14 May, had spent \$18.124 million on job seekers under 21.

**Senator WEBBER**—How much has been spent on those aged over 50?

**Mr Pratt**—Mature age, \$10.323 million.

**Senator WEBBER**—In the *Herald Sun* on 27 May this year, it stated that the average cost per job seeker on Work for the Dole was \$2,100. Would that figure be correct?

**Ms Caldwell**—That is correct.

**Senator WEBBER**—How many individuals have gone through Work for the Dole more than once?



**Ms Caldwell**—It would depend on the circumstances of the individual. Work for the Dole is part of mutual obligations and persons incur mutual obligations on a recurring basis depending on the duration of their unemployment. During the course of today I could get the figure for how many have gone through more than once.

**Senator WEBBER**—That would be good if you could. When you are doing that, is it possible to break that down by age and regional area?

**Ms Caldwell**—I am sure we could do that. We may need to take on notice that additional dimension, but I could get you the repeats during the course of today.

**Senator WEBBER**—Is there anyone here who is familiar with the Work for the Dole projects in my home state of Western Australia, particularly in Yanchep—otherwise I will have to put these on notice?

**Dr Boxall**—Why don't you ask the questions and we will see how we go.

**Senator WEBBER**—How many Work for the Dole projects have been undertaken in the Yanchep area?

**Ms Caldwell**—I do not have the detail.

**Senator WEBBER**—Can you tell me how many of these projects have operated on the former defence department firing range?

**Ms Caldwell**—We can certainly get those on notice if you want that level of detail on a particular area.

**Senator WEBBER**—Okay. I have a particular concern about the safety of that project, so I will put them on notice for you.

**Ms Caldwell**—Were they the only two questions, because we could probably come back to you in the course of today's evidence, which would be quicker for you.

**Senator WEBBER**—I have more questions about that. They are about the firing range and investigations into possible risk because you have got Work for the Dole participants out there. Obviously there is conflict because the WA fire and emergency services agency will not provide on-the-ground personnel to deal with any fires up there. I am concerned about the risk to the participants.

**Ms Caldwell**—What I can tell you in a more general sense while we are waiting for that additional information is that, as part of every Work for the Dole project, a risk assessment needs to be undertaken of the actual site that is involved. It is a formal risk assessment which is done in the first instance by the community work coordinator, but it is also overseen by the department. We are in dialogue if there are any queries about the site before there is any approval of the project and certainly any deployment of participants to it. When there are circumstances where there is any question of ordnance or any contamination at all, the normal practice is to ensure that the site on which the Work for the Dole participants are engaged is nowhere near any area that has any questions whatsoever about it. I can provide some additional information on that particular site—I am familiar with the one you are speaking about—but those arrangements I spoke of apply very much to that one. We thoroughly investigated those areas of the site that had any question marks around them and, with the

community work coordinator, the sponsor organisation and the department ensured there was no proximity of participants to any components of those areas where there were question marks.

**Senator WEBBER**—Would there be any repercussions for any participants who refuse to be involved in the project because they are local and they have concerns about unexploded ordnances?

**Ms Caldwell**—No, the placement of a participant in a particular project is by negotiation with a community work coordinator. Obviously most of our Work for the Dole participants have a mutual obligation under the Social Security Act which they need to achieve. In the main, if they have a preference for one project over another or a concern about one project over another—which, as I stressed, would be unfounded in the case of occupational health and safety because we absolutely would have no participants in those circumstances—in the first instance they raise it with their community work coordinator, who would arrange for their placement in another available opportunity. That would deal with such circumstances. In the unlikely and terribly hypothetical event that the community work coordinator and the participant were unable to negotiate between themselves, there is also the department's customer service line, which can deal with any queries or concerns and ensure that there is an appropriate resolution between the parties.

**Senator WEBBER**—We will come back to that or I will put the questions on notice—whichever is the best way of dealing with it. When we have met on previous occasions—in November and February—we have had a conversation about the four-year forward estimates for outcome 1. Those questions have been taken on notice. I was wondering how we are going with an answer.

**Dr Boxall**—Do you have a particular question on notice that was answered last time that is relevant?

**Senator WEBBER**—We asked the general question last time and it has not been answered—that is that the problem—so it is not going to be in the book.

**Dr Boxall**—It would be here because all questions—

**Senator WEBBER**—So they have all been answered?

**Dr Boxall**—Drafts of all questions were submitted.

**Senator WEBBER**—So how are we going with the forward estimates for outcome 1? I only received the book at 9.15 this morning, so if it is in here I am sorry—you will have to forgive me for not finding it in time.

**Mr Pratt**—In the forward estimates for outcome 1, for 2004-05, it is \$1.263 billion; for 2005-06, it is \$1.233 billion; and for 2006-07, it is \$1.252 billion.

**Senator WEBBER**—Can you provide the forward estimates over that period for each program, such as Job Network, Work for the Dole and Transition to Work?

**Dr Boxall**—We are not able to provide information over and above what is in the budget documents.

**Mr Pratt**—Page 41 of the PBS provides the budget estimate for 2004-05—Job Network, \$1 billion; Work for the Dole, \$177.9 million; Transition to Work, \$11.7 million; and Indigenous Employment, \$68 million.

**Senator WEBBER**—What is the actual unit cost per person of the Transition to Work program?

**Ms Caldwell**—The unit cost per person will vary, as we have discussed previously in estimates. The number of commencements in the program varies against our notional cap of 10,000 places and also there is a variable figure that is paid through the skills development fund for individuals. The costs for that program are not calculated on a per capita cost. Indeed, since last we met the department has been speaking with the Transition to Work providers about a contract variation which has to do with better use of the capacity that is available.

**Senator WEBBER**—What does that involve?

**Ms Caldwell**—The contract variation for Transition to Work—as we foreshadowed at last Senate estimates, when the consultations had started and we had a pilot arrangement in the field—is to ensure that persons who use Transition to Work services are put in better connection with available Job Network services if they do not succeed in getting a job or an education outcome by the completion of their intervention with Transition to Work. It is to ensure that people who are participating through Transition to Work are well aware of the other services that are available to them and are passed on to Job Network for additional assistance, if that is appropriate for their individual circumstances.

**Senator GEORGE CAMPBELL**—Mr Pratt, can I come back to the forward estimates—I was half here and half somewhere else when you were giving your answer. You provided us with a document at estimates last year which provided the forward estimates for 2003-04 through to 2006-07. It may be easier if I let you have a look at a copy. It may be out of the PBS—it does not look as though it is. Do the figures you just quoted update the figures on that document?

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

**Senator GEORGE CAMPBELL**—If it does not update those figures, can you give us on notice an update of those figures taken to 2007-08?

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

**Senator GEORGE CAMPBELL**—I am not sure whether that is exactly what is in the PBS.

**Senator WEBBER**—Going back to the Transition to Work program, how much of the Employment Innovation Fund has been allocated?

**Ms Caldwell**—The Employment Innovation Fund is separate from Transition to Work.

**Mtr Manthorpe**—I have responsibility for the Employment Innovation Fund. For this financial year, as at 30 April \$638,000 has been spent out of the Employment Innovation Fund.

**Senator WEBBER**—How much is in the forward estimates to be spend over the next four years?

**Mr Manthorpe**—A million per year for three years of the program.

**Senator WEBBER**—Is it possible to get a list of the organisations which have received funding through the Employment Innovation Fund, how much they have received and what projects they are undertaking?

**Mtr Manthorpe**—I believe that information has been provided in answers to previous questions.

**Senator WEBBER**—It is probably in this document I have not yet had time to read.

**Mr Correll**—We post details on the web site of all successful applicants for projects under the Employment Innovation Fund—the value and the description. Those details would be accessible today on the department's web site.

**Ms Caldwell**—On a calculation on the average per unit cost for Transition to Work it is \$922, but that will vary on the number of flow-throughs.

**Senator WEBBER**—Yes, the contract variations. Over the last couple of years there has been an underspend in Job Network in some places. For 2003-04, can the department indicate how much was estimated to be spent on each component of the Job Network and what the average expenditure was likely to be?

**Mr Pratt**—It is in the PBS. It is either \$927 million or \$907 million for Job Network. That is the level which the government reports. Page 41 of the PBS which was released with the budget indicates that the revised estimate for Job Network expenditure for 2003-04 is \$941 million.

**Senator WEBBER**—That is estimated expenditure?

**Mr Pratt**—That is correct.

**Senator WEBBER**—Do we know what the actual expenditure to date has been? While you are looking for them, perhaps we could get those figures for the job seeker accounts and outcome payments as well.

**Proceedings suspended from 12.30 p.m. to 1.34 p.m.**

**CHAIR**—The committee will continue taking evidence on output 1.1, Labour market policy and analysis.

**Dr Boxall**—We would like to table a document which goes to the numbers in the PBS.

**CHAIR**—There being no objection, it is so ordered.

**Mr Symon**—On page 64 of the portfolio budget statements, part C, 'Agency budget statements', has an amount of money \$26,749 described as 'Heritage and cultural assets'. That should correctly be described as intangibles. We have circulated that change to the secretariat.

**CHAIR**—Thank you.

**Senator GEORGE CAMPBELL**—Can you explain to us why that was shifted from heritage and cultural assets to intangibles?

**Mr Symon**—It should never have been described as heritage and cultural assets. It was just a simple mistake.

**Senator GEORGE CAMPBELL**—What are ‘intangibles’?

**Mr Symon**—‘Intangibles’ is an accounting term.

**Senator GEORGE CAMPBELL**—I know it is an accounting term. My accountant used to tell me, ‘Always look for the words you don’t understand.’

**Mr Symon**—I understand what intangibles are, but I am not an accountant.

**Dr Boxall**—We will get the acting chief financial officer to answer that.

**Ms Graham**—The intangibles incorporate infrastructure and software in relation to computer equipment.

**Senator GEORGE CAMPBELL**—So it is computers?

**Ms Graham**—No, it is all things in the nature of intangible items, which include computer software and infrastructure.

**Senator GEORGE CAMPBELL**—What do you mean by ‘infrastructure’?

**Ms Graham**—The infrastructure that it takes to run computer equipment—servers and those sorts of things. It is not a change from any previous financial statements that we have published; it is just that in that particular document they were incorrectly named ‘Heritage and cultural assets’ accidentally.

**Senator GEORGE CAMPBELL**—There is a heading ‘Infrastructure, plant and equipment,’ so why is it not included under that?

**Ms Graham**—The heading ‘Infrastructure, plant and equipment’ covers some parts of infrastructure in relation to computer equipment, but intangibles is predominantly software.

**Senator GEORGE CAMPBELL**—Why does it not go under the title ‘computer software’?

**Ms Graham**—These are standard sets of financial statements, and the heading ‘intangibles’ is standard. Intangibles can encompass things other than computer software but, in our case, the majority of it is computer software.

**Senator GEORGE CAMPBELL**—We have enough difficulty trying to read these PBSs as it is; when you put words such as ‘intangibles’ in—which has a meaning of something else—it makes them even more difficult to read.

**Dr Boxall**—That is a standard accounting term; it is not something that this department uses and other departments do not.

**Ms Graham**—That is right.

**Senator GEORGE CAMPBELL**—I understand that, but if the bulk of it is computer software, why is it not identified as computer software?

**Dr Boxall**—Because in some other agencies computer software may not comprise the bulk of intangibles.

**Ms Graham**—The standard format is supposed to cover all agencies within the Commonwealth, and intangibles can encompass a whole range of assets. There is an additional table on page 67, which outlines the items in ‘intangibles’. You can see the ‘Heritage and cultural assets’ heading there shows we have none, and there are other headings of ‘Computer software’ and ‘Other intangibles’. It just so happens that all our intangibles are computer software, but in other agencies it could be a combination of a number of things. They are standard formats that are developed by the Department of Finance and Administration with respect to how an agency presents their portfolio budget statements.

**Senator GEORGE CAMPBELL**—Can the department provide for each of the labour market assistance programs—that is, customised assistance, Job Search training, job matching, job placement, NEIS, SEDS, Work for the Dole, IEP, CDEP, wage assistance, Transition to Work—the following: percentage employed full time; percentage employed part time; percentage employed casual, temporary and seasonal; percentage employed total; percentage not in the labour force; percentage receiving further assistance by the type of assistance; percentage in education and training; number of new entrants to the program; and number of excess.

**Mr Correll**—That is a huge amount of information. I would have to take that on notice.

**Senator GEORGE CAMPBELL**—I appreciate that you will have to take it on notice. Can you give us the information by age, duration on income support, gender and equity groups? Can you also give us the information by state and region and by postcode?

**Mr Correll**—On notice.

**Senator GEORGE CAMPBELL**—How long do you think it will take to provide that information?

**Mr Correll**—The first thing is that we would have to identify the availability of all of that information. I think some of that information would be available from some of the material that is extracted and reported on a periodic basis, but I am not sure whether all of it would be.

**Senator WEBBER**—What are the guidelines issued by the department concerning the claiming of commencement or outcome payments for job seekers who are placed in employment prior to negotiating their agreement?

**Mr Pratt**—Prior to their negotiating an agreement for an intensive support outcome they would not be able to claim an outcome unless there were special circumstances, which they would then negotiate with the department.

**Senator WEBBER**—What would those special circumstances be?

**Mr Pratt**—It may, for example, be that very early on they had difficulty recording something on the system, for example.

**Senator WEBBER**—So it is actually a technical barrier rather than it being legitimately prior—

**Mr Pratt**—Yes.

**Senator WEBBER**—So is it possible for a Job Network provider to claim fees in a situation where the job seeker gains employment prior to the negotiation of the contract?

**Mr Pratt**—Only in those limited circumstances, to my knowledge.

**Senator WEBBER**—To your knowledge has this ever happened?

**Mr Pratt**—I do not know that it has, but I imagine it may have.

**Senator GEORGE CAMPBELL**—What action would the department take in the situation where a job seeker gains employment prior to the negotiating of an agreement if the provider were then to lodge a claim for payment?

**Mr Pratt**—It would not go through unless they were able to convince us that there were special circumstances.

**Senator WEBBER**—Does that happen very often?

**Mr Pratt**—Not to my knowledge.

**Senator WEBBER**—How does the department ensure that people are not claiming these payments when the job seeker finds their own employment?

**Mr Pratt**—The system does not allow them to do that before the agreement is signed. If we are talking about intensive support outcomes, I do not think the system allows them to do that before the agreement has been signed. It is certainly possible for a Job Network member to record where a job seeker finds their own employment on the system so as to then ‘anchor’—to use the technical term—a placement, which means that down the track they may be able to claim an outcome payment.

**Senator WEBBER**—But they could not for that particular job?

**Mr Pratt**—That is right.

**Senator WEBBER**—How often does the department investigate whether this kind of approach is being taken?

**Mr Pratt**—The department is constantly surveying job seekers and employers—primarily job seekers—to assure itself that the payments it is making are correct.

**Senator WEBBER**—I have had a case brought to my attention where a job seeker was referred to a provider, but before an interview took place he rang and advised that he had already secured full-time work. Several days later he received a ‘preparing for work’ agreement in the mail—this one here—asking him to sign it and return it to the provider. The job seeker had never had any prior contact with that individual provider, yet he was asked to sign a presigned agreement. Would that be brought to your attention? Would you find that unusual?

**Mr Pratt**—If you give us the details of that, certainly we will investigate it. If they have never had anything to do with the job seeker, clearly they should not claim a payment.

**Senator WEBBER**—I am certainly happy to make a copy of the presigned agreement available to you. The presigned agreement was through the provider, Employment Plus in Merriwa, and the job seeker’s name is Cameron MacBride.

**Mr Pratt**—We will take that up with the Salvation Army.

**Senator GEORGE CAMPBELL**—I have a number of questions, Dr Boxall, about Mitsubishi and the labour adjustment package. How many Job Network sites were operating in the southern suburbs of Adelaide under Job Network 2?

**Ms Taylor**—Under Job Network 2, I am not sure. I know that in the southern area in the ESA—in the Lonsdale area—there are four currently.

**Senator GEORGE CAMPBELL**—Can you take on notice how many there are under Job Network 2?

**Ms Taylor**—Yes.

**Senator GEORGE CAMPBELL**—How much of the \$10 million package that has been set aside for labour adjustment for these workers is going directly to Job Network providers?

**Ms Taylor**—The government has not released the full details of the Mitsubishi package at the moment. Broadly speaking, most of that will be for assistance delivered through Job Network services and a small amount for administration. The actual details have not been released as yet but will be shortly.

**Senator GEORGE CAMPBELL**—Are there consultations going on with Mitsubishi? The press release says ‘Monday’ somewhere. Is that today?

**Ms Taylor**—Our state manager has been in contact with Mitsubishi and certainly had a number of discussions with them, so I understand.

**Senator GEORGE CAMPBELL**—So at this stage you have no idea how the \$10 million is going to be broken up?

**Dr Boxall**—We do have a very good idea, but the government has not released the detailed breakdown of the \$10 million. As Ms Taylor just said, the bulk of it is expected to be paid to Job Network providers for services rendered.

**Senator GEORGE CAMPBELL**—I understand that there are something like 700 workers who will be made redundant. I do not know whether that is the exact figure, but it is in that region.

**Ms Taylor**—We understand that the numbers that Mitsubishi were talking about were around 1,020. There were 350, I think, from the Tonsley plant who were looking at voluntary redundancy and of course the Lonsdale plant has 687 or something of that order. It seems that the timing for the Lonsdale plant is that it is due for closure in September next year. So it would be progressive.

**Senator GEORGE CAMPBELL**—So there is a lead-up time of some 15 to 18 months?

**Ms Taylor**—Yes.

**Senator GEORGE CAMPBELL**—Has a decision been made yet by Mitsubishi whether these redundancies will be offered voluntarily across the whole of the work force?

**Ms Taylor**—Mitsubishi, I think, are still putting their thoughts together, so they have told us. But they had indicated that at the Tonsley plant, they would be offered to the whole work force. They were looking to get 350 redundancies, and their initial thoughts to us were that they would be offered across the whole work force.



**Senator GEORGE CAMPBELL**—Only the 350 or the 1,000?

**Ms Taylor**—I am not sure. I understand that just at the Tonsley plant it is the 350, but that is really for Mitsubishi to say.

**Mr Correll**—I would emphasise that we are not in a position to comment on what Mitsubishi's approach would be to the handling of those redundancies. The department is looking at the provision of employment services through Job Network to support workers who are affected by those redundancies.

**Senator GEORGE CAMPBELL**—I understand that, but I presume you have made a decision on \$10 million based on 700 or 1,000 workers being made redundant and providing services to that number of workers.

**Mr Correll**—That is correct.

**Senator GEORGE CAMPBELL**—Obviously it impacts upon the government if Mitsubishi try—which I assume they would do, as a matter of course—to accommodate as many voluntary redundancies within that framework as possible. I would be surprised if they did not attempt to offer to their older workers the opportunity to get out early and transfer some of the younger people across from the Lonsdale plant. But you have had no discussions with Mitsubishi about that?

**Mr Correll**—Naturally there are discussions occurring at the state level between our state manager, who is managing the provision of these services, and Mitsubishi so that we link the appropriate service at the appropriate time to secure the best possible employment outcomes.

**Senator GEORGE CAMPBELL**—What does \$10 million equate to per worker?

**Mr Correll**—On a quick calculation, \$10 million divided by 1,020-odd affected workers is about \$10,000 per worker.

**Senator GEORGE CAMPBELL**—Is that substantially more than would normally apply to a job seeker through the Job Network?

**Mr Correll**—Yes. This is a service arrangement that recognises that when you have a significant situation like this it has an effect on the labour market and therefore the level of service has been tailored to a level which equates with highly disadvantaged job seekers entering the labour market.

**Senator GEORGE CAMPBELL**—Is it your expectation that all these people will access the Job Network services?

**Mr Correll**—It is voluntary. It is our expectation that that service will be available for all of those affected workers to access. There is no compulsion on those workers to access those services.

**Senator GEORGE CAMPBELL**—What linkages are being made between the department or Jet Network and Invest Australia in terms of the \$40 million package aimed at attracting new manufacturing facilities to Adelaide?

**Ms Taylor**—The department is part of a committee that is looking at Invest Australia overall. The department of industry can give you the details of what those packages might be. I understand the government has not announced exactly what will be in that package either,

but we are working closely with it to ensure that we can maximise the employment outcomes that may come from any investment.

**Senator GEORGE CAMPBELL**—From that process?

**Ms Taylor**—Yes.

**Senator GEORGE CAMPBELL**—Is there a skill matching exercise going on with these workers who are being retrenched or about to be retrenched? Do you have a skill profile on the 1,020 or whatever it is?

**Ms Taylor**—That is something we have been talking with Mitsubishi about. They have said that they can supply us with information about the work force, and that is something that we would look for.

**Senator GEORGE CAMPBELL**—Technically they will still be Mitsubishi employees. Will they be able to access the full suite of Job Network programs prior to retrenchment?

**Ms Taylor**—Yes. The Prime Minister, in answer to a question the other day, made it very clear that that suite of services would be available for the Lonsdale people immediately.

**Senator GEORGE CAMPBELL**—So they will not have to be on unemployment benefits in order to access them?

**Ms Taylor**—No.

**Senator GEORGE CAMPBELL**—What impact will this have on their redundancy payouts?

**Mr Correll**—There will be no impact on the redundancy payouts.

**Senator GEORGE CAMPBELL**—Under normal circumstances, as I understand it, Mr Correll, if you have been made redundant you cannot get access to any services from the Commonwealth until you have run out of your money. Is that not going to apply to these workers?

**Mr Correll**—No. As Ms Taylor has indicated, the workers at the Lonsdale plant would be immediately able to access these services to assist them in securing employment from the time their employment with Mitsubishi ceases. In relation to staff at the Tonsley plant it would be progressive, effectively with the receipt of a notice of termination, and such staff would then immediately be available to have access to employment services.

**Senator GEORGE CAMPBELL**—So it would be after they have been advised that they are part of the 1,000?

**Mr Correll**—That is for the staff at Tonsley, because not all staff will be affected. At Lonsdale all staff are affected so it will be immediate access.

**Senator GEORGE CAMPBELL**—Presumably if Mitsubishi takes the approach of offering voluntary redundancy across the work force, it may not be all of the staff at Lonsdale?

**Mr Correll**—That might be so, in which case those staff would still have access to the employment services to assist them in securing alternative employment and to improve the effectiveness of the labour market.

**Senator GEORGE CAMPBELL**—Would that go to the extent of additional training for the personnel at Lonsdale in order for them to shift across to Tonsley if there were jobs available?

**Mr Correll**—Yes, it can go to a wide range of things. Training is one element that one would expect would be part of any support in securing new employment.

**Senator GEORGE CAMPBELL**—Is the intention to offer training or retraining to these workers on the job?

**Mr Correll**—I think it is probably too early to answer that question at this stage. Each and every employee affected who accesses the services being offered would have a plan developed that would be tailored to their circumstances, to their skill base and to their needs, together with opportunities available in the labour market. So the nature of any training involved would be built along those lines. I do not think enough information is available at this stage to be able to respond as to whether that would be on-the-job type training.

**Senator GEORGE CAMPBELL**—Given that there is a 15- to 18-month lead time, what other way will they be able to obtain additional training or additional assistance? Presumably we are not asking them to come off the job to undertake it, because that potentially would put in jeopardy the employment they have. What I am trying to get at is that, surely, we do not want to create a set of circumstances where we increase their potential for dismissal earlier than need be.

**Mr Correll**—No. Clearly the approach involved in any work undertaken by the individual while they were still in employment with Mitsubishi would be done in close cooperation and liaison with Mitsubishi. If there were training involved that required formal off-site training, there would be some arrangements agreed to with Mitsubishi to facilitate that. It certainly would not be done in isolation from Mitsubishi management.

**Senator GEORGE CAMPBELL**—And that would be one of the issues that you have on the list of issues to discuss with Mitsubishi, I presume?

**Mr Correll**—Yes, it would be.

**Senator GEORGE CAMPBELL**—So it would be reasonable to suggest that the approach would be similar to that adopted at the steelworks in Newcastle, where training was done on the job over the two-year period before the shutdown.

**Mr Correll**—I would be reluctant to say yes to that until more information is available about the exact nature of the requirements for individual employees at Mitsubishi and the nature of available opportunities within the local labour market, because the training would be tailored very much to that.

**Senator GEORGE CAMPBELL**—The big question mark over Adelaide is just where the jobs are going to be created. I do not think the issue is in skilling the workers; the issue is finding the jobs to put them into. How many calls have been made to the assistance hotline referred to in the media release?

**Ms Taylor**—I do not have the exact number, but I can find that out for you. I will take that on notice.

**Senator GEORGE CAMPBELL**—Can you also tell us the average waiting time on the hotline?

**Ms Taylor**—Certainly. I will take it on notice.

**Senator GEORGE CAMPBELL**—Can you advise us how many people are working on the hotline?

**Ms Taylor**—I will take that on notice and let you know.

**Senator GEORGE CAMPBELL**—What type of information and advice are they providing?

**Ms Taylor**—The hotline was originally set up to deal with initial inquiries that may have come through. It provided Centrelink information for people who had enquiries about their eligibility. It was general information just as a reference point.

**Senator GEORGE CAMPBELL**—It says in the press release that, for the cost of a local call, it would be available until 6.30 p.m. at night and from 9 a.m. to 5 p.m. on Saturday and Sunday. One of my staff made a phone call yesterday. She sat on the phone for two hours before it eventually hung up on her. Does that mean that the hotline worked only on the first weekend?

**Ms Taylor**—The hotline was set up to cover the first weekend, with the normal services that would be provided throughout our normal office available after that time. We were trying to achieve a reference point over the weekend because of the timing of the announcement about Mitsubishi.

**Senator GEORGE CAMPBELL**—Can you check when the hotline was actually available?

**Ms Taylor**—I certainly will.

**Senator GEORGE CAMPBELL**—You may have answered part of this question. The press release talks about retrenched workers from ANML receiving a substantial individually tailored employment service. In what way will that vary from what is currently available to other job seekers through the Job Network? You have explained that their redundancy payments will not be affected.

**Mr Correll**—The nature of service is based on the intensive support customised assistance services available through Job Network, which is the most intensive form of service available. The specific nature of those services will be somewhat more tailor-made to the circumstances of the individuals at Mitsubishi. Affected workers will have access to the job seeker account funding. Credits will go into their job seeker accounts to purchase a range of things to support employment outcomes, which we talked about previously. Essentially it is pitched at the intensive support customised assistance level of service under Job Network services.

**Senator GEORGE CAMPBELL**—The government has promised an extra \$450 into each retrenched job seeker's account. Will that money be quarantined for the Mitsubishi workers?

**Mr Correll**—The operation of this will be on a specific service basis, so it will be kept separate from the normal services delivered by Job Network. It would be, therefore, kept as a discrete pool of funds for use in relation to Mitsubishi affected employees. It would not be a

single item for each individual affected employee, but it would effectively operate as a notional bank for the Mitsubishi affected employees.

**Senator GEORGE CAMPBELL**—And \$450 will be on top of the \$10 million?

**Mr Correll**—No, the \$450 is part of the \$10 million and it is on top of the usual credit to the Jobseeker Account.

**Senator GEORGE CAMPBELL**—I see, so they would get the normal credit to the Jobseeker Account, which is what?

**Mr Pratt**—For this group \$1,350.

**Mr Correll**—Yes, and then it is a supp.

**Senator GEORGE CAMPBELL**—They would get that plus the \$450. So it is the \$10 million plus the \$1,350 per head of the normal Jobseeker Account down the track?

**Mr Correll**—Correct.

**Senator GEORGE CAMPBELL**—It will be quarantined for that group of 1,020 workers?

**Mr Correll**—Correct.

**Senator GEORGE CAMPBELL**—Obviously some might get substantially more than others.

**Mr Correll**—It depends on individual circumstances.

**Senator GEORGE CAMPBELL**—Is there a maximum level that can be spent on each individual job seeker?

**Mr Correll**—No, that is not proposed at this stage. We will be operating consistent with the current Job Network servicing arrangements; there is no maximum in relation to the use of the Jobseeker Account.

**Senator GEORGE CAMPBELL**—I am talking about the total package.

**Mr Correll**—The total figure of \$10 million?

**Senator GEORGE CAMPBELL**—Yes.

**Mr Correll**—The value of that package is based on the services to the estimated number of individual workers affected at Mitsubishi. It is basically targeted to the numbers affected. If the numbers vary from that, then it would impact on the scale of the expenditure.

**Senator GEORGE CAMPBELL**—I understand that, but I was wondering to what extent within the \$10 million that has been allocated you are able to ensure that the well does not run dry, so to speak, if everybody is accommodated through the process. I presume your \$10 million is an estimate at this stage?

**Mr Correll**—Yes. As there is for standard Job Network services, there will be a cap on the total notional bank account addressing little over 1,000 employees. That would have a cap on it. The service fees would be attributable to that level of service being provided to just over 1,000 affected employees and the outcomes are also based on the existing outcome fee structure for Job Network services. That is basically the broad make-up of the package of services.

**Senator GEORGE CAMPBELL**—When do you expect the government to be able to announce publicly what the detailed package of support mechanisms are for these workers and how the process will operate?

**Mr Correll**—It is a matter for the government to decide.

**Senator GEORGE CAMPBELL**—I understand it is a matter for the government to decide. The question I am asking you is: what is the expectation of the time frame? These workers effectively have until September next year. Fifteen months or 16 months is not a long time, particularly in an area like Adelaide, if you have to retrain people for employment in other industries.

**Mr Correll**—The base position here is that it is for the government to decide on that. We are obviously working at the local level with Mitsubishi at the present stage to get the best possible understanding of timing, numbers and skill levels so that these services can be designed to the best possible effect. That dialogue is ongoing at the present stage, but the actual announcement of the detail of the package is really the government's decision, which I cannot in any way call.

**Senator GEORGE CAMPBELL**—So you do not know whether it is going to be in the next month, the next three months or a week before the election?

**Mr Pratt**—I do not know.

**Senator GEORGE CAMPBELL**—I will not ask the minister, because I will not get any answer out of him. He would not know anyway.

**Senator Abetz**—When we are ready we will announce it.

**Senator WEBBER**—What is estimated to be the flow-in into the Job Network by job seekers over the next four years?

**Mr Pratt**—I do not know. I will have to take that on notice.

**Senator WEBBER**—When you take that on notice can you also look at breaking that down by age and gender as much as you can?

**Mr Pratt**—We will have a look at that. It is very difficult to project that far into the future with job seeker flows.

**Senator WEBBER**—How many job seekers have been in the Job Network for more than two years?

**Mr Pratt**—I will have to take that on notice as well.

**Senator WEBBER**—Perhaps you can break that down by age and gender for me. You should be able to do that.

**Mr Pratt**—That is more achievable. If something turns up, I will let you know.

**Senator WEBBER**—When you are looking at the flow into the Job Network over the next four years, I am particularly interested in the number of people over the age of 50 that you are expecting to flow through, if that is at all possible.

**Mr Pratt**—Yes.

**Senator WEBBER**—Would it be your expectation that a large number of those who are over 50 would go straight into intensive support customised assistance?

**Mr Pratt**—I would not like to speculate. Certainly, a reasonable proportion would, given their likely difficulties in returning to work.

**Senator WEBBER**—How many Job Network sites have changed hands or management since 1 July?

**Mr Pratt**—We would have to take that on notice. I do not have that with me.

**Senator WEBBER**—The department held a community capacity building roundtable on Indigenous employment in Canberra on 13 March. How much did that event cost?

**Dr Boxall**—Can you give a little more background to that question, please?

**Senator WEBBER**—There was a community capacity building roundtable on Indigenous employment in Canberra on 13 March this year. Does anyone know anything about it?

**Dr Boxall**—Was it run by this department?

**Senator WEBBER**—The department was certainly there.

**Dr Boxall**—That is different.

**CHAIR**—Perhaps it was the Department of Education, Science and Training.

**Senator WEBBER**—I doubt that. It is my understanding that it was a roundtable on Indigenous employment, which would not be Education, Science and Training.

**Mr Correll**—I do not think we can recall such a roundtable that was organised by the department.

**Senator Abetz**—Let's take that on notice and see if we can progress.

**Senator WEBBER**—It is my understanding that it was run by the department, so perhaps if we could find out.

**Dr Boxall**—There is nobody here who can recall this department having organised that.

**Senator WEBBER**—Has the department done any work to get a feel for how people involved in Indigenous employment feel that Job Network 3 is impacting on Indigenous communities?

**Mr Correll**—Not specifically in those terms. We obviously look closely to performance for Indigenous job seekers being achieved through Job Network, and the performance outcomes for Indigenous job seekers are considerably strong indeed. My recollection is that the performance outcomes have lifted by—

**Mr Pratt**—In terms of total employment placements, it appears as though performance has improved by close to eight to 10 percentage points. I am not sure I have an interim outcome figure, however. I do not have a comparison there, but certainly the group of Indigenous job seekers is getting outcomes considerably larger than its share of the register. Our performance is improving for Indigenous job seekers over the previous contract.

**Senator WEBBER**—Flowing on from that, is the department looking to adopt any new strategies to address the issues of Indigenous unemployment?

**Mr Correll**—Yes. The department is always seeking to improve performance outcomes through employment services and particular groups. In relation to Indigenous job seekers, as part of the Australians Working Together changes, Indigenous employment centres were introduced and are now operating in 33 locations across the country. There is an industry special interest group which is working to promote better practice and which has seen a progressive, significant improvement in Indigenous employment outcomes, both under the last contract and now under the new contract coming forward. One of the key areas we are looking to continue to advance is linkages between Job Network services and Indigenous employment centres and the Indigenous employment program, administered by the department, as well as linkages with other programs.

**Mr Pratt**—For the second year running, we will fully expend the Indigenous Employment Program budget and we will overachieve against targets for commencements under the IEP.

**Senator WEBBER**—So does the department have a specific strategy for assisting Indigenous engagement with business itself?

**Mr Correll**—Yes, Senator, one of the elements of Indigenous Employment Program is corporate leaders for Indigenous employment project. That is geared to securing commitment from major employers to taking Indigenous people into their work force.

**Senator WEBBER**—Is that going well?

**Mr Correll**—Yes. It has been a program that has been promoted strongly. There has been growth in the number of corporate leaders signed up. I might ask Mr Pratt if he has some numbers there.

**Mr Pratt**—In addition to that we have had two very successful dinners for corporate leaders for Indigenous employment project, where we have brought together the various corporate leaders as a way of promoting how big business and medium sized business can improve the employment opportunities of Indigenous job seekers. There has been an increase in the range of nearly 10 per cent, with up to 70 corporate leaders now signed up.

**Senator WEBBER**—Is there any proposed restructuring within the department, particularly in relation to absorbing some of the ATSI responsibilities?

**Mr Correll**—At this stage, as you may be aware, the final administrative arrangements order has not been settled in relation to the transfer of any ATSI programs to the department. Having said that, there have been some announcements made to staff on some functions, such as the CDEP and other programs, coming into this portfolio. The department is looking at the moment at preparations to ensure the smooth and effective transition of any such programs into the department.

**Senator WEBBER**—When are we anticipating that will need to happen by?

**Mr Correll**—We are anticipating it would need to happen by 1 July.

**Senator WEBBER**—We are on track for that?

**Mr Correll**—Yes.

**Senator WEBBER**—Will the department seek any increase in funding to cover the cost of taking over the functions from ATSI?



**Mr Correll**—We would simply expect that any funding would follow function.

**Senator WEBBER**—Will it be the same with any additional staff you will need, that they will follow as well?

**Mr Correll**—That is correct.

**Senator WEBBER**—Given the fact that the department is taking over work previously undertaken by ATSSIS, particularly to do with CDEP, and the number of staff now in the department's state or regional offices, how will that transition be managed?

**Mr Correll**—We would be looking to ensure absolute minimal disruption to the delivery of CDEP services and to ensure that providers of CDEP services have good access to ongoing support within the department. Our goal would be an absolutely smooth transition for both the programs and any affected staff concerned.

**Senator WEBBER**—It would be your intention to maintain all the existing projects during the transition?

**Mr Correll**—I understand that action is already under way through ATSSIS to provide contracts for the year ahead.

**Senator WEBBER**—Will local communities retain control over the operation of local projects?

**Mr Correll**—That is a matter for ATSSIS at the present stage.

**Senator WEBBER**—But after 1 July it will be up to you, won't it? Is it your intention that local communities will retain control of local projects from 1 July?

**Mr Correll**—We would want to ensure that there is a smooth transition with the CDEP, that it is very much steady as she goes and that if there are any changes to be made for the future of the CDEP they are developed in very close consultation with all stakeholders.

**Senator WEBBER**—Given that Centrelink pays the income to CDEP participants, how does the department intend liaising with Centrelink and communities on that issue?

**Mr Correll**—Again, consistent with managing a smooth transition, we will be maintaining consistent linkages with Centrelink, as exist today.

**Senator WEBBER**—What is the unit cost per CDEP participant?

**Mr Correll**—I am not aware of that. That is a question for ATSSIS at the present stage.

**Senator WEBBER**—Therefore, you would not be able to tell me the average length of time spent on CDEP either?

**Mr Correll**—No.

**Senator WEBBER**—I have one final question on Indigenous employment. Is the Aboriginal employment strategy in Moree a model that the department plan to build from?

**Mr Correll**—The department and the Commonwealth government have supported the Aboriginal employment strategy in Moree through the Indigenous Employment Program. They have also supported that strategy in Tamworth and, most recently, in Dubbo.

**Senator GEORGE CAMPBELL**—I have a number of questions relating to Indigenous employment programs in the Northern Territory, in particular, STEP. What is DEWR's policy for sending people on this program?

**Mr Correll**—STEP is one of the tools within the Indigenous Employment Program to enable arrangements with employers to support the engagement, training, mentoring and coaching of Indigenous employees and to increase the number of Indigenous people gaining work. The relationship that operates there is developed between the department and an employing organisation.

**Senator GEORGE CAMPBELL**—Does the department consider a CDEP paid position an adequate outcome for this program?

**Mr Correll**—We would want to look very closely at the circumstances where a CDEP paid position was an outcome of any particular project. We would be looking to achieve job outcomes in the labour market as a clear preference to a CDEP placement. Having said that, I could envisage that there may be situations where communities are in particularly disadvantaged circumstances where, as a transitional measure, movement into a CDEP may in fact be a sensible progression for an individual. That is why I would not rule it out—put it that way.

**Senator GEORGE CAMPBELL**—Is it correct that STEP is being strongly promoted in art centres around the Northern Territory?

**Mr Pratt**—Not to my knowledge. Certainly STEP has been used for art centres in the Northern Territory and other states.

**Senator GEORGE CAMPBELL**—That is the information coming to us. Isn't it true that there is little chance of full employment in those areas, except through a CDEP position?

**Mr Pratt**—It is true that parts of the Northern Territory are difficult labour markets where it is not easy to find unsubsidised employment—but that does not mean that it is not possible. In parts of the Northern Territory, for example, Darwin, the labour market is very robust.

**Senator GEORGE CAMPBELL**—Welcome, Ms Emery. You have been desperate to dive in there. Do you want to add to any of that?

**Ms Emery**—I think in October last year an art strategy was announced, in conjunction with the Minister for Communications, Information Technology and the Arts, which promoted Indigenous artists and Indigenous art centres. Under that strategy, some initiatives have been funded, in particular through the Northern Territory, which have as an outcome some ongoing employment for arts coordinators.

**Senator GEORGE CAMPBELL**—Have people gained employment through that process and those art centres outside of a CDEP?

**Ms Emery**—As Mr Pratt has explained, some of that employment may at the moment be CDEP funded, but the aim is that in the long term those people will go off CDEP.

**Senator GEORGE CAMPBELL**—How many have got employment that is not CDEP funded?

**Ms Emery**—I would have to take that on notice.

**Senator GEORGE CAMPBELL**—What follow-up and support are DEWR supposed to provide in the 26-week period and beyond?

**Ms Emery**—In terms of funding under STEP?

**Senator GEORGE CAMPBELL**—It is not just the funding. It is the follow-up and support that you are providing, if any, other than the funding.

**Ms Emery**—The main support the department provides is through funding and that is to facilitate ongoing employment. That employment may be 26 weeks or it may be for longer periods. In a number of cases it could be an apprenticeship type of employment, so it could be up to four years.

**Senator GEORGE CAMPBELL**—Do you provide any support beyond the 26-week period?

**Ms Emery**—We provide financial support in some instances.

**Senator GEORGE CAMPBELL**—But just financial support or financial assistance?

**Ms Emery**—The financial assistance is based on the achievement of employment outcomes. Some of that financial assistance may be used by the employer to support mentoring or cultural awareness within the organisation.

**Senator GEORGE CAMPBELL**—Does the department have a submission turnaround standard in terms of time?

**Mr Correll**—The nature of these projects is such that that will be highly variable from one to another. The STEP projects range from those that are relatively small and are developed very quickly to very major strategies. A strategy with a major mining company, for example, takes a number of months to develop. So there is no defined standard as such, and the nature of the projects is such that that lead time can be quite variable.

**Senator GEORGE CAMPBELL**—Why do contracts for these programs have to come to the legal branch in Canberra to be drawn up? Why are standard contracts not available?

**Mr Pratt**—There are standard contracts, but on occasion—because of the flexible nature of the program—people may wish to do something different, and we may wish to explore that with them. Therefore, we would of course get our legal people to check that the contract accurately reflected our intentions.

**Senator GEORGE CAMPBELL**—Why is the contract required to be drawn up in Canberra? How detailed and involved are these contracts?

**Mr Pratt**—Our legal people are based in Canberra. We would always want our legal people to be the ones who have the final say on the construction of a contract.

**Senator GEORGE CAMPBELL**—But you do a lot of contracting out of legal work.

**Mr Pratt**—That is true, too. But in this circumstance, when we are dealing with the day-to-day operations of our contracts, our legal advisers are the most expert.

**Senator GEORGE CAMPBELL**—One of the complaints that are being made about the program in the Territory is about the substantial turnaround time required to sign off these contracts.

**Mr Pratt**—I am not aware of any reason for substantial turnaround time. That may have nothing to do with the actual construction of the contract and more to do with the negotiation of the arrangements which will later be reflected in the contract.

**Senator GEORGE CAMPBELL**—I am told, for example, that when the DEWR project staff are away nobody else is available to discuss these projects with the individuals or groups that are putting them forward.

**Dr Boxall**—If you would like to pass that information to us, Senator Campbell, we will have it investigated.

**Senator GEORGE CAMPBELL**—I will pass that message on to the person who gave me the question and see if they want to pass it on to you, Dr Boxall.

**Dr Boxall**—Thank you, Senator.

**Senator GEORGE CAMPBELL**—What level of delegation now exists for STEP projects?

**Ms Emery**—Contracts under \$1 million can be approved by the state manager. Projects between \$1 million and \$3 million are approved by me, the Assistant Secretary. Projects over \$3 million are approved by the Group Manager, Intensive Support Group.

**Senator GEORGE CAMPBELL**—Presumably, no projects are approved at a level below the state manager. Is that right?

**Ms Emery**—I believe that all projects go to the state manager.

**Senator GEORGE CAMPBELL**—So anything \$1 million or less goes to them?

**Ms Emery**—In those cases where there is an assistant state manager that person may also have authority to exercise that delegation.

**Senator GEORGE CAMPBELL**—What percentage of the projects fall into the category of \$1 million or less?

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

**Senator GEORGE CAMPBELL**—What percentage fall into the category of \$3 million or less?

**Mr Pratt**—Likewise.

**Senator GEORGE CAMPBELL**—Presumably what is left over will fall into the category of above \$3 million.

**Mr Pratt**—Not many.

**Ms Emery**—The great majority would fall under \$1 million.

**Senator GEORGE CAMPBELL**—Can you also take on notice the percentage of initial invoices that are paid within 14 days?

**Ms Emery**—Yes.

**Mr Pratt**—We can have a look at that, but our standard is that we pay invoices within 28 days.

**Dr Boxall**—Sorry, excuse me. Is that bills that the department pays?

**Senator GEORGE CAMPBELL**—Presumably so, yes.

**Dr Boxall**—The department pays 99 per cent within 30 days.

**Senator GEORGE CAMPBELL**—There appears to be a cash flow problem with some of these programs.

**Dr Boxall**—As I said, it would be helpful if there are problems with those programs if that information were given to us, because we are not aware of any problems. We will investigate and see if there is anything more we need to do.

**Senator GEORGE CAMPBELL**—Okay. I'll pass that on.

**Mr Correll**—In relation to STEP, for payments to be made there are acquittal reports that need to be submitted by the contracted organisation.

**Senator GEORGE CAMPBELL**—That may be where the problem is.

**Mr Correll**—Yes.

**Senator GEORGE CAMPBELL**—Does the department have any proposed strategy for improving the performance in Indigenous Employment Program management and administration?

**Mr Correll**—I have already commented on some aspects of that, but the answer is yes, we are constantly looking to improve performance.

**Senator GEORGE CAMPBELL**—How many Indigenous participants have been on STEP?

**Mr Pratt**—Since 1999-2000, 21,944.

**Senator GEORGE CAMPBELL**—Do you have a breakdown of the number that have gone on to proper full-time employment and the number that have gone on to CDEP funded positions?

**Mr Pratt**—I do have the post program monitoring outcomes for STEP. Positive outcomes are 65.3 per cent—that is in employment or education and training three months after completion of STEP. That is broken up into employed 53.4 per cent and education and training 26.6 per cent, keeping in mind of course that some participants will be both employed and in education and training so you cannot just sum the two.

**Senator GEORGE CAMPBELL**—But that does not give you a break-up of which are in full-time employment and which are CDEP positions.

**Mr Pratt**—I cannot give you the CDEP positions. Full-time employment is 39.6 per cent.

**Senator GEORGE CAMPBELL**—Are those figures available?

**Mr Pratt**—We publish material of that sort on a regular basis through our labour market assistance outcomes report and in the annual report, from memory.

**Senator GEORGE CAMPBELL**—Fine. Have you got any up-to-date figures for the Northern Territory on the number of Indigenous job seekers assisted in the different NT centres and by program?

**Mr Pratt**—We would have to take that on notice.

**Senator GEORGE CAMPBELL**—That is in intensive assistance and wage assistance. The Indigenous policy evaluation stage 2 report said that for 2002 Indigenous outcomes were improved by 8.6 per cent for those using intensive assistance. Do you have the figures for 2003?

**Mr Pratt**—No.

**Senator GEORGE CAMPBELL**—They are not available?

**Mr Pratt**—No.

**Senator GEORGE CAMPBELL**—In an article entitled ‘The rise of the CDEP scheme and the changing factors underlining Indigenous male employment’—I think it is by Boyd Hunt in the *Australian Journal of Labour Economics*, 6 September 2003—found that CDEP may encourage youth to leave school earlier to get a CDEP job and income. Are there any plans to change the CDEP conditions so that youth leaving school early and becoming CDEP participants must enrol in some form of education and training?

**Mr Correll**—I have read that article, but we cannot comment on that. At the present stage the department does not have responsibility for the CDEP. As I mentioned earlier, should the administrative arrangements order result in the department having responsibility from 1 July, our No. 1 priority would be to ensure a smooth transition of the program. With respect to any further development of the program, we would be working in close consultation with all the stakeholders from that time.

**Senator GEORGE CAMPBELL**—I look forward with anticipation to your response to our report on Indigenous training, which we are about to commence. Can you tell me how many participants are on the National Indigenous Cadet Program?

**Mr Pratt**—We have assisted 677 since the start of the IEP.

**Senator GEORGE CAMPBELL**—How many from the corporate leaders project?

**Mr Pratt**—The corporate leaders project counts toward the number of 21,944. It is a subset of that.

**Senator GEORGE CAMPBELL**—Do you know how many?

**Mr Pratt**—I do not have the figure for corporate leaders as a proportion of that.

**Senator GEORGE CAMPBELL**—Can you take that on notice?

**Mr Pratt**—I will take it on notice.

**Senator GEORGE CAMPBELL**—How many organisations have received funding under the Indigenous small business fund program?

**Mr Pratt**—There were 185.

**Senator GEORGE CAMPBELL**—Is there a list of them available with the amounts for 2002-03?

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

**Dr Boxall**—Senator Webber, we might have located the phantom meeting that you referred to earlier. My staff have advised me that on 30 March—I think you said the 13th—there was a lead agency workshop, which brings together the lead agencies for each of the COAG trial sites, but this was coordinated by the Indigenous coordination group, which is in DIMIA.

**Senator WEBBER**—But there were people from the department who attended?

**Dr Boxall**—There would have been for certain, because we are the lead agency for two COAG trial sites. We would have been there in that stead.

**Senator WEBBER**—Do you know the outcome of the roundtable?

**Dr Boxall**—I was not there, but it is not for us to report on. It was run by DIMIA; we were just participants.

**Senator WEBBER**—I will return to Transition to Work, which is where I was at before we broke for lunch. How many people are expected to go through the program this year?

**Ms Caldwell**—There have been 10,830 people who have commenced in the Transition to Work program as at 21 May this year. I expect a little less than 12,000 this year.

**Senator WEBBER**—Can you provide the estimated client base over the forward estimates? How many people will access the program?

**Ms Caldwell**—As to the Transition to Work program, I could not add anything more than is in the budget papers and the PBS.

**Senator WEBBER**—How many people have gone through the program since it started?

**Ms Caldwell**—I believe those details were provided on notice from the last time.

**Senator WEBBER**—I only received these this morning so I have not been able to read them and be here at the same time.

**Ms Caldwell**—Senator, W374-04 looks at the breakdown by age and gender.

**Senator WEBBER**—What this does not tell me—and it is probably because I did not ask for it—is how many of those that were assisted in each year were on income support.

**Ms Caldwell**—I would have to take that on notice. I am not sure whether we have not previously provided to you the breakdown and the data.

**Senator WEBBER**—If it would be possible to look at that and perhaps indicate what kind of income support they were on that would be helpful.

**Ms Caldwell**—Certainly.

**Senator WEBBER**—How many people have got jobs as a result of the program?

**Ms Caldwell**—Approximately 60 to 80 per cent of people who leave Transition to Work are in a positive outcome of either employment or education.

**Senator WEBBER**—Are those outcomes better or worse for income support clients, compared with non-income support clients?

**Ms Caldwell**—We have not done that comparison. Obviously we are in a position to better track the income support recipients. We have no basis for comparison of non-income support recipients after they cease to be engaged in the program.

**Senator WEBBER**—Can you provide the committee with the employment outcomes—full-time, part-time, as well as casual jobs—for each year that the program has been in operation?

**Ms Caldwell**—Yes.

**Senator WEBBER**—Would you know how many mature age job seekers have been assisted each year as part of this program?

**Ms Caldwell**—I believe we provided that to you at the last—

**Senator WEBBER**—Again it is my not getting this information until this morning.

**Ms Caldwell**—I will get somebody to refresh my memory on the number it refers to.

**Senator WEBBER**—As well as the employment outcomes that you are taking on notice, perhaps we could also be informed whether these clients are on income support. Is the funding for the program based on a set number of places each year, or is the allocation based on anticipated demand?

**Ms Caldwell**—It is a fixed capacity program with a fixed budget allocation for 10,000 places. However, as we have discussed at previous hearings, we commenced with a few more than 10,000.

**Senator WEBBER**—So is there a waiting list for the program?

**Ms Caldwell**—I believe we have covered much of this ground before and I believe my evidence indicated that we do not maintain a central waiting list for the program. The providers may have local arrangements either to have a waiting list or to call for new entrants as capacity becomes available.

**Senator WEBBER**—Do you know whether, if they do have local people waiting, they would give preference to income support recipients to be placed on the vacancies in the program?

**Ms Caldwell**—There are not fixed proportions of income and non-income support recipients that are available. We do have pilot arrangements under Transition to Work associated with the new contract variation starting from July next year which encourages access to the program by lone parents in particular.

**Senator WEBBER**—What is the link between Transition to Work and the Jobs, Education and Training program—the JET program—in FaCS?

**Ms Caldwell**—They are separate interventions. Obviously, both the personal advisers and other Centrelink staff who are dealing with it can deal with either JET or Transition to Work, but they are discrete programs.

**Senator WEBBER**—Yes, I understand. But are there people referred to Transition to Work by FaCS through the JET program? Is there a relationship?

**Ms Caldwell**—There would be.

**Senator WEBBER**—Is it possible to find out how many?

**Ms Caldwell**—Yes, I can get you the source of Transition to Work recipients. As we have discussed at previous hearings, Transition to Work providers recruit from a wide range of



sources, and it is not always apparent from our data whether they have come to us from Centrelink or not.

**Senator WEBBER**—Is it possible to get an itemised breakdown of where the Transition to Work funding has been spent—for example, advertising, service delivery and Centrelink liaison?

**Ms Caldwell**—Certainly. The main areas for expenditure for Transition to Work are the administration and management fees for the Transition to Work providers. The average administration fee, which is set by tender, is \$250 per place inclusive of GST. The management fee is a tendered price, so it varies from provider to provider, but the average GST inclusive price under the current contract is \$325 in management fees—the variable component. There is a fixed skills development fee, which is set at \$440 GST inclusive per place. That makes up the bulk of the expenditure.

**Senator WEBBER**—What is the departmental cost for administering the program?

**Ms Caldwell**—It may be quicker if I take that on notice and somebody will get that for me.

**Mr Correll**—We do not separately identify the costs for that program. That would go to the price of output 1.2.2 as reported in our portfolio budget submissions covering employment services.

**Senator WEBBER**—But it is not possible to work out specifically how much it costs to administer this program?

**Mr Correll**—That is right.

**Senator GEORGE CAMPBELL**—Mr Correll, the minister's press release in April stated that over 8,700 mature age job seekers were placed into employment during the federal government's mature age month. How does that compare with April in the previous year?

**Mr Pratt**—While that information is being obtained I have to correct the record on something. We have 61 corporate leaders currently.

**Mr Correll**—We are not sure whether we have the information to hand on the mature age placements from a year earlier.

**Senator GEORGE CAMPBELL**—Do you have a set of figures for the number of mature age persons moving into employment under Job Network 3 for the months of July, August, September and October?

**Mr Pratt**—Total mature age employment placements up to 21 May is 47,532. For the same period in 2002-03 the figure was 43,118, so there was an increase.

**Senator GEORGE CAMPBELL**—Do you have the figures for April 2003? That is the month that these 8,700 are measured against, isn't it?

**Mr Pratt**—No, I do not have figures for the month of April.

**Senator GEORGE CAMPBELL**—Do you have a breakdown of the monthly figures under Job Network 3?

**Mr Pratt**—I have so many facts here I am not sure, Senator.

**Senator GEORGE CAMPBELL**—I want only one.

**Mr Pratt**—No, I do not have that with me.

**Senator GEORGE CAMPBELL**—Would you take it on notice to provide us with that information?

**Mr Pratt**—Yes.

**Senator GEORGE CAMPBELL**—Do you have a breakdown of the 8,700 jobs? Can you tell us, for example, how many were casual for fewer than 13 weeks?

**Mr Pratt**—I do not have that information and will have to take that on notice.

**Senator GEORGE CAMPBELL**—Is that information available?

**Mr Pratt**—Conceivably. I have to say that I did not look after the mature age month, so I am unsure of those numbers. We can have a look at it.

**Senator GEORGE CAMPBELL**—For the purposes of the *Hansard*, I will put a number of categories on the table and you can respond to them. I would like the numbers of those who were casual for fewer than 13 weeks and on average how many hours per week; casual for fewer than 26 weeks and on average how many hours per week; part time for fewer than 13 weeks and, again, the number of hours per week; part time for fewer than 26 weeks and the number of hours; full time for fewer than 13 weeks; and full time for fewer than 26 weeks. Would you provide us with the information in relation to those categories?

**Mr Correll**—We will take that on notice; I cannot be sure that we will have all that information. The benchmark for the mature age month in April, though, was a figure of 7,000, against which the 8,700 achievement was rated. That was the point of comparison being aimed at.

**Senator GEORGE CAMPBELL**—So the achievement was 1,700, not 8,700?

**Mr Correll**—No. The achievement was 8,700, but it was against a target of 7,000 placements. It exceeded the target.

**Senator GEORGE CAMPBELL**—It is pretty hard to assess the effectiveness of the activity for the month unless you look at the figures over the corresponding months. Do we know what industries these jobs were obtained in?

**Mr Correll**—It would be across a very wide range of industries, and I am not sure the extent to which that information would be available in detail. We would have to take that question on notice.

**Senator GEORGE CAMPBELL**—Yes, take that question on notice. Can you tell us how many of these outcomes were for job seekers on wage subsidy placements?

**Mr Correll**—These are job placements rather than interim outcomes as such.

**Senator GEORGE CAMPBELL**—I am sorry; I did not phrase that properly. How many of them were actually on wage subsidies?

**Mr Correll**—Again, for the relation to wage subsidies we would have to look at that figure and check the availability of data.

**Senator GEORGE CAMPBELL**—What activities does the department undertake to encourage Job Network providers to focus on mature age job seekers? What did you do differently in April?

**Mr Correll**—There was a wide range of measures. Mr Manthorpe will comment on that.

**Mr Manthorpe**—There was a range of measures, mostly at a local level. Account managers and contract managers from our state offices worked with Job Network members at a local level to promote mature age employment during the month. We produced a brochure, a poster, a postcard and some other relatively low-cost materials to promote mature age employment during the month. We also worked with the Job Network members to coordinate and manage some local events to promote mature age employment. That was the nature of the activities.

**Senator GEORGE CAMPBELL**—Were any guidelines provided to the Job Network providers, Mr Manthorpe?

**Mr Manthorpe**—No, I do not think so.

**Mr Correll**—Different approaches were taken by different providers and in different states. I am aware that in at least one state all of the providers banded together to make a major jobs drive for the mature age. I am aware that, in another state, one particular provider had a major focus and a major launch relating to the jobs drive. So various approaches to this were taken throughout Australia. I now have the data for April 2003. There were 5,630 mature age placements for April 2003.

**Senator GEORGE CAMPBELL**—I would still appreciate the figures on Job Network 3 for the corresponding months. How were the job seeker accounts used on this program? The same way they have been used by everyone else?

**Mr Correll**—Yes.

**Senator GEORGE CAMPBELL**—There were no special arrangements?

**Mr Correll**—Exactly the same arrangements are utilising that resource to help secure employment outcomes.

**Senator GEORGE CAMPBELL**—How does the department monitor this? How did you monitor the 8,700? What is to say that that would not have occurred anyway?

**Mr Correll**—The way we monitor it is through our information systems, where placements are recorded within our computer system by Job Network providers. That was where the data was drawn from, as was the data for the year before—it was from the same source.

**Senator GEORGE CAMPBELL**—Your particular focus for April was on mature age employment. How did you monitor that you got a better result than you normally would have? On what grounds do you make that claim? What happened to be able to say that it was a better result than would have occurred normally if we had not done this?

**Mr Correll**—We thought the result of 8,700, against what was a stretched target for the month of April—a relatively short month in the scheme of workdays available—was a very good outcome. There is other anecdotal information available. There was a very large amount

of media coverage in local and regional papers which raised the profile of mature age employment. That was also a very beneficial aspect of it. And there was a very strong commitment from Job Network members across the board to the mature age month. With many of the initiatives undertaken, we felt it all showed that it had worked extremely successfully.

**Senator GEORGE CAMPBELL**—Are you able to tell us to what extent skills shortages have driven the increased employment of mature age workers? Has there been an increase in the number of people with trade qualifications and above, for example, being employed in the month of April?

**Mr Correll**—I cannot point to hard data—a particular report or particular data analysis—that shows given numbers of skill shortages being filled by mature age workers, but we do know through the work that we have been doing as part of our industry strategies task force that the fact that labour supply and skill shortages exist in some industry areas has created opportunities for mature age workers that might have otherwise been difficult to obtain. An example of that has been one industry strategy project in the information, communication and technology industry. It was specifically developed with a body called the IT Skills Hub, which emerged because of the particular concerns that industry has for the years ahead with the growing labour supply and skills shortages. Out of that project we have initiatives for both mature age workers and people with a disability to obtain employment. We see more individual opportunities by projects that have emerged.

We have also had projects in the hospitality industry. I am thinking of the Central Coast of New South Wales, where a number of mature age workers have been engaged in the hospitality industry with tailored training packages as a result of a skills shortage that was identified. The Job Network tailor-made, with the industry, a solution to meet the industry's needs, drawing on the job seeker account to support the training for that.

**Senator GEORGE CAMPBELL**—The department produces a skills shortages index. I recall reading somewhere in the last month that the gap is growing. I wonder to what extent you are able to identify, in terms of those mature age employees, whether there has been a pick-up in the number of skilled persons being employed who meet the mature age definition. Are you able to identify that?

**Ms Taylor**—We have not identified that at this point in time. I think we have certainly seen, in terms of the work we do with our skills shortage information, the growing trend across a number of occupations for skills shortages. As for matching that within the uptake to say whether more mature age people are coming in there, I understand we have not got that information at this point in time. However, one of the strategies that is being put in place as part of the mature age employment and workplace strategy is to look at getting more mature age people into those occupations where there are skills shortages—so matching up, if you like, where the skills shortages are occurring and targeting, through our industry strategies area and our mature age strategies, the match of those vacancies and mature age people.

**Senator GEORGE CAMPBELL**—Would it be difficult, Ms Taylor, to obtain that information?

**Ms Taylor**—I will check for you. I will take that on notice and, if we can provide that information, we will certainly do that.

**Senator GEORGE CAMPBELL**—If it is capable of being done, can you provide it by region too?

**Ms Taylor**—Certainly.

**Senator GEORGE CAMPBELL**—I have a couple of questions on Work for the Dole. Mr Correll, are you aware that, in December 2002, a CWC in south-east Queensland spent \$900 of Work for the Dole money on alcohol for workers and participants?

**Mr Correll**—I was not aware of that.

**Senator GEORGE CAMPBELL**—Would you be concerned if that practice was occurring?

**Mr Correll**—I would certainly want to have a look at the information relating to that if that was occurring on a project.

**Senator GEORGE CAMPBELL**—How is the money for Work for the Dole programs monitored, audited and accounted for?

**Mr Correll**—Under Work for the Dole, we operate—again, as for Job Network—through a national contract management framework where our contract managers develop risk based contract management plans for all committee work coordinators. There is close monitoring and scrutiny of projects through that approach.

**Senator GEORGE CAMPBELL**—Who audits each of those programs?

**Mr Correll**—The contract managers undertake that auditing. Our contract managers are based in our state offices, and they would be visiting projects and having both performance based and regular monitoring visits with community work coordinators who are administering projects.

**Senator GEORGE CAMPBELL**—Let me get clear what you mean in terms of monitoring the program. Does that include financially monitoring the expenditure of the moneys?

**Mr Correll**—Yes.

**Ms Caldwell**—Under the changes that came into effect from 1 April, the expenditure of work experience funding—which is the project funding available to the CWCs—is now online in a similar way to the job seeker account, so we have greater transparency at the time a cost is incurred as to the make-up of the budget and the expenditure against the CWCs' budget items as well.

**Senator GEORGE CAMPBELL**—How many people are currently in the Work for the Dole program?

**Ms Caldwell**—Since the beginning of this year, we have commenced 67,000 people, which is an increase of about 14 per cent on last year.

**Senator GEORGE CAMPBELL**—Do you have any estimates of how many people will enter the program in 2004-05, 2005-06 and 2006-07?

**Ms Caldwell**—The appropriation appears in the budget papers. We have also moved Work for the Dole to a demand driven model, so the actual number of commencements in the program will be a function of the number of people who are eligible to participate and who have an obligation under mutual obligations in those out years.

**Senator GEORGE CAMPBELL**—But do you have an estimate for those three financial years?

**Ms Caldwell**—Only what is in the budget papers.

**Senator GEORGE CAMPBELL**—Is it anticipated that over the next three financial years there will be more or less Work for the Dole projects than last year?

**Ms Caldwell**—It would be subject to broader circumstances such as the unemployment rate over time. We had been predicting an increase in the number of persons participating in Work for the Dole through better connections under the active participation model between people and Job Network services, and connecting them more quickly and readily with Work for the Dole when their mutual obligation was due. That is what we have seen occurring in 2003-04. Since the introduction of the APM in the new Work for the Dole arrangements, we have seen that increase of 14.8 per cent in Work for the Dole commencements nationally—even in the face of falling unemployment levels. At this stage we would be predicting a continuing growth in the program, but the actual numbers that would be realised would be a factor of both the unemployment rate and the number of persons who fulfilled their mutual obligations or who volunteered for Work for the Dole in this way rather than through other activities available to them.

**Senator GEORGE CAMPBELL**—I have a number of other questions, but I can put them on notice.

**Senator BARNETT**—Can you give us a state by state breakdown of the 67,000 people involved Australia wide?

**Ms Caldwell**—I would have to take that on notice.

**Senator BARNETT**—Have you done any recent surveys on the level of satisfaction of Work for the Dole participants?

**Ms Caldwell**—We monitor our participants' satisfaction as well as those of the local communities that are serviced by the Work for the Dole scheme on an ongoing basis. We get very high satisfaction levels. In fact, we have had an increase recently under the new arrangements.

**Senator BARNETT**—Can you expand on those surveys or provide details of those surveys to us?

**Ms Caldwell**—I can certainly provide details on notice to you.

**Senator BARNETT**—These are the details of the satisfaction of communities and the actual participants?

**Ms Caldwell**—Yes. We are getting highly satisfied ratings of over 80 per cent of our participants who are engaged in Work for the Dole.

**Senator BARNETT**—Has that been in the last 12 months?

**Ms Caldwell**—Yes, they are the current results.

**Senator BARNETT**—How do they compare to previous years? Are they similar or higher or lower? Can you give us a feel for that?

**Ms Caldwell**—They are very similar.

**Senator BARNETT**—So 80 per cent—

**Ms Caldwell**—Are very happy customers.

**Senator BARNETT**—What about job prospects post their Work for the Dole participation? Do you have any details with regard to that?

**Ms Caldwell**—Yes, my colleague may want to talk to that.

**Ms Taylor**—We have information on that, but I will have to take that on notice and get back to you.

**Senator BARNETT**—Do you have any rough estimates with you at the moment from previous years?

**Ms Taylor**—Not with me at the moment, no, but I hope to get that back to you. I am just checking, I might be able to get that for you fairly soon.

**Senator BARNETT**—Can you break that down state by state? If you can, it would be of interest; if you cannot, that is fine.

**Senator WONG**—I have some questions regarding the CDEP program office in Adelaide. Is there a decision being made to relocate that to Canberra?

**Dr Boxall**—Those questions need to be addressed to ATSISS because they are not under our responsibility until after 1 July.

**Senator WONG**—Has there been any consideration within the department of retaining or relocating that office?

**Dr Boxall**—The department is yet to make a final decision on those matters.

**Senator WONG**—Is it currently under consideration?

**Dr Boxall**—The department set up a steering committee, chaired by the chief financial officer, with senior people from the department and one or two senior people from ATSISS to ensure the smooth transition of the program and staff from ATSISS into the department. They have been considering a number of issues but we have not yet finalised a decision. Mr Correll answered a question earlier to the effect that we had not finalised how these staff will be integrated into outcome 1.

**Senator WONG**—Are you able to give a guarantee that the Adelaide office will not be closed?

**Dr Boxall**—We do not give guarantees one way or the other, Senator Wong.

**Senator WONG**—Minister, you do not want to alleviate the concerns of some South Australian employees?

**Senator Abetz**—As indicated earlier, it is another portfolio area.

**Senator WONG**—It is going to be transferred into this portfolio. That is why there is a steering committee—to deal with the transition.

**Mr Correll**—Our goal in the process, assuming the administration arrangements order comes forward and the department has responsibilities from 1 July, would be a smooth transition, minimised disruption to the program and minimised disruption to staff. We certainly would not be making a judgment like that without discussions with staff.

**Senator WONG**—But the government is not able to make any commitment to maintaining the location in Adelaide.

**Senator Abetz**—As I have indicated to you, you should be asking a different portfolio area. If what you are asserting is correct, then the thought processes et cetera behind that could be provided to you at a different forum where the people responsible for making that decision are available.

**Senator WONG**—I mean post 1 July, Minister. Is the government able to make a commitment to retain the office in Adelaide?

**Senator Abetz**—That question is very difficult for this portfolio to answer. Given that your assertion is correct, it may well have been closed by somebody else other than this portfolio. I am not going to give a commitment one way or the other, other than to indicate that this department will seek to ensure that the transition is as smooth as possible.

**Senator WONG**—Is it the case that there has been a decision made to offer AWAs to all AT SIS staff?

**Dr Boxall**—I would have thought that the AT SIS staff would be very concerned if they were not offered AWAs because, as you know from previous evidence Senator Wong, in this department we offer all staff AWAs; we do not believe in restricting choice. I anticipate that we will be offering ex-AT SIS staff AWAs just as we offer all other staff AWAs.

**Senator WONG**—I understand there is a remote localities allowance for Cairns, Darwin and Townsville, which applies to the AT SIS staff but is not present in the certified agreement that applies to the department. Is it intended to offer AWAs retaining that allowance

**Dr Boxall**—AWAs are individually based agreements, so we would look at staff individually and see what sort of AWA we thought was appropriate and what they thought was appropriate. We would be looking at that aspect of it as well as other aspects.

**Senator WONG**—Is there a commitment to maintain at least existing conditions for AT SIS staff.

**Dr Boxall**—This issue is best addressed under outcome 2 because the department has a guide of what happens when you have transition of business within government.

**Senator WONG**—I am asking you now, Dr Boxall. Are you not able to answer it?

**Dr Boxall**—I did not say that, Senator Wong. I said it was a question better answered under outcome 2.

**Senator WONG**—I am asking you now. Is there a commitment to maintaining the employment conditions of AT SIS staff, should the transfer occur post 1 July?



**Senator Abetz**—We have certain outcomes that we try to follow.

**Senator WONG**—So you want me to ask it in 20 minutes and you will answer it then? It is very obstructionist.

**Senator Abetz**—No, it is not. We have an agenda that we are trying to work through, and it is very disruptive in fact—as opposed to obstructionist—to pop up with questions here and there and all over the place. The committee itself prepares the agenda, so I would have thought it was very rude of committee members not to abide by the agenda. We do not prepare your agenda.

**Senator WONG**—All I can say, Minister, is that I will ask this question again in outcome 2.

**Senator Abetz**—Good.

**Senator WONG**—If I am told there that some aspect of it ought to be addressed in this outcome, we are obviously going to have a very long discussion.

**Senator Abetz**—That is your comment. Let us move on. Ask a question.

**Dr Boxall**—Senator Wong, this is a general issue about what conditions go with a staff member who transfers from one agency to another within the APS. That is handled under outcome 2, and there are people who are across the detail of that and can give you a full answer.

**Senator WONG**—In relation to the steering committee, which is located in this outcome—is that correct?

**Dr Boxall**—No. The steering committee is across outcomes.

**Senator WONG**—Has there been a decision made to maintain existing employment conditions for AT SIS employees or not?

**Dr Boxall**—No decision has been made finally on that, and that is an issue which will be guided by the general principles that apply to all agency transfers within the public sector. We will not be doing anything that is inconsistent with the general principles, and there are people in outcome 2 who can answer this question in full and in detail.

**Senator WONG**—So the steering committee has not discussed it?

**Dr Boxall**—No, I did not say that. The steering committee has discussed it but no decision has been made.

**Senator WONG**—Who will make the decision?

**Dr Boxall**—The decision will be made by the management board of this department.

**Senator WONG**—Has the management board yet discussed it?

**Dr Boxall**—No, the management board has not discussed it. The remuneration subcommittee has discussed it, but there is no final decision yet.

**Senator WONG**—Has there been any recommendation from the remuneration subcommittee or has there been a decision taken there?

**Dr Boxall**—I am reminded that the remuneration subcommittee is still working through it, but we have discussed it at the remuneration subcommittee.

**Senator WONG**—But there has been no decision at that level yet?

**Dr Boxall**—No.

**Senator WONG**—Thank you.

**CHAIR**—We will move on to output 1.2, Labour market program management and delivery.

**Senator WEBBER**—We did all of that together. We have been a little unstructured.

**Senator Abetz**—We have finished outcome 1.

**Proceedings suspended from 3.23 p.m. to 3.50 p.m.**

**CHAIR**—Before we turn to outcome 2, Higher productivity, higher pay workplaces, I understand Senator Wong has a few brief cross-portfolio matters to raise.

**Senator WONG**—I was asking questions about management retreats and training—that is, W344-04. Are you able to tell me where the SES Manly forum was held?

**Dr Boxall**—I am advised it was a hotel in Manly called the Manly Pacific.

**Senator WONG**—That was for 1½ days?

**Dr Boxall**—Yes, two nights.

**Senator WONG**—Are you able, on notice, to give me a breakdown of the costs in the accommodation and meals component of that table?

**Dr Boxall**—You want to split the item under accommodation and meals between accommodation and meals?

**Senator WONG**—Yes.

**Dr Boxall**—We will take that on notice.

**Senator WONG**—Were the meals provided at the Manly Pacific?

**Dr Boxall**—From memory, I think some meals were from the Manly Pacific, but there was one evening when we went to a neighbouring restaurant.

**Senator WONG**—Which was the neighbouring restaurant?

**Dr Boxall**—I cannot remember; it was Italian.

**Senator WONG**—I am glad you remember the cuisine. Perhaps you can take that on notice.

**Dr Boxall**—Indeed.

**Senator WONG**—Just to make sure we understand each other about what I have asked for on notice: I have asked you to give a more detailed breakdown of the two executive leadership forum expenditures.

**Dr Boxall**—That is correct. My understanding, from recollection, was that this morning you wanted us to carve out the consultant fees from the other category.

**Senator WONG**—Yes, I would like to know the components of the costs.

**Dr Boxall**—We will take that on notice.

**Senator WONG**—When you are telling me which Italian restaurant it was, perhaps you could let me know the cost of that too.

**Dr Boxall**—Indeed.

[3.53 p.m.]

**CHAIR**—We now move to output 2.1, Workplace relations policy and analysis.

**Senator COOK**—Was this department consulted on the industrial relations provisions that were settled in the Australia-US free trade agreement?

**Mr Hoy**—The department was involved in the negotiations of the labour chapter of the US-Australia free trade agreement.

**Senator COOK**—Were you involved as part of the negotiating team?

**Mr Hoy**—Yes.

**Senator COOK**—So the department fed directly into the negotiations?

**Mr Hoy**—Through the Department of Foreign Affairs and Trade, which led the negotiations.

**Senator COOK**—They led the negotiations, but they had a team which comprised other departments bar themselves and they deferred to the specialist areas of those other departments, one of which was Industrial Relations, in which case it would have deferred to you. Is that a correct understanding?

**Mr Hoy**—That is correct.

**Senator COOK**—As a consequence, did you provide to the Department of Foreign Affairs and Trade, or, more accurately, the negotiating team, any written advice?

**Mr Hoy**—There was advice, yes, probably in the form of emails.

**Senator COOK**—Did that go to the subject of how the chapter should be constructed and what issues should be covered in the chapter?

**Mr Hoy**—Amongst other things, yes.

**Senator COOK**—In providing that advice, did you obtain ministerial approval or was it a matter of normal departmental clearance?

**Mr Hoy**—We obtained ministerial approval to the inclusion of a labour chapter in the free trade agreement and to the broad parameters of what might be in the chapter.

**Senator COOK**—Did you initially have reservations about having a chapter on industrial relations issues?

**Mr Hoy**—Yes. It has been a policy position of successive governments, not just the current government, that it is not appropriate to include labour chapters in these sorts of agreements.

**Senator COOK**—So do I understand that at least the initial part of your advice was that it was not appropriate to include such a chapter?

**Mr Hoy**—It was a requirement of the US Trade Promotion Authority Act, which was the underpinning act that established the framework for the US to seek to negotiate an agreement, that the agreement should include such a labour chapter.

**Senator COOK**—Yes, that is what the Americans wanted. But was it our advice that it was not appropriate?

**Mr Hoy**—As I said, the Australian government position—and not just this government but previous governments—has been that it is not appropriate to include it in there. It was included as a result of US insistence.

**Senator COOK**—We changed our position as a result of US insistence?

**Mr Hoy**—As I said, the policy position was that it was not appropriate to include it. At the end of the day it was included.

**Senator COOK**—Was that change approved by the minister?

**Mr Hoy**—Yes.

**Senator COOK**—Did you recommend to the minister that that change should be made?

**Mr Hoy**—I cannot give you advice on what was put to the minister.

**Senator COOK**—Why not?

**Mr Hoy**—That is a matter of policy advice to the government.

**Senator COOK**—Okay. The content of the chapter speaks of best endeavours to recognise each other's industrial relations system and to ensure that they conform with ILO conventions. Did you obtain any advice that our legislation was in conformity with ILO conventions?

**Mr Hoy**—In respect of the US-Australia free trade agreement, not specifically, no.

**Senator COOK**—That invites the obvious question: if not specifically in relation to that, have you sought and obtained advice to that question more broadly?

**Mr Hoy**—The Australian government has been responding to the ILO in terms of its normal reporting obligations on the ILO conventions about the conformity or otherwise of its workplace relations legislation.

**Senator COOK**—If the agreement were to come into force, the structure of this chapter would enable the Americans to make an assessment on their own behalf as to whether we conform with ILO conventions and, if in their opinion we do not, to raise those matters with us. Did we obtain from the Americans their view as to whether we conformed?

**Mr Hoy**—The representatives of the American government did not put forward views to us as to the compliance or otherwise of Australian laws. What the chapter actually imposes is an obligation that Australia and the US will enforce their own laws. That is the obligation.

**Senator COOK**—Could you say that again?

**Mr Hoy**—That Australia will enforce its own workplace relations laws. That is the obligation in the chapter.

**Senator COOK**—The obligation is a bit more extensive than that, though, is it not? It is based on the assumption that those laws are in conformity with ILO conventions.

**Mr Hoy**—The Australian government takes the view that its laws are in conformity with the conventions.

**Senator COOK**—Coming back to my question, I understand from what you have said that we did not obtain from the Americans a view as to whether they believe our laws are in conformity with ILO conventions.

**Mr Hoy**—Correct.

**Senator COOK**—As part of these negotiations, did the department conduct a briefing on Australia's industrial relations laws for any US government officials?

**Mr Hoy**—Yes, we did.

**Senator COOK**—As part of these negotiations, did the department conduct a briefing on Australia's workplace laws for any US congress men or women?

**Mr Hoy**—Yes, we did.

**Senator COOK**—Can you tell us when the briefing concerning US government officials occurred?

**Mr Hoy**—I will just need to check that. It was in February or March last year. I am just advised that we did not in fact brief any congressmen; we briefed an official of the US administration.

**Senator COOK**—So there has been no direct contact—

**Mr Hoy**—Not by the department, no.

**Senator COOK**—with any elected US congressmen or congresswomen?

**Mr Hoy**—Not by the department, no.

**Senator COOK**—That goes for their staff as well, one assumes?

**Mr Hoy**—I think that is probably right.

**Senator COOK**—I think it probably is too. It may be a small point on which nothing turns, but would you mind confirming that?

**Mr Hoy**—I will confirm it, but I think the answer is, no, there wasn't.

**Senator COOK**—In the briefing of US government officials, which occurred in February—

**Mr Hoy**—February or March 2003.

**Senator COOK**—Did it occur in Australia or in the United States?

**Mr Hoy**—In Australia.

**Senator COOK**—Are you able to make a copy of your briefing notes available to the committee?

**Mr Hoy**—No.

**Senator COOK**—Why not?

**Mr Hoy**—They are internal documents.

**Senator COOK**—Yes, but they are internal documents in which you are explaining how our system works. Surely they are the property of the parliament.

**Mr Hoy**—No, I cannot make them available.

**Senator COOK**—So you cannot tell us what you told a foreign power as to how our laws work domestically?

**Mr Hoy**—We explained to the US officials how our laws worked. It was an overhead PowerPoint presentation.

**Senator COOK**—But you are declining to make them available so that we can see what you told them.

**Mr Hoy**—Yes.

**Senator COOK**—Minister, this may be a bit tedious, but would you use your best endeavours to encourage the minister to make available to the Australian public through this committee what the department told the Americans about how our laws work?

**Senator Abetz**—So it does not become too tedious, I will simply take that on notice.

**Senator COOK**—You will pursue the matter?

**Senator Abetz**—I will take it on notice. The minister will be made aware of your request and, as a result, it will be up to the minister how your request is responded to.

**Senator COOK**—Thank you, Minister. Mr Hoy, can you tell us what level or ranking the officials in the US government held whom you briefed?

**Mr Hoy**—I will need to give you the correct information on notice, but from memory the leading US official was an undersecretary of the US administration.

**Senator COOK**—An undersecretary of the Department of Labor in the United States?

**Mr Hoy**—Yes, it was.

**Senator COOK**—He had a team of advisers?

**Mr Hoy**—He had other officials with him, yes.

**Senator COOK**—As a consequence of that briefing, did the Americans seek any clarification of any views with you?

**Mr Hoy**—Not on that occasion, no.

**Senator COOK**—Are you able to tell us, as far as you are aware, that as a consequence of that briefing they relied on the accuracy of that briefing with respect to framing the chapter on labour standards, as they call it?

**Mr Hoy**—That was a matter for them as to what they did.

**Senator COOK**—They never came back to you in an iterative way in order to ascertain more and better particulars?

**Mr Hoy**—During the negotiations—and there were five or six rounds—there were some iterations, yes.

**Senator COOK**—How long did it take to negotiate this chapter?

**Mr Hoy**—It started in February or March and it was substantially completed by November 2003.

**Senator COOK**—It was discussed at how many meetings?

**Mr Hoy**—Five or six. I will need to check to be precise.

**Senator COOK**—Was it a difficult negotiation?

**Mr Hoy**—Yes.

**Senator COOK**—What were the difficult points?

**Mr Hoy**—The first difficult point was the insistence on having a chapter there in the first place.

**Senator COOK**—And the second difficult point?

**Mr Hoy**—Then it went to particular matters of detail in the chapter.

**Senator COOK**—Can you go to what they were?

**Mr Hoy**—They related to the particular definitions that the US wanted to use, but they were using those based on the US Trade Promotion Act.

**Senator COOK**—These were US definitions that were different from definitions that we might use?

**Mr Hoy**—They were slightly different from the normal ILO type of definitions.

**Senator COOK**—Which definitions did we settle on—theirs or ours?

**Mr Hoy**—Theirs, in the end.

**Senator COOK**—We settled on their definitions?

**Mr Hoy**—Yes.

**Senator COOK**—So when we read the treaty that has been signed by the government we understand it with reference to US definitions of industrial relations matters, not Australian ones?

**Mr Hoy**—Definitions in respect of certain ILO matters.

**Senator COOK**—‘Definitions in respect of ILO matters’?

**Mr Hoy**—Yes. The Australian government would have preferred to use normal ILO definitions.

**Senator COOK**—And the Americans have their own version of these?

**Mr Hoy**—They were based on the particular legislation that underpinned the negotiation of the overall free trade agreement.

**Senator COOK**—So, to come back to my question, to understand the chapter on labour standards in the agreement, we would need to approach any technical language relating to ILO conventions from the American definitional base, not from the ILO or Australian base?

**Mr Hoy**—Largely, yes, that is correct.

**Senator COOK**—Are there any notable exceptions that you would like to draw to my attention, Mr Hoy?

**Mr Hoy**—No.

**Senator COOK**—So I take it that there are notable exceptions but that ‘Largely, yes’ is the answer?

**Mr Hoy**—I think the US used language that we would prefer not to use and which is not in the ILO conventions.

**Senator COOK**—That is language in respect of what particular issues?

**Mr Hoy**—I will take that on notice and give you the details.

**Senator COOK**—Thank you. Did you brief the Americans along the lines that the 1996 Workplace Relations Act in Australia is essentially non-controversial, that it merely continues ‘reforms’ that the previous Labor government had intended to pursue and that, while on the surface there may be dissent, essentially there is largely bipartisan agreement about that act?

**Mr Hoy**—Not that I am aware of.

**Senator COOK**—Did you brief the Americans along the lines that the 1996 act does not tilt the playing field in favour of employers away from workers?

**Mr Hoy**—Not that I am aware of.

**Senator COOK**—Are you aware of that question having been raised?

**Mr Hoy**—No.

**Senator COOK**—Are you aware that American congressmen have been briefed in those terms?

**Mr Hoy**—No, I am not aware of that.

**Senator COOK**—If they have been and if that is a fact, would it be accurate?

**Mr Hoy**—That is an opinion, Senator; I cannot comment on that.

**Senator COOK**—Is it an opinion? Perhaps the tilting of the playing field might well be argued as an opinion, and industrial relations is a very subjective jurisdiction, but what is true or not is whether the 1996 act is non-controversial and whether it continues the reforms that the Labor government had intended before the election in 1996 is a matter of fact. Did that question arise?

**Mr Hoy**—I am not aware of that question having arisen.

**Senator COOK**—Are you in a position to explain why American congressmen have been briefed in those terms?

**Mr Hoy**—No.



**Senator COOK**—Mr Hoy, if they had been briefed in those terms it would not be accurate, would it?

**Mr Hoy**—You are asking me for an opinion, Senator.

**Senator COOK**—I am asking you to say whether the 1996 act was based on reforms intended by the previous Labor government?

**Mr Hoy**—That is still an opinion.

**Senator Abetz**—That is not a matter for departmental officials to answer.

**Senator COOK**—In framing the legislation for the 1996 act you drew on particular documents. Did you draw on any documents that had been previously before the Labor government?

**Mr Hoy**—I cannot tell you what documents the government drew on.

**Senator COOK**—Can you tell me, Dr Boxall?

**Dr Boxall**—No, I cannot.

**Senator COOK**—Would you mind taking the question on notice?

**Dr Boxall**—We can take it on notice.

**Senator COOK**—I am asking: to what extent did the 1996 act draw on policy and documentation prepared by the then outgoing Labor government?

**Dr Boxall**—We will take that on notice, as you have requested.

**Senator COOK**—Thank you. And you cannot explain why the American congressmen would have been briefed in those terms?

**Dr Boxall**—Mr Hoy has already given the department's position. The department cannot explain why the American congressmen might or might not have raised that issue.

**Senator COOK**—It was not American congressmen, with great respect, Dr Boxall. In my understanding, American congressmen were briefed by their department—

**Dr Boxall**—I just said that Mr Hoy has given the department's position and we cannot explain why American congressmen might or might not have been briefed like that or might or might not have raised questions in that regard. We simply do not know.

**Senator COOK**—But nothing we told the Americans in our official briefing would have given a foundation for that view?

**Dr Boxall**—No, Mr Hoy has testified that he is not familiar with that issue being raised.

**Senator COOK**—I understand that, and I thank you for reminding me, but my question is: nothing in what we have told them gave them a foundation for that belief?

**Mr Hoy**—Correct.

**Senator COOK**—Thank you. I have nothing further.

**Senator WONG**—What output are we on?

**CHAIR**—Output 2.1, workplace relations policy and analysis.

**Senator WONG**—Advice given within government to other agencies comes under output 2.2, does it?

**Dr Boxall**—Yes.

**Senator WONG**—Is the AWIR Survey I raised at the beginning in that output?

**Dr Boxall**—We can answer that now.

**Mr Hoy**—No money is available to conduct another AWIRS.

**Senator WONG**—I am aware of that. The current budget does not include any funding for an AWIRS.

**Mr Hoy**—Correct.

**Senator WONG**—Did you seek funding for a new AWIRS in this budget?

**Mr Hoy**—I cannot tell you what may or may not have been put up to the government in budget—

**Senator WONG**—Okay. When was the last survey done?

**Mr Hoy**—I think 1994.

**Senator WONG**—1995?

**Mr Hoy**—1994 and 1995—it extended over a couple of years.

**Senator WONG**—The previous one was 1990—they are in about five-year intervals?

**Mr Hoy**—That is correct.

**Senator WONG**—Why has the survey been jettisoned?

**Mr Hoy**—It has not been jettisoned; it is just that money has not been made available for the department to undertake one.

**Senator WONG**—Has there been any work done to estimate how much an AWIRS would cost?

**Mr Hoy**—Yes.

**Senator WONG**—Can you tell me how much it is estimated to cost?

**Mr Hoy**—The previous AWIRS was of the order of \$2.5 million to \$4 million.

**Senator WONG**—And that is over a couple of years?

**Mr Hoy**—Yes.

**Senator WONG**—When was the last time you provided advice to government regarding the possibility and cost of a new AWIRS?

**Mr Hoy**—I cannot answer that question. That is advice to government.

**Senator WONG**—I am not asking what the advice was. I am entitled to ask when the advice was provided.

**Mr Hoy**—It was in the budget process for 2004-05.

**Senator WONG**—So for the most recent budget process?

**Mr Hoy**—Yes.

**Senator WONG**—Was similar advice provided prior to the 2003-04 budget?

**Mr Hoy**—Correct.

**Senator WONG**—And the 2002-03 budget?

**Mr Hoy**—Yes.

**Senator WONG**—And the 2001-02 budget?

**Mr Hoy**—You are stretching my memory.

**Senator WONG**—Has there been any time in the last five years in the budget process where you have not provided this advice?

**Mr Hoy**—Probably not.

**Senator WONG**—What use is the survey?

**Mr Hoy**—From whose perspective?

**Senator WONG**—From the department's perspective. What did you use the previous survey for?

**Mr Hoy**—It was used to underpin a lot of the policy advice to government.

**Senator WONG**—So what sort of data from it was useful?

**Mr Hoy**—It was data relating to the extent of agreement making, award concentration, union density—that sort of thing.

**Senator WONG**—And presumably AWAs?

**Mr Hoy**—AWAs were not available. Enterprise flexibility agreements were available pre-1996.

**Senator WONG**—They were available previously?

**Mr Hoy**—Yes.

**Senator WONG**—Does the department collate information on the number of AWAs, or is that only the Employment Advocate?

**Mr Hoy**—That is the Employment Advocate.

**Senator WONG**—What about certified agreements?

**Mr Hoy**—Yes, we collect that information.

**Senator WONG**—How do you collate that?

**Mr Hoy**—We have a database which collects that information.

**Senator WONG**—Are all certified agreements on the database?

**Mr Hoy**—Yes.

**Senator WONG**—How many are there?

**Mr Hoy**—I will check that figure and provide it to you shortly.

**Senator WONG**—Under this outcome is the ILO organisation subscription as well.

**Mr Hoy**—That is correct.

**Senator WONG**—I asked some questions last time, which I remember seeing in this document, about the cost of the ILO delegation.

**Mr Hoy**—Yes, we provided on notice the costs of delegations.

**Senator WONG**—Can you give me the reference?

**Mr Hoy**—It was question W388-04.

**Senator WONG**—What is the budget allocation for 2004-05 for the equivalent areas that I asked about in that question?

**Mr Hoy**—We do not have a specific allocation like that; it is just included as part of output 2.1.1.

**Senator WONG**—We have gone through this before. Presumably, internally there is some sort of costing of it. Are the costs anticipated to be similar to those that occurred there? What are the anticipated costs?

**Mr Hoy**—There is a delegation currently in Geneva. We have some estimated costs for those but we will not know the actual costs for a little while.

**Senator WONG**—What are the estimated costs?

**Mr Hoy**—If you have a look at the estimate for May-June 2003, which was a similar sized delegation, the cost was \$119,122.51. It would be of that same order, because the delegation is of that same order.

**Senator WONG**—How many people are on that delegation?

**Mr Hoy**—Eight.

**Senator WONG**—Is it biennial?

**Mr Hoy**—It is annual. There is a conference annually but there are governing body meetings twice a year.

**Senator WONG**—So the Geneva 2002-03 were governing bodies, were they?

**Mr Hoy**—Yes. The March 2003 is a governing body meeting. The May-June one was an international labour conference.

**Senator WONG**—My recollection is that there is some advocacy work also done in this output. Is that correct?

**Mr Hoy**—Advocacy work is done on behalf of this output but it is also done on behalf of other outputs in outcome 2.

**Senator WONG**—Yes, but isn't there funding available from this output for advocacy purposes?

**Mr Hoy**—No, it is under 2.2.1.

**Senator WONG**—So you do not fund the costs of intervention by the government in any national wage cases from this output?

**Mr Hoy**—The cost of interventions, if they involve external providers, is done under output 2.1.2, Workplace relations legislation development.

**Senator WONG**—Can you tell me what those costs are? Aren't we on 2.1 now?

**Mr Hoy**—Yes.

**Mr Smythe**—Which particular costs do you wish to know?

**Senator WONG**—I would like to know all of them.

**Mr Smythe**—But for what period?

**Senator WONG**—The current financial year.

**Mr Smythe**—For the current financial year the costs of intervention so far are in the order of \$495,000.

**Senator WONG**—What was the estimated expenditure? Is there a question on notice I should be looking at?

**Dr Boxall**—There was a question on notice from last time, but I am sure that Mr Smythe can update the answer to that question on notice.

**Senator WONG**—But if we were out by \$425,000 there would have been a fair bit between when this was filed and now with the answer you have just given, presumably.

**Mr Smythe**—That is correct.

**Senator WONG**—Can you provide me with what has been expended additional to what has already been provided in this question on notice?

**Mr Smythe**—Are you asking for details of the cases in which we have intervened?

**Senator WONG**—And for how much they cost.

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

**Senator WONG**—The total amount was \$495,000 so far.

**Mr Smythe**—To date, yes.

**Senator WONG**—What was the estimated expenditure for this area in the 2003-04 budget?

**Mr Smythe**—There is not a budget broken down into interventions. There is simply a budget for external legal services.

**Senator WONG**—What is that budget? It combines Mr Cole's area and yours. Is that right?

**Mr Smythe**—It effectively combines the cost of advice we get from the Australian Government Solicitor with that from external sources as well as the cost of intervening in cases.

**Senator WONG**—That covers just your output?

**Mr Smythe**—Yes.

**Senator WONG**—What was the budget allocation for external legal advice for the current financial year?

**Mr Smythe**—It was approximately \$600,000. I will get you a more accurate figure.

**Senator WONG**—What is the budget for that component for the 2004-05 budget?

**Mr Smythe**—I do not know.

**Dr Boxall**—We do not tend to budget by input. Output 2.1.2 has a budget for this financial year, which is in the 2004-05 portfolio budget statement on page 53. Output 2.1.2 has a budget for 2004-05 of \$5.007 million.

**Senator WONG**—You are not able to tell me how much of that is supposed to be spent on external legal advice?

**Dr Boxall**—We do not budget like that. We budget for the price of the output, and we have appropriated that. Then we combine internal resources and external resources to deliver the output required by government.

**Senator WONG**—But to get \$5.007 million, you must have to do some internal budgeting to work out how much you are likely or want to spend on external legal advice.

**Dr Boxall**—It depends on what sorts of issues come up during the year. There might be issues that come up during the year which can be dealt with in-house and there might be issues that come up that need to be dealt with externally. We do not have a budget per se for external advice.

**Senator WONG**—Is there any cap on the external advice or could a lot of the \$5 million be spent on external advice?

**Dr Boxall**—It depends on what is required to deliver the output. We have discussed this before.

**Senator WONG**—Is there any ceiling on the proportion of the \$5 million which could be spent on external advice?

**Dr Boxall**—The ceiling is that we spend taxpayers' money to deliver the government's output. We do not anticipate that we would be spending all of the \$5 million, but then again we do not have a specific budget.

**Senator WONG**—Do the staff salaries come out of this funding?

**Dr Boxall**—Yes, that is the total cost. It includes staff salaries and it includes apportionment of overheads and other suppliers including external legal fees.

**Senator WONG**—You have given me, Mr Smythe, the amount you anticipate to spend, or that was allocated to external advice, for the current financial year, which was \$600,000. Is that right?

**Mr Smythe**—Yes.

**Senator WONG**—The total budget allocation in 2003-04 for that output, which includes the staff overheads et cetera, was how much? I presume that 2.1.1 and 2.1.2 are together?

**Dr Boxall**—As you can probably see from the table, what happened is that last year—

**Senator WONG**—You did not disaggregate.

**Dr Boxall**—They were together and this year they are disaggregated.

**Senator WONG**—Let us go back to last year's figures. Of the \$17½ million, how much of that was staff on-costs, overheads, salaries et cetera?

**Dr Boxall**—We can tell you at the end of the year—

**Senator WONG**—No, I asked for the last financial year.

**Dr Boxall**—We can disaggregate the \$17.572 million at the end of the 2003-04 financial year, but at the beginning of the year we would not have set budgets for particular items within that.

**Senator WONG**—I assume you are very careful with taxpayers' money, Dr Boxall, from what I know of you. I am sure you are not going to be in a position where, because there might be \$50,000 more of external legal fees, you go massively over budget. You are going to have to know at least what your fixed costs are so that you know how much you can spend on the output activity associated with external legal advice.

**Dr Boxall**—That is right—

**Senator WONG**—Isn't what you are doing essentially not answering questions about public expenditure?

**Dr Boxall**—No, we are answering questions about public expenditure. We are appropriated by parliament a certain amount of money for outcome 2, which is disaggregated according to the PBS. It is our duty to deliver the outputs within that budget and then report against it in the financial statement, which we will do.

**Senator WONG**—It is also your duty to attend estimates and answer questions about the expenditure of public money. Mr Smythe has already told me about how much is allocated for external legal advice for the 2003-04 year. All I am asking for from you is how much is the rest of your costs for 2003-04. About how much have you determined? You must have determined that in order to have determined the \$600,000.

**Dr Boxall**—We have the budget of \$17,572 million, that is the estimate, but the budget that is relevant to that was set at the beginning of the year. It is up to the managers within that group—including Mr Smythe and Mr Hoy—to deliver against that. It is not something where you sit down at the beginning of the year and have very concrete budgets for internal or external. It depends on what comes up.

**Senator WONG**—Sure, but for the current financial year—and we are not long off the end of it—how much is spent on on-costs, salaries et cetera?

**Dr Boxall**—That we can do. We can give a breakdown of the estimated actual based on expenditure thus far during the year.

**Senator WONG**—Can you provide that?

**Dr Boxall**—We would have to take it on notice. Mr Hoy can provide part of it now.

**Mr Hoy**—In 2003-04, in round terms output group 2.1, which was the two combined output subgroups, has a direct cost of about \$11 million and the balance is distributed overheads.

**Senator WONG**—The \$11 million is which bit?

**Mr Hoy**—They are the direct costs which cover salaries, administrative costs and the like and the balance of that, \$6 million, are overheads, IT, corporate costs—that sort of thing.

**Senator WONG**—Where is the \$600,000—is it in the \$11 million or the \$6 million?

**Mr Hoy**—It is in the \$11 million.

**Senator WONG**—Of that \$11 million for the 2004-05 or thereabouts, how much is in 2.1.1 and how much is in 2.1.2?

**Mr Hoy**—About \$8 million in 2.1.1 and about \$3 million in 2.1.2.

**Senator WONG**—This is direct salary, on-costs et cetera, but also included out of the \$8 million and \$3 million are the amounts for external legal advice.

**Mr Hoy**—That is correct.

**Senator WONG**—I think, Mr Smythe, we were discussing the interventions subsequent to the answer to the question on notice.

**Mr Smythe**—What is the question?

**Senator WONG**—Of the \$495,000 expenses to date, can you tell me what that was in relation to and how much each of them cost? I am assuming that the ones for the questions on notice remain the same or do they need amendment too?

**Mr Smythe**—Some of those will need amendments. As you would appreciate, as matters progress the legal firms have provided us with the services and send us billing on a monthly basis so some of those figures will have changed. Since the last estimates there have been four new matters in which the minister has intervened on behalf of the Commonwealth. In relation to two of those, we have engaged external legal service providers. I would have to take on notice any costs that we have been billed in relation to those.

**Senator WONG**—Who were the two external legal providers?

**Mr Smythe**—The cases were the AMWU and the CEPU against the *Age*, and BGC Contracting Pty Ltd against the CFMEU.

**Senator WONG**—Who were the external legal providers?

**Mr Smythe**—I will just have to check with one of my colleagues. For the *Age* case the external legal service provider was Blake Dawson Waldron—I am just getting advice on who the other one was—and for the BGC case it was the Australian Government Solicitor in Western Australia.

**Senator WONG**—Do you have up-to-date figures in relation to the cases which are the subject of W394-04—the costs on each of those?

**Mr Smythe**—I think I do. I do not have that question on notice in front of me.

**Senator WONG**—Page 125 of volume 2.



**Mr Smythe**—I should have up-to-date figures in respect of most of those cases, but I just notice that I do not have any figures for the very first one, National Forge. Perhaps I could take the question on notice.

**Senator WONG**—You do not have it for anything else.

**Mr Smythe**—Custom service no payments.

**Senator WONG**—Would you prefer to take this on notice?

**Mr Smythe**—If we go through it, it will take me this long in respect of each one.

**Senator WONG**—Yes. Perhaps you could provide it on notice, in a format similar to what you provide in W394-04—that is, the case and the costs to date. Do you have estimated actual costs for each of them as well? If they are partially complete, I presume you might have made one payment but know how much you are likely to spend on it, or do you now have that?

**Mr Smythe**—Not really, no. As you would be aware, it is often difficult to tell where a case is going to go.

**Senator WONG**—Yes. My clients used to say that. The year to date total now out of this area is \$495,000?

**Mr Smythe**—Of the order of \$495,000. That is not a precise figure but it is close enough.

**Senator WONG**—Thank you. If you could provide the rest on notice, I would appreciate it.

**Mr Hoy**—You asked me a question earlier about the number of certified agreements. As at 31 December 2003 there were 13,059 current agreements.

**Senator WONG**—Both LJ and LK?

**Mr Hoy**—Yes.

**Senator WONG**—That is all on output 2.1.

[4.37 p.m.]

**CHAIR**—We move to output 2.2, Workplace relations implementation.

**Senator WONG**—In the advocacy area, is any external legal advice costed into that output?

**Mr Cole**—No.

**Senator WONG**—If the department brief external counsel or the AGS, funding for that all comes from Mr Smythe's area. Is that right?

**Mr Hoy**—That is so for outcome 2 matters. There may be other matters within the department that are funded through the other outcome.

**Senator WONG**—You need to explain that to me, Mr Hoy. I do not understand what you mean.

**Mr Hoy**—This application deals with provision of legal advice to outcome 2 matters. If some matter involved outcome 1—for example, the Job Network or some corporate matter—it would not be funded out of here.

**Senator WONG**—I understood that. In outcome 2 then, is there any external legal advice funded from Mr Cole's area?

**Mr Hoy**—No.

**Senator WONG**—Mr Cole, did you handle the most recent minimum wage case or did Mr Smythe's area handle that?

**Mr Cole**—I was the Commonwealth representative in the proceedings in the Industrial Relations Commission. In other words, I was the advocate.

**Senator WONG**—How many days were the hearings?

**Mr Cole**—I think the case occupied five sitting days.

**Senator WONG**—How many other officers of the department worked on that case with you?

**Mr Hoy**—Senator, this goes to the questions we have talked about before. We are not able to give you details of that.

**Senator WONG**—I am not interested in banging my head against a brick wall either, Mr Hoy. I did not ask you to cost it; I asked how many people worked on the case.

**Mr Hoy**—I also cannot give you that because there are people there from time to time; it is impossible to give you a figure.

**Senator WONG**—Did anyone else work full time on it for a period?

**Mr Hoy**—Some staff did work full time on it, yes, for a period.

**Senator WONG**—About how many people?

**Mr Hoy**—I am advised that for a fixed period maybe four to five people worked on it full time.

**Senator WONG**—Are we talking weeks, or months?

**Mr Hoy**—Weeks.

**Senator WONG**—Did you have a junior or an instructing solicitor?

**Mr Cole**—There was another officer with me at the Industrial Relations Commission for those five days, sitting at the bar table. There would have been other people contributing to the conduct of our case in the commission but I am not able to aggregate what they would represent.

**Senator WONG**—Was the person who was with you from your area, Mr Cole?

**Mr Cole**—No, it was a person from the policy group.

**Senator WONG**—Was it someone from Mr Smythe's group?

**Mr Cole**—It was someone from Mr Hoy's group—the Workplace Relations Policy Group.

**Senator WONG**—What is the estimated actual expenditure for your area this year to date?

**Dr Boxall**—At page 53 of the portfolio budget statement it shows the estimated actual for the 2003-04 year to be \$778,000.

**Senator WONG**—That is the most up-to-date figure, is it, Mr Cole?

**Mr Cole**—Yes, it is the most up-to-date figure available to me.

**Senator WONG**—How many people work in your area?

**Mr Cole**—There is me, two senior advocates who are at the executive level 2—that is, below the SES level—and occasionally we have a graduate for part of the year.

**Senator WONG**—So would the four or five who worked on the minimum wage case for a period come from your area or Mr Hoy's area?

**Mr Hoy**—They came from 2.1.1.

**Senator WONG**—What were the levels of those officers?

**Mr Hoy**—SES senior officer levels.

**Senator WONG**—All of them?

**Mr Hoy**—There were a variety of officers.

**Senator WONG**—Can you give me the levels?

**Mr Hoy**—My advice is that there was one EL2, three EL1s and one ASO5/6.

**Senator WONG**—I would like to move to Australian government employment advice. Is that where I ask questions about the industry code of conduct?

**Dr Boxall**—Yes.

**Senator WONG**—I recall from previous estimates, Ms Bennett, that you indicated the parameters for the application of the code.

**Ms Bennett**—Yes.

**Senator WONG**—At the last estimates on 19 February you said:

... where the value of the Australian government's contribution to a project is at least \$5 million and represents at least 50 per cent of the total construction project value, or the Australian government contribution to the project is \$10 million or more, irrespective of the proportion of Australian government funding.

Has that been altered?

**Ms Bennett**—No.

**Senator WONG**—The parameters for the application of the code remain identical?

**Ms Bennett**—To what you have just read out, yes.

**Senator WONG**—When was it most recently altered?

**Ms Bennett**—The decision to extend the code to indirectly funded projects was taken by the government on 2 April 2003.

**Senator WONG**—Can you remind me what the rationale for that was?

**Ms Bennett**—I think, as I have previously explained, the royal commission believed that the Commonwealth government should use all leverage available to it as a client in the building industry to influence the culture.

**Senator WONG**—Have there been any discussions about changing those parameters again?

**Ms Bennett**—No.

**Senator WONG**—Have you provided any further advice to government about the application of the code to the Tullamarine Australia Post site that we have discussed quite extensively?

**Ms Bennett**—I think we did provide an answer to you at the estimates, which brought us up to February 2004.

**Senator WONG**—Can you give me the page number?

**Ms Bennett**—It is in a transcript. I think I read it out to you. I am looking at what we have done since the last estimates.

**Senator WONG**—Is there a question on notice that sets this out?

**Ms Bennett**—No, I was able to answer it at the time. Since the last estimates hearing we have provided formal advice to Australia Post on 5 February.

**Senator WONG**—Since the last hearing?

**Ms Bennett**—There has been no other formal contact between Australia Post—

**Senator WONG**—What does ‘formal contact’ mean?

**Ms Bennett**—We have not been asked any further advice from Australia Post on this issue since the last estimates hearing.

**Senator WONG**—Have you discussed the matter with Australia Post since the last estimates hearing?

**Ms Bennett**—I have contacted Australia Post and asked them whether there was any progression on this issue. They have not finalised the issue yet.

**Senator WONG**—In other words, the project is still stalled because it does not meet the government’s code.

**Ms Bennett**—You would have to ask Australia Post.

**Senator WONG**—You are not aware of that?

**Ms Bennett**—No, just that the matter had not been finalised.

**Senator WONG**—But the project is not proceeding because the code is compulsory and, as I understand DEWR’s advice, the current project does not comply with the code. Is that correct?

**Ms Bennett**—That is not my understanding, but you would have to talk to Australia Post. I understand there has been further developments on the scope of the project. I think Australia Post appeared last week and those questions were asked. I think they told the Senate at that time that they were doing further work on the scope of the tender.

**Senator WONG**—But your previous advice was that the project did not comply with the code.

**Ms Bennett**—No, it was never about the project. I do not have the transcript in front of me but I do recall that we explained that our role is to provide advice on tenderers that have been shortlisted by an agency on code compliance to work with the purchasing agency, and it is then a decision made by the purchasing agency as to the next step.

**Senator WONG**—You will recall that you previously confirmed that you had had some discussions with Hansen and Yuncken.

**Ms Bennett**—Yes.

**Senator WONG**—Have you had any further discussions with Hansen and Yuncken?

**Ms Bennett**—No, not since the last estimates.

**Senator WONG**—When was the last time you spoke with them on this issue?

**Ms Bennett**—My records indicate that our last specific advice to Hansen and Yuncken, which I explained at the last estimates hearing, was 23 December 2003.

**Senator WONG**—Have you had any discussions with any of the other tenderers since the last estimates hearing?

**Ms Bennett**—No.

**Senator WONG**—But you had some discussions with other tenderers prior to the last estimates hearing?

**Ms Bennett**—I would just like to go back. The last date that we had contact was 11 December 2003.

**Senator WONG**—What was that answer in relation to?

**Ms Bennett**—I said the last advice was 23 December 2003, but it was 11 December 2003.

**Senator WONG**—Have you had other discussions with other tenderers?

**Ms Bennett**—Since the last estimates, no.

**Senator WONG**—Prior to the last estimates?

**Ms Bennett**—I set those out very specifically at the last session.

**Senator WONG**—Ms Bennett, did your area provide advice to the Australian Electoral Commission on the proposed certified LJ agreement that they had agreed with their staff?

**Ms Bennett**—My area works with a range of agencies. The Australian Electoral Commission is in the process of commencing a new certified agreement and we have been working with them.

**Senator WONG**—It is the case, isn't it, that the agency has in fact met—

**Ms Bennett**—I am sorry, Senator. The Australian Electoral Commission has not finalised the terms of its certified agreement so we have not received a formal request to sign off, which is the procedural arrangement on the Electoral Commission's agreement.

**Senator WONG**—But they have submitted it to you for approval?

**Ms Bennett**—There have been a series of discussions and there has been some draft information. We did receive an earlier final when they first went for an LK agreement, and we signed off on that. They have since come back with aspects of a draft LJ.

**Mr Maynard**—The AEC responded to this line of inquiry at their Senate estimates on Wednesday evening and provided advice that they have not yet formally sought an assessment against the policy parameters. However, they have provided us with an early draft and have sought our initial feedback. We have provided our initial feedback but have not yet undertaken a formal policy parameter assessment.

**Senator WONG**—When did they submit the LK that you referred to?

**Mr Maynard**—Their current certified agreement had a normal expiry of 30 June 2003, and they sought advice on their previous LK agreement prior to the normal expiry date.

**Senator WONG**—Mr Maynard, it is the case, isn't it, that you wrote to the AEC regarding this matter on 5 May? I should let you know that that advice has just been tabled with the Senate Finance and Public Administration Legislation Committee. Do you have a copy of that here?

**Mr Maynard**—Yes, I do.

**Senator WONG**—The advice says, 'I refer to our meeting of 3 May to discuss the AEC's draft certified agreement.' I am paraphrasing the letter, which says further: 'I have now had the opportunity to consider all the information provided and while I acknowledge there are a range of issues impacting on the AEC's ability to achieve productivity improvements, I do not believe the proposed salary increases have been adequately justified. Consequently, the agreement does not meet the requirements of the government's policy parameters for agreement making.' Is that not formal advice, Mr Maynard?

**Dr Boxall**—It has not been submitted yet.

**Senator WONG**—What is the status of this letter if this is not advice?

**Dr Boxall**—The status of the letter is that agencies approach Mr Maynard's area in the run up to get early advice, and if they approach and ask for advice they are given advice. That is what Mr Maynard did. But the bottom line is that the AEC has not provided to us the final agreement for consideration.

**Ms Bennett**—In fact, paragraph four of the letter says, 'in relation to the draft agreement'.

**Senator WONG**—My point is that it has been provided to you and you have provided advice that it does not meet, in your view, the policy parameters of the government. Is that correct?

**Ms Bennett**—At that draft stage.

**Senator WONG**—Okay, but it is something AEC is already prepared to agree with its employees on, is it not?

**Dr Boxall**—The point is that all agencies have to operate within the requirements of the government's policy parameters for agreement making. It is the job of this department to certify whether they are consistent with those parameters or not. Most agencies, including the

AEC, often discuss this with us beforehand, which is just sensible practice. That is what the AEC is doing.

**Senator WONG**—On 26 May, in answer to questions from Senator Faulkner, Mr Becker said:

At this stage we have submitted to DEWR the proposal for a certified agreement that we would like to put to staff as an LJ agreement not an LK agreement.

**Mr Maynard**—Ms Davis' statement clarifies Mr Becker's to say:

This is informal advice at this stage in terms of their view as to whether it meets the policy parameters. We have had a series of ongoing discussions with them about their view. The department's initial informal view was that what we were proposing did not meet the policy parameters. That is still under deliberation.

**Senator WONG**—Amongst your concerns, as I understand it from reading your letter—and I have only just received it—is the up-front nature of the payment on certification and whether or not the wage increases are properly grounded in productivity increases. Is that a fair explanation of your concerns?

**Dr Boxall**—The issue here is that the government's policy parameters for agreement making are widely known. They are on the Internet.

**Ms Bennett**—They are on the Intranet.

**Senator WONG**—I understand that, but that is not the question I am asking.

**Dr Boxall**—I was about to answer the question.

**Senator WONG**—I do not think you were.

**Dr Boxall**—They are on the Internet and agencies discuss with us in the lead up to their agreements various issues. I do not think it is appropriate that we canvass what issues we have discussed with another agency. If the other agency wants to canvass it, so be it.

**Senator WONG**—They have provided answers, and they have also provided the letter. As I understand it from your letter, the major areas of your concerns relate to the fact that the AEC's remuneration policy, in particular the quantum of pay increases, lacks of any significant productivity improvements and retention payments on certification. That is what you said in your letter, isn't it, Mr Maynard?

**Dr Boxall**—It is the position of DEWR at this point. We have nothing to add to that position.

**Senator WONG**—Ms Davis, on page 68 of the *Hansard* of 26 May, said:

The advice from DEWR is that they feel that the pay increase that is being proposed as part of the package is above average, across the APS, and that there are no significant productivity improvements included in our proposed package. There is another concern about the up-front nature of one of the payments proposed in the package. That is the view that they have presented to us at this time.

Senator FAULKNER—Do you accept those views?

Ms Davis—No, we have a different view.

She goes on to explain:

While we can understand DEWR's interpretation of the pay rise, our view is that our staff have not had a pay increase since July 2002.

Isn't it the case that the AEC is comfortable with the agreement and DEWR is preventing it from proceeding because DEWR's advice is that it does not meet the requirements of the government's policy parameters for agreement making?

**Dr Boxall**—That is not the case.

**Senator WONG**—I would be interested to see if you can explain to me how it is not.

**Dr Boxall**—The case is that this is the position, as of the letter of 5 May. We have nothing to add to that position. It is there to be read—given that this letter has been tabled—what concerns DEWR has. It is DEWR's job to assess all agreements against the government's policy parameters and to advise the agency concerned. Indeed, in the case of the AEC, they have yet to submit the final agreement for assessment.

**Senator WONG**—I do not disagree that that is your job, Dr Boxall. All I am saying is the effect of the advice is that you have an agency, where people have not had a pay increase since July 2002, having agreed with its employees the various pay increases linked to various productivity agreements, and DEWR is saying that you cannot proceed with it because it does not meet the policy parameters.

**Dr Boxall**—No, DEWR is not saying that.

**Senator WONG**—DEWR is saying that the current agreement does not meet the requirements of the government's policy parameters for agreement making.

**Dr Boxall**—DEWR has given its advice, which has been tabled, on the draft agreement submitted by the AEC, not the final agreement. DEWR is not preventing anybody from doing anything. The parameters are quite clear. The parameters say that the agency concerned must advise their minister whether the agreement has been assessed by DEWR as being consistent or inconsistent with the parameters. Then, at the end of the day, they can decide whether they want to go ahead with it. So DEWR is not preventing anybody from doing anything. DEWR is doing its job by pointing out where, in our view, the agency's draft agreement—I emphasise 'draft'—is or would be inconsistent with the parameters. We are not preventing anybody from doing anything. The AEC can, if they choose, take our advice and advise their minister, but they must advise their minister whether DEWR has assessed the agreement to be consistent or not consistent with the parameters.

**Senator WONG**—But DEWR's advice is that the current agreement does not meet the requirements of the policy parameters. Correct?

**Dr Boxall**—DEWR's advice is that the draft agreement as submitted would not, in its view, meet the parameters if it were the final agreement.

**Senator WONG**—Minister, given the government is interested in employers and employees dealing with each other directly, can you explain how it is consistent with the government's position to have the AEC management agree with its employees an agreement that another agency in government says does not meet the policy parameters?



**Senator Abetz**—I am not sure that that is necessarily the case. I think the AEC are of the view that the draft agreement may be accepted, but I am not sure they have put it to a vote of the staff.

**Senator WONG**—What they have indicated—and I think you were there, Minister, weren't you?

**Senator Abetz**—I was indeed. I am the minister responsible for the AEC, so I have some working knowledge of this matter. The agreement, as I understand it, has not been voted upon by the employees and, therefore, to assert that the AEC and the workers have reached agreement is an assertion that I am not sure is supported by fact. That is all I am saying. I am in the fortunate position here of having some knowledge of it, but it is not for this portfolio to be exploring something that should have been explored elsewhere other than, as Dr Boxall has put quite properly, what the department's role is in these negotiations. The department has a duty, which it has carried out, to give advice.

**Senator WONG**—Given the government's view that employers and employees should negotiate at the workplace level, without interference from third parties, and given the evidence that the AEC gave at the committee you were at about their support for this agreement, isn't it a bit inconsistent for the government, through DEWR, to be saying to this employer, 'No, you can't put that agreement that you are happy with because it doesn't meet our policy parameters.'

**Senator Abetz**—They are not saying that. You are trying to verbal the department; they would not let you. Now you are trying to verbal me; I won't let you, either.

**Senator WONG**—I am not verballing you; it is a reasonable question.

**Senator Abetz**—Neither the department nor the government is saying that you cannot put it forward. In relation to workers negotiating directly, I believe that about 40 per cent of AEC employees are now on Australian workplace agreements. So we are dealing with 60 per cent of the AEC work force in relation to the certified agreement, and nothing has been ruled in or out as to what will be ultimately submitted to the remaining AEC work force. But the department has a duty to put forward what the government policy parameters are. They have done that. The AEC need to consider them.

**Senator WONG**—I am glad you brought up the AWAs, Minister, because I am a little confused as to why one rule applies to AWAs and one rule appears to apply to a proposed certified agreement. As I understand the evidence of Mr Becker, the quantum for the first two years of the certified agreement is absolutely identical to that which has been previously provided on the AWAs—in other words, workers on AWAs have already got the same increases over the first two years of the proposed certified agreement as employees under the certified agreement would. I would refer you, if you want, Mr Maynard, to the *Hansard* on page 70, which states:

Senator FAULKNER—But we are talking about similar quantum for the certified agreement.

Mr Becker—Absolutely identical to what would otherwise be the case.

Senator FAULKNER—Identical with the certified agreement.

Mr Becker—If we had started a certified agreement on 1 July last year, the pay increase would have been identical to that which was given to the people who opted for the AWA.

Can you explain to me why the government has no difficulty with these same pay increases being given to people on AWAs but advises that the draft agreement which sets out identical payments in the first two years under a certified agreement offends the policy parameters?

**Ms Bennett**—We are not provided with the details of AWAs. Our role is to, as Dr Boxall said, look at certified agreements, and the policy parameters are very explicit about what is required of agencies. AWAs are an individual arrangement between the employer and the employee.

**Senator WONG**—I am perfectly aware of that.

**Ms Bennett**—We are not privy to the content and detail of those.

**Senator WONG**—Given that they are the same pay increase, doesn't that say something about your advice that the policy parameters are offended?

**Dr Boxall**—No, because we are asked to—and it is here on the web site—assess certified agreements against the policy parameters. There are six policy parameters, and agencies must or are obliged to notify their minister whether the agreement has been assessed as consistent or not consistent.

**Senator WONG**—I understand that, and currently your advice is that if they have submitted it in the current form it would not be consistent.

**Dr Boxall**—That is hypothetical, but we have let them know some issues of concern and you have a copy of that letter.

**Senator WONG**—It says, 'Consequently, the current agreement does not meet with the requirements of the government's policy parameters for agreement making.'

**Dr Boxall**—If the current agreement were to be submitted as a final agreement Mr Maynard has pointed out a number of issues, but we do not assess things in advance.

**Senator Abetz**—It is hypothetical.

**Senator WONG**—Minister, you do not see a problem in the government's saying that the proposed agreement does meet the government's policy parameters when the pay increase for the first two years is identical to AWAs that are already in place? The proposed wage increases under the certified agreement which are problematic as far as DEWR is concerned—and I am looking at Mr Maynard's letter on that—are the same as those which have already been effected in the AWAs. In other words, in the AEC you have people working alongside each other who are either getting the pay increase or are not depending on whether you are on the AWA or the certified agreement. Isn't that a concern for the government?

**Senator Abetz**—If you wanted to pursue these sorts of questions you should have been at the Finance and Public Administration hearing.

**Senator WONG**—This is very relevant to this portfolio because it is this portfolio which is providing advice that is preventing the AEC from submitting an agreement that they are happy with.

**Senator Abetz**—Once again, you are asserting.

**Senator WONG**—The only reason they are not submitting it is that this department—it is not that the employees do not agree or the AEC management does not agree—has said it does not fit with the government’s policy parameters.

**Senator Abetz**—Once again, Senator Wong is trying to verbal the department and me as to what is actually occurring. I think it has been explained a number of times now, Mr Chairman, and we should move on.

**CHAIR**—Good idea, Senator.

**Senator WONG**—The minister is not answering the question. He can obfuscate by saying I am verballing him. He is avoiding the question and I can understand why.

**CHAIR**—Senator Wong, I think the minister has provided the answer that he is prepared to provide.

**Senator WONG**—What is the answer then?

**Senator Abetz**—Nobody is stopping the AEC. I think that advice has been clearly given yet you persist in prefacing your questions and remarks by making that assertion.

**Senator WONG**—We will leave that argument to another day. Perhaps you can explain then why wage increases which have already been implemented under AWAs can be seen to transgress the policy parameters for agreement making when in a certified agreement.

**Dr Boxall**—AWAs, as you know, are tailored between the management and the individual employee. The contents of AWAs are confidential. It is a one-on-one agreement. The certified agreement is a collective agreement, and DEWR is required to assess it against the policy parameters.

**Senator WONG**—Minister, you do not see any difficulty with policy parameters that would permit identical increases to be paid under AWAs but would render a certified agreement contrary to the principles?

**Senator Abetz**—As you have just been advised, and I am sure you know, AWAs are confidential agreements. Therefore, if you do not have all the detail of the AWA in front of you, it makes it very difficult to assert that you are comparing apples to apples. You may well be dealing with productivity trade-offs and other matters that I am not aware of. I think it would be wrong to assume that there are not other things in those AWAs that you are unaware of.

**Senator WONG**—But you were there for Mr Becker’s evidence on the identical nature of the increases.

**Senator Abetz**—I think the *Hansard* record will disclose that. There is no great secret about that.

**Senator WONG**—Doesn’t it concern you that on the one hand—

**Senator Abetz**—That I was there when Mr Becker gave his evidence?

**Senator WONG**—Yes.

**Senator Abetz**—No, it does not.

**Senator WONG**—So it does not concern you that some staff are paid differently and that an agreement that would enable them to be paid essentially similar rates transgresses the government's policy parameters?

**Senator Abetz**—You are making an assertion yet again which I do not think is sustainable on the facts.

**Senator WONG**—Which bit of the assertion is not sustained on the facts, Minister?

**Senator Abetz**—That there is a transgression.

**Senator WONG**—That is the advice from the department.

**Senator Abetz**—It is only hypothetical and only in relation to the certified agreement. AWAs are confidential documents. If you are not aware of the detail of each AWA, you cannot come to that conclusion.

**Senator WONG**—Mr Becker has given evidence about the AWAs and the quantum of pay increases.

**Senator Abetz**—I know that before you just quoted part of his evidence—

**Senator WONG**—I have not finished, Minister. Starting again, Mr Becker has given evidence about the identical nature of the quantum of increases. Mr Maynard's letter—and I assume, Minister, that you have seen a copy—says, 'Consequently the current agreement does not meet the requirements of the government's policy parameters of agreement making.' Does it not concern you as minister that an agency is already paying it, but the policy parameters that this department has to advise on indicate that an agreement identical in pay increases would not pass the policy parameter test?

**Senator Abetz**—As indicated to you, it is a hypothetical situation. Informal advice has been sought in relation to a draft certified agreement, and that information has been provided to the Electoral Commission. We know that the Labor Party is against AWAs. If you were to get into power, undoubtedly the 500,000 or so AWAs would all be knocked on the head.

**Senator WONG**—Minister, I do not see what that has to do with my question.

**Senator Abetz**—It is the motivation behind it all. We know that.

**Senator WONG**—The motivation behind it, actually, is to work out how a government can preside over a system which permits some people to be paid more than others and which prevents some people from being paid the same amount. Which part of the question was hypothetical, Minister? Is it the part that says DEWR has provided advice that the agreement does not meet the requirements of the government?

**Senator Abetz**—As I have indicated earlier, an AWA is an individual agreement and a confidential document between the parties. Trying to compare the detail of an unknown document with a hypothetical certified agreement is, in my respectful opinion, not getting us very far.

**Senator WONG**—But, Minister, this is not my opinion. This is the opinion of the employer. This is Mr Becker's opinion.

**Senator Abetz**—About?

**Senator WONG**—The quantum of increases being identical.

**Senator Abetz**—But an AWA does not only deal with the issue of quantum. How many times do I need to say that?

**Senator WONG**—Sure. But isn't that an issue that Mr Becker ought to be able to determine? Shouldn't the AEC management be able to say: 'All right, given what we've got on AWAs, that was a reasonable increase. We think this is a reasonable increase based on what the certified agreement says.' Isn't this consistent with your whole policy approach to agreement making, that things should be left to those at the workplace to sort out?

**Senator Abetz**—In general terms I would agree with you, but there are policy parameters and at the end of the day it is taxpayers' money that we are dealing with. The government is concerned to ensure that those negotiations are conducted within certain parameters.

**Senator WONG**—You cannot answer it, Minister, can you?

**Senator Abetz**—Just because you do not like the answer does not mean that I am not answering it.

**CHAIR**—Order! Senator Wong, you have asked questions the minister can answer—

**Senator WONG**—Or not answer.

**CHAIR**—but, if the minister has finished his answer, he has finished his answer. So let us move on.

**Senator WONG**—Has there been a document produced by the department setting out the protocol for departmental officers dealing with union officials?

**Dr Boxall**—Not that I am aware of.

**Senator WONG**—I have been provided with a document headed *Protocol for Unions*, and it deals with email use and access to departmental premises.

**Dr Boxall**—I think that might be to do with our certified agreement.

**Senator WONG**—I am sorry. I thought it was advice generally to departments.

**Dr Boxall**—My staff are confirming that that is correct, that that is to do with our certified agreement.

**Senator WONG**—Mr Symon prepared this, did he?

**Dr Boxall**—It is an internal corporate matter for the department. It is not advice that has been distributed to other agencies. That is my understanding.

**Senator WONG**—Sure. Can I just clarify some issues with respect to this document? I assumed it had been given to all—

**Dr Boxall**—Certainly.

**Senator WONG**—Mr Symon, you do not have a copy of this?

**Mr Symon**—No.

**Senator WONG**—Just to clarify: I understand from Dr Boxall that this is produced for the department itself, not for other agencies. Is that right?

**Mr Symon**—I do not have the document, but I think from what you have said so far it is an internal document for within the department, yes, that is relevant to our current certified agreement negotiations.

**Senator WONG**—Has this or similar advice been provided to other agencies?

**Mr Symon**—No.

**Dr Boxall**—That is an internal advice for us.

**Senator WONG**—When did you develop this protocol, Mr Symon?

**Mr Symon**—Given our discussion this morning, you would know we are doing it directly with staff this time. Senior officers within the department, normally at SES level, are conducting those briefings. It is to assist them.

**Senator WONG**—You do not have a copy of this?

**Mr Symon**—No, I do not.

**Senator WONG**—I will get you a copy of that. While that is being done I will go back to the advice provided from the department to other agencies. Is it the case that DEWR has provided recent advice to departments regarding right of entry of union officials?

**Dr Boxall**—It is true that recently at the APS roundtable there was a discussion paper on right of entry issues among other issues.

**Senator WONG**—What is the body that had this discussion?

**Dr Boxall**—It was the APS roundtable.

**Senator WONG**—What about Corporate Management Network. Have they discussed this?

**Ms Bennett**—Yes, it was discussed.

**Senator WONG**—As a result of those discussions what advice has been provided to departments?

**Ms Bennett**—No advice has been provided. It was a topic of discussion in which HR managers in the public sector discussed the issue.

**Senator WONG**—Mr Maynard, are you the ComNet person? Is that the right phrase?

**Mr Maynard**—ComNet is the name of the forum, yes.

**Senator WONG**—Was an agenda item prepared by the department in relation to right of entry?

**Mr Maynard**—The department prepares a standing report for each ComNet meeting. One of the items that would have been up for discussion would have been right of entry.

**Senator WONG**—And there was a written submission, wasn't there?

**Mr Maynard**—There is a written standing report provided to each of the ComNet meetings by a number of agencies.

**Senator WONG**—But from DEWR there was a written submission on right of entry?

**Mr Maynard**—Yes, DEWR provides a written standing report.

**Senator WONG**—Did you do that?

**Mr Maynard**—No, it was by one of my staff.

**Senator WONG**—Is it the case that that written submission stated that agencies should not include right of entry provisions in their agreement?

**Dr Boxall**—We would have to have a look at the—

**Senator WONG**—Do you have it here?

**Mr Maynard**—I do not have a copy of that here.

**Senator WONG**—Are you able to get one?

**Mr Maynard**—We can take that on notice.

**Senator WONG**—I can provide you with a copy.

**Ms Bennett**—The December 2003 guidelines, ‘Policy parameters for agreement making in the APS’, which is available to all agencies, says:

The WR Act provides for a representative of a union eligible to represent employees in an agency to enter the agency’s premises without the permission of the employer to investigate during working hours suspected breaches of the WR Act or obligations under the WR Act ...

It goes on about the act and then continues:

It is important that agencies ensure that union representatives observe the provisions of the WR Act. Given the provisions of the WR Act, there is no need for agencies to include right of entry provisions in their agreements, nor would it be appropriate for enhanced right of entry arrangements to be established through agreements.

**Senator WONG**—Are we dealing with you first, Mr Maynard?

**Ms Bennett**—We can deal with the right of entry issue first.

**Senator WONG**—Thank you. Explain to me the status of this document.

**Ms Bennett**—It is a summary of the policy parameters I read out to you. It was provided to ComNet as this issue emerged. It was a standing brief.

**Senator WONG**—The statement which says that agencies should not include entry provisions in their agreements—is that now Commonwealth government policy?

**Ms Bennett**—Yes, it is policy that they should abide by the act by not enhance those provisions.

**Senator WONG**—It is the case, is it not, that the practice in quite a number of agencies is that somewhat more access than is required under the act has been provided to union officials?

**Dr Boxall**—As this note says, recently we have received a number of queries from agencies concerning right of entry and expressing concern. This note summarises the position and clarifies it for ComNet members.

**Senator WONG**—Ms Bennett, I think your evidence was that agencies should not provide enhanced right of entry provisions in their agreements. Is that correct?

**Ms Bennett**—It said it would not be appropriate for enhanced right of entry arrangements to be established through agreements, yes.

**Senator WONG**—This document appears to go further—should not include right of entry provisions in their agreements.

**Ms Bennett**—Yes. I think they are consistent. It uses the word ‘inappropriate’, as do the guidelines.

**Senator WONG**—Where is that?

**Ms Bennett**—‘It would be inappropriate to provide union officials with access cards ...’

**Senator WONG**—That is the next paragraph. The previous paragraph says, ‘Agencies ... should not include right of entry provisions in their agreements.’

**Ms Bennett**—It says that they ‘do not need to and should not include right of entry provisions in their agreements’.

**Senator WONG**—There are some departments or agencies, are there not, that have provided union officials with access cards to Commonwealth buildings?

**Dr Boxall**—There might be.

**Senator WONG**—Are you aware of that or not?

**Ms Bennett**—We have had inquiries from agencies about the right of entry provisions. In response to those, we have clarified the supporting guidelines for the policy parameters.

**Senator WONG**—Has this issue been discussed with the minister’s office?

**Ms Bennett**—No.

**Senator WONG**—Never?

**Ms Bennett**—No.

**Dr Boxall**—The department’s position is that this issue has not been discussed.

**Senator WONG**—Which issue?

**Dr Boxall**—The issue you are asking about.

**Senator WONG**—Which issue?

**Ms Bennett**—This piece of paper.

**Senator WONG**—Fair enough. You would make good lawyers! Has right of entry of union officials to Commonwealth offices been discussed with the minister’s office this year?

**Dr Boxall**—Not that I am aware of.

**Senator WONG**—Are you aware, Mr Maynard?

**Mr Maynard**—Not that I am aware of.

**Senator WONG**—When was the policy to not include ‘enhanced’—I am trying to use your words so that we do not have another argument—right of entry provisions and agreements arrived at?



**Ms Bennett**—The supporting guidance that is provided to agencies and sits in the policy parameters was last issued in December 2003, but my understanding is that that aspect of right of entry has been part of the guidance since the policy parameters were established. So since 1997 it has been an inclusion in advice to agencies.

**Senator WONG**—How long has the prohibition against unions meeting with employees during working hours been in place?

**Dr Boxall**—Which piece of paper is that on?

**Senator WONG**—‘Discussions with employees must not be during working hours.’

**Ms Bennett**—This is additional clarification of what is available in the guidelines provided to agencies in response to instances that they have had recently about problems with right of entry. It was a summary to focus the discussion of a group of Public Service managers.

**Senator WONG**—Ms Bennett, I am not trying to go after whoever prepared this, and I can accept that it might be a shorthand document. What I am asking is: is the government’s position that meetings with employees should not occur within working hours a blanket prohibition? Is that correct?

**Ms Bennett**—This relates to the hours. If all employees stop working to meet with a union official, it is a stop-work meeting. This is explaining that, for the Public Service, ‘during working hours’ ranges between agencies. If they want to hold that discussion during their lunchtime or after hours that is acceptable. It is shorthand for saying that, if you stop in the middle of the working hours of your agency, it is a stop-work meeting.

**Senator WONG**—You would accept that that is reading a lot into that sentence.

**Ms Bennett**—It was a five-paragraph note provided to a group of people that understand the environment.

**Senator WONG**—I am not going to labour that point. Is the advice to DEWR, in terms of your policy parameters et cetera, that employees cannot meet with the union during working hours?

**Ms Bennett**—That is a provision under the Workplace Relations Act.

**Dr Boxall**—This very wisely is cautioning people that, if in the event that unions were to meet with agencies during working hours, they could be having a stop-work meeting and it could be considered unprotected action.

**Senator WONG**—Where is that?

**Dr Boxall**—That is the implication of it.

**Senator WONG**—Which bit implies that?

**Dr Boxall**—Ms Bennett just explained that this says that, if discussions with employees were to take place during working hours, that would be a stop-work meeting.

**Senator WONG**—I can accept that this is an internal document, and I do not want to cross-examine somebody who is obviously not at the table, but I am genuinely trying to work out what DEWR’s advice is.

**Dr Boxall**—DEWR's advice is that discussions with employees should not take place during working hours.

**Senator WONG**—That is the advice.

**Ms Bennett**—It is in accordance with the Workplace Relations Act.

**Dr Boxall**—It is consistent with the Workplace Relations Act.

**Senator WONG**—Is there a blanket prohibition on a union holding discussions with employees during working hours?

**Ms Bennett**—It depends on a number of circumstances, as you are aware.

**Senator WONG**—I am not, actually. Tell me what they are.

**Ms Bennett**—It depends on what type of certified agreement they are negotiating. It depends on what point they are at in the agreement making cycle. If they are doing an LJ agreement, it may be agreed to that they would meet. But generally, during the normal period of the agreement making process, the union would not walk into the workplace and have people stop work to have a discussion with them.

**Senator WONG**—Are you satisfied that agencies understand the nuances of the advice you just gave, given that it is not spelt out in this memo?

**Ms Bennett**—We have not provided formal advice. It was a summary of a discussion between people whose expertise was human resource and workplace relations issues. It is a summary of that discussion.

**Senator WONG**—Isn't it the case—

**Ms Bennett**—Can I add a clarification—thanks to my colleagues behind me. I want to state explicitly that section 285C(2) of the Workplace Relations Act states:

The person may only enter the premises during working hours and may only hold the discussions during the employees' meal-time or other breaks.

**Senator WONG**—I am familiar with that.

**Ms Bennett**—It is not inconsistent with what the act says.

**Senator WONG**—So that is the government's position, is it? That is the advice to agencies?

**Ms Bennett**—We abide by the legislation.

**Senator Abetz**—That is the legislative position as passed by the parliament.

**Senator WONG**—Does this memo identify correctly DEWR's advice that it is inappropriate to provide union officials with access cards?

**Ms Bennett**—Yes, it does.

**Senator WONG**—Is it also the DEWR position in terms of advice to agencies that agencies should be vigilant in ensuring compliance regarding the use of email by union representatives?

**Dr Boxall**—Yes.

**Ms Bennett**—Yes.

**Senator WONG**—So you tell agencies they have to watch people, that they do not use email for union related activities?

**Dr Boxall**—No, it says they should be vigilant.

**Ms Bennett**—They should be vigilant to make sure that it is in accordance with whatever arrangements they have in place.

**Senator WONG**—It is the case, isn't it, that this is a more stringent set of guidelines in relation to union officials and union activities at the workplace level within the Commonwealth public sector than has previously existed?

**Dr Boxall**—No, it is not the case.

**Senator WONG**—Can we go to the protocol for unions, Mr Symon. When was this document prepared?

**Mr Symon**—Packs of material were put together for our senior executive officers because they would actually be doing the briefings directly with their staff. Those packs were put together some two months ago, as I recall.

**Senator WONG**—Prior to this document being prepared, isn't it the case that the required 24-hour notice was not enforced by DEWR?

**Mr Symon**—I am not aware that we have changed position. I did the certified agreement negotiation 2002 and, as I recall, these protocols were in place at that time. I might say that the CPSU has been adhering to this. It has been sending me faxes and so forth and giving me notification.

**Senator WONG**—Are you able to provide me with documents which demonstrate the protocols prior to the preparation of this document?

**Mr Symon**—I would have to go to the Internet because that is probably where it is. I can forward you that information.

**Senator WONG**—How long has the requirement to seek permission to use a meeting room—I should say it is permission from you, not from the relevant section head or whatever—been in place? How long has the requirement that you sign off on meeting room use by members been in place?

**Mr Symon**—To my knowledge, there has been for some time a requirement for the CPSU or the MEAA to give us notification. Whether that was HR branch or me personally I cannot recall. To my knowledge, there has for some time been a requirement for them to give us notification of their intention to have a meeting.

**Senator WONG**—That is not the question I asked.

**Mr Symon**—No, your question was whether it went to me personally.

**Senator WONG**—No, I did not ask that either. I am talking about:

Union delegates: [must] seek permission to use departmental facilities such as meeting rooms from Craig Symon ... or from the relevant State or Territory Manager.

How long has that been in place?

**Mr Symon**—The requirement, in exactly the way you spelt it out, would have been in place from the time we issued those packs to the SES so that they know what the requirements are.

**Senator WONG**—Why has that requirement been developed?

**Mr Symon**—There always had been a requirement that they notify, but not notify me personally.

**Senator WONG**—Seek permission to use a meeting room: was that always the requirement?

**Mr Symon**—Yes, that is my understanding. They cannot just come into the department and use our meeting rooms without asking permission.

**Senator WONG**—I am talking about employees, though. Let us leave that. Why is it required that you give permission?

**Dr Boxall**—Because he is the General Manager of Corporate and because the General Manager of Corporate is the point of contact for any issues that the unions might want to raise.

**Mr Symon**—I have never said no. I do get these requests quite frequently.

**Senator WONG**—Do you report to Dr Boxall, or anyone else in management, the frequency of those meetings?

**Dr Boxall**—Mr Symon reports to me. He has been delegated with the responsibility by management board, and that is why his name is on that notice.

**Senator WONG**—Do you report the occurrence of meetings to management?

**Mr Symon**—No, but I would if asked.

**Senator WONG**—Is assistance to the Employment Advocate you, Mr Hoy?

**Mr Hoy**—It was dealt with first thing this morning.

**Senator WONG**—It says ‘Assistance to the Employment Advocate’.

**Mr Hoy**—Yes, but that is the particular output Mr Hamberger works under.

**Ms Bennett**—It is his money.

**Senator WONG**—It is his money?

**Mr Hoy**—Yes.

**Senator WONG**—Does someone work in your area that assists him?

**Mr Hoy**—No.

**Senator WONG**—So why does it appear on this?

**Mr Hoy**—Because it is part of outcome 2.

**Senator WONG**—Fair enough. And AWA assessment is him too?

**Mr Hoy**—Yes.

**Proceedings suspended from 5.43 p.m. to 5.48 p.m.**

**CHAIR**—We now move to workplace relations services.

**Senator WONG**—In answer to question on notice No. W41304 you advised that there was a complete contracting out of the inquiry in compliance services in relation to Queensland, Tasmania, Western Australia and South Australia.

**Ms Connell**—Correct.

**Senator WONG**—I want to check the terms of those agreements. Are there any terms that outline the quantum of matters that can be pursued to prosecution?

**Ms Connell**—Not explicitly.

**Senator WONG**—Is it the case that states are not funded to pursue prosecutions for the recovery of employee entitlements if the amount claimed is less than \$10,000?

**Dr Boxall**—Senator Wong, that question has been answered on notice. The question about the threshold of \$10,000 has been answered several times, and most recently the minister gave an answer on notice that there is no such Australian government policy.

**Senator WONG**—Why might the states think that?

**Dr Boxall**—I do not know. You will have to ask the states why they think that.

**Senator WONG**—Do you have the contracts in relation to this contracting out?

**Ms Connell**—I do not have a copy of the contract with me.

**Senator WONG**—Is it the same contract for all four states?

**Ms Connell**—It is.

**Senator WONG**—Can you provide that on notice?

**Ms Connell**—We can take that on notice.

**Senator WONG**—Is there a difficulty in providing that?

**Dr Boxall**—We said that we would take it on notice, Senator Wong.

**Senator WONG**—What do the terms of the contract say in relation to prosecutions?

**Mr Kibble**—The contracts indicate that they need to get my approval before they launch a prosecution and that the prosecutions need to be consistent with the policies of DEWR and the Australian government in terms of whether a prosecution should be launched.

**Senator WONG**—What are the policies that determine that?

**Mr Kibble**—We have a policy guide that applies in the Office of Workplace Services and to the contracted states which sets out criteria against which we judge each matter.

**Senator WONG**—Do you have a copy of that here?

**Mr Kibble**—I have the relevant extract here.

**Senator WONG**—Which has the criteria?

**Mr Kibble**—Yes.

**Senator WONG**—Can I have a look at that?

**Mr Kibble**—I will read it out.

**Senator WONG**—I would like to have it in front of me so that I can ask questions. What is the difficulty in providing a copy?

**Dr Boxall**—Mr Chairman, this is an internal document. It is on the intranet only and Mr Kibble is prepared to give an outline of it.

**Senator WONG**—The Clerk has provided some clarification of the rules that deal with questions and answers in these committees. The fact that a document is internal is not a ground to not provide it. We are talking about the document that sets the guidelines for expenditure of public moneys on prosecutions. I am surprised that you do not want that provided to me, Dr Boxall.

**Dr Boxall**—I did not say I did not want to provide it. We will take it on notice about whether we can provide it.

**Senator WONG**—On what basis can you not provide it?

**Dr Boxall**—We need to consult with our minister. We just cannot hand out internal documents without consulting with our minister. We are here answering questions on behalf of the minister, not on behalf of ourselves.

**Senator WONG**—You have indicated that you will refer it to the minister for advice. At least we will know who makes the decision either to release the information or to not release it. Do the criteria refer to a quantum amount?

**Mr Kibble**—The criteria indicate that amounts of less than \$10,000 should generally be dealt with under the small claims procedures. However, if a particular case clearly warrants litigation action by the department or by the contracted state on the basis of the above criteria, the amount of \$10,000 should not be seen as a limit which precludes such action from being recommended or approved.

**Senator WONG**—Have you ever approved action for under \$10,000?

**Mr Kibble**—Since 1 January 1997, 22 per cent of the departmental prosecutions have involved amounts of less than \$10,000. The most recent one involves an amount of \$770 in Western Australia.

**Senator WONG**—Have you approved one under \$10,000 this year?

**Mr Kibble**—Yes, in April.

**Senator WONG**—I thought you had answered no to that and then you went on to say something else, but I must have misheard you. So there is a limit of \$10,000 with the exception that they can come back to you and ask you if you will fund it.

**Mr Kibble**—I read out the consideration in terms of the \$10,000. I have nothing more to add.

**Senator WONG**—The small claims jurisdiction is not part of this contract funding, though, is it?

**Mr Kibble**—Excuse me?

**Senator WONG**—I think the parameter you read out suggests that the matter could be dealt with via the small claims jurisdiction. The states are not funded to handle such a matter in the small claims jurisdictions or the magistrate's court, are they?

**Mr Kibble**—There is no difference as far as I am concerned. Small claims procedures, as you would be aware—

**Senator WONG**—I am familiar with them.

**Mr Kibble**—do not involve legal representation.

**Senator WONG**—No.

**Mr Kibble**—There is no difference in the funding of it.

**Senator WONG**—No. You misunderstand my question. The states are funded to run prosecutions as part of the compliance contracting out.

**Mr Kibble**—True.

**Senator WONG**—They are not funded under these contracts to manage the small claims procedure to which you refer.

**Mr Kibble**—No, they are not. The arrangements in the contracted states mirror those that we apply in the Office of Workplace Services in that we provide a great deal of assistance to people who choose to take a small claims procedure.

**Senator WONG**—How long have these arrangements been in place? This is for this financial year, isn't it?

**Dr Boxall**—Since 1997.

**Mr Kibble**—Yes.

**Senator WONG**—Have the criteria that you have just read out about the \$10,000 issue always been the case?

**Ms Connell**—Yes, they have. They have been in place since 1997 as well.

**Senator WONG**—In how many cases this year have you approved prosecutions where the quantum claimed is less than \$10,000?

**Mr Kibble**—Three.

**Senator WONG**—Out of how many?

**Mr Kibble**—Seven departmentally approved prosecutions.

**Senator WONG**—How many?

**Mr Kibble**—Three out of seven.

**Senator WONG**—You have only approved, in four states, seven prosecutions? I used to do more than that in one union.

**Dr Boxall**—That is because we settle ours by mediation!

**Senator WONG**—Yes, for what?

**Dr Boxall**—As we testified last time, most of these cases are settled by mediation without recourse to litigation orders. Indeed, as Mr Hoy reminds me, 93 per cent of them are.

**Senator WONG**—I am familiar with some of the advice that is provided by the department about the sorts of settlement offers people should get. It is very poor.

**Dr Boxall**—The position last time that we testified was that it was over 90 per cent.

**Senator WONG**—Are the contract amounts that you have set out in your answer to question on notice 1413-04 disaggregated into a certain amount for prosecutions and other activities?

**Mr Kibble**—No.

**Senator WONG**—If someone seeks your permission to run a prosecution for less than \$10,000—as in the three out of seven cases that you have described—do they get additional funding if you approve it?

**Mr Kibble**—The cases would be funded in the same way that our OWS cases are funded, out of the funds administered under Mr Smythe's output.

**Senator WONG**—So the contract amounts in this answer do not relate to prosecution expenditure. Is that right?

**Mr Kibble**—True.

**Senator WONG**—Any prosecutions taken are funded out of Mr Smythe's area?

**Mr Kibble**—Correct.

**Senator WONG**—How much has been spent in the current financial year to date?

**Mr Kibble**—I have got that figure. Senator, we took this question on notice; it is W396.

**Senator WONG**—Yes, but it was only the figures to 17 February.

**Mr Kibble**—I see.

**Senator WONG**—Are you able to tell me?

**Mr Kibble**—Yes. The year to date figures in relation to (a) are \$24,487.89.

**Senator WONG**—This is W396-04?

**Mr Kibble**—Yes.

**Senator WONG**—What about (b)?

**Mr Kibble**—Filing fees are \$373.

**Senator WONG**—Same matter continuing. Can we go back to W395-04? Are you able to give me updated figures there?

**Mr Kibble**—In terms of the way the question was asked and answered, I cannot give you those figures in the sense that our reporting systems are based on the complaints finalised in a period. That is our own AWS reporting arrangements, and also out in the contracted states. I can give you figures for complaints finalised in the first three quarters of this financial year.



**Senator WONG**—Are you able to give me the number of complaints received to date that you are aware of? I appreciate there might be a time lag between the state and you hearing about it.

**Mr Kibble**—What I can give you is the breakdown of the number of complaints finalised in the first three quarters.

**Senator WONG**—You do not know how many complaints were received?

**Mr Kibble**—I can give you a figure. It was 5,254.

**Senator WONG**—To what date is that?

**Mr Kibble**—To 31 March.

**Senator WONG**—Is that for this financial year?

**Mr Kibble**—That is from 1 July 2003.

**Senator WONG**—How many of those have resulted in prosecution?

**Mr Kibble**—There we have a slight disconnection, but I can tell you that we have finalised 5,285 cases. I must emphasise this is not only AWS but also the contracted states of the whole federal system. We have finalised 5,285 cases in the first three quarters. Your question was about litigation?

**Senator WONG**—Yes.

**Mr Kibble**—There are 203 cases involving seven departmental and 196 small claims.

**Senator WONG**—Does that tie back to your previous answer, which was that you have had seven prosecutions?

**Mr Kibble**—We had seven departmental prosecutions and 196 small claims procedures.

**Senator WONG**—You do not provide any advocacy for them. You just tell them to go to the magistrates court and file a small claims procedure.

**Mr Kibble**—We provide them with a kit, which includes advice about the operations of small claims procedures and courts. We provide them with the evidence and in a great number of cases we actually go down to the court, at the court's invitation, to act as a friend of the court and assist the employee.

**Senator WONG**—I thought you said you did not fund the states to do that. I thought that activity in relation to small claims procedure was not funded under the contracts. Is that not right?

**Mr Kibble**—You asked about legal representation. Certainly an inspector going down to provide advice about the details of a case to the court is part of that.

**Senator WONG**—As a question on notice, then, can you tell me how many times that has occurred?

**Mr Kibble**—Yes.

**Senator WONG**—I would like to know about actual attendance at the court by a Commonwealth officer as an amicus curiae or on whatever basis it is that you go down to the small claims court or magistrates court.

**Mr Kibble**—We can take that on notice.

**Senator MARSHALL**—I would like to ask some questions about the Workplace Relations Amendment (Improved Protection for Victorian Workers) Act 2003. I think at the last estimates hearings questions were asked about the increased numbers of inquiries as a result of the passing of that legislation. Can you tell me what is happening now and whether there has been an increase in inquiries?

**Mr Kibble**—We do not record the number of inquiries, fact sheets or industry visits as a separate item in terms of inquiries about the Victorian legislation. We are providing information and education activities.

**Senator MARSHALL**—No, I am sorry, we are talking about the federal legislation. It is not Victorian legislation.

**Mr Kibble**—That is right. The question on notice that we took last time related to the number of brochures, fact sheets et cetera that we had provided. As we answered at the time, the information is only available in that form because people access the Internet for fact sheets and they ring up Wageline et cetera. We do not record that information.

**Senator MARSHALL**—So you cannot tell us whether there has been any increase in activity? This legislation will encompass, potentially, up to half a million extra workers.

**Mr Kibble**—There may well have been increased activity, certainly in the short term. As you will appreciate, not all of the legislation has come into force.

**Senator MARSHALL**—Indeed.

**Mr Kibble**—The department is undertaking proactive information and educative activities for employees and employers and is producing fact sheets and brochures, which are generally available. But in terms of providing exact numbers, we do not record that.

**Senator MARSHALL**—Has there been a general increase in calls since the act was passed?

**Mr Kibble**—I am not aware that there has been an increase in calls.

**Senator MARSHALL**—Can you confirm that the Geelong office of the Office of Workplace Services was closed down on 2 April 2004?

**Ms Connell**—In light of some changes to our office leasing arrangements in Geelong there has been a move to a more mobile service being delivered out of Geelong offices.

**Senator MARSHALL**—What does that mean? Is that the services are still there but they are not being provided out of a specific office?

**Ms Connell**—That is correct.

**Senator MARSHALL**—How are the services being provided then, in a mobile form?

**Ms Connell**—There is a variety in the provision of services. We still provide our Wageline telephone service, which is operated from the Melbourne and Bendigo offices. All written inquiries and email inquiries are provided through the Melbourne and Bendigo offices. We have a workplace advisory service and educational activities which are delivered from the Melbourne office but are on site in Geelong. We still provide compliance activities within

Geelong. We can interview clients in Geelong, Ballarat, Warrnambool and that whole area as required.

**Senator MARSHALL**—How do you interview people in Geelong?

**Ms Connell**—We have compliance officers on site in Geelong.

**Senator MARSHALL**—You provide officers on site?

**Ms Connell**—Yes, as required.

**Senator MARSHALL**—How much does that process cost?

**Ms Connell**—I do not have a breakdown of that cost. It is part of the overall budget for the state office in Victoria.

**Senator MARSHALL**—Do you know how much money will be saved as a result of the closure?

**Ms Connell**—There are no savings to the service delivery in Geelong as the office is still operating with a full range of services.

**Senator MARSHALL**—But I thought you had confirmed that it had closed?

**Ms Connell**—The leasing arrangements have altered, yes. I cannot give you a cost on the savings for the lease.

**Senator MARSHALL**—You will need to take me back a little. I thought you said that the office had closed but that the services were being provided on a more mobile basis. We talked about how that was being provided. So you are now saying that we are maintaining the office and providing services on a mobile basis and not using the office which we still have?

**Ms Connell**—We are not using the office that was previously being leased, but we are making use of other office facilities in Geelong as required.

**Senator MARSHALL**—Can you explain to me how that fits together?

**Ms Connell**—We provide the full range of services that are offered through the Office of Workplace Services—Wageline, written and email inquiries, compliance, workplace advisory service, education—and we deliver those as required and as is demanded.

**Senator MARSHALL**—Where are the other offices that you use as required?

**Ms Connell**—We are making use of some office space in Centrelink, I understand, and in the Warrnambool Business Centre there is office space that has been made available to us.

**Senator MARSHALL**—Is there a cost attached to that?

**Ms Connell**—No additional cost. It is part of the overall budget for the state office.

**Senator MARSHALL**—What is happening to the building that has had the changed lease arrangements applied to it?

**Ms Connell**—The lease expired in May.

**Senator MARSHALL**—So we do not have it anymore?

**Ms Connell**—We did not renew the lease, correct.

**Senator MARSHALL**—So we do not have that building. How much money is being saved as a result of not renewing that lease?

**Ms Connell**—I am not sure.

**Senator MARSHALL**—Can you find out for me?

**Ms Connell**—I will take that on notice.

**Senator MARSHALL**—How many other regional offices have been closed down since 1996?

**Ms Connell**—I do not believe there has been a closure of any regional office.

**Dr Boxall**—There have been closures of regional offices for the department as a whole, but Ms Connell is saying that she cannot recall any offices of the Office of Workplace Services being closed.

**Senator MARSHALL**—Given that the particular legislation we are talking about predominantly covers rural workers and brings them under the Workplace Relations Act in its full form, I am concerned to know how we are going to provide the basic services in the regional areas where a lot of the workers who are covered are going to be coming from. Can you tell me what costs we are expecting as a result of that and what our plans are for the regional areas?

**Ms Connell**—The full range of services will continue to be offered through our regional offices and our city based offices as required.

**Senator COOK**—I would like to take up some questions that arose from the questioning by Senator Wong. At the additional estimates in February Senator Wong put this question on notice, dated 19 February, in writing:

What is the basis of the policy of the Commonwealth not to pursue claims of unpaid entitlements under federal award agreements where the claim does not exceed \$10,000 (submission of counsel assisting nonpayment of workers entitlements para. 333) especially given that the Commonwealth accepts that the majority of claims are under this \$10,000 threshold (para. 49)?

The answer provided was:

There is no such government policy.

I suppose the answer is technically correct, but it does not advert to the fact that there is a special criterion that applies to claims under \$10,000. Is there some reason for not providing that information?

**Dr Boxall**—This is the minister's answer. We have nothing to add. As you say, it is technically correct.

**Senator COOK**—But the fact is that you do not automatically pursue claims under \$10,000, do you?

**Dr Boxall**—The fact is we do not automatically pursue any claim. Mr Kibble has testified that the department's position is that when an issue like this is raised by the Office of Workplace Services or the contracted states that are providing the Office of Workplace Services they need to check with the assistant secretary in Mr Kibble's position.

**Senator COOK**—That is a different matter. It is the fact that you do not pursue any claim. That is patently true. Obviously you discriminate about which claims you believe are grounded and have a chance of success and which claims do not and which are frivolous. My question was not about whether you do not pursue any claims. My question was about the special rules you have for claims under \$10,000.

**Dr Boxall**—The guideline that Mr Kibble referred to is quite clear.

**Senator COOK**—Senator Wong is asking about claims under \$10,000 and you are saying there is no such government policy. But there is a policy.

**Dr Boxall**—No, I am not saying anything. This is the minister's answer. The minister tabled this answer after last Senate estimates and the answer, as you point out, is correct. Indeed, it says here—Mr Kibble made this point but I will repeat it:

If a particular case clearly warrants litigation action by the department on the basis of the above criteria, the amount of \$10,000 should not be seen as a limit which precludes such action from being recommended or approved.

So it is up to the Office of Workplace Services and the contracted states to present a case to the assistant secretary and a decision will be made.

**Senator COOK**—Let us get things in logical sequence, if we may. Someone comes forward with a claim under \$10,000. You do not treat that claim in the same manner as you would if someone comes forward with a claim over \$10,000, do you?

**Mr Kibble**—People would not see that a difference should be imposed in the treatment of a claim. The \$10,000 limit which is sometimes mentioned is simply the small claims limit provided for in the Workplace Relations Act, where people can pursue a claim in a small claims jurisdiction. In terms of how OWS or a contracted state would deal with a claim, they certainly would not approach it any differently because of the monetary value.

**Dr Boxall**—I would just like to reiterate that the point that Mr Kibble is making. The department's position is that \$10,000 is the amount which is specified in legislation. What it is saying is that if claims are less than \$10,000 they should generally be dealt with under the small claims procedure—in other words, that is an option which is not open to claims above \$10,000. Then it says, however, that if a particular case clearly warrants litigation the amount of \$10,000—which is a separate issue; it is to do with the criteria for small claims—should not be seen as a limit which precludes such action from being recommended or approved.

**Senator COOK**—The question I put—a question which I remind you of now—was that you do not treat claims under \$10,000 in the same manner as you treat claims over \$10,000. The answer to that question is that you do not.

**Dr Boxall**—No. The answer is that claims under \$10,000 have the advantage both of being presented to small claims courts and being able to be litigated. The ones above \$10,000 do not have the advantage of being able to be presented to small claims courts. That is the answer.

**Senator COOK**—But I am not asking that question. I am just asking a simple question. You are going to reasons why. All I am asking is: a claim under \$10,000 is treated differently to a claim over \$10,000, and the answer to that question seems to be yes.

**Senator Abetz**—I think part of the history has been with the question by Senator Wong—

**Senator COOK**—I understand the history.

**Senator Abetz**—which is: what is the basis of the policy of the Commonwealth not to pursue claims? That is clearly wrong. The answer was provided. We are now being asked: are they treated differently? For the reasons explained, there are certain legislative and other opportunities to pursue claims under \$10,000. But, based on the original question that you said you were pursuing—Senator Wong’s question—that was based on a false premise.

**Senator COOK**—I think you have answered the question, Minister—that part in any case. Dr Boxall, is this distinction posted on your web site?

**Dr Boxall**—Those internal guidelines are on the Intranet, not the web site.

**Senator COOK**—If I were an aggrieved person and I wanted to go to the department for help, as I am entitled to, and I wanted to click onto your web site to see whether you could provide me with that help, could I find information as to whether you could or could not?

**Ms Connell**—I think there is a bit of confusion. Any claim is investigated, irrespective of the dollar amount that might be in question. So anybody, irrespective of the nature of their claim, is investigated on similar grounds.

**Senator COOK**—That is very helpful.

**Ms Connell**—The \$10,000 limit and the small claims limit that is set in legislation are only brought about when litigation is required.

**Senator COOK**—I am an aggrieved person and I want to find out whether the department can help me. By accessing your web site can I get an answer yes or no?

**Ms Connell**—You can get access to the claim form, which you would be required to complete online. You can telephone Wageline and get assistance that way.

**Senator COOK**—But if I knew, for example, that you may refer me to the Small Claims Tribunal, I could just jog off their straightaway without troubling you, unless I wanted legal assistance to be sent down with me, couldn’t I?

**Mr Kibble**—In a technical sense, the Workplace Relations Act allows a range of parties—including obviously the direct party, the aggrieved employee—to initiate in a small claims—

**Senator COOK**—We are talking in a very technical sense but yes—

**Mr Kibble**—They could go off without telling us, that is right.

**Senator COOK**—But if I knew on your web site that you had conditions which meant that I would be referred to the Small Claims Tribunal, I could save you and me a lot of trouble by simply going there straightaway, couldn’t I? My point is—and it seems to me that is what you are saying—that it is not on your web site that the legislation requires you to draw this distinction.

**Ms Connell**—But the vast majority of complaints are dealt with without any recourse for litigation, so by contacting the department we could help with the resolution. In fact, 93 per cent of all claims are resolved without the need to—

**Senator COOK**—I understand that. I want to come to that in a moment because how they are resolved without litigation is also a question that I would like to pursue. I cannot find on

your web site the fact that if the amount is under \$10,000 then the practice of the department is to refer me. It is not there—that is the answer, isn't it?

**Dr Boxall**—It is not the practice of the department to refer you automatically.

**Senator COOK**—No, it is the practice of the department to investigate my case and then if they find that my claim is under \$10,000—unless there are some compelling reasons to do otherwise—to automatically refer me?

**Ms Connell**—Those compelling reasons are quite comprehensive with regard to—

**Senator COOK**—So you are accepting the proposition I have put?

**Ms Connell**—The guidelines state that, while the amounts of less than \$10,000 would generally be dealt with by the Small Claims Tribunal, if the case warrants litigation by the department on certain criteria then \$10,000 would be seen as no limit.

**Dr Boxall**—So the department does not accept your proposition.

**Senator COOK**—What proposition?

**Dr Boxall**—The proposition that you said you put to us.

**Senator COOK**—Which one was that?

**Dr Boxall**—The most recent one that you put.

**Senator COOK**—Do you want to play games, Dr Boxall?

**Dr Boxall**—No, Senator Cook, I am not here to play games.

**Senator COOK**—Then why don't you answer the question?

**Dr Boxall**—We have been answering the questions. You asked: 'Does the department accept the proposition?' and I said, 'No, it does not.'

**Senator COOK**—My proposition was—and if you want to play games in terms of pedantry, we will be here all night and all day tomorrow and as long as it takes—

**CHAIR**—Senator, do you have some more questions?

**Senator COOK**—Yes, I have. But I do resent the attitude of the department in the manner in which they respond to senators' questions. Let me go to the proposition.

**Senator Abetz**— We have been getting on very well until this little outbreak.

**Senator COOK**—I am sorry that you have taken the attitude that you have apparently taken to my questions. My proposition is that there is nothing on your web site to indicate that if my claim is under \$10,000 then the practice of the department will be that you will take the information that I supply, investigate it and, unless there are compelling reasons why not, you will refer me to the Small Claims Tribunal.

**Ms Connell**—Each case is taken on its merits, so that is not a policy we would be advocating.

**Senator COOK**—I am not asking about the way in which you judge the merits; I am asking about the transparent information you provide to Joe Public about what he can expect the department to do if he comes forward with a claim.

**Senator Abetz**—As I understand it, the evidence has been—correct me if I am wrong—that 93 per cent of cases are resolved, so I assume that prior to recourse to litigation, be it in a supreme court or in the Small Claims Tribunal, attempts are made to resolve the situation—without recourse to either the small claims division or other legal proceedings.

**Ms Connell**—Correct.

**Senator Abetz**—As a result of which, it is not that somebody fronts up with a claim for \$9,000; the department does not then say, ‘Oops, sorry, you’re under \$10,000. Off you go. We’re not interested.’ They take your case right through and seek to resolve it by way of alternative dispute resolution or mediation.

**Ms Connell**—That is correct.

**Senator COOK**—By referring this to the Small Claims Tribunal?

**Senator Abetz**—No, not necessarily.

**Senator COOK**—You are not suggesting, are you—I do not think anything has been given here this afternoon that suggests that most of the cases under \$10,000 qualify for departmental assistance.

**Ms Connell**—All claims qualify for departmental assistance.

**Senator COOK**—To the level of investigation.

**Ms Connell**—All claims are investigated.

**Senator COOK**—Yes, and then when you have established that there is a claim—the department has investigated and decided that there is a claim, that it is under \$10,000—you are not putting to me, are you, that most of the claims that fall into that basket qualify for the special guidelines for claims under \$10,000?

**Ms Connell**—No, Senator. Most claims are resolved without the need to resort to any form of litigation—the vast majority, in fact.

**Senator COOK**—Let us take those that require some legal process to resolve. Are you putting to me that for that category most of those qualify for assistance from the department or are you putting to me that most of those are referred to the Small Claims Tribunal?

**Mr Kibble**—I will relate a figure. Of all the litigation that the department has recommended since 1997, 22 per cent involve departmental prosecutions and 20 per cent involved claims of under \$10,000. The other thing we said to Senator Wong is that we provide assistance in the form of a kit to people who go to the small claims jurisdiction—guidance on the small claims jurisdiction, all the evidence, which they certainly would not have if they did it by themselves without coming to us in the first place. In many cases we were invited by the court to act as a friend of the court, to attend the proceedings and to provide advice.

**Senator COOK**—I heard all that and that is very helpful, Mr Kibble. Going back to the claims not settled by mediation that are under \$10,000 and for which you give someone the kit to help them prepare their case, in what percentage of those claims that are referred to the Small Claims Tribunal does the department appear as a friend of the court or in some other process?



**Mr Kibble**—We took that on notice.

**Senator Abetz**—That has been taken on notice already—in a question from Senator Wong.

**Senator COOK**—Of the claims that are settled by mediation, who decides whether the claim has been settled—the department or the complainant?

**Ms Connell**—Are you referring to voluntary compliance? We do not have any formal mediation. ‘Mediation’ is a formal term. Do you mean the 93 per cent we alluded to before, that are resolved without—

**Senator COOK**—Yes.

**Ms Connell**—That is the complainant’s decision to settle.

**Senator COOK**—Does the department provide a counselling role?

**Ms Connell**—Not a formal counselling role. We will provide all the advice and assistance to both parties to help them resolve the issue.

**Senator COOK**—Is the letter of the law a decisive factor?

**Ms Connell**—Compliance with the Workplace Relations Act and the relevant industrial instrument forms the basis of that advice, yes.

**Senator COOK**—So for that 93 per cent that are settled by mediation, the decision to settle is the decision of the complainant.

**Ms Connell**—That is correct.

**Proceedings suspended from 6.30 p.m. to 7.35 p.m.**

**Mr Symon**—This morning there were some cross portfolio questions from Senator Wong pertaining to table 51 on page 351 of the annual report and a consultancy we had with Chris Farrell Consulting. There was some confusion about whether the \$318,000-odd mentioned in the annual report related to a one-year or a three-year contract. It relates to a one-year contract. I thought I should just clarify that.

[7.36 p.m.]

**CHAIR**—Thank you. We now move on to output 2.2, Building Industry Taskforce.

**Senator COOK**—I introduce my question by saying that last Monday the Senate Employment, Workplace Relations and Education References Committee held a hearing on the building industry inquiry where we had the advantage of Mr Hadgkiss’s presence and the ability to ask him a number of questions. As a consequence of those questions, there were some matters that I understood he took on notice. This is not that inquiry but, a week on, if he has answers to some of those questions, it may be convenient for him to provide us with that information. My question to Mr Hadgkiss is: do you have any further information on those matters that you took on notice last Monday?

**Ms Bennett**—The transcript became available this morning, and we are still working through what those questions were. Nigel may be able to add to some of them but most of the questions that were raised during those hearings only arrived this morning. Most of us were in Senate estimates, so we do not have answers to the questions that were asked at those hearings.

**Senator COOK**—I see. Mr Hadgkiss, despite the difficulty we are all labouring under and the lack of a *Hansard* from last Monday, do you have answers to any of those questions?

**Mr Hadgkiss**—I have supplied material to the secretary of the inquiry. From memory, it was newspaper clippings and facts of cases. I think two cases were asked for: the Setka matter, which we are endeavouring to obtain, and the conviction of Mr Sammy Manna has been obtained. The facts and the judge's sentencing have been forwarded to your secretary, Mr Carter.

**Senator COOK**—One of the matters that you took on notice, as I recall, was that you referred to statements in the media by police officers.

**Mr Hadgkiss**—Yes. That has also been obtained. Two articles that I found throw light on that, and they have been forwarded to your secretary.

**Senator COOK**—One of the other matters that I recall that you took on notice was a question on the guidelines for investigators of the task force when questioning the potential witnesses.

**Mr Hadgkiss**—As Ms Bennett said, we are going through each of the outstanding matters and they will be replied to as soon as possible.

**Senator COOK**—That is not one that you are in a position to reply to now?

**Mr Hadgkiss**—Correct.

**Senator COOK**—Do you not have a copy of your guidelines?

**Mr Hadgkiss**—The guidelines are available, but I have yet to clear it with the secretary.

**Senator COOK**—So that I understand and only for the purpose of comprehension of the process: in providing answers to those questions that you took on notice from our hearing on Monday, you are required to clear with the secretary those answers?

**Mr Hadgkiss**—The secretary to the department, not the secretary of the inquiry—yes.

**Senator COOK**—I want to understand the process, and that is all, at this point of my questioning. Your answers have to be cleared with the secretary.

**Mr Hadgkiss**—Not my answers; my ability to release internal policy documents.

**Senator COOK**—This policy document goes to what it is an investigator says to a witness or a potential witness in a matter. I could go back to the *Hansard*—and I have been in the same difficulty as you have, Mr Hadgkiss, and it is indeed a considerable difficulty—and look at the relevant sections. My recollection is that you could not recall exactly what it was that an investigator would say to a witness or a potential witness.

**Mr Hadgkiss**—That is not my recollection.

**Senator COOK**—Could you tell us what it is that an investigator would say as a standard formulation to a potential or actual witness?

**Mr Hadgkiss**—He would probably say: 'I'm Fred Smith. I'm investigating a certain matter.'

**Senator COOK**—Is that all they would say?

**Mr Hadgkiss**—It depends. It is down to the nature of the witness and goes to whether they are a witness or a suspect. If they are a suspect, judge's rules indicate a different course of action would have to be taken.

**Senator COOK**—I want to get out of here at a relatively early hour tonight, if that is at all possible, so let me go straight to the matter from which this arises. You will recall that last Monday I raised with you a matter of covert recordings of a witness.

**Mr Hadgkiss**—Yes.

**Senator COOK**—It is in the context of that issue that my question arises.

**Mr Hadgkiss**—On that issue I have spoken to the deputy director—which was consistent with your allegation. He has no record or recollection of these facts as you portray them.

**Senator COOK**—That is interesting. Before I ask you some questions about what he does recollect, can I start with where we were last Monday. The allegation is that two officers of your task force interviewed a witness in a potential matter and did so while recording that witness's evidence covertly. That is the allegation.

**Mr Hadgkiss**—That is the allegation, yes.

**Senator COOK**—My first question is: what do your investigators say to a witness in those circumstances? Do you have a formulation which goes along the lines of: 'I am from the task force. This is my name. Here is my authority as an officer of the task force. I now wish to ask you questions relating to X matter and I wish to record our conversation.' Is that a formulation that they would typically use?

**Mr Hadgkiss**—It could go along those lines, yes.

**Senator COOK**—I am simply asking this question: is there a standard formulation that the task force encourages its investigators to use when approaching a witness in circumstances where they are gathering evidence for a matter?

**Mr Hadgkiss**—No. Each case is dependent on individual circumstances.

**Senator COOK**—I understand that, but all I am seeking is information as to whether or not in approaching a witness there is a standard form of words that you use to alert the witness to what the matters are, to what the witness's rights are and to how the matter might be used.

**Mr Hadgkiss**—Ordinarily they would introduce themselves, they would show their identification if the witness was not familiar with who they were, they would tell the person what it was about and they would seek their cooperation or otherwise.

**Senator COOK**—But there is nothing written down that they must say a certain number of words in caution.

**Mr Hadgkiss**—If they are suspected, yes. Judge's rules are quite firm on that. If people are suspected of offences, there is an obligation on the part of law enforcement more generally to administer a caution.

**Senator COOK**—Yes, but in the case of this allegation there is no proposition that the person they were interviewing was suspected of doing anything improper; rather, they may

have been a witness to something that may have been improperly done. In such a case, there is no caution. Is that how I am to understand it?

**Mr Hadgkiss**—With respect, I am still at a loss as to what this is about. If a complaint has been made about the task force, we can investigate it, but I have received no information along the lines you suggest.

**Senator COOK**—Before I go to the facts of the matter, I want to establish what the procedures are that the task force adopts when investigating a matter. I am not going to the detail of the matter at this point; I am going to your standard procedures.

**Mr Hadgkiss**—There are no standard procedures. Each case depends on individual circumstances. In the scenario you paint, if the person was a witness they would be told what the investigation was about.

**Senator COOK**—As I understood you to say last Monday, there is a written set of guidelines on the conduct of investigators. In those guidelines, there is a provision that officers or investigators—whatever their proper title is—should not covertly record a witness. Is that true?

**Mr Hadgkiss**—Only in exceptional circumstances.

**Senator COOK**—Could you tell us what creates an exceptional circumstance?

**Mr Hadgkiss**—It could only be done with the permission of the deputy director. That is the guideline.

**Senator COOK**—So your 2IC would be alerted that officers wish to do this. They then produce to your 2IC some circumstances which are held to be exceptional. If your 2IC agrees that they are exceptional, he has the power to authorise a covert recording?

**Mr Hadgkiss**—Yes. Again, it would depend on the jurisdiction as to whether it is permissible to covertly record conversations in that jurisdiction. Each jurisdiction has different laws pertaining to the use of listening devices—that is, covert recording.

**Senator COOK**—Routinely, in the event of your deputy approving such exceptional circumstances for the purposes of taking a covert recording, would he notify you of such a decision?

**Mr Hadgkiss**—He could after that. It is certainly not a necessity in the instruction.

**Senator COOK**—He is not required to?

**Mr Hadgkiss**—Under the guidelines, no. He ordinarily would, though.

**Senator COOK**—You would expect him to in the normal course?

**Mr Hadgkiss**—Yes.

**Senator COOK**—Do you have a guideline, either written or understood, that unless officers can adduce special extraordinary circumstances, no covert recordings of witnesses should apply?

**Mr Hadgkiss**—Under exceptional circumstances.

**Senator COOK**—But, otherwise, no covert recordings apply?

**Mr Hadgkiss**—Correct.

**Senator COOK**—No covert recordings apply in any circumstances if it is a breach of the jurisdictional law?

**Mr Hadgkiss**—Correct.

**Senator COOK**—Are your officers briefed on this guideline at their induction? Do you expect them to know about it?

**Mr Hadgkiss**—It is the expectation of officers to familiarise themselves with guidelines all the time.

**Senator COOK**—Between July and the end of last year, did you issue a notice to investigating staff—or, if not directly to them, to their senior officers—reinforcing the view that covert recordings of witnesses were not allowed?

**Mr Hadgkiss**—I do not recall that.

**Senator COOK**—Would you mind checking?

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

**Senator COOK**—My understanding is that you issued such a notice, and it was communicated to investigators.

**Mr Hadgkiss**—Ordinarily that is the responsibility of the Deputy Director, Operations.

**Senator COOK**—As far as the other matters in this allegation are concerned, I think I have outlined them appropriately in the *Hansard*. But for the sake of the record let me say that the allegation concerns the interviewing of a witness by two officers of your task force between July and September last year on the Tonkin Highway extension project in Western Australia. They took a covert recording of evidence given by a site supervisor in a matter, as I understand it, dealing with intimidation—but it may have been dealing with coercion. This covert recording was typed up as evidence and is now in your files. Have you not had an opportunity to investigate whether that is true?

**Mr Hadgkiss**—No. This is the first time you have provided me with specifics, and I shall endeavour to have it investigated.

**Senator COOK**—I provided you with those specifics last Monday. The *Hansard* will show what I set out for you then, including the names of the two officers. I am not at this stage making the assertion that an officer has broken your guidelines or the law, but if an officer did break your guidelines and/or the law, would you know about it if it was known by your task force?

**Mr Hadgkiss**—Certainly, if an officer broke the law. In these circumstances in Western Australia it is not an offence to covertly record conversations. I understand that it is common practice by law enforcement agencies in that jurisdiction. In the circumstances of the task force, as I say, there would have to be exceptional circumstances and it would have to be with the approval of the deputy director.

**Senator COOK**—Are you putting to me that, in Western Australia, under state law it is not an offence to covertly record a conversation?

**Mr Hadgkiss**—As long as you are a party to the conversation, that is correct.

**Senator COOK**—Which act—

**Mr Hadgkiss**—The WA Surveillance Devices Act 1998.

**Senator COOK**—Do you have the section of the act in front of you?

**Mr Hadgkiss**—Section 5(1)(b) and section 26(1).

**Senator COOK**—I do not have that act in front of me—I can get a copy, because I have looked at it today—but my recollection of what that act says—

**Mr Hadgkiss**—There are then the exceptions that come under section 5(3)(c), which is the consent of each party. There is an exception to protect that party's lawful interest, section 5(3)(d); an exception where it is not for the purposes of communicating to third parties; an exception where it is in the public interest, section 26(1), section 26(2) and section 28; an exception where it is in the course of duty, section 5(2)(a) and section 5(3); an exception where it is to gain evidence, section 9(2)(c); an exception in relation to law enforcement, section 5(2)(a) and section 5(3); and an exception where it is authorised under law, section 5(2)(c).

**Senator COOK**—So what you are putting to me is that that act in Western Australia enables covert recordings of witnesses by members of your task force?

**Mr Hadgkiss**—By anybody, Senator.

**Senator COOK**—By anybody?

**Mr Hadgkiss**—Yes.

**Senator COOK**—My reading of that act is that a covert recording is not allowed except in certain circumstances, and the subsections that you have referred to set out those circumstances. That is true, isn't it?

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

**Senator COOK**—You have the act in front of you, I understand.

**Mr Hadgkiss**—I do not have the act. I have a table of all relevant legislation around Australia.

**Senator COOK**—You do not actually have the act?

**Mr Hadgkiss**—This was prepared by counsel for the task force.

**Senator COOK**—For the purposes of providing guidance to your officers?

**Mr Hadgkiss**—Yes.

**Senator COOK**—Ultimately, what is and is not the law is not a matter for us to decide, obviously—unless we have legislation that we are determining. Ultimately, it is a matter for a court. I do not think in this discussion one can speculate about what a court will find unless one is better acquainted with the jurisprudence of that section of the act than maybe the case tonight for all of us. One of the exceptions is in the public interest—and you have cited that exception. That is an exception where you can take a covert recording under the Western

Australian act, as I read it, if you can demonstrate a public interest purpose in doing so. Is that your understanding of what your table shows?

**Mr Hadgkiss**—Either in the public interest or for law enforcement purposes.

**Senator COOK**—I will come to law enforcement in a minute. Are you saying that if—and I am not expecting you to have because you have not investigated, as you say to me—a covert recording was taken by a member of your task force in Western Australia under this law, it would be for law enforcement purposes and therefore legal?

**Mr Hadgkiss**—I do not know the circumstances in this case.

**Senator COOK**—I have outlined the circumstances and the allegation.

**Mr Hadgkiss**—But this is a hypothetical. We have not received a complaint to that effect.

**Senator COOK**—I put it to you last Monday.

**Mr Hadgkiss**—You are asking my opinion.

**Senator COOK**—I am, because you issue instructions to investigators and you do so by expressing your opinion to them about what is and is not lawful. You have a table in front of you setting out what is and is not lawful in various states and jurisdictions and you interpret that and issue instructions. That is why I am asking your opinion.

**Mr Hadgkiss**—It is done on a case-by-case basis and this particular instance I am not familiar with. Again, it would have been the responsibility of the deputy director if it had been brought to his attention—which, he tells me, it was not. He has no record or recollection of such a matter being brought to his attention.

**Senator COOK**—He has no record?

**Mr Hadgkiss**—No record or no recollection.

**Senator COOK**—Let us go back to your view. Your view is that in Western Australia under this act it is legal for officers of your task force to tape-record covertly a witness in a matter?

**Mr Hadgkiss**—Again, it depends on the circumstances of the case. I cannot offer an opinion about a hypothetical matter.

**Senator Abetz**—Mr Chairman, I think the evidence has been that the opinion of counsel has been sought by the task force. The advice to the task force is that in certain circumstances covert recording can take place. If Senator Cook wants to put a firm proposition as to exactly what occurred, that may assist. Otherwise we really are dealing in the realm of hypotheticals.

**Senator COOK**—That is a fair enough intervention, Minister. I accept that intervention. What I want to establish, one way or the other—and I think this has been established—is: (a) is there a form of words that task force investigators use in alerting a witness before they interview them as to what they are proposing to do; (b) is there a guideline or direction of any sort to investigators not to covertly record witnesses' statements; and (c) does the task force believe that covert recording of witnesses' statements in the Western Australian jurisdiction is legal?

**Senator Abetz**—Wait a minute, you have a whole string of questions there.

**Senator COOK**—They are the three things I am interested in getting some clear answers on.

**Mr Hadgkiss**—I think I have answered each of those.

**Senator COOK**—I am not sure that you have other than to take refuge—and I do not mean that disparagingly—in the answer that you cannot answer until you know the circumstances. It is a matter of fact, yes or no, whether you have a form of words that routinely you counsel would-be witnesses with. It seems to me that, if you have answered, you have answered it, ‘No, you have not. That depends on the circumstances.’

**Mr Hadgkiss**—The answer is no.

**Senator COOK**—Thank you. Do you have a set of guidelines or operating instructions for your investigators which advises them not to undertake covert recordings of witnesses who may later on be called upon to appear in a matter?

**Mr Hadgkiss**—Again, I have answered that question, Chair.

**Senator COOK**—And the answer is?

**Mr Hadgkiss**—We have guidelines in place.

**Senator COOK**—Do those guidelines, as I am asking you, specify the particular point that I have asked you about?

**Mr Hadgkiss**—What point is that, Senator?

**Senator COOK**—I am sorry, but I am beginning to feel I am repeating myself, Mr Hadgkiss. On the point that investigators of your task force should not, under the rules of your task force, covertly record witnesses or potential witnesses in a matter.

**Mr Hadgkiss**—Again, Senator, it depends on the jurisdiction and the circumstances of each case.

**Senator Abetz**—That is what he has said a number of times, I think.

**Senator COOK**—So, in essence, it is fair to say that there is no specific guideline; or, if there is a guideline, it is that officers should examine the particular circumstances of the jurisdiction and see if they are within the law.

**Mr Hadgkiss**—No, Senator. It goes to the deputy director. It can only be used in exceptional circumstances and with the permission of the Deputy Director, Operations.

**Senator COOK**—If that did not happen, what would be the reasonable response of the task force?

**Mr Hadgkiss**—This is hypothetical, Senator. I have no record of it occurring. If you have such a matter in specific that you want to refer to me, I will have it investigated.

**Senator COOK**—I have laid out a particular matter but, at this stage, I am not examining you on that matter, Mr Hadgkiss. I am just asking: if the guideline that you have referred to was not adhered to, what would be the response of the task force?

**Senator Abetz**—Can I suggest, with great respect, Chair, the difficulty is that we are in a hypothetical situation and the permutations and possibilities are in fact quite limitless as to



what the circumstances would be or what would occur 'if'. That would depend on whether somebody had been specifically told that they could not, whether there was a misunderstanding or whether the legal advice that was given to the task force was incorrect. For example, if the legal advice to the task force was incorrect but in good faith and somebody acted upon it, I would have thought the consequences might be a lot less than for those who deliberately breached an instruction. That is the problem when you are in the hypotheticals—to ask what the consequences might be. I think we have to nail this one down.

**Senator COOK**—Thank you for your assistance, Minister. At the point of inducting someone into the job of investigator for the task force, are they briefed on what they should and should not do in respect of interviewing witnesses?

**Mr Hadgkiss**—All the investigators are experienced in this aspect of legislation.

**Senator COOK**—Yes, but are they at the point of induction briefed on what they should or should not do?

**Mr Hadgkiss**—I have no personal knowledge about this, Senator.

**Senator COOK**—You know what happens at the point of induction.

**Mr Hadgkiss**—People are told about the task force, and they are shown guidelines. There is an induction manual. They go onto the DEWR web site. They are familiar with various guidelines set out by the department.

**Senator COOK**—So they are expected to know how to conduct themselves.

**Mr Hadgkiss**—Yes.

**Senator COOK**—If an officer—irrespective of the particular case—breaches those understandings, what is the way in which you would deal with it?

**Dr Boxall**—In the department, Senator Cook. If staff breach guidelines, it could be referred as a code of conduct matter.

**Senator COOK**—I am a bit rusty on this, Secretary. If it is referred as a code of conduct matter, what happens?

**Dr Boxall**—We would have it investigated internally and the people in human resources would recommend a sanction, which could be a fine or something like that, and it would be dealt with. That goes for anybody in the department who does not follow guidelines or breaches internal guidelines. I do not know anything about this case, but in the event that an officer of the department did not follow a guideline it would be investigated and a recommended sanction imposed.

**Senator COOK**—I am not suggesting you do know anything about this case. Would the department investigate breaches of its guidelines itself, or would it call in an outside investigator?

**Dr Boxall**—Generally we have people in human resources in corporate who are expert in doing that, but from time to time they may get outside advice depending on the nature of the case.

**Senator COOK**—If there was an issue of whether actions were legal or not, would you then automatically get outside investigations?

**Dr Boxall**—Not automatically, it would depend on the case. There might be a case from time to time when we would call in law enforcement officers, so one has to make a judgment.

**Senator COOK**—The matter I have raised concerns an interview with a site supervisor on the Tonkin Highway extension project—a project being overseen by the construction company John Holland. Two officers, according to the information given to me, interviewed a site supervisor—that is, a person of responsibility with John Holland—about a matter that, as I understand it, dealt with intimidation or standover tactics, whatever the proper definition of that type of offence might be. They did not advise this person, whose name I have got and am prepared to provide to the task force, that they were recording that witness covertly and that the covert recording has been typed into a transcript and is in the files of the task force. It has been referred for prosecution and at this stage no further action has taken place.

**Dr Boxall**—I suggest that we take that on notice and have it dealt with by our internal procedures. That will give us a chance to recommend to the minister a response to you on notice after we have had a chance to investigate it.

**Senator COOK**—My questioning about this point arose after the integrity of the task force and its operations were asserted by Mr Hadgkiss. It seemed to me that this report would reflect on the integrity of the task force if validated.

**Dr Boxall**—We will check it out and recommend a response for our minister to table.

**Senator COOK**—Let me go further: I understand that Mr John Draffin, who I understand is Mr Hadgkiss's 2IC, is aware of this matter and spoke to Mr Tom Hanlon, who at that time was the team leader in the Perth office. I indicate that I put all this on the *Hansard* last Monday.

**Dr Boxall**—Our people who do these things internally will be taking note of this and they will use this as input to conduct the investigation.

**Senator COOK**—Further to that: Mr Marcus Clarke, who was one of the investigators, spoke to Ms Vanessa Twigg, who is, I understand, a legal officer.

**Dr Boxall**—She is an officer in the task force, yes.

**Senator COOK**—But her remit, as I understand it, is to deal with the legal side of affairs. I do not know what her actual job description is.

**Dr Boxall**—It might be helpful to say that this issue will now be dealt with by the internal people who look at these matters. They will have the opportunity to talk to the people you have mentioned, including the people you have mentioned who work in a task force.

**Senator COOK**—I am advised that the person who conducted the covert recording was Mr Graeme Gully, who after this event was promoted as team leader of the Brisbane office, and that Mr Draffin issued advice and investigators were briefed not to undertake covert recordings in Western Australia following the information becoming available. I am further advised that Mr Hadgkiss issued an instruction along similar lines.

**Dr Boxall**—Mr Hadgkiss has agreed to take that latter point on notice.

**Senator WONG**—The reference to people conducting an investigation internally—is that within the task force or the department?

**Dr Boxall**—No, that is in corporate.

**Senator COOK**—In the interests of getting this matter cleared up, I have conflicting advice as to the legality of covert recordings in Western Australia.

**Senator Abetz**—If I recollect correctly Senator Cook indicated that the matter had been referred for prosecution. Is that right?

**Senator COOK**—That is the matter that the covert recording was allegedly taken.

**Senator Abetz**—That matter in which the alleged covert recording was taken has been referred for prosecution. As a result, a lot of these things may well need to be tested and our canvassing of issues surrounding that will have to be dealt with very sensitively. I just sound that note of caution.

**Senator COOK**—Obviously, we do not wish to infringe on anyone's rights here, and it is certainly not my intention. I want to come to the question of rights later in my questioning. The investigation into the allegation that was being pursued by the officers is a different matter to the allegation that I have outlined tonight about that investigation being pursued by, in part, covert means. I am sure we understand that distinction but I thought, given your intervention, I should make it for the record.

**Senator Abetz**—I must be a bit slow this evening, can you just repeat that for me.

**Senator COOK**—The proposition is that these officers were interviewing a witness who they believed to be material to a charge that they were investigating. That is one issue.

**Senator Abetz**—The charge that they were investigating has now gone to the prosecution stage.

**Senator COOK**—That is my understanding. I am just wanting to separate that out from the issue of whether a covert recording took place or not, because that has not gone anywhere other than the undertaking, which I accept from the secretary, that it will be properly investigated. The other matter that arises out of this is whether or not it is legal in the opinion of the department to make a covert recording of a witness in the state of Western Australia under the provisions of the act.

**Dr Boxall**—That issue could well be investigated when we do the internal investigation of the issue that you raise.

**Senator COOK**—I think it is a matter that is germane to the way in which one apprehends this entire process. I was beginning to say that I have different advice as to whether it is legal or not from the advice offered tonight. But I take your wise counsel, Minister, that one has to be cautious about this and that the law is not settled until a judge decides in a particular case—if he or she does. I turn to the *Hansard*. I appreciate you are labouring in the same way as I am, Mr Hadgkiss, as we have just obtained the *Hansards* this morning. I refer to the top of page 67. At the risk of vanity, let me quote myself. I ask you the question:

But you do not recall whether you have an explicit guideline.

This is referring to the guidelines about covert recordings. I then ask:

Can you produce those guidelines for us if we want to see them?

The *Hansard* states:

**Mr Hadgkiss**—Sure.

**Senator COOK**—That will establish whether or not there is such a guideline or not.

**Mr Hadgkiss**—Certainly there is a direct instruction about the covert recording of conversations.

Do you see that in the *Hansard*?

**Mr Hadgkiss**—Yes.

**Senator COOK**—May I obtain a copy of that direct instruction?

**Mr Hadgkiss**—That is a matter for the secretary. It is an internal—

**Senator COOK**—This is a matter that is referred to the secretary or ministerial approval has to be approved as to whether or not that guideline is released.

**Mr Hadgkiss**—That is right.

**Senator COOK**—I move to another matter. This picks up some of the questioning that Senator Wong was engaged in before dinner. You will recall that that was about the \$10,000 issue—whether, below 10 grand, prosecutions are taken or not. I ask: will the task force be advising the minister, or have you already advised the minister, as to which matters in the royal commission report have now been finalised without any court action being taken?

**Ms Bennett**—As I answered at hearings, the minister has written to both state governments and state jurisdictions and Commonwealth jurisdictions in which those matters were referred to. On receipt of all of those responses we will be briefing the minister on the status and what action he can take to bring closure to these issues.

**Senator COOK**—I think the answer appears at page 41. Perhaps I should have started there. My apologies for asking you to repeat yourself. Senator Johnston asked you essentially this question. You said that 31 matters referred by the royal commission had gone to state and territory ministers. That appears at the bottom of page 41. Your answer was:

The Attorney-General referred 92 incidents cited in the confidential volume to the relevant federal, state and territory ministers. Of these 92 incidents, six crossed two jurisdictions and therefore were referred to two different bodies. In summary, it means the Attorney-General made a total of 98 references in relation to 92 incidents, and 31 of these incidents were referred to state and territory ministers.

So 31 went to state and territory ministers. Do we know what has become of those references?

**Ms Bennett**—The 31?

**Senator COOK**—Yes.

**Ms Bennett**—Yes. As at last Tuesday—the evidence that I am providing to you is the most current—20 referrals have been finalised, with the decision to take no further action. Of those, Queensland had eight, Victoria had two and Western Australia had 10. Nine referrals are still under investigation—two in Western Australia, five in New South Wales and two in the Northern Territory. We have not been advised of the status of one referral in New South Wales yet. One referral was finalised by Queensland on the basis the action cannot be taken within

its jurisdiction—which was the Queensland Office of Fair Trading—and that has instead been referred to the ACCC for possible action under the Trade Practices Act.

**Senator COOK**—Of the matters in respect of which action has not been taken by the states, have reasons been offered by the states and territories as to why action has not been taken?

**Ms Bennett**—I think at the hearings, if I recall, I explained to you that reasons provided by the states range from unwillingness of those involved to provide further information, statute barred—because they vary across jurisdictions—or insufficient powers in the areas where the royal commission made the recommendations.

**Senator COOK**—How many matters failed for want of evidence?

**Ms Bennett**—From the 31 states?

**Senator COOK**—Yes.

**Ms Bennett**—I would have to take that on notice.

**Senator COOK**—Going to the matters that have been referred to the task force, how many have failed for want of evidence?

**Ms Bennett**—Fifty-two matters were referred to the task force, as I raised previously.

**Senator COOK**—How many of those failed through lack of evidence?

**Ms Bennett**—Forty-seven were discontinued for reasons—and we do not have information about evidence—including statute barred, parties unwilling or unable to assist or insufficient powers held by the task force.

**Senator COOK**—‘Parties unwilling or unable to assist’: does that mean that there was no evidence to justify pressing further?

**Ms Bennett**—That is not the royal commissioner’s view. He collected information, compiled the report and referred it on for further work to be done by the relevant agencies. So it was the royal commissioner’s view that there was sufficient evidence to warrant further investigation.

**Senator COOK**—The royal commissioner took a prima facie view that these matters required further investigation and referred them on for that further investigation to occur. That further investigation occurred. After that final step, how many of these matters failed because there was no evidence or insufficient evidence?

**Ms Bennett**—I would have to take that on notice.

**Senator COOK**—When you say ‘parties were unwilling to assist or were unavailable,’ what do those words mean?

**Ms Bennett**—The task force could not find the people who were referred to.

**Senator COOK**—In other words, the evidence was not there?

**Ms Bennett**—As I said to you, the royal commissioner, on the evidence that he collected, believed that there was sufficient material.

**Senator COOK**—I understand that bit. That is a prima facie finding. He makes his finding as a royal commissioner, then he refers it for investigation and this number of matters are then let go for various reasons—and you have given us the categories of reasons. Aren't we really saying that most of them were let go because there was not sufficient evidence?

**Ms Bennett**—I am not saying that. I said I had to put the question on notice to see if we can provide a more detailed answer.

**Senator Abetz**—I think you know the history of this industry, and it would not surprise me if a number of the witnesses—because of whom you say there is no evidence— were simply too frightened to come forward and that situation has, unfortunately, been a hallmark of this industry now for well over a decade or more.

**Senator COOK**—That is an allegation that is made.

**Senator Abetz**—Very much so.

**Senator COOK**—Here we have a problem for those of us who have to make legislative decisions about this. The allegation is made in this context: that witnesses do not come forward, and the absence of witnesses coming forward is proof that witnesses are discouraged to come forward. The absence of witnesses coming forward justifies further legislation. It is a classical fallacy.

**Senator Abetz**—No, it is not. Basically what that says is: let the law of the jungle prevail. I know that is something the CFMEU and others might want. We as a government consider that to be absolutely bad public policy. That is why we are looking at various ways and means of ensuring that the rule of law can apply in the building industry. In fact, the royal commissioner said it was not to reintroduce the rule of law but to introduce the rule of law into the industry. If I recall, about 11 years ago a senior minister gave a speech about the need for industrial reform.

**CHAIR**—Which senior minister was that?

**Senator Abetz**—I think you may have rejoiced in the name of Senator Cook. I am not sure.

**CHAIR**—I think you might be right.

**Senator Abetz**—These problems have been going on now for well over a decade. This government is committed to doing something about it. It is most unfortunate when potential witnesses feel intimidated to an extent that they are not willing to come forward to give evidence that might be the foundation for a successful prosecution.

**Senator COOK**—That was a long intervention, Minister. I am always happy to have your interventions and to acknowledge those that I agree with and to disagree with others. You say that I might be happy with the present circumstances. My record as a minister, to which in part you referred, is one of trying to deal with reform in the building industry in a constructive and positive manner. I think it is a vastly superior method of approach than the one adopted by the government.

**Senator Abetz**—I accept you may have tried, but you were singularly unsuccessful. That is the problem.

**CHAIR**—This is an absolutely fascinating debate. Why don't we return to the estimates?

**Senator COOK**—Singularly unsuccessful? I think I made a fair bit of progress. It is a pity that what I was doing was scrapped by the incoming government. But that is a matter that, at the end of the day, the voters will decide on. What evidence is there that people were discouraged from coming forward?

**Ms Bennett**—Senator, I said that I would take on notice the reasons they were discontinued.

**Senator COOK**—I think it was also your evidence that, in the 19 months that the task force has been established, some 1,673 calls of complaint have gone to the 1800 number.

**Ms Bennett**—I think it was Mr Hadgkiss's evidence.

**Senator COOK**—Was it? You look so much alike, Ms Bennett, I cannot tell you apart.

**Ms Bennett**—People often confuse us!

**Senator COOK**—You are quite within your rights to disagree with me about that, by the way. So, Mr Hadgkiss, there were 1,673 calls in 19 months. Is that right?

**Mr Hadgkiss**—Correct.

**Senator COOK**—By my calculation, that is 2.9 calls per day nationally.

**Mr Hadgkiss**—That may well be so.

**Senator COOK**—You are asking for \$16 million to deal with 2.9 calls per day in making the task force permanent. It is a bit of a bold bid, isn't it?

**Ms Bennett**—Senator, if I could just run you through the figures, it is not \$16 million; it is \$8.9 million for that task force.

**Senator COOK**—Can we say how many calls came from Tasmania, Mr Hadgkiss?

**Mr Hadgkiss**—Quite a number. I do not have the figures offhand.

**Senator COOK**—Do you have a state breakdown?

**Mr Hadgkiss**—Ordinarily I do but, regrettably, I failed to bring it with me tonight.

**Senator COOK**—These are calls of complaint. I have a 1800 number for my electorate office; I think all of us in the federal parliament do, and we all get calls on it. We examine the complaints that come forward. I cannot speak for anyone else, but in my case not everyone who makes a complaint, upon investigation, has a justifiable complaint. Or some of them do not have the complaint they think they have; they may have another complaint entirely. Of these calls, how many did you decide had a complaint?

**Mr Hadgkiss**—It depends. You cannot judge a police station by the number of calls that come through about lost cats. One call could be a homicide which ties up the whole police station. Using that same analogy: a large proportion of matters we get have to be investigated. Regrettably, a number of those then have to go through the court process.

**Senator COOK**—I might be the slowest person in the room, because I do not quite understand the analogy between this and cats and homicide in a police station. All I am asking is this. You received this number of calls nationally. How many of those calls did you set aside as not worthy of investigation? That is my question.

**Mr Hadgkiss**—It changes on a day-to-day basis. A caller could simply be wanting some information, like calls to your electorate office, or it could be that they are being stood over or intimidated, which would require investigation. It would require investigators to attend, to discuss the matters with the complainant, to adduce evidence and if necessary to take people to court.

**Senator COOK**—On my 1800 number, I get a number of people—and I guess we all do—whom I put in the category of crank callers. They ring up and say that, because the moon is going to go through an eclipse, we are all going to be smothered and they ask what the government is doing about it. I get all sorts of weird things.

**Senator Abetz**—You would blame the Howard government for not doing anything about that?

**Senator COOK**—No, I would not, actually.

**Senator Abetz**—Good.

**Senator COOK**—The government cannot legislate for an eclipse. I really do not think they can.

**Senator Abetz**—I would have thought you would have said it was the fault of the GST, but there you go!

**Senator COOK**—I think you are having sport with me, Minister, and diverting me from my inquiry and taking time!

**Senator Abetz**—I am.

**Senator COOK**—How many do you dismiss as crank calls, Mr Hadgkiss?

**Mr Hadgkiss**—To my knowledge we do not get crank calls.

**Senator COOK**—None at all?

**Mr Hadgkiss**—Not to my knowledge. I have no recollection of crank calls.

**Senator COOK**—In 19 months you received 2.9 calls a day—or 1,675 calls—and no crank rang you?

**Mr Hadgkiss**—Not to my knowledge. I am not in the habit of inquiring about how many crank calls we are getting.

**Senator COOK**—So no nuisance calls are logged?

**Mr Hadgkiss**—Probably they would not be logged, no. You are correct.

**Senator COOK**—They would not be logged?

**Mr Hadgkiss**—Crank calls would not be logged. We get a number of calls from leaking rooms and things like that, but we just do not log those kinds of calls.

**Senator COOK**—Describe to me your process. How do you deal with these calls?

**Mr Hadgkiss**—The call is answered by a 1800 number operator and it is then assessed as to where it will go—whether it is somebody requiring some legal advice or someone making a complaint which should be referred to an investigator. Because the 1800 number is



centralised, it would go to the office nearest to where the complainant resides if it required that further stage.

**Senator COOK**—At that point, do you make an assessment as to whether or not this call should be investigated?

**Mr Hadgkiss**—The 1800 number operator would assess it, yes.

**Senator COOK**—It then goes to an officer. Do they investigate it?

**Mr Hadgkiss**—Yes.

**Senator COOK**—Do they file a report?

**Mr Hadgkiss**—They would speak to the complainant personally. Sometimes the 1800 number operator would put them directly through to an investigator or a lawyer.

**Senator COOK**—Do they file a report as to what action should be taken with respect to this call?

**Mr Hadgkiss**—She would make a note of the 1800 call, it would go through to the office concerned and a file would be opened if warranted.

**Senator COOK**—Can you tell us how many calls are received for which files are not opened?

**Mr Hadgkiss**—As at last week, I think, we had 61 active investigations, we had nine briefs of evidence with our internal lawyers and external lawyers and we had 10 matters still before the court requiring support.

**Senator COOK**—What is the number of calls that you received that you did not open a file for?

**Mr Hadgkiss**—A fair proportion. I will take that on notice.

**Senator COOK**—If you do not open a file for them, what happens to them?

**Mr Hadgkiss**—It could be because the complainant does not want to take the matter any further. He just wants some advice, and the advice is given. The experience of the task force is that most people would prefer the status quo or they will give into the intimidation or whatever and go with the flow. There is nothing more the task force can do for that person, because of a lack of powers.

**Senator COOK**—Do you categorise calls for which files are not opened as calls that were seeking legal advice and, having provided that, you satisfied the inquiry—

**Mr Hadgkiss**—The No. 1 matter referred to us—

**Senator COOK**—Perhaps I can complete my question, in fairness to you so that you will know what I am asking—do you categorise them as calls that were seeking advice to which you can provide an answer and, therefore, no further action is required; and as calls that having got the advice, while there may be a imputation that this matter was serious, the caller did not go any further? Do you make those sorts of categories?

**Mr Hadgkiss**—From memory, 25 per cent to 30 per cent of calls relate to coercion, intimidation, violence and those sorts of matters.

**Senator COOK**—And they do not go any further?

**Mr Hadgkiss**—Sometimes we are unable to—the victim will realise there is not much we can do to help because of our lack of powers, or they do not want to be bothered with the court process.

**Senator COOK**—Having heard your advice, they do not want to be bothered, so they discontinue?

**Mr Hadgkiss**—We have to tell them the truth that it will require them being interviewed and perhaps having to go to court. We give them advice that they may have to go to the Industrial Relations Commission or they may have to seek an injunction. If the task force can be of assistance, that is, of course, offered.

**Senator COOK**—When they discontinue, do you ask their reasons for discontinuing?

**Mr Hadgkiss**—Yes, that is followed through when a file is closed.

**Senator COOK**—I am still only in that compartment of where files have not been opened.

**Mr Hadgkiss**—When they are closed—and I think I gave this in evidence last week—it is followed through. The person is called and asked how the task force performed, whether it was able to assist and what were the limitations—were they lack of powers or that the law was not sufficient—to get a handle on the sorts things you are talking about.

**Senator COOK**—Yes, but I am still only talking about issues where files have not been opened.

**Mr Hadgkiss**—It depends because, if the person has just been beaten up, for instance, and rings in a distressed manner and we give them their rights, although serious, they just say, ‘I don’t want to take this matter any further’.

**Senator COOK**—How many calls have you received where—to use your words—a ‘person has just been beaten up’?

**Mr Hadgkiss**—Certainly one comes to mind in recent times.

**Senator COOK**—One of 1,600?

**Mr Hadgkiss**—Again, I am not familiar with each call that comes through. But, certainly, as I say, 30 per cent of all our calls relate to coercion, intimidation and violence.

**Senator COOK**—Where you do open a file, how many of those files are discontinued? That may be a question you need to take on notice.

**Mr Hadgkiss**—I will have to take that on notice to get the exact numbers.

**Senator COOK**—Are we able to see the files in confidence?

**Mr Hadgkiss**—No.

**Senator COOK**—Why not?

**Mr Hadgkiss**—As I gave evidence last week, there was talk about whistleblower protection. I am sure those calls would cease if we made all our indices open for scrutiny for whatever reason. These are operational matters. We would be loathe—

**Senator COOK**—I am talking about the files that have closed. They are no longer operational.

**Mr Hadgkiss**—It is very difficult in this industry to get people to commit themselves and if it became known that we were opening our doors, even though the files were closed, it would have a huge deterrent effect.

**Senator COOK**—I am asking about non-operational matters; matters in which files have been closed.

**Mr Hadgkiss**—If a file has been opened it would have been a reasonably serious matter.

**Senator COOK**—Yes, but then you do whatever you do and you decide which matters go forward and which files you close. I am just asking about the files which are closed, which are no longer under investigation.

**Mr Hadgkiss**—Certainly for the matters which have been before the court, where people have been convicted, found guilty or whatever, I would be happy—maybe not happy—

**Senator COOK**—That is a matter of public record.

**Mr Hadgkiss**—That is on the public record.

**Senator COOK**—You see, the allegation that is being made here is that this alleged intimidation is widespread and therefore there are no witnesses. The allegation cannot ever be established because there are no witnesses. I am asking you to help me establish it. You are saying you cannot.

**Mr Hadgkiss**—You will just have to take my word for it as a result of the—

**Senator COOK**—With all due respect, I am quite willing to take your word. But I do not believe transparency in this matter justifies me accepting your word unchecked. It is a reasonable question, since you are asking for—I have been corrected by Ms Bennett—\$9 million of taxpayers' money to spend on doing this. It is quite reasonable for me to say: I would like to see some evidence that what you are saying is true.

**Mr Hadgkiss**—But going through confidential files I do not think will solve that. It would have—

**Senator COOK**—That is a matter for me to decide.

**Mr Hadgkiss**—It is a matter for the public, who would decide very quickly that if—

**Senator COOK**—You see, I am an elected member of the public and I am here as a delegate on their behalf. That is why I am asking. As far as questions of employee entitlements are concerned, if I go to the relevant page—item 6.4 in your report—you have three paragraphs there on the underpayment of employee entitlements. In the first paragraph you tell us that you send them to the department. That is true, is it? It is on page 21 of your report, item 6.4: underpayment of employee entitlements. The first paragraph refers to incidents of employee entitlements and what the taskforce does with inquiries of that nature. To summarise it, you send them to the department.

**Mr Hadgkiss**—Yes.

**Senator COOK**—You do not conduct any investigations?

**Mr Hadgkiss**—On occasions we have but ordinarily it is the practice to submit them to the department.

**Dr Boxall**—This question was asked on notice last time—for example, W402/04.

**Ms Bennett**—It was also answered at the hearing by me under the issue of the handling of employment issues in the building industry by the Office of Workplace Services.

**Senator COOK**—Yes. I am waiting for the secretary, who I understand is looking for a reference to an answer on notice. Why does the taskforce refer these matters to the department?

**Ms Bennett**—As we explained in the Senate hearings, the Office of Workplace Services is known by people as the place to go if you have an issue about employee entitlement. It has people with expertise who are very familiar with the entitlements under awards or agreements. So we bring together both the skills and expertise in dealing with these matters. It is a dedicated resource within the department that deals with these matters.

**Senator COOK**—So you refer them because—as I understand, and I am summarising; I do not want to misrepresent you so correct this summary if it is wrong—it has superior expertise. Is that in essence what you are saying?

**Ms Bennett**—Because they have expertise in this matter.

**Senator COOK**—That is a reason for referring them. Is that a direction?

**Ms Bennett**—No, it is the administrative arrangement within the department. This is a work area whose responsibility is employee entitlements—rather than doubling up.

**Senator COOK**—Who makes the decision that this is the administrative arrangement? Is that your job, Mr Secretary.

**Dr Boxall**—Yes. That decision was made inside the department in consultation with outcome 2, and that is how the responsibilities have been divided up.

**Senator COOK**—Mr Hadgkiss, do you track matters on employee entitlements that are referred to the department to see what the outcome is?

**Mr Hadgkiss**—No.

**Senator COOK**—You do not refer, do you, to employers who underpay workers as ‘robbing workers’?

**Mr Hadgkiss**—It is not my terminology, no.

**Senator COOK**—But you do use highly coloured language in the other respect.

**Mr Hadgkiss**—I am sorry?

**Senator COOK**—You use ‘thugs’, ‘standover’ and ‘intimidation’—all highly coloured language—when you are referring to the activities of—.

**Senator Abetz**—But very descriptive.

**Senator COOK**—But you do not use the same language in equal terms when you refer to workers who have been denied their lawful entitlement.

**Mr Hadgkiss**—I am not going to comment on that.

**Senator COOK**—That is all right; that is a comment in itself. You do not track the references that you make to—

**Mr Hadgkiss**—Within the department, no—sorry; to the states as well who also handle these matters.

**Senator COOK**—You do not know how many are successful or not?

**Ms Bennett**—I can tell you—

**Senator COOK**—Sorry; I am asking Mr Hadgkiss because it is a task force question.

**Mr Hadgkiss**—It is a matter for the department.

**Senator COOK**—So you are unable to tell us the degree of lawlessness by employers in this industry because you do not follow through on complaints about underpayment?

**Ms Bennett**—The question was about employers—

**Senator COOK**—I am sorry; I understand that you could provide me with this on behalf of the department, but I am asking Mr Hadgkiss.

**Senator Abetz**—No. The relevant officer who has the information surely is the person you would want to answer the question.

**Senator COOK**—But the question is not about the information; the question is about—

**Senator Abetz**—You cannot direct a question to a particular person, as I understand it.

**Senator COOK**—My question is to the task force and it is: can they tell us the prevalence of illegal behaviour by employers in denying workers their legal rights in terms of proper award or agreement payments? Can the task force tell us about that?

**Ms Bennett**—The task force is part of the department; it is one area of the department. Another area of the department on behalf of which I can answer your question will tell you, as far as the department is aware, which Mr Hadgkiss is part of, how many complaints were handled in relation to claims for underpayment of employee entitlements in the building industry from 1 July until 31 March this year.

**Senator COOK**—Let the record show that Mr Hadgkiss did not answer; you did, Ms Bennett.

**Senator Abetz**—The record will show that because it will have the name of Ms Bennett in front of the answer. I do not think we need your intervention to show that on the *Hansard*, Senator Cook.

**Senator COOK**—Now it is emblazoned on the *Hansard* because we have both talked about it, Minister. If there is a report to the task force about non-compliance with an award or an agreement, before the task force refers it to the department, does the task force check to see if there is a pattern of behaviour—that this is not just one incident but part of a group of incidents—or does it just refer the individual matter?

**Ms Bennett**—As you have got it on page 21 of the report, Mr Hadgkiss has recorded how many calls he received. They are included in the data that I have and that the department receives from this industry about matters that OWS has handled, and I am happy to provide that. As I said, from 1 July to 31 March, a total number of 187 matters were handled by OWS.

Of those matters, 94 were sustained, nine led to litigation, 70 were voluntary compliance and 18 required no further action. So, of the matters, 151 in this period were finalised.

**Senator COOK**—Yes, but my question is: does the task force, upon receiving a complaint for non-compliance in an award or an agreement, check to see whether this is an isolated incident or that there is a pattern and that a number of workers who have, at that point, not complained also have their entitlements illegally denied to them?

**Ms Bennett**—The Office of Workplace Services monitors trends, both in industry and by specific employers.

**Senator COOK**—But does the task force, upon receiving a complaint, check to see that it is an isolated incident or a pattern?

**Ms Bennett**—This is up to the Office of Workplace Services to look for those trends and patterns within an industry or with employers.

**Senator COOK**—Does that mean they may or may not?

**Ms Bennett**—We have been quite explicit in previous answers and in the evidence. The task force has kept a record of what it has received, but it is not involved in investigating or tracking what is happening with those complaints. That is referred to the relevant area in the department that has the skills and expertise to be able to deal with those matters.

**Senator COOK**—Does the task force proactively investigate to see whether or not employers are observing the terms and conditions of awards or agreements?

**Ms Bennett**—It is for the Office of Workplace Services to do this.

**Senator COOK**—The task force does not do that. Earlier we went through—and I just make this note for the *Hansard* now—the discussion on the above and below \$10,000 issue. I do not intend to revisit it—you look a little relieved, Mr Secretary—but I just want to note for the *Hansard* now that we had this discussion before dinner.

**Dr Boxall**—Sorry, Senator Cook. Could you just go through that again?

**Senator COOK**—Matters referred by the task force to the department. My next question was about claims that are below \$10,000. What does the department do about them? I am just noting for the record that we had this discussion before dinner. I do not intend to go back over it again, but if the question is inappropriate for the task force—and it seems that it is—does the department, when it receives a complaint, investigate to see whether that complaint is a one-off or part of a pattern of improper or illegal behaviour by an employee?

**Ms Bennett**—It does look for patterns. I can provide information that the most recent case for prosecution in the building industry by the Office of Workplace Services for less than \$10,000 was in April this year in Western Australia, for \$776.

**Senator COOK**—I think you gave us figures earlier on how many complaints over and under \$10,000 in value you had received and what had become of them. You did that, didn't you?

**Ms Bennett**—No, I did not, Senator. Not for the building industry.

**Senator Abetz**—Just for the sake of completeness, in this area the minister issued a media release today, ‘Compliance campaign targeting employers in building industry’, indicating:

Departmental inspectors will inspect the time and wage records of a sample of employers and follow up any breaches of federal awards and agreements.

Employers who refuse to comply with their obligations may be prosecuted.

The campaign will be conducted by the Department of Employment and Workplace Relations and begin on 5 June.

This initiative is in response to the ... Cole Royal Commission.

Chair, if I may, I will table that for the benefit of the committee.

**CHAIR**—There being no objection, it is so ordered.

**Senator Abetz**—If there is some suggestion that this is all one-sided, the minister has issued further—

**Senator COOK**—I would appreciate it if one of the attendants could provide me with that now tabled statement. Does the Minister for Employment and Workplace Relations say—and only for completeness, Minister—how many inspectors will be engaged in this process?

**Ms Bennett**—No, it does not.

**Senator COOK**—Or how long it will run for?

**Ms Bennett**—Yes, it does.

**Senator COOK**—How long will it run for?

**Ms Bennett**—Until October.

**Senator COOK**—Does the minister say where the burden of effort will be concentrated—on housing construction or on commercial construction?

**Senator Abetz**—Just the building industry generally, but the campaign will begin in Victoria, New South Wales and Western Australia, and it may be extended to other states.

**Senator COOK**—As you would understand, Minister, what is the building industry is a matter of some contention. The Cole royal commission had its own unique definition of what the building industry is. I apologise to the royal commissioner. It was not his doing; it was the government’s doing. They defined what he was to inquire into, and he was not to inquire into that part of the building industry that constitutes housing construction. So, in this case, is this work being done on the commercial building construction area to be done on the housing and dwelling construction area as well?

**Senator Abetz**—I dare say that, if people ring up the wage line, they would be given appropriate advice.

**Ms Bennett**—The strategy of creating a community awareness through the advertisements, the information sessions and the write-outs to companies will raise a lot of awareness of the work being conducted by OWS and will inevitably attract the attention of companies that do work both in the housing industry and in what is more loosely termed the construction industry. I think that it will give a very good slice of people that could be loosely termed part of the building industry.

**Senator COOK**—You are unable to tell us how many staff will be employed on this exercise?

**Ms Bennett**—It will be enough to do it.

**Senator COOK**—It is a big industry.

**Senator Abetz**—I will take it on notice.

**Senator COOK**—The minister makes the point that it is a \$46 billion industry. I know from reading my newspaper that it is booming at the present time. So it is a big task. But you will take it on notice?

**Senator Abetz**—Yes.

**Senator COOK**—On the Building Industry Taskforce web site, which I had the pleasure of accessing this afternoon, there appears on page 1 a headline ‘About us: charter’. Then you have a heading in smaller, nonetheless much darker, print ‘Our role’ and another one ‘Our actions’ and then ‘Our responsibilities’. I wish to quote to you from under the heading ‘Our responsibilities’. I will skip the first paragraph because it is not relevant. The next paragraph says:

The Taskforce has prime responsibility for the following matters in respect to the building and construction industry:

- alleged breaches of awards and agreements ...

That is not true, is it, on the evidence that you have provided to us?

**Mr Hadgkiss**—It is true.

**Senator COOK**—The evidence is that, when you receive a complaint, you refer it to the department?

**Mr Hadgkiss**—No. For instance, in relation to awards and agreements, at the moment we are investigating breaches of the award through right of entry matters but more particularly in negotiation clauses which have been breached.

**Senator COOK**—If I were a worker who thought I had been underpaid—which is a breach of the award or the agreement—on the evidence you have provided to us this evening, you do not take prime responsibility, you refer it to the department, don’t you? That is what you have just said.

**Mr Hadgkiss**—I am part of the department.

**Senator COOK**—Yes. On your web site, Mr Hadgkiss—which, if we want to know what you do, is the place we go to look it up, which is what I did this afternoon and which is what any Australian citizen might do if he or she wants to know about the task force—I read ‘alleged breaches of award or agreements’, and underpayment is a breach of an award or agreement. You say on your web site ‘The Taskforce has prime responsibility’. What actually happens is that, if it is a breach of an award or agreement that affects underpayment, you do not take the responsibility; you refer it to the department.

**Senator Abetz**—I think you have been told that an award contains a number of provisions, and you are picking on a particular aspect of an award in relation to remuneration. We have already had indicated to us what the circumstances are surrounding that.



**Senator COOK**—But if the task force, Minister, with the greatest respect to you, does not take prime responsibility for all breaches of awards and agreements that are referred to it, then that sentence is misleading.

**Senator Abetz**—With respect, I think you might be misleading, but please read it back to me again. I did not think the word ‘all’ was included in what you read out to us, or was it?

**Senator COOK**—It does not need to be.

**Senator Abetz**—You are the one accusing the task force of misleading. You then try to slip in the word ‘all’—

**Senator COOK**—May I do as you request.

**Senator Abetz**—I then asked you whether the little word ‘all’ is in fact there, and you tell us, ‘It doesn’t really need to be there.’ You were the one that used the word.

**Senator COOK**—Let me accept your invitation to read to you what the words actually say. When I do, you will see how my response to you is truthful and accurate.

The Taskforce has prime responsibility for the following matters in respect to the building and construction industry:

- alleged breaches of awards and agreements;

**Senator Abetz**—That is right.

**Senator COOK**—It does not say some awards or agreements. It does not say part of the awards or the agreements.

**Senator Abetz**—Nor does it say all awards.

**Senator COOK**—It does not say only—if I may finish—those matters that reflect on employers or employees; it says ‘matters’, which, as you would know as a lawyer, is the widest definition of matters that there can be.

**Senator Abetz**—No. That is a very good try but, with respect, you are wrong.

**CHAIR**—You will have to agree to disagree. It is nine o’clock and we will suspend for 15 minutes.

**Proceedings suspended from 9.01 p.m. to 9.17 p.m.**

**CHAIR**—The committee is continuing to consider matters relating to the Building Industry Taskforce.

**Senator COOK**—I was asking about the web site. The discussion I had with the minister creates a funny situation, but I want to go back to my initial question. It is not a fact, is it, that the task force deals with all alleged breaches of awards and agreements? It is a fact, isn’t it, that those matters dealing with underpayment of wages or compliance are referred to the department from the task force?

**Mr Hadgkiss**—I have answered that already.

**Senator COOK**—I am asking it again, and if you would be kind enough, Mr Hadgkiss, I invite you to answer it again.

**CHAIR**—The officer has said he has answered the question. To ask him to repeat the answer is wasting the time of the committee.

**Senator COOK**—But I do not believe you have answered the question, so would you mind answering it now, Mr Hadgkiss?

**CHAIR**—He has actually given an answer. If he has nothing to add, then he has nothing to add.

**Senator COOK**—Thank you for the assistance you are providing, Mr Chairman, but I wonder if Mr Hadgkiss would answer the question.

**Mr Hadgkiss**—It is as it is set out in the document.

**Senator COOK**—How are we to regard your previous evidence about referring matters?

**Mr Hadgkiss**—If there are matters to do with underpayment of entitlements, they are referred to the department—the Office of Workplace Services.

**Senator COOK**—So you do not take prime responsibility?

**Mr Hadgkiss**—Generally for breaches in awards and agreements, yes.

**Senator COOK**—But you do not take prime responsibility?

**Mr Hadgkiss**—It does not say there ‘underpayment of entitlements’. It says ‘alleged breaches of awards and agreements’. If they are matters to do with underpayment of entitlements, upon preliminary examination, if we cannot give the information required, we would pass it to the OWS, where, as Ms Bennett says, the expertise resides.

**Senator COOK**—You are not putting to me that an underpayment of wages is not a breach of an award or an agreement, are you?

**Mr Hadgkiss**—I agree with you. It certainly could be; it may not necessarily be.

**Senator COOK**—Under what circumstances would an underpayment of wages not be a breach of an agreement or an award?

**Mr Hadgkiss**—I do not know the circumstances you are talking about.

**Senator COOK**—You have said to me that it would not necessarily be.

**Mr Hadgkiss**—We have to get the other person’s side of the story. We have only one person’s version.

**Senator COOK**—This is a breakthrough: there are two sides to each story, are there? In answer to the question, ‘Is an underpayment of wages a breach of an award or an agreement?’ you said, ‘Not necessarily so.’ I am simply asking you to tell me in what circumstances would it not be a breach.

**Senator Abetz**—I dare say that somebody has been paid over award wages, I do not know. But there may well be examples where somebody has been paid over the award or over the agreement, as a goodwill gesture by the employer, and they then complain that this is no longer going on. That is one possibility.

**Senator COOK**—That is a redefinition of the question, with respect, Minister.

**Senator Abetz**—No, it is not.

**Senator COOK**—Yes, it is.

**Senator Abetz**—You have asked about underpayment and the issue then is: what do you mean by ‘underpayment’? That is the problem when we get into hypotheticals. The permutations and possibilities are boundless and that is why it requires proper—

**Senator COOK**—This is a nonsense, Mr Chairman. You should not tolerate this sort of garbage.

**CHAIR**—Thank you, Minister. I think, Senator Cook, we have been very patient with your hypotheticals tonight.

**Senator COOK**—No, it is not a hypothetical.

**CHAIR**—This is the estimates, and I ask you—

**Senator COOK**—Mr Chairman, can I—

**CHAIR**—Order! I am speaking. Please direct your questions to real situations that the officers can answer. Hopefully, they will be related to the budget estimates.

**Senator COOK**—I just want a straight answer to a straight question, and I am getting no straight answers. I am getting defensive byplay. The question is: in what circumstances would an underpayment of an award or agreement not be a breach of that agreement?

**Mr Hadgkiss**—I do not know.

**Senator COOK**—If you do not know, why did you say that it may not be?

**Mr Hadgkiss**—I am confused.

**Senator Abetz**—Senator Cook, you were talking about allegations of underpayments. You were asking in what circumstances would allegations of underpayment not be a breach of an award, and I thought I just gave you a possibility of that.

**Senator COOK**—With respect, you did not.

**Senator Abetz**—I did.

**Senator COOK**—With respect, you recrafted the question—

**Senator Abetz**—No.

**Senator COOK**—and fed back an answer to a straw man. That is an old political tactic, and I understand that. I have maybe even engaged in it myself sometimes, but that is not the answer to the question.

**Senator Abetz**—Rephrase your question and we will see.

**CHAIR**—If it could be a concrete question, it would be helpful.

**Senator COOK**—Mr Hadgkiss has said that it may not necessarily be a breach of an award or an agreement where an underpayment has occurred. I am simply asking him to nominate a circumstance where an underpayment has occurred which is not a breach of an award or an agreement.

**Mr Hadgkiss**—For instance, if it was an AWA—that comes to mind—again, that would be referred to the department or the OEA.

**Senator COOK**—But an AWA is an agreement, so a breach of it would be a breach of it. Your credibility is very much on the line here, Mr Hadgkiss, because you are the person who enforces these things and, if you do not understand what a breach of an award or an agreement is, it does call into question whether you are capable of enforcing them.

**Senator Abetz**—Mr Chairman, this sort of editorialising of a very personal nature by Senator Cook is understandable, because we know that the CFMEU fought very hard for his preselection. But I suggest that this sort of editorialising by Senator Cook does not assist the proceedings.

**CHAIR**—Can we have some questions about real matters, Senator Cook?

**Senator COOK**—Thank you for the smear, but I reject it.

**Senator Abetz**—The smear that the CFMEU fought hard for your preselection? I thought they did.

**Senator COOK**—No, the smear was that I was misdirecting my question.

**Senator Abetz**—No, that you were editorialising.

**Senator COOK**—I do not know what the CFMEU did for my preselection, and it has nothing to do with my questions here. If you are reflecting on motives, you are inappropriately reflecting upon a senator, and I am sure the chair will call you to order.

**Senator Abetz**—I am not doing anything of the sort, and that is why I have not been called upon.

**CHAIR**—Perhaps you should stop being so provocative, Senator Cook, and just ask some concrete questions to the officers.

**Senator COOK**—I am, but every time I do so I get a non-answer, which is answer of course in itself.

**Senator Abetz**—Once again, you are editorialising, and that is okay for debate in the chamber or press releases or whatever but it is not the business of this committee.

**Senator COOK**—Mr Hadgkiss, I draw your attention to page 58 of the *Hansard*. You will see that Senator Murray had asked you a series of questions, and Ms Bennett and Mr Lloyd had answered some of them, as indeed had you. I refer you to your answer at the bottom of the page. You will see the introductory question from Senator Murray:

Senator MURRAY—A major component of ensuring that awards and agreements are abided by is ensuring that everybody is getting their fair share, including the tax man, WorkCover, employee entitlements and so on.

He went on:

That lowers aggravation and it lowers the incentive for disputation.

Then he asked you a question:

Have you been instructed to put that area as a lower priority in your work to date?

He went on further, but I do not think he got an answer to that question. I ask it of you now: have you been instructed to put this area as a lower priority?

**Mr Hadgkiss**—Certainly not.

**Senator COOK**—Senator Murray went on:

Mr Lloyd has said that you are adequately resourced. He said that you have lots of money. You say that you do not have sufficient powers, but the point is that this area is self-evidently so aggravating for unions and workers that if you, as a regulator, were able to attend more to this area I think the levels of disputation would naturally reduce.

Senator Murray was offering us his opinion about your activities. He went on:

I am referring to the estimates inquiry on Thursday, 19 February 2004 at which you were present. It seems that you do not regard that area as your high order of priority?

Do you regard it as a high order of priority?

**Ms Bennett**—The department regards it as a high priority. We have a dedicated unit, as we have explained—the Office of Workplace Services—whose primary responsibility is to look at these issues.

**Senator COOK**—Today we have the advantage of the minister's timely press release. Today Minister Abetz has kindly entered it into *Hansard*. Before this event, what other occasions were there in which the department conducted a sweep of award noncompliance like that which has now been announced?

**Ms Bennett**—For the building industry?

**Senator COOK**—Yes.

**Ms Bennett**—This is the first time that the building industry has been targeted.

**Senator COOK**—Thank you. That answers the question. Let us move on to your answer, Mr Hadgkiss. By now I trust you will have had an opportunity to have studied your answer. In the last few lines of your answer, in referring to the question of low priority that Senator Murray raised—and in your answer for the first time you introduced the words 'low priority', so I assume from the *Hansard* you were addressing that part of Senator Murray's question that dealt with low priority—you said:

When you say 'low priority' it is low in terms of the number of calls that come to the task force. I am only as good as the cards that I am dealt.

Do you see that in the *Hansard*?

**Mr Hadgkiss**—Yes.

**Senator COOK**—Do you stand by that statement?

**Mr Hadgkiss**—Yes, we had only 51 calls, of which the majority came from employers and were to do with employee entitlements.

**Senator COOK**—But your answer was: 'I am only as good as the cards that I am dealt.'

**Mr Hadgkiss**—Correct.

**Senator COOK**—The cards that you have been dealt include a range of people who have the powers of inspectors, don't they? It is set out in the act.

**Mr Hadgkiss**—Yes, the same as OWS; they are identical powers.

**Senator COOK**—Yes. Would you care to tell us where you have used those cards you have been dealt to proactively investigate underpayments in the building and construction industry?

**Mr Hadgkiss**—That is the domain of OWS. They have the same powers. If we had more powers then more could be done.

**Senator COOK**—I know you want the power for people to incriminate themselves, but that is another matter. That is what the bill proposes, Minister. If we are talking about the rule of law, one of the bastions of law is the right of a person not to incriminate themselves, but that is another debate for the chamber.

**Senator Abetz**—So you would be against telephone taps under all circumstances, for example. If that is a principle of the rule of law you would be against all telephone taps, including those of suspected drug dealers. You know that is not the rule of law. You are using quite excessive language to try to make a point which has, unfortunately, fallen badly.

**Senator COOK**—May I answer this allegation, Mr Chairman? You allowed it to be made. May I now answer it?

**CHAIR**—Certainly.

**Senator COOK**—Minister, I have voted many times in the chamber, as the record will show, on the rule of law and on the powers of people not to incriminate themselves. You know that the formula—

**Senator Abetz**—And in favour of it.

**Senator COOK**—If I may complete my sentence—you know that the formula on which I vote is that there has to be a compelling reason to subvert the rule of law on self-incrimination. If there is a compelling reason, that compelling reason may relate to terrorist activity or it may relate in certain circumstances to other forms of activity. But, as a general proposition, the rule of law is that you have the right not to incriminate yourself.

**Senator Abetz**—I think we all know that. But there is a huge number of exceptions, unfortunately, because there are criminal minds at work in a whole range of areas. It is quite obvious from the Cole royal commission that there are criminal elements in the building industry as well.

**Senator COOK**—But that is not what the bill says. The bill gives a general power, not a constrained power relating to crime.

**Senator Abetz**—We can keep developing this. I am more than happy to get Senator Cook on the record defending the CFMEU, but I am not sure that is exactly what his leader would want him to be doing at this stage of the electoral cycle.

**CHAIR**—Let us return to questions, Senator Cook.

**Senator COOK**—I happen to be the parliamentary secretary to the leader, so I think I might have a rough idea of what the leader thinks.

**Senator Abetz**—You would be the only one.

**Senator COOK**—No. If I were to look at the opinion polls, Minister, I think most Australians would have an idea of what the leader thinks and approve of it.

**CHAIR**—This is a debate for the chamber, not for the Senate estimates.

**Senator COOK**—That is quite right, Mr Chairman, thank you. So, Mr Hadgkiss, the answer to Senator Murray's question was no it is not a low priority and that you are only as good as the cards you are dealt. But you do not choose to exercise these cards as far as proactive investigations on underpayment.

**Senator Abetz**—No. It is because another section of the department deals with that and pursues them, so it is not an issue of their deliberately seeing the field vacated. It is deliberately passed on to another section of the department for them to pursue.

**Senator COOK**—No. We have just heard from Ms Bennett that the department has never before conducted a sweep in the building industry of the type that the minister has now announced. We now know that Mr Hadgkiss has not either. So there is no proactive action when the cards that he has been dealt enable him to do so. That is the point.

**Senator Abetz**—This is quite a ridiculous assertion. There were 212 recommendations out of the royal commission. The government admits it has not dealt with all of them—it has now dealt with about 170, so there are still 42 of the recommendations outstanding. When you are given a royal commission report of the nature of Cole's, it stands to reason that you would give urgent attention to those matters that have been put up there in lights, such as the thuggery and other things that have been detailed chapter and verse in the royal commission report.

**Senator COOK**—Are you answering a question, Minister, or making a statement?

**Senator Abetz**—Yes, absolutely. We still have another 42 recommendations to go.

**Senator COOK**—What question are you answering?

**Senator Abetz**—To try to criticise on the basis that not everything has been pursued at this stage is a fair criticism, but it is not a warranted one given that there are 42 more recommendations still to be pursued by the government.

**Senator COOK**—Mr Chairman, I am not sure what question the minister answered, but I am glad he has got it off his chest. He obviously felt that he needed to retrieve some ground. Mr Hadgkiss, on page 21 of your report, the last paragraph of 6.4, 'Underpayment of employee entitlements', deals with a finding of the royal commission. In evidence to us last Monday you said you wrote this report yourself, with the assistance of another officer who was not a journalist but was an officer of the task force. Under this heading, you chose to cite that reference. Of all the issues, why did you choose to cite this one?

**Mr Hadgkiss**—Throughout this whole report, I cite the royal commission in that the findings of the task force are aligned with Commissioner Cole's.

**Senator COOK**—That is true. Throughout this report, you frequently cite the royal commission. You then go on and say what the task force may have done with respect to the particular issue you cite the royal commission on.

**Mr Hadgkiss**—If it had the powers, yes.

**Senator COOK**—I know what your obsession is with the powers. So you have confirmed that what I have said is right. Why on this occasion did you cite the royal commission but you did not say anything about what the task force has done?

**Mr Hadgkiss**—Because I said what the task force has done in paragraph 2 and the nature of the calls we received. I then put in that this matter, which is in the public domain, is still to be addressed.

**Senator COOK**—You said:

At the time of writing, the Taskforce has yet to receive feedback from the Registrar as to the status of their enquiries.

**Mr Hadgkiss**—Correct.

**Senator COOK**—The task force has not done anything, has it?

**Mr Hadgkiss**—It lacks the power.

**Senator COOK**—No, the task force has not done anything. This is your report to the parliament. We have all read the royal commission report. The royal commission said that. But you are not reporting any action by the task force in this paragraph, are you?

**Senator Abetz**—This is a report to the minister, not to the parliament. Secondly, Senator Cook asserts that we have all read the royal commission report. I imagine he would include himself. If it does include him, I am astounded that he is not moved by the lawlessness and the lack of rule of law, to use that term that Senator Cook enjoys using, in the building and construction industry. I would have thought he would be very supportive of the very difficult task that the task force has and would be supportive of the legislation.

**Senator COOK**—There is a lot of pejorative comment in that answer. Of course, it is a matter of record that, at the relevant occasion, I was the responsible minister. We took great action with this industry.

**Senator Abetz**—I am sure the royal commission gave you a lot of accolades for cleaning up the industry. That is why they found all the thuggery. You didn't clean it up at all.

**Senator COOK**—I actually have a view about the royal commission, Minister—

**Senator WONG**—Chair, are we going to be here all night with the minister making political comments?

**Senator COOK**—and if you want to editorialise, which is what you are now doing endlessly in answer to my questions to Mr Hadgkiss obviously to provide time for him to think about an answer, we will be here until—

**Senator Abetz**—And that is not editorialising?

**CHAIR**—Order! Could we just have some questions please instead of this banter back and forth.

**Senator COOK**—Mr Chairman, when the minister begins editorialising, will you in future draw him to order?

**CHAIR**—I think you provoked all this by your whole line of questioning this evening. You really have.



**Senator WONG**—Chair!

**CHAIR**—You are constantly regurgitating what has happened out of 15 days of hearings, and you are wasting this committee's time. If you have any new matters you would like to raise, please feel free to do so.

**Senator COOK**—Will you exercise the prerogative of the chair to draw the minister to order in the appropriate circumstances?

**CHAIR**—When he is out of order, I will. I will draw you to order as well. Can you please ask your questions. The officers are here and eager to answer.

**Senator WONG**—So is it the position that the minister can editorialise?

**CHAIR**—I would really appreciate it if there were new matters and not regurgitated old matters.

**Senator COOK**—I have not dealt with this matter before.

**CHAIR**—You were quoting from the *Hansard*.

**Senator WONG**—He is permitted to ask this officer questions about his activities.

**Senator COOK**—I said that I have not asked this question before. May I now ask the question?

**CHAIR**—That would be refreshing. Please do.

**Senator WONG**—We do have a whole day tomorrow. I am sure we can fill it if need be.

**CHAIR**—It is your time to waste if you choose.

**Senator Abetz**—If you want to waste your time, good luck to you!

**Senator COOK**—In paragraph 6.4, 'Underpayment of employee entitlements', you set out in your words what the royal commission found, Mr Hadgkiss. These are not the words of the royal commission; this is your summary of the royal commission's words?

**Mr Hadgkiss**—Yes.

**Senator Abetz**—You are not disputing the basic elements that that is what the royal commission found?

**Senator COOK**—Not necessarily. In this report to the minister, which was tabled in the parliament and debated in the parliament and therefore is also a report to the parliament, you do not report in this paragraph any action by the task force. From reading this paragraph that is a matter of fact, isn't it?

**Mr Hadgkiss**—Correct.

**Senator COOK**—Since the report was tabled, do you have any additional information to provide us with now that clarifies this allegation?

**Mr Hadgkiss**—The registrar has written to me saying that they have commenced inquiries.

**Senator COOK**—Is that all?

**Mr Hadgkiss**—Correct.

**Senator COOK**—Nothing further?

**Mr Hadgkiss**—I do not have the letter in front of me.

**Senator COOK**—Are you aware that this matter was canvassed at the Senate inquiry?

**Mr Hadgkiss**—I am not aware.

**Senator COOK**—You did not follow the Senate inquiry?

**Mr Hadgkiss**—Where necessary, yes. I personally have not gone through *Hansard*.

**Senator COOK**—I am not asking you personally. You are the head of an organisation that sent representatives to the Senate inquiry. Were they at the Senate inquiry when this matter was dealt with in Sydney?

**Mr Hadgkiss**—I am not familiar with this matter being raised at the Senate inquiry, I am sorry.

**Senator COOK**—Who were you referring to in this paragraph?

**Mr Hadgkiss**—A union.

**Senator COOK**—Which union?

**Mr Hadgkiss**—I really do not wish to add anything further to this report.

**Senator COOK**—I am asking you which union. If you are not prepared to name the union, then all unions are under suspicion, are they not?

**Mr Hadgkiss**—It is recorded in the Cole royal commission.

**Senator COOK**—Which union is recorded there? I did not catch your answer.

**Mr Hadgkiss**—That is because I did not answer.

**Senator COOK**—My question was: which union is recorded in the Cole royal commission in relation to this allegation?

**CHAIR**—I thought you had read the Cole report, Minister. You should know. Why ask a question when you know the answer to it?

**Senator COOK**—Senator Tierney, I am a senator; I am not a minister. You will need to correct the record with respect to that. I may, however, be a minister soon.

**Senator Abetz**—But it will not be for long. Your party dealt with that. In relation to the comment, ‘Therefore all unions are under suspicion,’ if the police are conducting a major crime investigation, and the television news says there is a 34-year-old man being questioned by police, according to Senator Cook that means every 34-year-old male in Australia is under suspicion. That sort of extrapolation does not bear examination.

**Senator WONG**—You can do better than that, Minister.

**Senator COOK**—You should stop—

**Senator Abetz**—I do not have to, because the questions are so pathetic.

**CHAIR**—Do you have any questions on any new matters, Senator Cook?

**Senator COOK**—This is a report to the minister which was tabled in the parliament and is therefore a report to the parliament. It is before us properly to ask questions. There is a union referred to here. I want to know who you are referring to, Mr Hadgkiss.

**Senator Abetz**—We will take that on notice.

**Senator WONG**—On what basis?

**CHAIR**—It is the prerogative of the officers and the minister to take things on notice.

**Senator WONG**—It is the minister, not the officers.

**CHAIR**—I said the officers and the minister, if you had listened.

**Senator Abetz**—It is a matter that may well need some consideration, given that the matter has been referred. I am not sure that the gratuitous naming would necessarily be helpful if the royal commission did not—

**Senator COOK**—Gratuitous naming? Everyone is under suspicion until you clarify who it is you are referring to.

**CHAIR**—You have an answer.

**Senator Abetz**—That is exactly the point I was making in relation to the 34-year-old.

**Senator COOK**—Yours was a nonsense argument.

**Senator Abetz**—Senator Cook has been silly enough to fall into his own trap again.

**Senator COOK**—Yours is a nonsense argument. Mr Hadgkiss, are you prepared to answer the question?

**Senator Abetz**—I am sure the SDA is not under any suspicion in relation to this matter.

**Senator COOK**—Is the Maritime Workers Union?

**Senator Abetz**—There is one union.

**Senator COOK**—Mr Hadgkiss, are you prepared to answer the question?

**Mr Hadgkiss**—The minister has already said he will take it on notice.

**CHAIR**—And that is the end of the matter, Senator.

**Senator COOK**—No, it is not.

**CHAIR**—It is, Senator. If it is taken on notice, that is the end of the matter. You are just wasting time. Could you move to your next question?

**Senator COOK**—I will move to my next question when I have a proper answer to the line of inquiry that I am conducting—within the standing orders, Mr Chairman, as you would understand.

**CHAIR**—Within the standing orders, if an officer says they will take it on notice, that is the end of the matter.

**Senator COOK**—Mr Hadgkiss, you said that you obtained a report that the matter was being investigated by the Federal Industrial Registrar. You said that earlier this evening.

**Mr Hadgkiss**—I do not think I said ‘a report’; I think I said I received a short letter.

**Senator COOK**—A letter could be a report, but it was a letter. Which union was the Federal Industrial Registrar investigating?

**Mr Hadgkiss**—The same union that was in that paragraph.

**Senator COOK**—And it is?

**Senator Abetz**—That has been taken on notice. This is the second or third attempt to try to ask the same question.

**CHAIR**—The committee stands adjourned for five minutes while we have a private meeting.

**Proceedings suspended from 9.46 p.m. to 9.52 p.m.**

**CHAIR**—The committee is considering issues relating to the Building Industry Taskforce.

**Senator COOK**—Before the proceedings were suspended a moment ago, I was asking whether you would name the union referred to in the third paragraph of 6.4 at page 21 of the report. As I recall the answer, you said that you would take that matter on notice. I ask: are you taking it on notice because you do not know the name of the organisation concerned?

**Mr Hadgkiss**—No, Senator.

**Senator COOK**—You do know the name of the organisation?

**Mr Hadgkiss**—Yes.

**Senator COOK**—Can I ask then: why are you not revealing that to the Senate?

**Mr Hadgkiss**—Because if I reveal it for this paragraph I am open to naming people and entities throughout this whole report.

**Senator COOK**—That is if I ask you questions on those things. If I do not ask you questions on those things you are not open to doing that and, in any case—

**Senator Abetz**—The precedent will have been set.

**Senator COOK**—No. Am I to understand that the reason you are not answering is that you might therefore be required to answer in other cases?

**Mr Hadgkiss**—Correct.

**Senator COOK**—Mr Chairman, I would like this matter referred to the Clerk of the Senate, because this is the first time—if I may address that point—I have encountered in estimates, over 22 years, an officer of a department appearing before an estimates committee declining—

**Dr Boxall**—Senator Cook—

**Senator COOK**—Excuse me, Secretary, I am addressing the chairman, if I may. I will be kind enough to allow you to speak when you wish, but I would like to conclude my remarks on this point. This is the first time in my 22 years of experience, both in government and out, that the defence for not answering a question has been that it might create some precedent, and I would like to emphasise the word ‘might’, for subsequent questions which may, and I would like to emphasise the word ‘may’, be asked. I make that request of you with this additional comment: the purpose of estimates is to enable the departments to justify their estimates to the parliament. The parliament debates the reports of these committees and decides then whether it will approve the appropriations sought by the government or not. If we have a situation where the Public Service declines to answer questions on what I would submit are the specious grounds offered then the ability of parliament to scrutinise the

administration of portfolios is significantly hampered, and that is a very serious matter indeed. With those comments, I ask you to refer the matter to the Clerk for a ruling so that we might have a clear ruling on this point.

**CHAIR**—I think Dr Boxall has a contribution on that.

**Senator Abetz**—I would like to comment before the Clerk is asked to rule on that. There is not simply the issue of information that might then be required to be provided in relation to other questions. The issue also relates in this situation to the possibility of prosecution, so there is the possibility of prejudicing legal proceedings, which should be drawn to the Clerk's attention. As I understand it, in relation to this particular matter the name has not been publicly divulged. Is that right?

**Ms Bennett**—The recommendation in relation to it emanates from the confidential volume. The royal commission recommended that the confidential volume not be made public, and the government accepted that recommendation.

**Senator COOK**—Yes, but it is made public here.

**CHAIR**—Order, Senator! I think Dr Boxall is next.

**Ms Bennett**—No, Senator Cook. Mr Hadgkiss drew on information and reference made in public material, but the naming of the individual case and the circumstances of those issues were one of the 98 matters that I referred to earlier as being referred to agencies for action resulting from the recommendations of the confidential volume.

**CHAIR**—Dr Boxall, did you have a comment?

**Dr Boxall**—That is the point I was going to make, Chair.

**Senator COOK**—Since this matter has been raised I would like to make an additional comment with respect to it. The matter that has now been raised—in Senator Abetz's summary, now supported by Dr Boxall—is that this may result in legal action, and as a consequence the naming of a party may prejudice them. To that proposition I say that this allegation is made in general terms in the royal commission—repeated here as if it is true. The allegation, if there is a matter to be raised, can be raised by saying, 'It is an allegation.' I would submit that that protects the presumption of the innocence of the party being referred to. To argue that it does not protect that presumption of innocence would make a mockery of just about every newspaper that ever reports an alleged event that might be of a criminal nature. So I do not accept the argument put by the government and supported by the department, and I would like that included in my advice to the Clerk.

**CHAIR**—I think the minister and the department have put very good reasons why they cannot answer this matter here tonight. If you feel that you want the Clerk to give some sort of ruling on this, you are most free to go ahead and ask the Clerk.

**Senator WONG**—It is properly raised for the committee to do that.

**CHAIR**—The senator has raised it.

**Senator WONG**—If a senator raises a matter and asks that it be referred to the Clerk for advice, it is proper for you as chair to do so, not to make a determination as to whether or not it is valid.

**CHAIR**—If I am not convinced by the argument, it is not proper.

**Senator WONG**—I do not know that that is right.

**Senator COOK**—But the senator has the right to raise the matter with the Clerk as a senator and he may wish to do so.

**Senator COOK**—On that ruling, Mr Chairman, it is standard practice in the Senate for a senator to rise in their place and request that a matter be considered by the President of the Senate, and for the President of the Senate to so consider that matter and return to the Senate chamber at some later time to rule on the issue.

**Senator WONG**—Why don't we call Harry?

**Senator COOK**—I am not asking you to support the question I have put. I believe that it is a reasonable question to put but I am not asking you to support it. I am simply asking you to do the transmission, to refer the matter.

**CHAIR**—This is not the Senate chamber; this is an estimates committee hearing. The procedure in estimates committees is that when you ask a question of the officers they have a right to say they will take it on notice. We have a provision on the reporting back of questions on notice which would then come into play. You as a senator have a right if you wish to raise it with the Clerk of the Senate. If you want an answer from the Clerk, I suggest that is what you do.

**Senator WONG**—Why don't we adjourn now and get advice from the Clerk as to whether the appropriate mechanism is for you as chair of the committee to refer it or whether we need to do that personally? We can do that now.

**Senator Abetz**—I would have thought that one of you could leave the room to make such a phone call.

**Senator WONG**—No. This is a matter that has been raised by a senator as to the appropriate conduct of estimates committee hearings. It is entirely appropriate that the chair seek advice as to the procedure, because we obviously disagree.

**CHAIR**—I know what the procedure is because I have sat through these processes for 13 years. I have heard many questions asked. Departmental officers take matters on notice and, particularly where there are sensitive legal matters involved, I think that is a very wise course of action.

**Senator COOK**—That is true, and I would normally support that type of ruling. What is distinctive here is that the reason we are not being told is not that the officers do not know and it is not that they cannot protect the innocence or the right to be presumed innocent of the party involved by saying that it is merely an allegation; it is that they do not wish to tell us, and they do not wish to tell us—

**CHAIR**—That is an assumption.

**Senator COOK**—No, it is on their own words that they do not wish to tell us because it may be—

**Senator Abetz**—No.

**Senator COOK**—We will go back to the *Hansard*.

**CHAIR**—They have given you very good reasons why.

**Senator COOK**—The *Hansard* is very clear on this. The reason why Mr Hadgkiss would not answer this question, supported by the minister and by the secretary, is that in doing so it may set a precedent for other questions which may be asked.

**Senator Abetz**—Not only that; that is dissembling and misrepresenting the position—

**Senator COOK**—It is not. It is on the *Hansard*. Do not be misleading.

**Senator Abetz**—because I added immediately after Mr Hadgkiss that the other reason was the issue of potential legal proceedings. In relation to whether this is an allegation or not, the report said—and I assume that it is a faithful repeat of what the royal commission said in a public volume of it—‘the royal commission found’. So the royal commissioner made a finding. Whether Senator Cook likes it or not, that is a finding. Whether it is an allegation is an issue of semantics but from Mr Hadgkiss’s point of view, the royal commission made a finding. If that makes it an allegation, so be it, but that is what the royal commission found. That is what he has faithfully repeated, but the naming of the union concerned was not something that the royal commission undertook and we are not about to do that here tonight.

**CHAIR**—I appreciate that, Minister.

**Senator COOK**—I understand your ruling, Mr Chairman. In view of that I am obliged to foreshadow that, upon the availability of the *Hansard* of these proceedings, I intend to ask the Clerk of the Senate to make a ruling.

**CHAIR**—It is your prerogative.

**Senator COOK**—If the ruling is that I am entitled to an answer to the question, I will be moving that this committee be reconvened in order for me to obtain such an answer.

**CHAIR**—You have asked your question.

**Senator COOK**—I have foreshadowed my intention.

**CHAIR**—The officers of the department, the secretary, the minister and the chair have given their view opposing your point of view. If you want a view from the Clerk, that is your prerogative.

**Senator COOK**—This turns on a matter of accountability, and there is no more fundamental matter underpinning Senate estimates than that issue. If you want that issue to be the issue of controversy, so be it.

**Senator Abetz**—There is a huge number of precedents that names are not mentioned, even in unfair dismissal cases involving federal parliamentarians. When I was in opposition, one of my very first attempts at Senate estimates was to find out and the minister at the table quite properly said that they would not divulge the name because of proceedings et cetera. That was one of my very first lessons about a decade ago and I would have thought Senator Cook, with twice that experience, would have been aware of that very basic lesson in Senate estimates.

**Senator COOK**—I reject the analogy as inappropriate.

**CHAIR**—Let us move on. Further questions, Senator Cook?

**Senator COOK**—That analogy is silly.

**Senator Abetz**—That was in depth, well thought out!

**Senator COOK**—I can provide you with a point by point justification for my statement. Firstly, it was silly because it was not on the point.

**Senator Abetz**—Of course it was.

**Senator COOK**—Secondly, it was silly because it was frivolous; thirdly, it was silly because it was time wasting; fourthly, it was silly because you were trying to make a political point and indeed it was patronising.

**CHAIR**—Order! This is not advancing the estimates process. Can we have some questions, Senator Cook.

**Senator COOK**—Mr Hadgkiss, are you aware that, in the second Sydney hearings of the inquiry into the building industry legislation, the New South Wales branch of the CFMEU indicated it believed it was the union referred to in that passage?

**Mr Hadgkiss**—No.

**Senator COOK**—Would you be surprised that they thought that?

**Mr Hadgkiss**—That is an opinion, Senator.

**Senator COOK**—Do you think they had grounds for thinking that?

**Senator Abetz**—‘Do you think’—that is asking for an opinion.

**Senator COOK**—Are you further aware that in addressing the point, if it had been them, they proceeded to produce evidence to disprove the allegation?

**Mr Hadgkiss**—No.

**Senator COOK**—Do you think it would be appropriate to now become aware of it?

**Mr Hadgkiss**—You are asking me to offer an opinion, with respect.

**CHAIR**—Senator Cook, if you had been here at the very start when I read the opening statement, you would have heard me say that officers are not to be asked their opinion on particular matters and not be asked questions of policy. Those were the two things in the statement. On a number of occasions tonight you have asked officers for opinions. I ask you to desist from that practice.

**Senator COOK**—You are quite right in drawing me to order on that point, Chair. However, I am able to ask officers the means by which policies or processes were arrived at.

**Senator Abetz**—That is different.

**Senator COOK**—How did you inform your mind on this matter, Mr Hadgkiss?

**Mr Hadgkiss**—From the royal commission report.

**Senator COOK**—Did you do any further independent checking of your own?

**Mr Hadgkiss**—It was there in black and white in the report. I lack the powers to go any further. That is why it was referred to the registrar.



**Senator COOK**—What prompted you to write or to obtain from the registrar a letter saying that this was further investigated?

**Ms Bennett**—When the Attorney-General referred the matters from the confidential volume, Mr Hadgkiss was given as the contact officer for responding to progress. Not only the Industrial Registrar but also the state ministers have written to Mr Hadgkiss and the minister providing progress on the issues emerging from the confidential volume.

**Senator COOK**—And that is what prompted Mr Hadgkiss—you are answering on his behalf, Ms Bennett—to seek a report from the registrar?

**Ms Bennett**—The registrar was written to by the Attorney-General and, when the matter was referred to him out of the confidential volume, he was asked to advise Mr Hadgkiss of progress on the matter.

**Senator COOK**—When was the date of that advice from the Industrial Registrar that the matter had been referred to him and he was investigating it?

**Ms Bennett**—The matters were referred from the Attorney-General in May 2003 and there was a follow-up in March from the Minister for Employment and Workplace Relations to relevant federal, state and territory ministers.

**Senator COOK**—But this matter was referred to the Federal Industrial Registrar.

**Ms Bennett**—I assume that the Industrial Registrar was responding to the letter of the Minister for Employment and Workplace Relations of 25 March 2004.

**Senator COOK**—It was referred to the Federal Industrial Registrar in March 2004. Did I hear you correctly?

**Ms Bennett**—No, the Attorney-General made the initial referral in May 2003, and there was a follow-up letter from the Minister for Employment and Workplace Relations on 25 March 2004.

**Senator COOK**—So that follow-up letter from the minister was to the Federal Industrial Registrar, was it?

**Ms Bennett**—It was to relevant federal, state and territory ministers.

**Senator COOK**—Do I assume it was a broadcast letter prompting all those that had received referrals to attend to whether those referrals had been dealt with?

**Ms Bennett**—Provide a further progress report.

**Senator COOK**—As a part of that broadcast, the Federal Industrial Registrar got a reminder—if I can put it in those terms—that this matter should be attended to.

**Ms Bennett**—Yes.

**Senator COOK**—When did the Federal Industrial Registrar, Mr Hadgkiss, inform you in writing that it was being investigated?

**Mr Hadgkiss**—Subsequent to the tabling of this report.

**Senator COOK**—Can you provide us with the date?

**Mr Hadgkiss**—31 March.

**Senator COOK**—Tomorrow is June. Have you taken any further steps to see how that investigation has progressed?

**Mr Hadgkiss**—No.

**Senator COOK**—Why not?

**Mr Hadgkiss**—As Ms Bennett said, there are some 90-odd matters referred to respective departments. I can only leave it to the departments and reminders that emanate from the minister's office.

**Senator COOK**—In the last sentence of this paragraph you say:

At the time of writing, the Taskforce has yet to receive feedback from the Registrar as to the status of their enquiries.

At the beginning of today's questions I asked you if you had anything further to report and, broadly, you indicated that you did not.

**Mr Hadgkiss**—Correct.

**Senator COOK**—But what is additional and which is now reported is that you have received a letter from the registrar saying that inquiries are under way.

**Mr Hadgkiss**—Yes.

**Senator COOK**—The implication of that last sentence is that you are monitoring the situation.

**Mr Hadgkiss**—Correct.

**Senator COOK**—The inquiries, as we know, were advised to you as being under way in March.

**Mr Hadgkiss**—May last year.

**Senator COOK**—Did the registrar in his advice to you indicate when he commenced those inquiries?

**Mr Hadgkiss**—I do not recall.

**Senator COOK**—Could you take that on notice and advise us.

**Mr Hadgkiss**—Yes.

**Senator COOK**—The reason why I ask is the registrar has had this request for over a year, and it would seem reasonable to me that within a year the registrar would have undertaken and been near the completion of his inquiries. That is a reasonable proposition—don't you agree?

**Mr Hadgkiss**—Not necessarily.

**Senator COOK**—It is a clear matter of fact whether these events occurred or not. It is a matter of producing the audited statements of this organisation. It is not a complex matter in the sense of what is the documentation that supports the allegation one way or another. It is not going to take a year to do, is it?

**Mr Hadgkiss**—I do not know.

**Senator COOK**—In his letter to you did the registrar give any indication of when he thought he might complete his inquiries?

**Mr Hadgkiss**—From memory, no.

**Senator COOK**—You will check that and take it on notice, will you?

**Mr Hadgkiss**—Yes.

**Senator COOK**—Did you inquire of the registrar, since it has been at large for over a year, when he might complete his inquiries?

**Mr Hadgkiss**—No.

**Senator COOK**—I conclude my line of questioning on this issue. I will pass to the next matter that I think requires some answers, but I want to note for the record that I think it is unreasonable for a matter to be outstanding for this length of time without being brought a conclusion, particularly when it deals with a serious allegation against what I would submit as an easily identifiable organisation. That is a matter for the government.

**Senator Abetz**—I am not sure that it is necessarily for the government, but I will let the comment go, other than to question that proposition.

**CHAIR**—Does that complete the questions on the Building Industry Taskforce?

**Senator COOK**—No, it does not, Chair. I have a series of other questions. Mr Hadgkiss, I invite you to recall the questioning last Monday. Are there any matters covered last Monday that you have further information about that you can provide us with now?

**Mr Hadgkiss**—At the beginning of my evidence here tonight, I gave an outline of what I had completed and what I had forwarded to the secretary of the inquiry.

**Senator COOK**—You will recall that, last Monday, Senator Johnston said, on page 49 of the *Hansard*:

I do not know whether you read the *Hansard* record for last week or the previous week. At a committee hearing we talked about a 17-year-old apprentice who allegedly was unduly influenced—I think that is the best way to describe what happened—with respect to matters in which he was engaged in the building industry. Did you read about that witness?

Your reply was:

I have heard of an account of what was termed corruption by a task force investigator.

Senator Johnston said:

Firstly what do you understand the allegation to be?

Then you, in a 1½ line reply, said:

As I understand it, a \$10 or \$20 bribe was offered to a 17-year-old apprentice to obtain information for the investigator.

You are familiar with that issue?

**Mr Hadgkiss**—Yes, Senator.

**Senator COOK**—Do you have anything to add about that matter now?

**Mr Hadgkiss**—No, Senator.

**Senator COOK**—Do you recall that, when Senator Johnston asked you these questions, I intervened to say that you had misstated the allegation?

**Mr Hadgkiss**—Yes, Senator.

**Senator COOK**—When I came to questioning you about this myself, I asked you the meaning of what is, in criminal parlance, ‘a big drink’. Do you recall me asking you that?

**Mr Hadgkiss**—Yes, Senator.

**Senator COOK**—Can you just remind us what ‘a big drink’ is, in criminal parlance?

**Mr Hadgkiss**—I have already answered that.

**Senator COOK**—And so you did. I am now on page 60 of the *Hansard*. I said to you:

Are you aware that the allegation is wider and more serious than that? The allegation goes on to state that if he kept doing that he would be given ‘a big drink’?

You then said:

Yes, I understand that.

I said to you:

What do the words ‘a big drink’ mean in criminal parlance?

And you said:

Certainly in police corruption circles it is bribery.

Do you recall that?

**Mr Hadgkiss**—Yes, Senator.

**Senator COOK**—I then said:

So, when someone offers someone ‘a big drink’, to use that parlance, he or she is in fact offering to bribe them?

You said:

If that were true, yes.

Then I said:

Did you interview the apprentice?

You said:

I was unaware of who this apprentice was until that information was given second-hand before your inquiry last week ...

You had, however, indicated to Senator Johnston in the earlier passage that I quoted from that you knew about the allegation.

**Mr Hadgkiss**—Through the proceedings the previous week, yes.

**Senator COOK**—And that you had inquired of officers about those allegations?

**Mr Hadgkiss**—Yes.

**Senator COOK**—And that you had obtained an explanation that, as I recall—in your words, I think—they had been vehemently denied?

**Mr Hadgkiss**—Correct.

**Senator COOK**—In inquiring of those officers about those allegations, did those officers not report to you the full allegation concerning ‘a big drink’?

**Mr Hadgkiss**—No, because the allegation came from you or from a witness you called. It did not come from the task force.

**Senator COOK**—With due respect, it did not come from me; it came from Senator Johnston.

**Mr Hadgkiss**—The person who gave that hearsay evidence before the inquiry.

**Senator COOK**—Yes, but that did not come from me.

**Mr Hadgkiss**—No, it came from a person who heard it off somebody else who gave it to your inquiry.

**Senator COOK**—Not my inquiry; the Senate’s inquiry. I must have misunderstood you. I thought you said it came from me but, if you did not say that, that is fine. What brought it to your attention so that you might ask an officer what happened?

**Mr Hadgkiss**—From memory, somebody telephoned me and told me that this had been said during the course of evidence before the inquiry.

**Senator COOK**—When they said to you that this had been said did they tell you about the ‘big drink’?

**Mr Hadgkiss**—From memory, no. I do not remember the full details I was told. I was more concerned about a 17-year-old apprentice.

**Senator COOK**—You are a former police officer, I understand, who is versed in criminal law. You inquired into this matter but you did not inquire as to the full extent of the allegation made. Is that what you are saying?

**Mr Hadgkiss**—I am not armed with the benefit of *Hansard*. Again, I cannot recall who told me, but this had been said during an inquiry and the allegation was put to the officer concerned.

**Senator COOK**—It is of no account to me who rang you and told you about it. What is of more importance is that you were told that an allegation had been made about an investigator and a 17-year-old apprentice. When you were advised of that allegation you then investigated it with the officer concerned?

**Mr Hadgkiss**—I didn’t personally; it was put to one of the officers of the task force—I think the supervisor of the investigator concerned—to question him about this allegation.

**Senator COOK**—When you were advised of the allegation did you not seek the full details of what the allegation being made against the task force officer was?

**Mr Hadgkiss**—I was awaiting *Hansard*—which, as you know, appeared only in recent times.

**Senator COOK**—I know, and it has been a terrible difficulty for all of us, but I understand how overworked *Hansard* are. I can at least say it is not their fault; it is the amount of resources provided for them to do their job. As someone with an investigator’s training of

criminal matters at a police officer's level, when an allegation was referred to you, am I to understand that you did not ask what the full extent of the allegation being made was?

**Mr Hadgkiss**—The person who rang me, from recollection, did not give me the full account; he gave it to the best of his recollection.

**Senator COOK**—Did you ask that person, 'Is that the extent of the allegation?'

**Ms Bennett**—It was the departmental officer who was there observing the types of issues that were being raised. They would not necessarily have picked up the nuance that you are suggesting from the discussion and just reported the facts to say 'These are the issues that were raised' to Nigel. We decided that we would wait to see what emerged from *Hansard* and that has taken some time—in fact, it was not available last Tuesday when we appeared at the last hearings. It is in that context where the bare facts were available that it was passed on to Mr Hadgkiss to let him know that this had been raised at the hearings.

**Senator COOK**—I believe you, because when the allegation about a 'big drink' was made I did not understand the implications of it either. I became aware subsequently that this is criminal language for offering a bribe. But if you had heard that language, Mr Hadgkiss, you would have understood what it meant?

**Mr Hadgkiss**—Yes.

**Senator COOK**—But what you are saying to us is that no-one told you that the 'big drink' was part of the allegation?

**Ms Bennett**—That was not passed on.

**Senator COOK**—That is the evidence that you are providing to this committee—that it was not passed on?

**Ms Bennett**—From our departmental officer.

**Senator COOK**—Now that we are aware of what a 'big drink' is, and we are aware of the extent of the allegation being made against the investigating officer, have you asked that investigating officer about the 'big drink' part of the allegation, which you could not have asked him about before because you did not know about it?

**Mr Hadgkiss**—As Ms Bennett has said, until I have the benefit of studying *Hansard* we are limited in the knowledge that we have from this source.

**Senator COOK**—We have now had the benefit of this *Hansard* for a while. My question is: have you now asked the relevant officer about that part that you could not have asked him before because you did not know about it—the allegation of a 'big drink'.

**Mr Hadgkiss**—On the advice of Senator Murray, no.

**Senator COOK**—On the advice of Senator Murray?

**Mr Hadgkiss**—You were there when Senator Murray said that this was a privileged communication and I had to get advice as to whether, when matters are brought before a Senate inquiry, we should unwarrantedly go off and investigate those matters.

**Senator COOK**—I have got in this *Hansard* what Senator Murray actually said. Do you take advice from Senator Murray about your activities as a normal rule?

**Mr Hadgkiss**—He is a lawyer.

**Ms Bennett**—It was also agreed—I think Mr Lloyd was present—that we would need to seek some advice about parliamentary privilege and those issues. It is not as if the committee formally referred to it. The issue was discussed and our obligations under that. Mr Lloyd made that point at the hearing.

**Senator COOK**—Correct this impression if it is wrong: you have not asked this officer about the ‘big drink’?

**Mr Hadgkiss**—I have not taken any further action since the advice of Senator Murray that these were privileged matters.

**Senator COOK**—These are matters that have the cloak of parliamentary privilege so that people who say things under parliamentary privilege, unless they do so in a distinctly malicious way, are free to say what they choose to say.

**Mr Hadgkiss**—With respect, this was a hearsay source. It was about somebody who had heard something off somebody else.

**Senator COOK**—With due respect, Mr Hadgkiss, it was evidence given to the Senate inquiry.

**Mr Hadgkiss**—And if the Senate inquiry wishes the task force to investigate this matter it will. But to date it has received no formal recommendation that this matter be investigated. If you wish it to be investigated, or it comes from the secretary, I will be happy to have this matter fully investigated and report back.

**Senator Abetz**—That is the secretary of the committee?

**Mr Hadgkiss**—That is Mr Carter, yes.

**Senator COOK**—If any allegation is made at the Senate inquiry which attaches to the standing or integrity of your task force, you will not investigate it unless you have a request from the inquiry to do so?

**Mr Hadgkiss**—As I understand it, they are subject to parliamentary privilege. If people give information or evidence under privilege, for the task force then to come around knocking on their door questioning them I would have thought would have been tantamount to a contempt of the Senate inquiry.

**Senator COOK**—I wouldn’t have.

**Senator Abetz**—Possibly you should write to the Clerk about that one as well, and then you will get two things cleared up at the same time.

**Senator COOK**—Thank you for your unhelpful interjection, Minister.

**Senator Abetz**—There is clearly a genuine divergence of opinion again.

**Senator COOK**—There we go again.

**Senator Abetz**—Let us get it cleared up.

**CHAIR**—Agree to disagree and move on.

**Senator COOK**—Here we go again.

**Senator Abetz**—If you do not want it cleared up, that is fine. We will move on. Next question. If there are no further questions, Chair, can we retire for the night?

**Senator COOK**—No, I have got further questions.

**Senator Abetz**—You have? All right.

**Senator COOK**—And I have not left this matter yet either. Am I to understand that, if a serious allegation is made by an office holder of a registered industrial organisation to the Senate, the task force will ignore that unless the secretary of the Senate inquiry refers it to them?

**Senator Abetz**—I am astounded that it would not be made to the task force in the first place and that it would be made under parliamentary privilege. But that is open to those people to determine how they want to make their allegations.

**Senator COOK**—Is that your answer? Are you accepting the minister's answer as your answer, Mr Hadgkiss?

**CHAIR**—The minister has the right to answer in place of the officer.

**Senator COOK**—I know, but I am asking the officer whether he has anything to add.

**CHAIR**—You do not necessarily have to ask for collaboration.

**Senator Abetz**—I was just making an observation.

**Mr Hadgkiss**—I have nothing further to add, other than to reiterate that, if you want the matter investigated, we would be happy to investigate it. I need some formal advice to that effect.

**Senator COOK**—Do you apply that standard, that you require formal advice, to all the allegations that are made to you?

**Mr Hadgkiss**—If we were to go around to this person who gave hearsay evidence and say, 'We're here because you gave evidence,' that person could accuse us of some sort of intimidation. But if we go there with the direct permission of, or under direction by, the Senate, obviously that would give us more responsibility.

**Senator Abetz**—Can I indicate to you, Chair, that I believe the legal situation is that anything that he said in parliamentary proceedings—and I would assume committee hearings as well—cannot be relied upon in a court of law.

**Senator COOK**—That is my understanding.

**Senator WONG**—It does not prevent you, once you have that knowledge, from going and asking them to provide the information.

**Senator COOK**—That is right.

**Senator WONG**—It is a different issue.

**Senator COOK**—My understanding is that what the minister says is right, but—

**Senator Abetz**—The allegation that would be relied upon could not be relied upon in a court of law—

**Senator WONG**—We are not suggesting it would be.



**Senator Abetz**—and, therefore, you would be left with nothing.

**Senator WONG**—No-one is suggesting that.

**CHAIR**—I am sure we can all make various interpretations on these things. I suggest that we move on.

**Senator COOK**—Yes. But the minister is right. This could not be relied upon. This is a very important point. The minister is right, and so is Senator Wong by way of interjection. It could not be relied on in a court of law, but that is exactly why it would be investigated to see whether it was true—to gather the evidence so that, if it was, you could rely on that evidence in a court of law. In my view, it is preposterous for a serious allegation to be made about the conduct of a government agency before the Senate in a formal inquiry and for that agency not to investigate or make inquiries of any sort as to whether or not there is any foundation for the allegations being made.

**Senator WONG**—You say you will not investigate this because it has not been formally referred?

**Mr Hadgkiss**—I will, if I am asked to do so.

**Senator WONG**—Unless it is formally referred. But if people contact the task force directly, making allegations—

**Mr Hadgkiss**—We would thoroughly investigate them.

**Senator WONG**—So you apply a more harsh standard—

**Mr Hadgkiss**—No, that is a different set of circumstances. It is completely—

**Senator WONG**—I had not finished the question. Do you apply a more stringent standard—

**Mr Hadgkiss**—No.

**Senator WONG**—to evidence before the Senate than you do when people ring up and make allegations to the task force?

**Mr Hadgkiss**—It would be the same standard of investigation, but I have to have—as I understand it—the matter referred to me.

**Senator WONG**—I assume people ring you also with allegations which are made up of hearsay evidence. That happens?

**Mr Hadgkiss**—That is correct.

**Senator WONG**—And you have acted on some of those to investigate them?

**Mr Hadgkiss**—Yes, but not under parliamentary privilege.

**Senator WONG**—Hang on. You take the phone call and then what? Some of your officers, or one of your officers, investigate the matter further?

**Mr Hadgkiss**—That is correct.

**Senator WONG**—Do you get a consent in writing?

**Mr Hadgkiss**—If a person rings up they are actually wanting the matter investigated.

**Senator WONG**—But the allegation that could be made—

**Mr Hadgkiss**—But this is somewhat—

**Senator WONG**—I have not finished. The allegation that might be made, you have said, might include hearsay evidence—that is, ‘someone else said to me.’ You have said that that is possible.

**Mr Hadgkiss**—I am sorry, Senator?

**Senator WONG**—You have agreed that you may well receive—or you have received—calls which might involve allegations, including via hearsay evidence.

**Mr Hadgkiss**—Yes.

**Senator WONG**—And you investigate those.

**Mr Hadgkiss**—Yes.

**Senator WONG**—Without requiring written consent.

**Mr Hadgkiss**—Yes.

**Senator WONG**—So your only basis for not investigating this allegation is because it is made under parliamentary privilege.

**Mr Hadgkiss**—Yes.

**Senator WONG**—So you apply a more stringent standard to evidence given to the Senate than you do if some punter rings you up and says, ‘Joe down the road has done this’?

**Mr Hadgkiss**—I do not agree. There is a legal impediment on the second category.

**Senator WONG**—Do you understand the legal impediment?

**Mr Hadgkiss**—Yes.

**Senator WONG**—What is the legal impediment?

**Mr Hadgkiss**—The legal impediment is—as I understand it, as it has been explained to me—that if people give evidence before a Senate inquiry they are giving that evidence under privilege.

**Senator WONG**—Correct.

**Mr Hadgkiss**—If people make allegations against the task force and people then confront those witnesses, to me that can be construed as intimidation, unless the Senate agrees and in fact directs the task force to carry out those inquiries.

**Senator WONG**—Do you think that maybe it is a matter about which the person alleged to have engaged in this activity should not go down and chat to the witness? I would agree with that. Did you consider referring it to the department, for the corporate—

**Mr Hadgkiss**—Yes. If the matter had been referred to us—

**Senator WONG**—Hang on. You are saying that the basis on which you have not investigated this matter is that the evidence was given under parliamentary privilege.

**Mr Hadgkiss**—Yes.

**Senator WONG**—You are saying that we could not go down there, because it might be intimidation. Is that right?

**Mr Hadgkiss**—That is how it could be construed, yes.

**Senator WONG**—If the allegation was made and you were concerned about task force officers investigating it, was the matter referred to any investigations officers within the department to investigate?

**Mr Hadgkiss**—But the department would be under the same constraints as the task force. If matters—

**Senator WONG**—Anywhere else in government, then—somebody about whom no allegation was made?

**Mr Hadgkiss**—As I say, if Senator Cook wants these matters formally investigated—

**Senator WONG**—This is not the question I am asking. Given your concerns that if you or DEWR investigated then people might be seen to be intimidated, did you refer those allegations to any other government agency?

**Mr Hadgkiss**—The department was present when they were made.

**Senator WONG**—Did you refer them for investigation to any other—

**Mr Hadgkiss**—No.

**Senator WONG**—Just so I understand: the basis of your more stringent standard being applied to this evidence given under parliamentary privilege is only that you did not want people to feel that they were being intimidated?

**Mr Hadgkiss**—No. I gave that as an example.

**Senator WONG**—What is the basis, then?

**Mr Hadgkiss**—The basis is that it is subject to parliamentary privilege. If the Senate inquiry wishes the task force to have this matter investigated, it stands ready and willing to investigate it.

**Senator WONG**—We could have a legal argument here. I am not sure that the Senate can even waive privilege. The issue of privilege is that evidence given before a committee cannot then be used later to prove the matter about which the evidence is given. It is called derivative use. It does not prevent—and in fact this has happened on many occasions—the AFP or any other investigative body from undertaking its own investigations to explore the allegations contained. It simply applies to the evidence that is given. Is that not your understanding of the restrictions on the use of evidence given in parliamentary committees?

**Ms Bennett**—Senator Wong, could I just add something there?

**Senator WONG**—I asked Mr Hadgkiss whether that was his understanding.

**ACTING CHAIR**—Let the officer answer.

**Senator WONG**—I did not ask this officer the question; I asked Mr Hadgkiss if—

**Senator Abetz**—But you do not ask specific officers.

**Senator WONG**—I asked the question as to whether that was Mr Hadgkiss's understanding. If he wants to duck it and let Ms Bennett answer it, we all know what his knowledge really is.

**ACTING CHAIR**—The department has the call.

**Ms Bennett**—The question that you have asked is whether Mr Hadgkiss sought to conduct some inquiry himself—

**Senator WONG**—That is not the question I asked.

**Ms Bennett**—It does go to the point that you made.

**Senator WONG**—It is not the question I asked.

**ACTING CHAIR**—Let the official respond and then you can ask another question.

**Senator WONG**—Fine. I will re-ask the question.

**Ms Bennett**—Mr Hadgkiss's evidence given to the Senate committee when Senator Cook asked—it is on page 62—was that, on the basis of the information that had been received at that hearing and passed on to him from the department, he had conducted an internal inquiry. While he had not gone to the apprentice, he had arranged for the officer to be spoken to. He clarified with Senator Cook the information that he knew to be the facts from the cause of his inquiry. To go to the point that you are making—which is to say to Mr Hadgkiss, 'Do you feel that you should not explore something internally?'—Mr Hadgkiss has done that. What he has not done is take that any further outside the internal arrangements. He also indicated at that inquiry that if the committee would like him to speak to that individual—the apprentice involved—or the person that made the allegations then he would be prepared to do so.

**Senator WONG**—I will return to my question. Mr Hadgkiss, perhaps you could explain to us what your understanding is of the restrictions on your activity in relation to evidence given under parliamentary privilege.

**Mr Hadgkiss**—It is a matter for the department to advise me. I have spoken to the secretary of the inquiry. He was going to undertake to get legal advice.

**Senator WONG**—So you do not know?

**Mr Hadgkiss**—I am uncertain.

**ACTING CHAIR**—Senator Wong—

**Senator WONG**—These are reasonable questions, Acting Chair.

**Mr Hadgkiss**—These are legal matters that on a day-to-day basis I am not acquainted with. The last thing I want to do is be in contempt of the Senate inquiry.

**Senator Abetz**—I wish senators would be concerned about the application of the law in the building industry.

**Senator WONG**—Are you going to let the minister's interjections go, Acting Chair?

**ACTING CHAIR**—I just said to the minister that I will pass to Senator Cook if he had further questions.

**Senator COOK**—I was just wanting to ascertain whether Senator Wong had completed her questions.

**Senator WONG**—Yes, on that issue.

**Senator COOK**—If this matter is referred—and I say this in parenthesis—it is not my role as someone inquiring into the legislation on that Senate committee to refer things to the task force, Mr Hadgkiss. If you think it is, you have misconstrued my role. If this matter is referred to you, do I understand from what you are saying that the task force would investigate the complaint?

**Mr Hadgkiss**—I would wait until the referral arrived and the nature of what was required.

**Senator COOK**—We now know a ‘big drink’ is the offer of a criminal bribe, which is a very serious matter.

**Mr Hadgkiss**—I do not know. It certainly is not the recollection of the officer concerned. I gave the circumstances to you last week.

**Senator COOK**—Yes. You asked the officer about the ‘big drink’ allegation?

**Mr Hadgkiss**—The officer was asked about the circumstances surrounding a 17-year-old apprentice. He freely volunteered his version of events, which I went through very clearly last week.

**Senator COOK**—Yes. But, on your own admission, you did not know about the big drink part, so you obviously did not inquire to this officer about the big drink part. You inquired about the less offensive—if I can put it qualitatively—less significant part of the allegation. Now that you are aware, all I am asking is: if the officer said that the big drink was not offered, did you ask him about it?

**Mr Hadgkiss**—If this matter is referred, we can judge it on its merits then.

**Senator COOK**—A simple question: did you or didn’t you ask him about the big drink?

**Mr Hadgkiss**—I did not question the officer concerned. I told you that last week.

**Senator COOK**—You passed on the allegation as referred to you from the hearing.

**Mr Hadgkiss**—A version of events. The officer was confronted. He was asked to give his recollection of those events, which he recalled quite vividly. He provided a reply, and that reply I believe I gave to you last week.

**Senator COOK**—Yes, you did. You actually produced a poster with a photo of the investigator—

**Mr Hadgkiss**—Correct.

**Senator COOK**—in a nicely prepared little event for the press. Be that as it may, that is your right and entitlement; so I do not deny it to you. When you passed it on to whomever it was on your staff, you did not know about the big drink allegation?

**Mr Hadgkiss**—I do not recall.

**Senator COOK**—You do not recall?

**Mr Hadgkiss**—I do not recall the exact details of this allegation. I would have preferred to wait until I saw the *Hansard* and be absolutely certain of what has been said and what has not been said rather than me to speculate.

**Senator COOK**—With respect, that is not your evidence. Let me just recount your evidence for you. Someone from the task force rang you and gave you a generalised view about the allegations made. You passed it on to another officer in your organisation who investigated it and who came back with the vehement denial of the officer concerned. What is also established—according particularly to Ms Bennett’s evidence—is that you did not know about the big drink part of it, which is the criminal bribery part, and therefore one presumes could not have passed it on for further inquiry. But an answer that you gave me a moment ago suggested that the officer had denied the big drink allegation. Has the allegation that a big drink was offered been put to him or not?

**Ms Bennett**—Mr Hadgkiss’s evidence does not suggest that he is aware of the big drink, Senator Cook. I also have it in front of me. He was denying that there was a message of bribery—the \$20 offered to the 17-year-old apprentice was for postage.

**Senator COOK**—It is a matter of sheer deductive logic that you could not have put it to him if you did not know about it and he could not have replied to it if you did not put it to him. That is open still. This was a plumbing apprentice. When you were advised, and we had this little scene at the airport with the fond farewell of the happy couple off to Japan, were you aware that the apprentice concerned was a plumbing apprentice?

**Mr Hadgkiss**—I was not there, Senator.

**Senator COOK**—Of course you were not there. I was not there. No-one in this room was there, as far as I know. So, with respect, that is an unhelpful rejoinder. The advice given to you by whomever reported to you from the hearing would have been that the person making this allegation was the secretary, as I understand it, of what I would call the plumbers union and that the apprentice was a plumbing apprentice. Was that what was advised to you?

**Mr Hadgkiss**—I do not recall, Senator. It was put to me that a union official had made an allegation based on what he had been told by someone else that originated with a 17-year-old apprentice. The nature of their trade, I am sorry, I do not recall.

**Senator COOK**—Can you recall what the words were that you were advised from the hearing by the departmental officer? Can you recall what was said?

**Mr Hadgkiss**—No, Senator.

**Senator COOK**—You cannot. This is a week ago. To be fair to you, it is more than a week ago—it is 10 days ago. You cannot recall.

**Mr Hadgkiss**—No, Senator. Not the exact words, no—the gist, I got.

**Senator COOK**—Did anyone tell you that the person making the allegation was the secretary of the plumbers union?

**Mr Hadgkiss**—No.

**Senator COOK**—Who did you believe was making the allegation?

**Mr Hadgkiss**—A union official.

**Senator COOK**—A union official. They are all the same, are they?

**Mr Hadgkiss**—No, I did not particularly ask what his trade was.

**Senator Abetz**—Very unhelpful, Senator Cook.

**Senator COOK**—You see, the interesting part about the evidence you have given, Mr Hadgkiss, is that the allegation about the \$20 that was offered to the apprentice, in your evidence—and I can read it if you wish—related to the apprentice obtaining copies of the CFMEU journal for your investigator.

**Mr Hadgkiss**—I understand it was \$10.

**Senator COOK**—Ten dollars—

**Mr Hadgkiss**—For postage, yes.

**Senator COOK**—If he was a plumbing apprentice, as the allegation was, why would he have access to the CFMEU journal?

**Mr Hadgkiss**—I do not know.

**Senator Abetz**—He is not the one telling the story; it was the union official telling the story.

**Senator COOK**—Okay. It is the union official telling the story, and the story is passed on to you. You make no inquiries about what the full allegation was, and you refer it down the line to be investigated.

**Mr Hadgkiss**—I was awaiting the *Hansard* and, yes, the allegation as best I knew it was passed to a responsible officer to question the investigator concerned.

**Senator COOK**—Do you have the *Hansard* now?

**Mr Hadgkiss**—Yes, but not in front of me.

**Senator COOK**—Your officers obtained a copy of the *Hansard* for the Melbourne hearings in which this allegation was made.

**Mr Hadgkiss**—It is now to hand, I understand.

**Senator COOK**—I do not expect you to have it in front of you. I do not have it in front of me either, so I cannot quote from it directly, but I do have a vivid recall of what was said. You will see that the allegation was made by a person whom I understand to be—I sometimes get lost with the new names of these organisations, I have to admit, as they keep changing—the secretary of the plumbers union.

**Mr Hadgkiss**—So I see, Senator.

**Senator COOK**—Your explanation to the Senate last Tuesday was that the so-called \$10 was for copies of the CFMEU journal.

**Mr Hadgkiss**—That is my understanding.

**Senator COOK**—That is your understanding. It is odd that a plumbing apprentice should be asked to obtain copies of the CFMEU journal, isn't it?

**Ms Bennett**—The person is actually from the CEPU, which may have resulted in it being mistranslated in the relay of information.

**Senator COOK**—I am sorry, Ms Bennett—I did not hear all of that.

**Ms Bennett**—The allegation was made by Mr Setches from the CEPU, and we may have attributed it to mistranslating that to Mr Hadgkiss in the relaying of that information.

**Senator COOK**—Mr Hadgkiss tells us it is about the CFMEU journal. Are you now saying it was about the plumbers union journal?

**Ms Bennett**—The transcript of the hearing was not available when we appeared last week. I have explained to you that the department officer who was observing the hearings rang Mr Hadgkiss explaining that there had been an allegation about a 17-year-old who had received an offer of a bribe, supposedly, from someone on the task force. That information was passed on over the telephone.

**Senator COOK**—Do you know what was passed on?

**Ms Bennett**—I am relatively aware of it, yes.

**Senator COOK**—You were at the hearing for part of the time, weren't you?

**Ms Bennett**—No, I was not at the hearing.

**Senator COOK**—Did the officer pass it on to you as well?

**Ms Bennett**—Yes.

**Senator COOK**—What did the officer tell you?

**Ms Bennett**—That there was an allegation that an inspector in the task force had offered a bribe to a 17-year-old apprentice.

**Senator COOK**—Did you make a note of what that officer told you?

**Ms Bennett**—No, I did not. I asked whether he had contacted Mr Hadgkiss.

**Senator COOK**—You obviously wanted to refer it to the responsible officer, which would be Mr Hadgkiss, so you asked the departmental officer to report it to Mr Hadgkiss as well?

**Ms Bennett**—He had already raised it with Mr Hadgkiss. There were a range of issues that were discussed in Sydney and I was—

**Senator COOK**—This was in Melbourne.

**Ms Bennett**—Yes, it was in Melbourne.

**Senator COOK**—The officer reported it to Mr Hadgkiss and then reported it to you.

**Ms Bennett**—Alerted me to it.

**Senator COOK**—How do they alert you? Do they ring you up?

**Ms Bennett**—As you are aware, I was there for the first day of the hearings in Melbourne and the second day—

**Senator COOK**—That is why I thought you were there later.

**Ms Bennett**—There was just a summary of the issues that were raised at the hearing.



**Senator COOK**—An ‘alert’ is a report, isn’t it?

**Ms Bennett**—Yes.

**Senator COOK**—We are not going to quibble over those words. You obtained the information from your officer. What did the officer tell you?

**Ms Bennett**—I recall that a number of issues had been discussed—what the witnesses had said and the issue, as I said earlier, that an allegation had been made that an inspector of the task force had offered a bribe to an apprentice.

**Senator COOK**—Are you putting to us that your officer at the hearing referred not at all to the big drink part?

**Ms Bennett**—Yes. It was not mentioned.

**Senator COOK**—If you look in the *Hansard*, that was repeated several times by the union official making the allegation.

**Ms Bennett**—It did not stand out as having any meaning.

**Senator COOK**—I have to say I believe you on that because at the time it did not stand out to me as having any meaning either—until later when I was alerted to what a ‘big drink’ means in criminal language.

**Senator Abetz**—It is interesting that the union official should mention it without explaining it.

**Senator COOK**—It is interesting from a number of points. Why anyone would introduce that language in the first place is a very interesting question.

**Senator Abetz**—Yes.

**Senator COOK**—This allegation concerns an attempt to criminally bribe an apprentice. Dr Boxall, if such an allegation were referred, who would you have investigated?

**Dr Boxall**—I would have to wait and see the nature of the allegation.

**Senator COOK**—But the allegation is, as I have said, concerning an effort to bribe an apprentice. If that allegation were referred—

**Senator Abetz**—We are still dealing with a hypothetical until a firm statement of exactly what is alleged to have occurred is presented. It becomes very difficult for departmental officials to answer questions in the abstract.

**CHAIR**—Senator, I have already made comment on that.

**Senator COOK**—You have indeed, but it is still an extant question.

**Ms Bennett**—The evidence from the CEPU, to quote from *Hansard* was:

He was offered \$10 for every bit of information, hard copy or paperwork ...

I do not know if that constitutes a bribe.

**Senator COOK**—Keep reading.

**Senator WONG**—A Commonwealth official offering—

**Ms Bennett**—Alleged.

**Senator WONG**—I understand that. An allegation that a Commonwealth official offered someone \$10 for information is not a bribe?

**Mr Hadgkiss**—That is common law enforcement practice. I am not saying it occurred in this instance, but police and other law enforcement agencies reimburse people for expenses et cetera.

**Senator COOK**—Does the task force have an account for reimbursing people for expenses?

**Mr Hadgkiss**—Yes.

**Senator COOK**—And an officer that is reimbursing, to use your language, for expenses in circumstances like this is required to enter into the register what it is he is seeking reimbursement for?

**Mr Hadgkiss**—Yes. If he wished to claim \$10 for postage—I am not sure whether he would—that would obviously have to be entered as a petty cash payment and he would have to give reasons for why he sought \$10.

**Senator COOK**—Who would approve it?

**Mr Hadgkiss**—The custodian of the petty cash account would want to know what it was for.

**Senator WONG**—How much in reimbursements has been paid out to third parties?

**Mr Hadgkiss**—To date, none.

**Senator COOK**—So if this went ahead it would be breaking the ice?

**Mr Hadgkiss**—But, as Ms Bennett said, if somebody asked for, as I understand it, CFMEU publications in a timely fashion and was prepared to reimburse the postage with an offer of \$10, I hardly see that as a bribe.

**Senator COOK**—But then we have the ‘big drink’. That is the problem.

**Mr Hadgkiss**—If that were stated. But even if the 17-year-old were offered information, it is still not bribery.

**Senator Abetz**—Why the big bribe for the CFMEU newspaper?

**Senator COOK**—It is a good question.

**Senator WONG**—Yes, if it is true then one of the things I would say is that your investigator might be offering more than what it is worth.

**Mr Hadgkiss**—To a 17-year-old I would have thought it would probably be a thick shake.

**Senator WONG**—We might get Senator Vanstone in to tell us what you can buy for \$10. Mr Hadgkiss or Dr Boxall, would you agree that if the term ‘a big drink’, given what we understand it to mean, were used by a Commonwealth officer that is a serious allegation?

**Mr Hadgkiss**—I do not see that, if your learned senators do not know what ‘a big drink’ is, a 17-year-old would understand what ‘a big drink’ was.

**Senator WONG**—I am not asking what the 17-year-old understood. I am saying that, given what you understand that phrase to mean, if that were said by a Commonwealth officer, that is a serious allegation, is it not?

**Mr Hadgkiss**—No, he is paying for information.

**Senator WONG**—To say: ‘I’ll give a big drink’ or whatever the phrase was?

**Mr Hadgkiss**—‘I will pay you money if you provide me with information like CFMEU publications.’

**Senator WONG**—I want to go to the more serious allegation. I am not asking you to concede it was said. Would you agree that the allegation in relation to ‘a big drink’ is a serious allegation?

**Senator Abetz**—This is still within the area of a hypothetical.

**Senator WONG**—It is not; it is a genuine question about wanting to understand whether or not the department considers this a suggestion of bribery to be a serious—

**Mr Hadgkiss**—But bribery is the other way around. Public officials are bribed, not 17-year-old apprentices.

**Senator WONG**—So if the allegation is true, on that basis you do not have a problem with it. Is that right?

**Mr Hadgkiss**—Until we see this allegation—

**Senator WONG**—I accept that. I am trying to clarify what standards apply here. These are reasonable questions. If that allegation was made against a Commonwealth officer, would you consider that to be a serious allegation?

**Mr Hadgkiss**—If a Commonwealth officer was offered a bribe, yes.

**Senator WONG**—Offering a bribe.

**Mr Hadgkiss**—How can you offer a bribe to a 17-year-old apprentice?

**Senator COOK**—By stepping up and asking him to accept a bribe.

**Senator WONG**—Mr Hadgkiss, I am not interested in what you think about the 17-year-old. I am asking whether you consider the suggestion that a Commonwealth officer made this reference to offering someone ‘a big drink’ to be a serious allegation.

**Dr Boxall**—We cannot say what we think. It has been made very clear that, if this matter is referred to us, the department will look into it. That has been made very clear.

**Senator WONG**—Would you agree, Dr Boxall, that it would be inappropriate for a Commonwealth officer to offer money to someone for information?

**Dr Boxall**—I do not agree or disagree with these matters. The fact is that Mr Hadgkiss has an account from which people can purchase information and it is all reconciled in petty cash. I do not even know whether the person did offer the \$10 for the delivery of certain documents and, if the person did, whether they claimed the \$10 in petty cash or anything like that. I do not know what the term ‘big drink’ means. If the matter is referred to us it will be investigated.

**CHAIR**—Order! It is now after 11 p.m. I seek some guidance from senators as to whether we could conclude these matters within 10 minutes. If not, we shall return tomorrow morning.

**Senator COOK**—No.

**Senator WONG**—No.

**Committee adjourned at 11.02 p.m.**