



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

SENATE

EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION
LEGISLATION COMMITTEE

ESTIMATES

(Budget Estimates)

TUESDAY, 31 MAY 2005

CANBERRA

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SENATE
EMPLOYMENT, WORKPLACE RELATIONS,
AND EDUCATION LEGISLATION COMMITTEE

Tuesday, 31 May 2005

Members: Senator Marshall (*Deputy Chair*), Senators Barnett, Johnston, Stott Despoja, Troeth and Wong

Senators in attendance: Senators Allison, Barnett, George Campbell, Carr, Crossin, Johnston, Marshall, Troeth, Webber and Wong

Committee met at 9.06 am

EMPLOYMENT AND WORKPLACE RELATIONS PORTFOLIO

Consideration resumed from 30 May 2005

In Attendance

Senator Abetz, Special Minister of State

Department of Employment, Workplace Relations

Portfolio overview and major corporate issues

Dr Peter Boxall, Secretary

Mr Bob Correll, Deputy Secretary, Workforce Participation

Ms Malisa Golightly, Deputy Secretary, Employment

Mr Finn Pratt, Deputy Secretary, Workplace Relations

Ms Vanessa Graham, Chief Financial Officer, Financial Management Group

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

Mr Brian Quade, Assistant Secretary, Parliamentary Performance and Communications Branch, Corporate

Ms Anya Moore, Acting General Manager, Corporate

Mr John Burston, Chief Information Officer, IT Services Group

Mr Simon Gotzinger, Assistant Secretary, Legal Branch, Corporate

Ms Su Kearns, Acting Assistant Secretary, Human Resources Branch, Corporate

Mr Henry Carr, Principal Government Lawyer, Legal Branch, Corporate

Mr Shayne Howard, Principal Government Lawyer, Legal Branch, Corporate

Ms Kari Ahmer, Assistant Secretary, Budgeting, reporting and Treasury, Financial Management Group

Outcome 1 Employment

Mr Stephen Moore, Group Manager, Employment Systems Group

Mr Michael Manthorpe, Group Manager, Employment Business Services Group

Ms Alison Smith, Assistant Secretary, Disability Employment Services Branch

Ms Serena Wilson, Group Manager, Specialist Services and Income Support Group

Ms Margaret Kidd, Assistant Secretary, Employment Pathways Branch

Mr Pete Searle, Assistant Secretary, Working Age Payments and Assurance Branch

Ms Janine Pitt, Assistant Secretary, Work Experience Branch
Ms Jo Caldwell, Group Manager, Intensive Support Group
Mr Anthony Parsons, Group Manager, Job Search Support Group
Mr Matthew James, Assistant Secretary, Employment Exchange Branch
Ms Sharon Stuart, Director, CWC Management, Work Experience Branch
Ms Christine Burnett, Acting Assistant Secretary, Transition and Participation Branch

Outcome 2 Workplace Relations

Mr James Smythe, Chief Counsel, Workplace Relations Legal Group
Mr Bob Bennett, Assistant Secretary, Legal Policy Branch
Mr Jeremy O'Sullivan, Assistant Secretary, Legal Policy Branch
Ms Natalie James, Acting Assistant Secretary, Legislation Reform
Mr Peter Cully, Director, Organisations, FOA and International Section, Legal Policy Branch
Ms Elen Perdikogiannis, Director, Employee Protections Section, Legal Policy Branch
Mr Brien Armstrong, Director Strategic, Employee Entitlements Branch
Ms Jenet Connell, Group Manager, Workplace Relations Services Group
Ms Louise McDonough, Assistant Secretary, Wages and Conditions Policy Branch
Mr Leigh Quealy, Assistant Secretary, Building Industry Branch
Ms Dianne Merryfull, Assistant Secretary, Industries Branch
Mr Michael Maynard, Assistant Secretary, Public Sector Branch
Mr Craig Symon, Group Manager, Workplace Relations Implementation Group
Ms Anna Clendinning, Acting Federal Safety Commissioner, Office of the Federal Safety Commissioner
Ms Sandra Parker, Group Manager, the Office of the Australian Safety and Compensation Council
Ms Helen Bull, Assistant Secretary, National Strategy and Information Branch
Mr Nigel Hadgkiss, Director, Building Industry Taskforce
Mr John Kovacic, Group Manager, Workplace Relations Policy Group
Mr Les Andrews, Director, Wage Analysis Section, Workplace Relations Policy Group
Mr Alfred Bonghi, Assistant Secretary, Employee Entitlements Branch
Mr Stewart Thomas, Director, Employee Entitlements Branch

Outcome 3 Workforce Participation

Mr Graham Carters, Group Manager, Working Age Policy Group
Mr Bob Harvey, Group Manager, Indigenous Employment and Business Group
Ms Lynne Curran, Group Manager, Research, Evaluation and Legislation Group
Mr Barry Sandison, Assistant Secretary, Disability Policy Branch
Ms Mary Anne Sakkara, Acting Assistant Secretary, CDEP Business Development Branch
Ms Jody Hamilton, Assistant Secretary, Business and Policy Development Branch
Mr Bruce Whittingham, Manager, Welfare to Work Taskforce
Ms Susan Devereux, Project Manager, Welfare to Work Taskforce
Ms Jennifer Taylor, Group Manager, Labour Market Strategies Group

Office of the Employment Advocate

Mr Peter McIlwain, Employment Advocate
Mr David Rushton, Senior Legal Manager

Ms Ann Skarratt, Corporate Director

Mr Geoffrey Casson, Deputy Employment Advocate, CSN

Equal Opportunity for Women in the Workplace Agency

Ms Anna McPhee, Director

Comcare

Ms Barbara Bennett, Chief Executive Officer

Mr Noel Swails, Deputy Chief Executive Officer

Ms Janette Davis, Acting General Manager, OHS (CE) Act Policy and Support

Mr Stewart Ellis, General Manager, Injury Management

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

Mr Terry Langton, General Manager, Corporate Management Division

Ms Jane Romeyn, General Manager, Research and Strategy

Australian Industrial Registry

Mr Nicholas Wilson, Industrial Registrar

Mr Terry Nassios, General Manager, Statutory Services

National Occupational Health and Safety Commission

Mr Tom Fisher, Acting Chief Executive Officer

Indigenous Business Australia

Mr Ron Morony, General Manager

Mr Ian Myers, Deputy General Manager

Mr Ivan Parrett, Manager, Indigenous Economic Development Branch

Mr Colin Clements, Manager, Home Ownership Programme

Mr Anthony Lovell, Chief Finance Officer

CHAIR (Senator Troeth)—Good morning, everyone. We will now continue the examination of the Employment and Workplace Relations portfolio. I welcome back Senator Eric Abetz and officers of the Department of Employment and Workplace Relations and agencies. The committee has fixed Friday, 22 July 2005 as the date for the submission by the department of written answers to questions on notice. Senator Johnston will again act as acting chair for a short time from half-past nine onwards. I remind participants that oral evidence and documents in estimates proceedings are part of the public record. The committee will now continue questions relating to outcomes 1 and 3.

[9.07 am]

Department of Employment and Workplace Relations

Senator WONG—There were a couple of things on mature age. I realise there have not been many hours since I asked you those questions, but do we have the breakdown?

Mr Correll—I think the outstanding one I had was the very long-term unemployed and the break-up of the \$360.2 million.

Senator WONG—Can we go through that?

Mr Correll—The components of that \$360.2 million are: the Job Network, \$99.7 million; the personal support program, \$21.8 million; disability open employment services, \$32.1 million; rehabilitation services, \$65.4 million; Work for the Dole, \$91.7 million; the Wage

Assist component, \$94.8 million; departmental expenses, \$9.5 million; Centrelink expenses, \$5.3 million; plus income support reductions, \$60.1 million. The net figure is \$360.2 million.

Senator WONG—How many places in the Job Network does that give?

Mr Correll—That represents 49,500 places in Job Network over the forward estimates. That equates to the \$99.7 million.

Senator WONG—How many Wage Assist places are in the \$94.8 million for the Wage Assist?

Mr Correll—There are 15,000 Wage Assist places.

Senator WONG—What is the current number of very long-term unemployed?

Mr Correll—The ABS figures for very long-term unemployment as at April 2005 were, in trend terms, 51,400 and, in seasonally adjusted terms, 52,700.

Senator WONG—The very long-term unemployed are people who are on newstart payments for over five years?

Mr Correll—The very long-term unemployed are those on newstart for two years plus.

Senator WONG—Will all of those people have access to and be eligible for this assistance or are there additional eligibility criteria over and above the fact that one is very long-term unemployed?

Mr Correll—If we consider the Wage Assist element, Wage Assist would be designed specifically for where jobseekers have been showing a very genuine and active job search effort. To attempt to effectively get a foot in the door, they would use the wage assistance as a wage subsidy to give them work placement.

Senator WONG—I understand that, but how are they going to be eligible for it? Who determines that and what are the criteria?

Mr Correll—It will be determined through the Job Network member.

Senator WONG—What are the criteria?

Mr Correll—We still have to develop the details in terms of detailed operational guidelines.

Senator WONG—What is the principal?

Mr Correll—The principle is that, where we have a jobseeker who would clearly benefit from a substantial work experience place—and, from that point of view, for the Job Network member to be able to effectively market that jobseeker to an employer, they would need to be showing the right sorts of attitudes and desirable employability skills—the Job Network member would then attempt to negotiate with an employer a work experience placement using the wage subsidy. Whether it is a flat wage subsidy or there is some tapering of the wage subsidy are details that we would still want to work out. There may be some advantages in tapering the wage subsidy downwards over time so that there is less of a major change at the end of the six-month period.

Senator WONG—I turn now to Job Network. There is no requirement in the contract that there be disabled access to the premises for a Job Network provider, is there?

Ms Caldwell—Our contract and our service guarantee require that Job Network members cater for the needs of all job seekers who are referred to them, and site accessibility would be one of the things we have regard to.

Senator WONG—I am not sure what that means. What does the contract say? Does it say, ‘You have to cater for the needs’, or does it say, ‘You have to be disabled accessible’?

Ms Caldwell—The general provision is the requirement for the Job Network member to comply with all relevant legislation relating to disability access.

Senator WONG—Not everybody has to have disabled access under the relevant state and federal legislation. Do I understand your answer to mean that it is not required that they have disabled access?

Ms Caldwell—Job Network must be compliant with all relevant legislation.

Senator WONG—That is not the question I am asking. I understand what you are saying. I am not suggesting they are not complying with relevant state and federal legislation; I am asking if there is a contractual requirement to ensure there is disability access.

Ms Golightly—We will check the wording of the contract exactly for you and get back to you.

Senator WONG—We are on Job Network, so would you get a copy of the contract now.

Ms Caldwell—We will get further advice on the exact wording of the relevant provisions of the contract. I can tell you that in principle Job Network members must be compliant with the legislation and, in addition to that, Job Network members are required to provide a service that is accessible to the job seekers that they service, including under a service guarantee.

Senator WONG—Maybe I am not making my question clear. I am not asking about compliance with the relevant legislation, Ms Caldwell. Can we understand that? I have heard that answered two or three times now. I am asking whether there is a contractual requirement for disability access.

Ms Golightly—We are able to confirm Ms Caldwell’s answer. The relevant part of the contract states that the provider must ensure that it provides the services without any sexual harassment or unlawful discrimination which contravenes the Racial Discrimination Act, the Sex Discrimination Act and the Disability Discrimination Act. That is the extent of the contract.

Senator WONG—So there is relevant federal and state legislation but not a requirement that they have disabled access? Disability discrimination legislation does not require disability access in all circumstances.

Dr Boxall—We have nothing to add to the answer.

Senator WONG—Can you explain to me how it is that the referral of people with a disability to Job Network is going to work if not all providers are required to have disability access?

Ms Golightly—Any of the services provided post 1 July 2006 will be the subject of a new contract.

Senator WONG—Are you going to put a requirement in the new contract?

Ms Golightly—We will be looking at all sorts of requirements and changes we need to make to the current contract. We can take that into account.

Senator WONG—What does that mean?

Dr Boxall—That means exactly what Ms Golightly said: we will take those issues into account when we review the new contract.

Senator WONG—Is it the government's view that, if disabled people are going to be referred to the Job Network, disability access needs to be made mandatory?

Dr Boxall—We cannot give the government's view.

Senator WONG—I am asking the minister.

Senator Abetz—I can take that on notice.

Senator WONG—Because you do not know?

Senator Abetz—I do not. It is not an area in which I am personally involved, as you would know, Senator Wong, so I do not think it is surprising that I would not know.

Senator WONG—Have you done any audits of existing Job Network providers for disability access?

Ms Caldwell—There is a regime of site monitoring that applies to the Job Network, particularly new Job Network member sites, and the accessibility of those sites is checked as part of that auditing arrangement.

Senator WONG—What was the result of that audit? Can you tell me how many had disability access and how many didn't?

Ms Golightly—It is not a single audit. We monitor it continually.

Senator WONG—As a result of your continual monitoring, can you tell me how many have had disability access?

Ms Golightly—Not right at this second. This has been going on since July 2003; I would have to go back through the records. I do not have that answer to hand.

Senator WONG—But do you monitor for disability access?

Ms Golightly—Yes, as Ms Caldwell mentioned, we do.

Senator WONG—But you are not able to tell me how many of them actually have disability access?

Ms Caldwell—I can certainly assure you that we monitor them on an ongoing basis and we inspect any new sites that open as well. As Ms Golightly has said, we will check whether there are any whatsoever which have been found not to have appropriate access. That is one of our main criteria, and Job Network member offices, I would say, almost without exception have disabled access. We will check whether there are any sites whatsoever of the 1,100 sites that we have got that have been found to be problematic in that regard.

Senator WONG—Will the government guarantee that the new contract will require disability access?

Dr Boxall—We cannot give a guarantee—

Senator WONG—I am asking the minister.

Senator Abetz—I will take that on notice.

Senator WONG—You are about to put quite a number of people with a disability into the Job Network and you are not able to give a guarantee that they will actually be able to access premises of providers?

Senator Abetz—I am sure they will be looked after as best as we possibly can. I am not an expert on buildings, and other senators may well be, but I think a lot of disability access has got to do with local government, state government and building codes. There might even be an Australian national standard for disability access for building codes. I confess that I do not know who has actual responsibility for all that. But, of course, it makes sense that in trying to get people with disabilities into employment we should make the physical access and the other amenities as conducive to them being able to obtain employment as we can.

Senator WONG—The issue is not what is in the building codes et cetera; the issue is what is contractually required for this service that the government is paying money for.

Dr Boxall—The department has said that we have had this matter under notice for the next contract, and we have noted your comments and will keep it under notice. When we do the next contract we will bear in mind the issue of disability access.

Senator WONG—Can you provide me with an indication, as a result of your constant monitoring, of how many current Job Network providers actually have disability access?

Dr Boxall—I think Ms Caldwell just took that on notice.

Senator WONG—Can you also confirm for me whether in a couple of areas—one is Toowoomba—there is in fact a Job Network provider there that has disability access?

Dr Boxall—Yes, we will take that on notice.

Senator WONG—Are the job kiosks—I think that is the term—

Ms Golightly—Yes.

Senator WONG—able to be used by people who have some visual impairment?

Mr Parsons—When we developed the software for the job search kiosks we took into account some degree of visual impairment and also the issue of manual dexterity. The touch areas on the screens have a minimal size so that people do not have to have sharp fingers to be able to touch the screens. That would be the extent of the appeal of the technology to visually impaired people.

Senator WONG—Is the text on the screens able to be enlarged? Does the software permit that?

Mr Parsons—The software does not permit dynamic changing of the font size, but when we build the application we have a minimum size of font, a font style and, as I said, minimum size of touch areas.

Senator WONG—So the font cannot be changed beyond what it is.

Mr Parsons—Not on the kiosks.

Ms Golightly—But the font on the kiosks has been set as far as possible to assist people with visual impairment.

Senator WONG—What does ‘as far as possible’ mean?

Mr Parsons—There are various font styles that you can use on the machine. There is a technology called TrueType fonts, where the machines are able to very accurately present those fonts on the screen in a consistent way from one machine to the other. Our design guidelines, which borrow from parts of the Human Rights and Equal Opportunity Commission guidelines, restrict us to TrueType fonts of a minimum size.

CHAIR—I would like to suspend the committee to elect an acting chair. We will have a short meeting to do that.

Proceedings suspended from 9.25 am to 9.28 am

ACTING CHAIR (Senator Johnston)—I call the committee to order. Senator Wong has the call.

Senator WONG—Mr Parsons, what was the font size?

Mr Parsons—We can find that out and I can get back to you later this morning.

Senator WONG—To be honest with you, I have received a number of complaints from people who have some visual impairment and who maintain that it is very difficult for them to use the job kiosks. This is not just me making something up.

Mr Parsons—I never thought it was. There are at least two other means that we have made available for those people to discover job opportunities. The first is that on the Job Network premises many Job Network members have personal computers which access the Job Search web site. Those personal computers often have screen-reading software for visually impaired people, to read the details of the jobs out to them.

Senator WONG—How many of them have?

Mr Parsons—In my experience, most Job Network members have PCs available in addition to the kiosks. They use them for job seekers not only to do job searches through our web site but also to prepare resumes and other ancillary training materials et cetera.

Senator WONG—Is that part of the contractual requirements as well?

Ms Golightly—The contract requires Job Network providers to provide services and to get outcomes. We provide them with a number of tools, and they have a whole lot of other tools available to them. As Mr Parsons mentioned, I also have not come across a Job Network member who does not have the tools that Mr Parsons mentioned. The contract is at a much higher level. We know by the results that people with disabilities who access Job Network are getting very good outcomes. The quality of the services speaks for itself in that respect.

Senator WONG—Presumably the job kiosks are wheelchair accessible.

Mr Parsons—Yes. There are two versions of the kiosk. There is a stand-up version and, to cater particularly for people who are in wheelchairs or who need to sit down, there is a sit-down version available as well.

Senator WONG—Do all Job Network providers have both?

Mr Parsons—No. There is a mix, depending on the demographics of the clientele.

Senator WONG—Do you have information about that?

Mr Parsons—We could certainly get you information on who has stand-up kiosks and who has sit-down kiosks.

Senator WONG—Could you do that and could you also give me the information about the visual impairment software that you described.

Mr Parsons—The screen-reading software?

Senator WONG—Yes.

Mr Parsons—Yes, we can do that. There is also at least one other channel of discovering job matches which is relevant. Along with the kiosks we have an IVR—a telephone system—whereby visually impaired job seekers are able to dial into a local call cost service and the machine will read back to them the job opportunities.

Senator WONG—I turn now to the Job Network fee structure under the new arrangements. As I understand it, Ms Golightly—I am sure you will be able to correct me if I am wrong—an interim outcome payment is provided once a job seeker is employed in a job in which the money earned in paid employment exceeds their newstart allowance rate.

Ms Caldwell—That is correct.

Senator WONG—At present, based on the minimum wage, that would require a Job Network provider to find employment for approximately 51 hours a fortnight to meet this outcome?

Ms Caldwell—Approximately.

Senator WONG—Approximately 51, is that right?

Ms Caldwell—Approximately 51 per fortnight.

Senator WONG—What is the impact of the taper rate change to the newstart allowance, given that the measure of the outcome is the earnings exceeding the newstart allowance?

Ms Caldwell—I will explain how the fee structure works at the moment. For different client groups there are different triggers for payment. For persons who have a reduced work capacity, due either to disability or parenting capability—this is under the current arrangements—those fees are triggered not by a dollar amount but by the number of hours worked. We look at what was the assessed work capacity of a person with a disability or a person with reduced work capacity due to parenting responsibilities, and the fees are based on whether that person is working to the full extent of that capacity or to 70 per cent of that capacity.

Senator WONG—Sorry—to?

Ms Caldwell—To the full extent of their assessed capacity. If they are assessed as being available—

Senator WONG—Yes. I heard that—

Ms Caldwell—or to a lesser amount.

Senator WONG—So you are saying to me that if you currently have a reduced work capacity the Job Network provider's fees are triggered by a certain number of hours worked. Are the hours worked calculated on the basis of 70 per cent of capacity?

Ms Caldwell—There is a range of trigger points for different client groups, depending on their particular circumstances. I will get those details for you.

Ms Golightly—I have an answer to the question about the kiosks. We can confirm that every Job Network member has at least one sit-down kiosk.

Mr Manthorpe—I also have an answer following your questions about the contractual obligations around access to Job Network premises. The Job Network code of practice includes, among other things, that providers are required to ensure that they have premises and facilities appropriate to deliver services with privacy and dignity. Our contract managers ensure that that is happening in their monitoring of Job Network members. In any circumstance where premises are unsuitable for disabled clients we expect the Job Network member to arrange a suitable alternative venue to service that client. The code of practice forms part of the contract.

Senator WONG—In the code of practice is a general requirement about privacy and dignity?

Mr Manthorpe—And that services can be delivered.

Senator WONG—Who prepared the code of practice? Was it NESAs?

Mr Manthorpe—It was the department in consultation with NESAs.

Senator WONG—Ms Caldwell, are we back on?

Ms Caldwell—I am getting the table of the particular trigger points for each of the different client groups. They are expressed as hours, not amounts paid or impact on income support, which I think was your question.

Senator WONG—Which client groups are these? Do you have a copy of that? Can I have a look at that?

Ms Caldwell—I am getting a copy of that at the moment.

Senator WEBBER—While you are doing that I will go back to the other issue. Have all the Job Network sites been personally inspected during the current contract?

Mr Manthorpe—I am confident that the vast majority of them would have been. I cannot give you a guarantee at this minute that they all have been but certainly most of them would have been.

Senator WEBBER—Can you take that on notice?

Mr Manthorpe—Yes.

Senator WONG—I would like to have a look at your paper before I go on, Ms Caldwell.

Ms Caldwell—The point was that our trigger points are based on hours not on income support earnings for groups that have adjusted work capacity. We do not have a copy of that payment schedule in the room. We are arranging one for later in the morning.

Senator WONG—How long will that take? I am trying to work out timing, because we have another outcome to do. If I could get some indication from you about how long it will take, it will help me timetable.

Ms Caldwell—We are organising to get it now, so it will be made available as quickly as it can be.

Senator WONG—I am not trying to be difficult. Are we talking about an hour or—

Ms Caldwell—Half an hour.

Senator WONG—Okay. We will go to the proposed change to the JSCI which has been announced. When was the decision made to adjust the JSCI?

Dr Boxall—In the budget context.

Senator WONG—Have you modelled—and you must have, because you have some savings here—how many clients that will mean will not be able to receive intensive assistance?

Ms Golightly—Certainly modelling has been done. This is about an overall adjustment, and it is prospective. It is about making sure that the JSCI, which has proven to be a good indicator of disadvantage, continues to be a very good indicator of disadvantage by taking into account the very strong labour market that we are in.

Senator WONG—I am asking what numbers underlie the \$62.1 million, \$100.8 million, \$129.8 million and \$166.7 million savings on page 146 of Budget Paper No. 2.

Ms Golightly—That certainly goes to the modelling issues that we were talking about yesterday.

Senator WONG—You are not able to tell me how many people will not be—

Ms Golightly—I would have to take that on notice.

Senator WONG—But you have a—is it called a frequency distribution model?

Ms Caldwell—The JSCI normally operates on the individual circumstances. It is not a smooth distribution to my understanding.

Senator WONG—No, I understood that the department does track data on the distribution of people at different levels of the JSCI—in other words, X per cent here and X per cent there—to get some sense of the pattern that people fit into.

Ms Golightly—I am not entirely sure what you mean by frequency modelling, but I am advised that we do not think that is what you mean.

Senator WONG—Do you have a frequency distribution of JSCI scores? Do you undertake that work?

Ms Golightly—We would look, when we were evaluating the JSCI, at what the actual results have been as a result of applying the JSCI over a period of time, but we do not use that to model in the future.

Senator WONG—What data do you have about the distribution of clients at various levels of the JSCI? Can you help me, Ms Taylor?

Ms Taylor—I do not have the numbers on the distribution of clients.

Senator WONG—But do you do that work?

Ms Taylor—It is done in our normal modelling of the JSCI, yes.

Senator WONG—How often do you do that? It is a regular process, presumably?

Ms Taylor—The JSCI is always being looked at for continuous improvement.

Senator WONG—It is not the JSCI I am interested in. I am interested in the pattern of how people score on the JSCI. So, for 10,000 jobseekers, how many score where? You must have that data.

Ms Taylor—We do that in looking at the outcomes and exit rates for the JSCI to see whether it is an accurate indicator.

Senator WONG—Let us go back a step. I understand that the JSCI is used as an instrument to classify jobseekers for the purposes of the level of assistance they get. Is that a reasonable way of describing it?

Ms Taylor—It is a tool that is used to assess their potential to become long-term unemployed.

Senator WONG—How does it work?

Ms Taylor—There are various factors. There are 14 factors that are taken into account. For those 14 factors there are various scores within each factor—for example, various age groups score different JSCIs. Also, vocational qualifications, family status and living arrangements are assessed. At the conclusion of that you get a JSCI score, which is an indication of your potential, I guess, to become long-term unemployed.

Senator WONG—And that is if your JSCI score is above a certain score? Is that how it works? Is it below a certain score?

Ms Taylor—If you are above a certain score—

Senator WONG—You get access to—

Ms Taylor—You get access to the more intensive assistance.

Senator WONG—Do you have figures on the number of people who get above that score?

Ms Taylor—Yes, I am sure we would have those figures.

Senator WONG—Is the proposal a two-point drop or a two-point increase?

Ms Taylor—It is a two-point increase.

Senator WONG—Do you have data that has the number of people above that two-point increase on the current score?

Ms Taylor—That would go to the question you asked earlier about modelling.

Senator WONG—No, this is not about modelling. I am asking about past data. What is the nature of the data you keep on JSCI scores?

Ms Taylor—I guess in our assessment and evaluation of that, we look at the effect of the JSCI and its effectiveness in terms of exit rates. The question of actual numbers and whether those numbers are available I would have to take on notice.

Senator WONG—Are you telling me that the department does not keep track data in a financial year or a month or whatever time frame of what proportion of jobseekers score what on the JSCI?

Ms Golightly—We of course track the data of how many people enter into Job Network services at different points along the level of service provided. But I think the point here is that—

Senator WONG—Do you track the data of the scoring of the JSCI? That is the question I am asking.

Ms Golightly—I am not sure that we track that on an individual basis. We do evaluations from time to time.

Senator WONG—No, not on an individual basis; on a cohort basis.

Ms Golightly—We would need to obtain that from a particular individual's assessment. Basically, I would imagine, if we are evaluating the JSCI, that we track that. Ms Taylor has taken that on notice. The point here is that it does not matter what people scored in the past. We know that the labour market is now so good that people generally have a lower level of disadvantage.

Senator WONG—Thank you for the ad break, Ms Golightly. I understand that. I am asking very specific questions. I am asking questions about the data you track about the scoring on that JSCI and the numbers of people who get particular scores on the JSCI. This is supposed to be the instrument which determines entitlement to various levels of support. Surely the department tracks this data.

Ms Golightly—As I understand it, we track it as part of evaluations from time to time.

Ms Taylor—I am advised that we do track that data.

Senator WONG—Thank you. We got there eventually. In what form is that data tracked?

Ms Taylor—I will have to take that on notice.

Senator WONG—I gave an indication that I was going to discuss this. Is there no-one in the department here who can tell me how the data on JSCI is tracked?

Ms Taylor—Just one moment.

Senator WONG—While that is happening, Ms Caldwell or Mr Manthorpe, can you also tell me about Redcliffe in Queensland on that issue of disability access?

Ms Caldwell—We certainly can.

Mr Manthorpe—We will chase that up.

Mr Correll—In response to your earlier question, the tracking of the JSCI scores is by way of a simple frequency pattern against each of the scores.

Senator WONG—So it is a frequency pattern, not a frequency distribution?

Mr Correll—Yes.

Senator WONG—I am glad we are finally getting somewhere. Tell me about the frequency pattern.

Mr Correll—We certainly have data on that that would be available. We do not have it to hand. We would need to check back with the department to see what the latest data we have on the frequency pattern would be. But we can take that on board and see if we can get a quick response back to you.

Senator WONG—I want to ask about the data. If you are not able to give me the data today, I want to understand how it is collected. Tell me about the frequency pattern, how that data is collected, the time frame, who does it and what is actually tracked.

Mr Correll—I will try to explain that. Obviously, when a job seeker has JSCI applied through the system, there is a score recorded for evaluation purposes. We will periodically dip into that pool of data within the database to build up a frequency picture to be able to see what is happening.

Senator WONG—Is it called a frequency picture, a frequency distribution or a frequency pattern? I asked about frequency distribution and everyone looked at me blankly. Now you are telling me it is a frequency picture or a frequency pattern. What is the term?

Mr Correll—We are talking about a graph that has along the bottom line the point scores and along the vertical axis the frequency numbers. So I guess it is what one would describe as a frequency distribution graph.

Senator WONG—Okay. So it is a frequency distribution graph. How often are these prepared? Why when I asked about frequency distribution did I get blank looks everywhere?

Mr Correll—I do not think you got blank looks.

Senator WONG—Okay. How often are the frequency distribution graphs prepared?

Mr Correll—The answer is that the periodic sampling to develop the frequency picture would happen, we think, every two to three months. What we are now doing is checking what the latest one is and how long it would take to bring that information back.

Senator WONG—Thank you for your assistance. I would also like some trend data on that, perhaps over the last year, so if you do it every two to three months that will be about four. How big is the information?

Mr Correll—I am not 100 per cent sure how big the sample is. We will have that information.

Senator WONG—I am not asking about the sample. Is this a simple graphical illustration, or are we talking pages and pages of documents?

Mr Correll—It should be a relatively simple graphical presentation. We are checking on that. We should have some further information in a few minutes.

Senator WONG—So we are waiting on that and we are waiting on the payment structure document.

Ms Caldwell—I have a reference here. I do not have a page to table, but perhaps if I tell you about the contract provisions relating to your question that would answer your question. It is where:

(ii) a Fully Job Network Eligible Job Seeker who is not in receipt of Newstart or Youth Allowance gains employment or Unsubsidised Self-Employment or an apprenticeship or a traineeship, that does not lead to an Intensive Support Outcome payment, for an average of more than 15 hours but less than 20 hours a week; or

(iii) a Fully Job Network Eligible Job Seeker who has been identified by Centrelink as having a disability and a restricted work capacity remains in employment or Unsubsidised Self-Employment or an apprenticeship or a traineeship that is on average at least 70 per cent of the number of hours per week recommended by Centrelink but is not less than 8 hours per week ...

So it is not less than eight, or 70 per cent of the number of hours that Centrelink has assessed.

Senator WONG—Is it the case, though, that it is only non-activity-tested customers that are assessed on that basis—that is, that hours worked is the outcome payment trigger?

Ms Caldwell—Not if they are activity tested customers who have a reduced work capacity, as assessed by Centrelink.

Senator WONG—This is what I am clarifying: is it the case that activity tested customers under Newstart currently have a dollar test for the purpose of the outcome payment?

Ms Caldwell—A person who does not have a reduced work capacity has a dollar test on their outcome payment.

Senator WONG—Has the department determined that people with a disability and parents will have a reduced work capacity for the purposes of the outcome payment?

Ms Golightly—I understand that is part of the implementation arrangements, which we are still finalising.

Senator WONG—Let us go back again. As I understand your evidence, Ms Caldwell, you are telling me that if you are on Newstart currently and you go through the Job Network the provider will get an outcome payment once your income exceeds your Newstart allowance. Is that right? I think we agree that that is around 51 hours per fortnight.

Ms Caldwell—At minimum wage.

Senator WONG—You are now saying to me that if you have a reduced capacity you have a different threshold to meet.

Ms Golightly—It is a trigger point.

Senator WONG—Do we have a document yet that I can look at, because it would help me to ask questions.

Ms Golightly—We might need to photocopy the relevant page of the contract for you.

Senator WONG—I thought we were waiting on something being faxed through.

Ms Caldwell—The contract is more readily available, and it contains that information.

Senator WONG—Are we still getting the other document, because I can go on to something else while we are waiting?

Ms Caldwell—No. This will answer the question.

Senator WONG—Are we still getting the other document?

Ms Caldwell—No, we are not because the contract is with us in the room.

Senator WONG—So this is for intensive support intermediate payment?

Ms Caldwell—That is correct.

Senator WONG—Is this the first outcome payment?

Ms Caldwell—Your question went to the third of those outcome payments listed.

Senator WONG—I do not quite understand the niceties of the contract. Is this in relation to only people on intensive support?

Ms Caldwell—Outcome payments only apply to people once they reach intensive support.

Senator WONG—These intermediate payments here, which are in subplacita (i) to (iv) refer to the different circumstances in which the Job Network provider will get the intermediate payment. Is that right?

Ms Caldwell—That is correct.

Senator WONG—So the 70 per cent reduction in subplacita (i) is the 51 hours, is it?

Ms Caldwell—That is based on earnings at minimum wage. It approximates to 50 hours. Not all jobs are at minimum wage.

Senator WONG—I was trying to put it in a shorthand way; I was not trying to make a political score, but I understand. That is the earnings based threshold? Is that correct?

Ms Caldwell—Yes. The second one is earnings based.

Senator WONG—The second one is non-Newstart recipients, so it is not relevant for the purposes of the discussion. The third one is what you were talking about, which is someone who is identified by Centrelink as having a disability and a restricted work capacity. Is that right?

Ms Caldwell—The third one is.

Senator WONG—The outcome payment there is 70 per cent of the number of hours per week recommended by Centrelink but not less than eight hours a week, so there is a fall?

Ms Caldwell—Yes.

Senator WONG—What about parents with a child over six years who are considered by Centrelink to have a restricted work capacity and a disability?

Ms Caldwell—Under current rules?

Senator WONG—Yes, these are cumulative requirements: a disability and a restricted work capacity. Presumably, parents with a child over six years do not fall into that category?

Ms Golightly—If your question goes to what is happening under Welfare to Work, that is part of a new contract. As I mentioned before, that part of the implementation with respect to the new requirements is still being worked through. This is the current contract under—

Senator WONG—I understand that and we will come to the new contract, but I am just trying to clarify two things. First, these are cumulative requirements under the contract, are they not? You have to have a disability and a restricted work capacity?

Ms Caldwell—No.

Senator WONG—That is what it says in the paragraph.

Ms Caldwell—That is in paragraph (iii).

Senator WONG—If you are going to refer to the next page, I do not have it. So if you are going to rely on that, I better get a copy of it.

Ms Caldwell—For current parenting payments, I will need to give you the next page.

Senator WONG—Thank you.

Ms Caldwell—As that information is coming to you—

Senator WONG—I would like to see it first, Ms Caldwell, if I could.

Ms Caldwell—I am speaking of the information on people with a disability that is already in front of you. That provision deals with people with disabilities who have a reduced work capacity assessed by Centrelink because of their disability. The next clause goes to parenting.

Ms Golightly—It is not two tests.

Ms Caldwell—It is one and the same test.

Senator WONG—Yes, disability and a restricted work capacity.

Ms Golightly—Because of the disability.

Senator WONG—That is right. We agree. Is restricted work capacity defined anywhere in the contract? It is in the definition section, presumably.

Ms Golightly—It could be under the Social Security Act as well. It is not in the contract. We believe it is under the Social Security Act, but we will get that for you.

Senator WONG—The current contractual arrangements relating to PPS and PPP recipients are 10 hours a week for the outcome. Correct?

Ms Caldwell—Yes.

Senator WONG—But that obviously is not going to work. That will have to be revamped for the new contract, because the requirement is 15 hours.

Dr Boxall—We will be working through the details of the Welfare to Work package and the implications of that for the new contract. That work is just commencing and will be completed by about August.

Ms Golightly—Or September.

Senator WONG—But patently it will have to change from what is there currently.

Dr Boxall—We were aware of the Welfare to Work package and we were aware of the implications. We will be working through those details with our colleagues elsewhere in government. We will be working with the Job Network and we will be putting the new contract out to the Job Network.

Senator WONG—Do we know what a restricted work capacity is?

Dr Boxall—Ms Golightly just said that we are checking on that.

Ms Golightly—I have an answer to your question regarding the Toowoomba JNM offices. I am advised by our Queensland state office that all the Toowoomba JNM offices are wheelchair accessible.

Senator WONG—All of them?

Ms Golightly—Yes. All are located on the ground floor.

Senator WONG—Let us go back to the outcome payments, then. Re the current approach to a restricted work capacity for (iii), disability and a restricted work capacity, do you know what number of hours that is?

Ms Caldwell—The number of hours would be assessed on the individual's capacity.

Senator WONG—You misunderstand what I am saying. I understand that. At what level do you fall into number (iii)? Is it when you can work 15 hours a week, 20 hours a week or 25 hours a week? Do you see what I am saying? What is the point at which your capacity for work is assessed as putting you into number (iii)?

Ms Caldwell—Anything less than 30 hours a week. The presumption is full time work.

Senator WONG—Can you tell the scope of (iv)? Is the age of the child relevant to that?

Ms Caldwell—There is no set limit on the age of the child for that. The job seeker must be in receipt of a parenting payment to avail themselves of it.

Senator WONG—I understand that. These are the requirements under which you pay the outcome payments—

Ms Golightly—That is correct.

Senator WONG—and you are paying them for 10 hours a week, which is a significantly lower threshold, obviously, than applies to other job seekers. Are there any other restrictions or criteria in relation to parents?

Ms Caldwell—No. They must be in receipt of a parenting payment.

Ms Golightly—Centrelink makes the assessment about their capacity.

Senator WONG—In terms of their parenting responsibilities?

Ms Golightly—In terms of their capacity to do full-time work.

Senator WONG—That is not discussed as part of the criteria in relation to parents. It simply says 'work reduced hours due to parenting responsibilities'.

Ms Golightly—Yes, and I was making the point that Centrelink make that assessment.

Ms Caldwell—Job Network can also enter that information for parents by virtue of their parenting payment.

Senator WONG—If they were not receiving a parenting payment but were receiving Newstart, would their outcome be assessed in accordance with paragraph (i)?

Ms Caldwell—Yes, unless they had a disability and a Centrelink assessment.

Senator WONG—Does the new contract end in June next year?

Ms Golightly—The current contract ends on 30 June 2006.

Senator WONG—I understand that a number of Job Network providers have spoken to the department regarding arrangements for the people with a disability and parents who will enter the system from July 2006.

Ms Golightly—They talk to us about a lot of things.

Senator WONG—I am sure they do. Have they raised this issue with you about how outcome payments will work?

Ms Golightly—We have had a lot of questions about the package as a whole, clarifying what various things mean and which bits are still to be settled. This is definitely one of those bits which we will be working through with the industry and colleagues in other departments. So, yes, they have raised it, along with a number of other things, and we are talking to them about it.

Senator WONG—Have providers raised the concern that, if the outcome payments remain structured as they are, because people are on Newstart the change in the taper rate will mean a far higher number of hours worked would need to be reached before the outcome payment could be obtained?

Ms Golightly—The discussions I have had have been more along the line of questions about whether that will occur or whether it is not the case rather than assertions that it is. That is why we are aware of it. We are aware of the Welfare to Work package and the need to address this issue, along with a couple of others, in terms of the implementation. It has been a question rather than a statement.

Senator WONG—Is it the case that, unless the outcome model is changed in relation to Newstart recipients, you would need to work significantly more hours before you would reach the threshold for the outcome payment?

Dr Boxall—In relation to that question, we have made the point a number of times that the new contract will be framed on the basis of Welfare to Work. To the extent that the Welfare to Work package changes, taper rates or other aspects will be taken into account in framing the new contract for Job Network 4, including issues going to outcome payments.

Senator WONG—To be frank, Dr Boxall, a number of providers have put to me that the department have indicated that they do not propose to change this for the new contract. Is that the case?

Dr Boxall—Obviously that is incorrect because Ms Golightly has just said that has not been put to her, and she is the key person in the department. She said that she has had questions asked of her, and she has answered the questions. Job Network members know very

well that we are going through a consultation process with Job Network members and their organisations, as well as our colleagues in other departments. We will be looking at these issues. And there is no final position on these issues.

Senator WONG—So, Ms Golightly, you have not indicated that the current income based criteria for an outcome payment will not be changed?

Dr Boxall—She has not done that because we have not finalised the result. We are not in a position to rule things in and out. We are engaging in a consultation process.

Senator WONG—I understand that is your view, Dr Boxall. I asked Ms Golightly a question about what position she has put; I understand what you are saying.

Dr Boxall—I am telling you that the position of the department—

Senator WONG—You are not with her at every meeting, I am sure.

Dr Boxall—I am the secretary of the department, and I am answering this question on behalf of the department.

Senator WONG—You cannot because I am not asking Ms Golightly the view of the department; I am asking her if she has indicated to Job Network providers that that income based income payment criteria will not be changed for the new contract.

Dr Boxall—The rules of Senate estimates, as I understand them, are that senators cannot ask individual officers questions. The department answers questions on behalf of the minister, and the department's answer is that these issues have not been ruled in or out. It would be premature to rule issues in or out before the consultation process which will work through the details of the Job Network 4 contract in the wake of Welfare to Work reform is under way. The department maintains that this is a perfectly reasonable position to be in.

Senator WONG—Are you saying that you are going to change, or you are open to changing, the income predicated basis of that outcome payment?

Dr Boxall—I am saying that we will consult with Job Network members, their organisations and our colleagues elsewhere in the government in devising the Job Network 4 contract, including the payment schedule, to reflect the reality of the new Welfare to Work package. I am not ruling things in or out or ruling them any other way.

Senator WONG—I will ask this question then so I understand the current system: will non-activity customers who do not have a disability and restricted work capacity or who are not on parenting payment only generate the outcome payment upon working sufficient hours such that their income exceeds their Newstart allowance?

Ms Caldwell—If they are on Newstart, they would be activity tested.

Senator WONG—For the activity tested customers the outcome payment is triggered by the income earned exceeding the allowance. Is that right?

Ms Golightly—Unless they have been, as I understand it, assessed as having an incapacity or reduced capacity.

Senator WONG—I am talking about non-restricted work capacity here.

Ms Golightly—Yes.

Senator WONG—Is that right?

Ms Golightly—Yes.

Senator WONG—Is it not the case that a change in the taper rate will increase the number of hours that would have to be worked on the minimum wage in order to trigger the outcome payment?

Ms Golightly—I think the answers that both Dr Boxall and I have given before—going to the next contract when the change of taper rates come in—is all we can say on that matter.

Dr Boxall—We have answered that question. The taper rate is not changed for the existing contract.

Senator WONG—I did not ask that. I am asking a simple, factual question. A change in the taper rate would require more hours to be worked before the income threshold could be exceeded.

Dr Boxall—The current contract has been based on a certain taper rate, and it has a trigger payment which Ms Caldwell has explained a number of times. In the new contract it will be based on the taper rate for the Welfare to Work package. The payment trigger will be worked through and it will be set with a view to the fact that the taper rate has been changed.

Senator WONG—Because there is a recognition that the change in the taper rate would alter the requirements on Job Network providers?

Dr Boxall—The department is well aware of the implications of changes in taper rates and other changes in Welfare to Work, and we will be working through with the relevant stakeholders, including our colleagues in government, in devising trigger rates for the payments for Job Network 4. We are not in a position to go through the trigger rates for Job Network 3 and say, ‘If item X were different, the trigger payment would be different.’ The fact is that the trigger payment is based on a large number of items—and it has been calculated—and we will do the same for Job Network 4. We are not in a position to go through and say, ‘If you’re just one of the number of items, what would have happened to the trigger rate for Job Network 3?’

Senator WONG—Are you able to give a guarantee that the income based test for the triggering of an outcome payment will not be included in Job Network 4?

Dr Boxall—We do not give guarantees on issues that are subject to consultation. We are going to consult and produce the draft contract for Job Network 4. We are well aware of the issues that you are raising.

Senator WONG—You are well aware of them?

Dr Boxall—We are, indeed, and we were well aware of them before Senate estimates started.

Senator WONG—I am sure you do not need me to tell you these things, Dr Boxall. Is it the case that, if the income test were not changed when the taper rates come in, a number of these cohorts would have to work in excess of 15 hours a week—close to full-time work—before they would get off the Newstart payment and trigger the outcome payment?

Dr Boxall—That depends on what happens to all the other items that feed into the trigger rate. If the trigger rate is set to, let us say, 10 parameters, then if you change one parameter that might change the trigger rate. But, obviously, if you change one parameter in one direction and another parameter in another direction, it could well offset it. So we are not in a position to answer these sorts of hypothetical questions. What we are going to do is devise a draft contract with the trigger rates bearing in mind all the parameters which the government has announced for Welfare to Work.

Senator WONG—Have you done a calculation? In preparing for the Welfare to Work package, have you done an analysis of what subplacitum 1 would mean?

Dr Boxall—No. We are starting work on that—the budget has been down only two or three weeks—and we are consulting with the relevant stakeholders. By August or September we will have a draft contract ready, which will be the results of our consultations based on the parameters in the Welfare to Work package.

Senator WONG—Isn't it the case that a sole parent, with the new taper rate on a minimum wage, would have to work over 27 hours a week if this outcome parameter were not changed in order for the Job Network provider to get an outcome payment?

Dr Boxall—I do not know, because that is a hypothetical question.

Senator WONG—It is not a hypothetical question. It is a question about the application of this.

Dr Boxall—Mr Acting Chair, I would like to complete my answer, please.

ACTING CHAIR—Senator, could he complete the answer?

Senator WONG—If he answers the question, it would be good.

Dr Boxall—The government has put a lot of effort into synchronising the Welfare to Work package, the Job Network and various other programs that have moved from FaCS to our department, including CDEP, for example, so that the whole thing starts on 1 July 2006. One reason why the government is taking these decisions now is so that the department and other departments within government, and stakeholders such as the Job Network members and NESAs, have roughly 14 months to go through the very issues you are raising and make sure that the job purchasing agreement is consistent with the Welfare to Work package.

Senator WONG—So, Dr Boxall, you cannot guarantee that under the new arrangement sole parents and people with a disability will not have to work over 27 hours a week in order for the Job Network provider to get the outcome payment?

Dr Boxall—The department does not guarantee issues which are subject to consultation. We are going to consult on these matters and come up with trigger rates for the payment which are sensible and which are based on the parameters of the Welfare to Work program. We are not going to speculate on what might have happened in the past if the parameters had been different under Job Network 3 than was the case.

Senator WONG—I am not talking about the past; I am talking about the future.

Dr Boxall—I have answered the question.

Senator WONG—How can you speculate about the past?

Dr Boxall—You are requesting that we speculate about the past and we are not going to do that.

Senator WONG—Why is it the past? It is the present and the future.

Dr Boxall—That is argumentative.

Senator WONG—Ms Golightly or Ms Caldwell, you made a statement earlier that disability assessment was made by Centrelink. In future this assessment will be made under the comprehensive work capacity assessment, presumably, will it?

Ms Caldwell—Yes.

Senator WONG—Is that by the Job Network provider?

Ms Golightly—No.

Senator WONG—This is the Human Services managed panel type process, is it?

Ms Golightly—That is correct.

Senator WONG—How are we going with the frequency distribution graph, Mr Correll?

Mr Correll—I am just having it photocopied.

Senator WONG—Okay, so I will deal with the job seeker account first. I presume you track the pattern of expenditure on the job seeker account reasonably regularly, Ms Caldwell.

Ms Caldwell—Yes.

Senator WONG—How often do you do that?

Ms Caldwell—As needed. We look at it administratively on a weekly or monthly headline basis, with additional analysis as required.

Senator WONG—Does that enable you to track the proportion of expenditure which is on various components or various items?

Ms Caldwell—Yes.

Senator WONG—Do you track the proportion of expenditure on wage subsidy?

Ms Golightly—I believe we have answered the question on notice which goes to these questions. It is No. 232/05.

Senator WONG—From memory that goes to February 2005. Was it No. 232 05?

Ms Golightly—Yes. That information was provided for the calendar year 2004 and we can provide an update to that.

Senator WONG—This does not actually indicate wage subsidy, which is actually what I am asking about. Is employer incentive a wage subsidy?

Ms Golightly—Wage subsidies would come under that heading.

Senator WONG—So ISca is Intensive Support customised assistance, and then other Job Network assistance is pre ISca. Is that how that works?

Ms Caldwell—As to the ISca figure, reimbursements claimed for job seekers whilst in customised assistance, the records that did not say the phase of the continuum during which the assistance was provided, as well as those known not to be ISca, are in that other column.

Senator WONG—I am interested in wage subsidies. Can you tell me where in that question on notice wage subsidies are included?

Ms Caldwell—Wage subsidies are under the definition of ‘employer incentives’.

Senator WONG—Does ‘employer incentives’ include anything other than wage subsidies?

Ms Caldwell—It will usually be in the form of a wage subsidy. There may be other assistance to employers to assist with the workplace placement but they are typically wage subsidies.

Ms Golightly—They are a significant part of that.

Senator WONG—Do you separately track a proportion of the expenditure of the Job Seeker account on wage subsidy?

Ms Golightly—No. We provide it in the breakdown that was provided in the question on notice.

Senator WONG—I understand that. Is that how your data is?

Ms Golightly—That is correct.

Senator WONG—So you do not separately have the proportion on wage subsidy excluding other employment incentives?

Ms Golightly—No.

Senator WONG—You said that most of that would be wage subsidy. What other incentives and what proportion are we talking about? Is it very minor?

Ms Golightly—It is very small.

Senator WONG—The vast majority of that would be wage subsidy.

Ms Golightly—That is correct.

Senator WONG—Can you give it to me as a proportion of expenditure? Do you do that?

Ms Golightly—We could probably work it out for you.

Senator WONG—I suppose we could add all those up and find out what 1,946 is as a proportion of the total, is that right?

Ms Golightly—Yes.

Senator WONG—Is it 20-odd per cent?

Ms Golightly—I will have to calculate it for you.

Senator WONG—Just as tracking—does wage subsidy run at around 20-odd per cent or is it more?

Ms Golightly—It is around 20 per cent.

Senator WONG—This goes to calendar year 2004. Can you tell me the figures or the proportions for the calendar year to date?

Ms Golightly—I can take that on notice and get that for you.

Senator WONG—Has there been an increase in the proportion of wage subsidy?

Ms Golightly—I possibly can get you the figures to date a bit sooner than I thought. I will just check something. What was your last question?

Senator WONG—I will wait until you check.

Ms Golightly—I can give you the total expenditure to 31 March, being \$324,660,000, but we would need to go away and get the break-up of that for you against those headings.

Senator WONG—So that is the total JSA expenditure?

Ms Golightly—Yes.

Senator WONG—But what proportion is wage subsidy?

Ms Golightly—From what I can see here, it is still around 20 per cent.

Senator WONG—That can be taken on notice.

Ms Golightly—We will try to get it for you today but I will take it on notice.

Senator WONG—That would be useful. I can come back to deal with workplace relations. Are you aware of an increase in expenditure on wage subsidy from the Job Seeker account for the last five months?

Ms Golightly—We are not aware of any increase but we will check that when we get the breakdown for you.

Senator WONG—Are you aware of any competition in the level of wage subsidies as between providers and employers shopping around for the highest wage subsidy?

Ms Caldwell—We hear anecdotal reports to that effect, but nothing systematic. We follow it up if there are reports of improper practice in that regard. But there is no evidence of systematic practices of that nature.

Senator WONG—How many anecdotal reports are we getting?

Ms Caldwell—Comment is sometimes made in the discussions that Ms Golightly mentioned that we have with our range of providers.

Senator WONG—When did the anecdotal reports start?

Ms Caldwell—The nature of the job seeker account and of the wage assistance is always to target to the individual need of the job seeker. Comment across the industry on how it is targeted—whether or not it is targeted best—is something that has always been with us.

Senator WONG—It is always being raised? Is that the answer to the question?

Ms Golightly—I think Ms Caldwell was making a general statement—

Senator WONG—Yes, that is right. I have a very a specific question, which is: when did you—

Ms Golightly—We cannot give you a specific date.

Senator WONG—Okay. How often is the anecdotal evidence of Job Network employers shopping around for the highest subsidy raised with you?

Ms Golightly—Not often.

Senator WONG—How many investigations have you done?

Ms Golightly—It would be difficult for the people here to answer that, because these sorts of things are followed up in our state offices by the contract managers. I can see what I can find out for you but it is not something we do personally from the national office.

Senator WONG—When you get these anecdotal reports raised with you, do you cause an investigation to be undertaken by the relevant contract manager?

Dr Boxall—If contract managers receive these reports, they follow up and check them. If they were satisfied that the contract was being managed appropriately then no further action would be taken.

Senator WONG—I will repeat my question. Ms Golightly and Ms Caldwell have given evidence of anecdotal reports being made to them. As a matter of practice, when those anecdotal reports are made to you, do you make the relevant contract manager investigate the issue?

Ms Golightly—Yes. However, I think I should clarify one point: it is not necessarily the case that Ms Caldwell or I have received the reports directly. We know anecdotally through our contract managers most of the time. But it is our policy that, if anybody in the department receives such information, we would follow it up through the contract manager.

Senator WONG—How many investigations have there been by contract managers?

Ms Caldwell—It would be looking at administrative data; it would not be a formal investigation or referral. It would be looking at the transactions for a Job Network member to see if there was anything atypical.

Ms Golightly—There could be a range of inquiries rather than an investigation.

Dr Boxall—Contract management is an ongoing issue—an ongoing work—which goes from week to week. In the course of that, if comments are made or evidence is received about issues with respect to wage assistance or anything else, it would be followed up. It is an ongoing dialogue between the contract manager and the Job Network member. So it is not possible to answer that question.

Senator WONG—Who manages the contract managers? Is that you, Mr Manthorpe?

Mr Manthorpe—Yes.

Ms Golightly—In fact, it is the state officers, the responsible managers, the contract managers on a day-to-day basis. Mr Manthorpe has responsibility for our overall contract management framework and policy.

Senator WONG—As part of that, do you get reports from the state officers and/or contract managers on a regular basis?

Mr Manthorpe—Yes, on various contract management issues.

Senator WONG—What does that mean?

Mr Manthorpe—It means that we have access in the national office to information from contract managers about all the sorts of issues that might be running in the Job Network or the other services at any given point in time—not necessarily specifically on this issue but on a whole range of contract management issues.

Senator WONG—Are you aware of contract managers and/or state officers in the course of their activities looking into circumstances where employers are shopping around for the highest wage subsidy on offer?

Mr Manthorpe—Like my colleagues, I am aware of that issue anecdotally. Whether I am aware of any particular instances of that that might be being examined, I am not sure. I would have to look at that.

Dr Boxall—The bottom line is that I am advised that the issue of wage assistance has not been raised as a major contract management issue.

Senator WONG—Is that right?

Dr Boxall—That is correct.

Senator WONG—Is there anything in the contract that would deal with a circumstance where a provider is bidding against another provider in terms of wage subsidies for a particular employer in order to get a place?

Mr Manthorpe—There is no specific clause that deals with the circumstance you describe. But, and I mentioned the code of conduct earlier, the Job Network is bound to abide by the code of conduct, which, among other things, requires that they not do anything that might bring the Job Network into disrepute. If there are practices going on that in our view fail that test then we would act on that.

Senator WONG—Have you done so in relation to any wage subsidy arrangement?

Mr Manthorpe—There has been analysis of wage subsidy usage and discussions with providers about some of those issues on, as far as I am aware, a very small number of occasions. I do not believe we have penalised any in respect of this.

Dr Boxall—Indeed, at the last Senate estimates, Senator Webber asked a question with respect to a Job Network member in Perth and we followed that up and we answered that question on notice. So, Senator Wong, if you have specific instances that you think contract managers should look at we would be happy to receive that information. We would process it and handle it just as we did when Senator Webber brought an issue to our attention.

Senator WONG—When was the analysis of wage subsidy that you mentioned done, Mr Manthorpe?

Mr Manthorpe—The point that Ms Golightly made is that it is ongoing.

Senator WONG—No, you gave evidence that you have done some analysis of wage subsidy and you have had some discussion with some providers but no penalties have been imposed. I accept that; that is your answer. I am asking: when was that analysis done?

Mr Manthorpe—The one that I had in my mind was the one that Dr Boxall just mentioned following the matters raised by—

Dr Boxall—Senator Webber.

Senator WONG—Have you actually investigated anyone about an issue that was not raised in Senate estimates when it comes to wage subsidies?

Dr Boxall—Yes. The contract managers have an ongoing dialogue with Job Network members. If on inspection of the data they think there is an issue, they raise it with the Job Network member.

ACTING CHAIR—We will have a break now.

Proceedings suspended from 10.39 am to 10.56 am

Senator WONG—Before I return to the wage subsidy, I refer to the Toowoomba issue. You said that they were all on the ground floor. Do I understand that that means that they are all wheelchair accessible or just that they are all on the ground floor?

Mr Manthorpe—That is our advice. As a matter of fact, when the piece of paper was first passed to me it said that they are all on the ground floor. I therefore went back and asked, ‘Yes, but are they all wheelchair accessible?’ and the advice we got back is that they are. Obviously, if you have contrary advice we would be very happy to look at that.

Senator WONG—I do but I am sure you will check that and correct the record or add to it if there is any change to your answer. I have one slightly related issue. I assume that there is no child care guarantee associated with the mutual obligation on parents—that is, if they do not have access to appropriate child care it does not ameliorate their part-time work obligation?

Mr Correll—Under the Welfare to Work initiatives—if that is the question—there is the potential for flexibility in the way the Job Search requirements are designed. The part-time work requirements are not amended in terms of the hours of work requirements but the Job Search requirements can change depending on the individual parent’s circumstances. That would include the number of children. If there is a large number of children concerned it will potentially impact on the activity.

Senator WONG—To clarify that: the part-time work requirement is not amendable—I think that was the term you used.

Mr Correll—It is not changed but the nature of the Job Search activity can be varied within the Job Search plan based on the individual circumstances of that parent, particularly if there are multiple children in the family.

Senator WONG—Yes. I understand that. But the part-time work guarantee will not change, depending on the number of children. The part-time work obligation is not altered by the number of children.

Mr Correll—The hours of work requirement is not altered by the number of children.

Senator WONG—And the part-time work obligation is not altered by whether or not the person has access to child care?

Mr Correll—There are two components to the work obligation: the activity testing component, or the Job Search component, and the additional mutual obligation requirement.

In relation to the activity testing component of it, that could be influenced in the flexible design of the plan, and that will be—

Senator WONG—Only in relation to Job Search.

Mr Correll—In relation to Job Search.

Senator WONG—Not part-time work.

Mr Correll—No.

Senator WONG—That is not amendable, if that is the term, by virtue of a lack of access to child care?

Mr Correll—No, having noted that the Welfare to Work package has made a massive expansion in child care places to cater for that.

Senator WONG—An expansion that you describe as massive—not in your portfolio, Mr Correll.

Mr Correll—It is very big.

Senator WONG—Is that an opinion or is it a factual response?

Mr Correll—It is a factual comment. I think the figure is 85,000 places.

Senator WONG—With a current shortage of 35,000, and I think 450,000 are currently in the cohort above age six. Is that right? I suppose it is all a matter of perspective whether or not it is massive or very big.

Mr Correll—You asked before the break for information on the frequency distribution pattern for the JSCI scores, and we have tabled that frequency distribution graph. That data applies to the 2004 calendar year.

Senator WONG—Thank you.

Mr Correll—We have used that data because it was the most immediate data set available to be able to get rapid information to you, and it is based on the JSCI that is closest to the vocational profile completion with a job seeker.

Senator WONG—Closest to the vocational profile completion?

Mr Correll—A job seeker can have multiple JSCIs as they move through their job search activity. So, if you are looking at a data set, you have to choose some point. The point that has been chosen to be precise is the point related to the completion of the vocational profile.

Senator WONG—I will come back to that, but I request that you provide the most up-to-date information on this—that is, to date. I think you indicated you do this monthly. Is that right?

Mr Correll—I said, I think, two to three monthly. We would have to take that on notice because it would mean the extraction of another data set.

Senator WONG—Isn't it information that you extract regularly?

Mr Correll—Yes, but if you want the latest up-to-date information then we extract the data set to pull that information out.

Senator WONG—Could I have it for the January to May period?

Mr Correll—We will take that on notice.

Senator WONG—I will come back to that. Can we go back to wage subsidies and—

Ms Golightly—I have an answer to a question you asked last night that I said I would get back to you on this morning.

Senator WONG—Just to disrupt my train of thought! I am trying to remember everything I asked you.

Ms Golightly—It was in relation to the early intervention pilot. You asked about costing, and I gave some figures which I said I would confirm. I think I said it was around \$500,000 for the total pilot cost. The total gross cost is in fact \$798,000—although the net cost would be something less than that because that includes fees that would have been paid for assessments under the current contract anyway—and the average cost of assessment is \$320.

Senator WONG—Currently, what is the average cost of assessment? Is it about \$250?

Ms Golightly—Yes, around about \$250.

Senator WONG—I think I asked that last night. Can you provide me with the net cost later?

Ms Golightly—I am advised that that will be available when the pilot is completed.

Senator WONG—Are you able to give me an estimate, though? I am not clear about this: when you say, ‘Fees payable are \$250,’ do I just do a calculation of \$250 by the number of persons to get some sort of estimate?

Ms Golightly—I do not think so. I would need to take that on notice. There are a number of things in that total cost—for example, including prevocational type interventions.

Senator WONG—So you are not able to give me some indication of what the net cost is likely to be?

Ms Golightly—We will not know until the pilot has finished. That is an estimate. The pilot is four weeks away from finishing.

Senator WONG—You said it would cost just under \$800,000. Are there further costs to come in?

Ms Golightly—No, that is our estimate of the total cost, anticipating what is going to happen over the next four weeks, as well as the actuals to date.

Senator WONG—Is there anything more?

Ms Golightly—No.

Senator WONG—Thank you. Going back to wage subsidies: Mr Manthorpe, you are responsible for supervising the ongoing contract management.

Mr Manthorpe—Yes.

Senator WONG—Tell me what the procedures are. Do you get written monthly reports from your contract managers? What is the reporting mechanism to you?

Mr Manthorpe—The critical reporting mechanism is that the contract managers have access to a health check, which is a system-generated report they have that describes how Job Network members are going against a series of indicators. It is actually a live tool that they can look at very regularly. It provides weekly data on job seeker account usage by category, so it would show how much is being spent on wage subsidies and give national comparisons. Managers can look at that on an ongoing basis to check whether there are any anomalies. There is a desktop monitoring component here. Similarly, managers can, and do, follow up complaints that come in, and if they hear any of the sort of anecdotal evidence that we were talking about before morning tea they can chase those things up as well. The overarching part of the procedure is that for each Job Network member a risk assessment is completed by the contract manager and signed off by the relevant account manager within our contract management structure, and that gives rise to an ongoing risk based analysis and approach to contract management activity.

Senator WONG—Let us go through each of those. How often is the overarching risk assessment conducted?

Mr Manthorpe—At least annually.

Senator WONG—What information does that go through?

Mr Manthorpe—Contract managers have available a system tool that identifies broad types of risks, and they analyse the data they have available to arrive at a risk assessment for each provider.

Senator WONG—Can we have a bit more detail on that? What are the risk assessments, what are the parameters of the risk assessment and what is the form of the regular risk assessment which is undertaken annually?

Mr Manthorpe—The parameters are things like financial risk, performance risk and quality risk. Our contract managers use the data and their knowledge of provider performance to form a view about where risks lie in that provider's operations.

Senator WONG—Once they do that, do they do a written report? What is the nature of the reporting assessment after the risk assessment is concluded?

Mr Manthorpe—They produce a written risk assessment on our risk system and they then undertake contract monitoring in accordance with the risks that are identified therein.

Senator WONG—Is your evidence that every Job Network provider has a risk assessment of the sort you are describing done annually?

Mr Manthorpe—Yes.

Ms Golightly—At least annually.

Senator WONG—Is that provided to you?

Mr Manthorpe—We have access to those.

Ms Golightly—It is on a centralised system.

Senator WONG—What is your or your section's practice regarding that? Do you check them weekly, monthly or quarterly? What is the system?

Mr Manthorpe—The system is that the principal relationship between the department and the provider is through the contract manager and account manager framework, so the account manager has the most ongoing contact there.

Ms Golightly—When we talk about supervisory roles, we need to understand what we mean and what you might mean. I will clarify. Mr Manthorpe's area is responsible for making sure that our contract management framework as a whole has integrity. Particular issues to do with a particular contract are the responsibility of the state office which is managing that contract. We all have access to information that contract managers put into our central system. For example, Ms Caldwell, being the program manager responsible for Job Network, would access that system, and Mr Parsons, being responsible for Work for the Dole, would access the system, so at any one point in time people will be monitoring this information.

Senator WONG—If a problem is identified, who is responsible for investigating or acting on that?

Ms Golightly—The contract manager in the state office who is responsible for that contract.

Senator WONG—Who supervises them? Who ensures that they do that work? Is that Mr Manthorpe?

Ms Golightly—No, it is in the state office.

Senator WONG—Who are they responsible to?

Ms Golightly—To the general manager corporate here. But they are also responsible for alerting the relevant program manager and Mr Manthorpe if the issue goes to systemic issues to do with our framework.

Senator WONG—So Mr Manthorpe and Ms Caldwell would be aware of systemic issues, but specific issues would be reported at the state office and then if necessary to the corporate section of the department?

Ms Golightly—The general manager corporate is responsible, for example, for performance assessment and day-to-day management of the state office managers. But, if a specific issue with a contract—say, with a Job Network member—is significant enough, they will escalate that to the program area, Michael and perhaps me as well, depending on the severity.

Senator WONG—Who is the general manager corporate?

Dr Boxall—Mr O'Sullivan.

Senator WONG—Is he here?

Dr Boxall—He will be here for cross-portfolio.

Senator WONG—Can we go back to the nature of the risk assessment. Do you have categories or scores or some method of quantification of the risk? Can you tell me about that?

Mr Manthorpe—As I indicated, the risk assessment tool calls on the contract manager and the account manager to fill in a risk assessment proforma against a series of categories such as financial risk, performance risk and so on.

Senator WONG—Is there some quantification of risk?

Mr Manthorpe—That is right.

Senator WONG—What form does that take?

Mr Manthorpe—They would do a rating of the risk—for example, low or high.

Senator WONG—So it is a rating. What are the ratings?

Mr Manthorpe—From memory, they are low, high and extreme or something like that.

Senator WONG—How many have been assessed as having extreme risk in relation to any of the categories of risk assessment?

Mr Manthorpe—I do not have that material with me.

Senator WONG—But that is all accessible, as I understand it, very easily through your database because anybody can check this at any time. I understand that was your evidence.

Mr Manthorpe—Yes, we can take that on notice.

Senator WONG—For the last year I would like to know how many Job Network providers have been assessed as being an extreme risk and in which categories. What are the categories?

Mr Manthorpe—There are four or five categories.

Senator WONG—What are they?

Mr Manthorpe—The two that I can recall off the top of my head are the financial and performance categories.

Senator WONG—Does anyone in the room know what the other three are?

Ms Golightly—I have asked somebody to go and print off the proforma for us.

Senator WONG—That is an excellent idea. Thank you. So you will provide on notice the risk assessments?

Mr Manthorpe—The individual risk assessments?

Senator WONG—No. I am sure that, if I asked that, somebody would raise some objection to identifying the people. I would like to know how many providers were assessed as extreme in one category or more, how many were assessed as high in one category or more and how many were assessed as low across the board.

Mr Manthorpe—We can take all of that on notice.

Senator WONG—I presume that is reasonably easy to access on the basis of your evidence today about how accessible the risk analysis is?

Ms Golightly—We can easily access individual risk assessments. We can collate all of that, if there is a standard report, quickly. I would need to check, but, one way or another, we will get you that information.

Senator WONG—Thank you. Is there a trigger or protocol for a higher level of management resulting from the risk analysis? What I am trying to clarify is whether this is just at the discretion of contract manager or whether there is some sort of direction or protocol

that says, 'If they rate as extreme in any category then you have to undertake a higher level of scrutiny through your contract management.' What is the process?

Mr Manthorpe—The contract managers do not operate in isolation from management structure within which they operate. The contract managers, who are relatively lower-level officers, will do their risk assessment. That will be signed off by what we call the account manager, who is a more senior and generally very experienced officer within our state office network. If issues arise that are of particular concern to them in their contract management activity then they would escalate those matters to our national office.

Senator WONG—I do not think that answers my question. Is there a system or procedure in place that puts a provider who has a risk assessment which is of concern under a higher level of scrutiny?

Mr Manthorpe—If a risk assessment illustrates or suggests that a particular provider is at a higher level of risk than another provider then that will give rise to an increase in the monitoring and analysis activity.

Senator WONG—Firstly, what would be required to illustrate that—how many extremes or highs? Secondly, what is the higher level of monitoring that you describe?

Mr Manthorpe—Some of these things are questions of judgment about—

Senator WONG—Okay. This is a subjective judgment by the contract manager. I would envisage that you might have a situation where the provider has, say, one extreme risk category in the risk analysis and that would trigger a certain difference in approach to the contract management of that provider. That would seem intuitively sensible. What I am trying to clarify is: what are the procedures associated with that?

Dr Boxall—A Job Network provider who might be assessed as being extremely risky would have increased monitoring. But, if you are asking whether there is a formula which says that if a Job Network provider is assessed as X then they will be monitored Y times, the answer is no, because we want to be able to assess them Y times even if they are not assessed as X. We want the flexibility to be able to monitor them more closely if the account manager and the state office manager think that is what is required.

Senator WONG—What I am suggesting would not prevent that. I am just asking: is there a safety mechanism that ensures a higher level of monitoring upon an unacceptable risk assessment? If so, what is it?

Dr Boxall—The safety mechanism is that the state manager, the account manager and the contract manager are all held accountable for the assessment of risk and the monitoring.

Senator WONG—Okay. So, as I understand it, there is no protocol, guidelines or direction for a specific alteration in contract management approach upon a high-level risk assessment?

Dr Boxall—There is no formula driven profile.

Senator WONG—I did not ask whether there is a formula driven profile. I am asking: are there any protocols, directives or guidelines which are activated upon a high-level risk assessment?

Dr Boxall—There is a protocol that is activated. If it were reported to them that a Job Network provider was rated as an extreme risk, any state manager worth their salt would be obliged to follow that up and advise central office.

Senator WONG—Is there a requirement that they advise central office?

Dr Boxall—There is. It just goes to good management. These people are professional managers and, if they do not advise central office about issues such as that then that is considered to be a very bad lapse of judgment. If that were to ever happen, not that it ever has, there would be—

Senator WONG—Hell to pay.

Dr Boxall—Exactly—through the performance management scheme.

Senator WONG—How many providers have been the subject of a report to head office?

Mr Manthorpe—There are regular discussions—

Senator WONG—Dr Boxall just gave evidence about what is supposed to occur. How many reports to central office have there been?

Mr Manthorpe—I do not have a number.

Senator WONG—How many have there been? Does it happen, ever?

Dr Boxall—Of course. It happens all the time, because contract management is an ongoing issue. They might report to central office that they have assessed somebody who has been ‘low risk’ for two years and, all of a sudden, they are ‘medium risk’. It is a question of judgment. These people are professional managers and it is a question of judgment. The evidence is clear that they do their job extremely well.

Mr Manthorpe—Not only that, but there is ongoing dialogue between my area, the program areas and state office colleagues about issues running —

Senator WONG—I have heard that evidence ad infinitum.

Mr Manthorpe—I am just trying to help you understand how it works.

Senator WONG—I understand that. Is there a process or procedure associated with the reports to state office? Are they tracked?

Mr Manthorpe—When an issue arises that seems of a relatively serious nature, we expect the contract manager or the account manager to provide a written report to national office.

Senator WONG—How many written reports have you received in the last three months?

Mr Manthorpe—I do not have the number with me.

Senator WONG—Have you received any?

Mr Manthorpe—Yes.

Senator WONG—Are we talking about five, 10, 20 or 30?

Mr Manthorpe—I do not have a number.

Senator WONG—Can you estimate? Do you get one a week or one a month?

Mr Manthorpe—No, I cannot.

Senator WONG—You are not able to estimate? You do not know?

Dr Boxall—The department is not going to estimate the number. If you would like the number, we will take the question on notice.

Senator WONG—I would like the number of reports that have been given—in the way that Dr Boxall describes—to central office since in the beginning of the year.

Dr Boxall—We will take that on notice.

Senator WONG—Are you aware of any Job Network providers promising wage subsidies that they have been unable to meet?

Mr Manthorpe—I am aware of one possible case of that nature.

Senator WONG—When was that reported to you? When did you become aware of that?

Mr Manthorpe—It would have been about a month ago.

Senator WONG—I am not going to ask the name of the provider, but I will ask for the name of the state in which the provider is located.

Mr Manthorpe—I think I would want to take that on notice.

Senator WONG—I have not asked for the name of the provider. I have not even asked for the town. I have asked for the state. It is a very high-level question. On what basis are you taking that question on notice?

Dr Boxall—If someone has provided you with evidence of what you perceive to be a contract management problem, we will investigate that if you provide the evidence to us, just as we did when Senator Webber provided some information at the last Senate estimates.

Senator WONG—In which state?

Senator Abetz—That has been taken on notice.

Senator WONG—On what basis is that taken on notice, Minister? There are hundreds of Job Network providers. I am not asking about the town; I am asking for the state. They are not going to be able to be identified from that.

Senator Abetz—On the likelihood of identification—

Senator WONG—How many Job Network providers are there in New South Wales?

Senator Abetz—Now you are asking about a specific state. If it were in, say, the Northern Territory, Tasmania or indeed your own home state, I dare say the number would be very small and this would be reported and then the network providers would be talking to each other and they would be very quickly identified.

Senator WONG—On what basis is this not being provided?

Senator Abetz—I have just indicated that, Mr Chairman. She can ask again. Chances are she will not get exactly the same answer word for word, but the import of it will be the same.

Senator MARSHALL—We will keep asking you and we will eventually—

Senator WONG—Why is the department wanting to hide who this provider is?

Dr Boxall—The department does not want to hide anything.

Senator WONG—Why is the department refusing to disclose the state in which this provider is?

Dr Boxall—Senator Abetz has just given the reason.

Senator WONG—Which is that you do not want them identified. Why don't you want them identified?

Dr Boxall—We do not want them identified publicly before they are investigated.

Senator WONG—Are they being investigated?

Dr Boxall—Not that I know of. If Senator Wong or any other senator provides information of what they think is irregular activity, we will investigate it. The department is quite clear about this. The chances are that the information that you have on this provider may prove not to be about fraudulent behaviour or a problem—it may be a simple misunderstanding. As outlined by Senator Abetz, for us to identify the state could mean that a number of reputable Job Network providers in that state would have a cloud over the head.

Senator WONG—Are you investigating this matter, Mr Manthorpe?

Mr Manthorpe—We do not know what the matter is, Senator Wong?

Senator WONG—Mr Manthorpe gave evidence about this matter being given to him or reported to him a month ago. I am asking about that, Dr Boxall.

Dr Boxall—Are you asking about the issue that was raised?

Senator WONG—Yes.

Dr Boxall—I thought you were asking about the evidence that you have.

Senator WONG—I am asking about the evidence that Mr Manthorpe gave that he is aware of one provider about whom there is an allegation that they cannot meet a wage subsidy as promised. Is that being investigated?

Mr Manthorpe—That is being examined through our normal contract management processes.

Senator WONG—When was the contract manager first made aware of it?

Mr Manthorpe—I do not have the dates with me.

Senator WONG—Was it before you were made aware of it?

Mr Manthorpe—I am really not sure. I think it became known to the contract manager before us, but I cannot recall.

Senator WONG—How did you become aware of it?

Mr Manthorpe—I cannot recall.

Senator WONG—You cannot recall?

Mr Manthorpe—I cannot recall who told me.

Senator WONG—In what context did you become aware of it? Is it something that was put to you by the industry, by employers, by the media or through your contract management process?

Mr Manthorpe—I think it was through our contract management process.

Ms Golightly—Mr Manthorpe has said that we will check that for you.

Senator WONG—I would like to know the date on which the department became aware of the allegation.

Dr Boxall—We will take that on notice.

Senator WONG—I would like to know what action has been taken.

Dr Boxall—We will take that on notice too.

Senator WONG—You have one provider, out of how many hundreds, whom it is alleged cannot meet the wage subsidy as promised, and you cannot tell me what action you are taking?

Mr Manthorpe—I can tell you that we are examining it. We have taken on notice what further advice we can provide you.

Senator WONG—What does ‘examining it’ mean?

Senator Abetz—Can I suggest that ‘examining’ means exactly that. In the event that fraud or anything else is involved I would have thought it would be singularly unhelpful to broadcast that fact through the Senate estimates and alert people. I do not think it is a particularly clever tactic.

Senator WONG—Is the provider aware that they are being investigated?

ACTING CHAIR—How can he answer that?

Senator Abetz—They are being examined.

Ms Golightly—The issue raised is being examined.

Senator WONG—By whom?

Ms Golightly—By the department, through contract management processes, as Mr Manthorpe outlined.

Senator WONG—Does that involve discussion with employers?

Mr Manthorpe—I would prefer not to go into the nature of the examination.

Senator WONG—On what basis?

Mr Manthorpe—For the reasons indicated by Dr Boxall, and also because—

Senator WONG—You will not tell me who it is. I am asking what steps you have taken, and you are refusing to do that on what basis?

Dr Boxall—We are not refusing to provide information. We have taken the matter on notice, for the reasons that Senator Abetz outlined and also for the reason that in the event there is fraud we may not want to alert the provider until we have information. We do not know what the information is. In the event that this provider is from a small state—and even if the provider is from a large state—it would put a cloud over all of the other providers in the state. We are not refusing to give you information; we are taking the matter on notice.

Senator MARSHALL—Can you explain the difference between an ‘investigation’ and an ‘examination’?

Dr Boxall—Yes, I can. Let us say an allegation is provided from a senator or from a member of the public or the contract manager becomes aware of behaviour which is considered abnormal. They then seek to examine that and see whether there is any case to be answered or whether it is a misunderstanding where the information is correct. In the event that they get to the stage where they believe there is a major issue, they will then take the matter up as the contract manager. In the event they get to the stage where not only is the issue major but there could be fraud involved it is then passed on to another area of the department that specialises in fraud investigations.

Senator MARSHALL—And that is an investigation?

Dr Boxall—That is correct.

Senator MARSHALL—So when your department uses the terminology ‘investigation’, we can issue that there is a belief that some criminal activity has taken place?

Dr Boxall—Exactly.

Senator MARSHALL—And when you use the terminology ‘examination’, it is simply an inquiry?

Dr Boxall—A contract management inquiry. Rather than just referring everything that comes through the door straight to an investigation, it is examined first.

Senator WONG—Has there been contact in this examination process with affected employers?

Mr Manthorpe—I will take that on notice.

Senator WONG—Because you do not know?

Mr Manthorpe—I do not know, and I would want to check.

Dr Boxall—It goes to the method of examination. It depends on the nature of the allegation.

Senator WONG—I did not know that there was a rule in Senate estimates that the method of examination was something senators could not ask about. We are talking about public moneys here—

Dr Boxall—I know, and we are—

Senator WONG—and the conduct of the department in the management of these public moneys. I am not asking for the identification of the provider; I am asking about the method by which you are examining this allegation.

Ms Golightly—It also goes to who is doing the examination. Our contract manager is doing the examination. It is the one who will know what has been done what has not been done, not Mr Manthorpe. We said we would find out for you.

Senator WEBBER—Accepting what the minister was saying before, if the contract manager is doing the examination surely the provider knows they are being examined.

Senator WONG—That is right.

Dr Boxall—Not necessarily.

Senator WONG—It is a secret examination.

Senator WEBBER—This is more secret than ASIO; you are being investigated but you do not know you are being examined.

ACTING CHAIR—Order! Can we just have questions and then we can get the answers.

Senator WONG—How many other allegations of non-payment of wage subsidy are you aware of?

Mr Manthorpe—None.

Senator WONG—What are the contractual parameters for wage subsidy—what limitations? It is just up to a certain amount. Is that right?

Ms Golightly—It is part of the guidelines that surround the use of the job seeker accounts. The amount of wage subsidy or anything else paid for under job seeker accounts is tailored to the individual.

Senator WONG—They can pay up to how much?

Ms Caldwell—Up to 100 per cent of wages or more in exceptional circumstances such as very disadvantaged—

Senator WONG—But in terms of expenditure from the job seeker account, is there a total figure that is the ceiling for the wage subsidy?

Ms Caldwell—No, there is no cap.

Senator WONG—What is the job seeker account allocation for the very long-term unemployed?

Ms Caldwell—It is not capped by individuals. A highly disadvantaged person would get \$1,350 credit on commencement.

Ms Golightly—There is a notional allocation of \$1,350.

Senator WONG—What I am trying to clarify is what a Job Network provider can offer in respect of wage subsidy. Can you tell me: up to what amount are they allowed to offer?

Ms Golightly—Up to 100 per cent of the wage.

Dr Boxall—It is what Ms Caldwell said: it is up to 100 per cent of the wage and more in certain, specific circumstances.

Senator WONG—Over what period? In terms of actual funds expended, is there a limit—\$10,000, say?

Ms Golightly—No. Job Network members are required to manage the job seeker account so that the assistance is provided to job seekers as required. So they can spend more on one job seeker than on another, if that is required, but they cannot spend more than what they have credited in total to their notional account.

Senator WONG—So the crediting is \$1,350 notionally per job for highly disadvantaged job seekers, but if you are using, say, only \$400 in respect of—what was the average expenditure on the job seeker account, to date, again? We got that last time, I think, but has it changed?

Ms Caldwell—The average expenditure for a job seeker is around \$800.

Senator WONG—To which date?

Ms Caldwell—Until 31 March this year.

Senator WONG—Over the period of the contract?

Ms Caldwell—Over the contract.

Senator WONG—Do I understand this to be the case: say I am a provider; I spend my average on most people, say, \$800, but I can credit the \$550—

Ms Golightly—Yes.

Senator WONG—from various other persons towards wage subsidies over and above \$1,350 for another job seeker?

Ms Golightly—Anything allowable under the job seeker account.

Senator WONG—Are you aware of wage subsidies of \$10,000 being offered by any provider?

Mr Manthorpe—I am aware, I think, of only one instance of that.

Senator WONG—That seems an extraordinary amount, doesn't it, given that \$1,350 is the notional allocation?

Ms Caldwell—The job seeker account operates on a pool. As Ms Golightly has given evidence, Job Network members are expected to use this pool flexibly.

Senator WONG—So the department has no problems, no concerns about a wage subsidy of \$10,000.

Ms Golightly—The guidelines that govern the use of the job seeker account and performance under the contract as a whole, as I think Mr Manthorpe mentioned before, go to the conduct of the Job Network member. We very much look at anything that might bring that Job Network member or the Job Network into disrepute. So, Job Network members are required to meet certain principles under the job seeker account. They include: value for money as well as ethical, efficient and professional conduct.

Senator WONG—Thank you for that general response. Does the department have any concerns about a \$10,000 wage subsidy?

Ms Golightly—It would depend. We would look at the particular situation in accordance with those principles to see if those principles were met.

Senator WONG—So, as an amount, the department doesn't have a concern?

Dr Boxall—It depends on the context. For instance, let us say \$10,000, taken as a hypothetical figure, was used to place somebody with a disability or who had been long-term unemployed, and that this was, in a sense, the chance of a lifetime for them to get a job and

get off benefits. Say the employer was very supportive and was prepared to do a lot of post-placement monitoring and things like that, and that the issue was brought to our attention and we examined it. In those circumstances the conclusion might well be that it is a publicly defensible expenditure of moneys, it is within the pool allocated to that particular Job Network member and that it is not of concern. Obviously, one can think of a reverse hypothetical where it would be of concern.

Senator WONG—Mr Manthorpe, was the \$10,000 wage subsidy, of which you are aware, for people with a disability?

Mr Manthorpe—I do not know.

Senator WONG—Who knows that?

Dr Boxall—We do not have anybody here who is familiar with the particular case you have raised. You asked Mr Manthorpe whether or not he was aware of something. He said that he was aware of it, but that does not mean to say that he is aware of all the details. If you want us to check the details on this specific instance, we will take it on notice.

Senator WONG—Yes. I would like to know what steps the department is taking to examine the \$10,000 wage subsidy, and the nature of the job seekers—including their level of capacity, disability and their JSCI profile—in respect of whom the \$10,000 has been offered.

Dr Boxall—Okay—we will take that on notice.

Mr Correll—I cannot comment on that particular case, but in our evaluation area we have done very detailed examinations of the use of the job seeker account and the area of wage subsidies. Wage subsidies deliver the strongest employment outcomes of any form of investment out of the job seeker account.

Senator WONG—Yes—I suppose that is why the Labor Party actually had a fair few wage subsidies when we were in government which the government abolished and is now returning to. But the point is this: it is a very large wage subsidy when you consider the average expenditure on the job seeker account and the notional allocation.

Mr Correll—The point I am making is that in earlier questions you were, I think, questioning whether or not there had been a growth in the use of wage subsidies. There has been a progressive growth in the use of wage subsidies in the job seeker account—the evaluation shows that. It also shows that one of the prime factors driving that growth is the incredibly high level of outcomes being achieved. It is obviously supporting the very strong outcomes being achieved for the long-term unemployed through Job Network services at the present stage. It also supports the considerable international research which is underpinning the value of using wage subsidies, particularly for the most disadvantaged job seekers. It is one of the reasons underpinning the introduction of the Wage Assist policy component.

Senator WONG—The reintroduction of Wage Assist.

Senator Abetz—You can try to re-write history but—

Senator WONG—It is the reintroduction of Wage Assist.

Senator Abetz—Let's keep moving.

Senator WONG—You would call black blue, Minister.

Mr Correll—I should make my last point clear. There is also, from the contract managers' point of view, a very clear and simple check of any potential abuse of the use of wage subsidies; that is, the conversion factor in the percentage of interim and final outcomes. That conversion factor—the percentage that is converting to final outcomes—is a very strong indicator of any potential abuse on a system-wide basis of wage subsidies, and it has been absolutely stable. In an environment where there has been a growing use of wage subsidy it would be mathematically impossible not to have a change to the conversion rate if there were any systematic abuse occurring. Mathematically, that has not occurred.

Senator WONG—Mr Correll, in your previous answer you mentioned an evaluation that shows an increase in the use of the job seeker account for wage subsidy.

Mr Correll—That is correct.

Senator WONG—Can you provide that data please?

Mr Correll—Yes, we can.

Senator WONG—When can you provide that?

Mr Correll—I can provide that data happily later today.

Senator WONG—Who did the evaluation?

Mr Correll—Our evaluation area of the department.

Senator WONG—So that can be provided later today if I return?

Mr Correll—Yes.

Senator WONG—Thank you. I want to move to the JSCI very briefly. You have taken on notice to give me the most up-to-date JSCI frequency distribution graph. You are going to give me the more up-to-date one?

Mr Correll—Correct.

Senator WONG—This shows the current 23 highly disadvantaged threshold. Can you tell me how many people fall on this graph if you move the line from 23 to 25?

Mr Correll—If I had a calculator I could possibly do that. It is the shaded bit between the vertical lines from the 23 point to the 25 point.

Senator WONG—I understand that. I am just trying to work out how many people that is.

Mr Correll—I would have to take that on notice and get some people back in the department to do a quick crunching of the movement of the line.

Senator WONG—Can you give me that later in the day?

Mr Correll—We will see what we can do.

Senator WONG—You can do a sort of ballpark I assume. This is at a single point in time? At what point along the horizontal axis is there 5,000? Is it at each point in time along this line?

Mr Correll—Yes. Let us pick a point. For example, this graph shows that about 7,000 to 8,000 are scoring six over that period of time. You must remember that this is not a snapshot; it is over a calendar year.

Senator WONG—I understand that.

Mr Correll—I think it best that we have precision here, and our people can do that.

Senator WONG—Thank you very much.

Senator WEBBER—I have another question about this graph. Does this graph or model show that there are more people needing immediate assistance than your modelling projected?

Mr Correll—No.

Senator WEBBER—So your modelling is spot-on and it gets there—or this does not show me what I am after?

Mr Correll—The JSCI is a score, which is attempting to assess somebody's risk of long-term unemployment. The higher the score, the higher the risk. There is a high degree of correlation between long-term unemployment and what the score produces. Internationally it is a well-regarded tool.

Senator WEBBER—Yes, we have discussed it before.

Mr Correll—Indeed. What happens is that basically this score stays a stable picture; however, as labour market circumstances change, the overall risks facing the individual will move consistent with that vertical line because in a very strong labour market an individual with exactly the same set of circumstances has a different risk of long-term unemployment than that same individual in a tough labour market. Therefore, the vertical line represents a sliding line in terms of maintaining an equitable position in terms of people moving into intensive support customised assistance. In very strong labour market circumstances the vertical line has moved to the right, reflecting the very strong labour market conditions.

Senator WEBBER—Where will I find on this graph people who have had a number of short-term jobs but have not managed to secure long-term jobs and are therefore still seen as being at risk or needing some assistance?

Mr Correll—All the job seekers will have a job seeker classification instrument. Indeed, that JSCI would be progressively updated throughout their duration of unemployment, if you like. For someone moving in and out—

Senator WEBBER—For instance, people with mental illness do move in and out of the labour market quite frequently.

Mr Correll—Yes. In those cases they would continue to be in the continuum of service under the Job Network because they would be applying under the no-break income support provisions. Their JSCI score would be progressively updated. Under those circumstances you would expect not a static position with a JSCI score for the individual—in fact the JSCI score might progressively rise for the individual over time based on additional information.

Senator WEBBER—That is what I was expecting.

Mr Correll—Since the introduction of the active participation model there has been the capacity for Job Network members to provide data into the system which allows more effective rolling updating of that JSCI score for the individual.

Senator WONG—What proportion of job seekers, on the basis of this graph, are assessed as highly disadvantaged?

Mr Correll—This is an average over the time frame 2003 to 2005 so it will not exactly correspond with that shaded area on the graph to the right of that bar at present.

Senator WONG—Mine is not shaded.

Mr Correll—The question you are asking is: what is the percentage on the right-hand side of the line? The figure over the last two years since the commencement of the active participation model is 14.42 per cent.

Senator WONG—What is the trend on that?

Mr Correll—The trend in terms of the monthly flow has been a progressive increase in that number.

Senator WONG—Do you have monthly flow figures—monthly proportions—on that?

Mr Correll—Yes.

Senator WONG—Can you provide those for the last 12 months to date, or whatever your most recent ones are?

Mr Correll—Yes.

Senator WONG—Can you take on notice what proportion of, firstly, Intensive Support participants and, secondly, Intensive Support participants who are classified as highly disadvantaged attracted outcome payments at the 13- and 26-week thresholds throughout 2004?

Dr Boxall—Yes.

Senator WONG—One last issue is consultation in relation to the contract negotiations or the setting of the contract. What is the consultation process ahead of the finalisation of that contract?

Ms Golightly—Over the coming months we expect to hold a number of discussions with Job Network members and providers—if it relates to other contracts, obviously—and the peak bodies.

Senator WONG—Which peak bodies?

Ms Golightly—In Job Network's case it will be NESAs, with the aim of having a draft for their consideration, as Dr Boxall said, some time in the August-September period.

Senator WONG—Is there any welfare or stakeholder consultation?

Ms Golightly—Certainly there will be consultations with a range of organisations and groups over the Welfare to Work package. What I was referring to were the specifics of the Job Network contract.

Senator WONG—Yes. I understood that. In relation to that are you intending to hold any consultation with other stakeholders?

Ms Golightly—On the Welfare to Work package, yes.

Senator WONG—No, on the Job Network contract.

Ms Golightly—It is part and parcel of the same thing. Depending on how various parts of the Welfare to Work package are worked through with bodies and organisations over the coming months, that will then inform what the draft contract says.

Senator WONG—I am not sure what that says. Does that say, ‘We are going to have general consultations on Welfare to Work; we are going to talk to the providers and the peak bodies about the contract’?

Dr Boxall—It says that various welfare groups will be consulted on Welfare to Work issues, and that will inform the process of implementation of Welfare to Work, including the Job Network contract.

Senator WONG—Do you have a Job Network customer hotline?

Mr Manthorpe—Do you mean for job seekers to call?

Senator WONG—Yes.

Mr Manthorpe—Yes.

Senator WONG—This is the method by which you survey client satisfaction. Is that right?

Mr Manthorpe—No. We have our customer service line that deals with complaints. In my area I am responsible for a customer service line that deals with job seeker complaints, but it does not survey clients.

Senator WONG—What happens with the data from the complaints line? Do you track that data?

Mr Manthorpe—Yes. We gather data from the customer service line and it informs our ongoing contract management and program management activity.

Senator WONG—What is the satisfaction rate?

Mr Manthorpe—It is very high. The satisfaction rate of job seekers with the Job Network is something over 80 per cent.

Senator WONG—Are these surveys only dealt with internally?

Mr Manthorpe—I do not conduct surveys through the customer service line.

Senator WONG—What happens to the data from the customer service line?

Mr Manthorpe—Where it raises issues that are of importance to contract management or program management activity then that material is provided to the relevant areas for follow-up.

Senator WONG—Do you do an analysis of the data or is it just ad hoc?

Mr Manthorpe—We provide data and we also do ad hoc activity.

Senator WONG—What form does the data take?

Mr Manthorpe—We analyse our complaints data by complaint type and service type.

Senator WONG—Is it done monthly?

Mr Manthorpe—It is done regularly. I think it is once a month.

Senator WONG—Is that provided to any external bodies like the Auditor-General or stakeholders?

Ms Golightly—If the Auditor-General asks for it as part of an audit, it is provided.

Senator WONG—Is it released publicly?

Mr Manthorpe—No.

Senator WONG—Can you provide copies—

Ms Golightly—There are statistics reported in the annual report.

Senator WONG—I am asking for the last five months of the monthly data you have referred to, Mr Manthorpe.

Mr Manthorpe—I will take that on notice.

Senator WONG—Do you anticipate a problem?

Mr Manthorpe—I do not, but I will take it on notice. I do not have that material with me.

Senator WONG—I presumed that you would not have it here. Minister Dutton changed a number of rules relating to the use of the job seeker account. What has been the response from providers to that?

Ms Golightly—The response has been quite positive. That is my understanding.

Ms Caldwell—The principles guiding the job seeker account have been in place since day one.

Senator WONG—I am talking about the March 2005 letter from Ms Golightly.

Ms Caldwell—We updated them consistent with earlier principles. We have had a number of Job Network members saying that the principles better and more clearly articulate what is in and what is out. On balance, the feedback has been fine.

Senator WONG—Has there been any negative feedback?

Dr Boxall—The department's position is as Ms Golightly said. You asked for the response; the response is quite positive.

Senator WONG—Has there been negative feedback?

Ms Golightly—Some providers raised some issues and asked some questions of clarification. They have been clarified.

Senator WONG—Can you tell me some of the issues that were raised?

Ms Golightly—Certainly. There were some questions about circumstances where something would be allowed or not allowed. Where we were able, we provided that advice.

Ms Caldwell—We provided additional clarification on the use of transport assistance. Transport assistance is only a minor part of job seeker expenditure—less than four per cent. We were asked for some additional clarification on that. The minister made clear that the intention of the original targeting of transport assistance was that it would be available for those who needed it, and that additional clarification went out to industry. That is one example.

Senator WONG—Ms Golightly, we have discussed the fact that you wrote to Job Network providers on 30 March outlining the minister’s decisions regarding the principles applicable to JSA. Have you subsequently written to Job Network providers generally, regarding the use of the job seeker account?

Ms Golightly—Yes, I wrote again on a whole range of issues, not just the job seeker account, on 27 April 2005.

Senator WONG—Could you provide a copy of that?

Ms Golightly—No. It is correspondence between me and the contracted providers.

Senator WONG—On what basis is that being refused to be provided? It is not commercial in confidence.

Ms Golightly—It is part of the contract between the department and the providers.

Senator WONG—It is not commercial in confidence. On what basis is that not being provided?

Ms Golightly—As I have just explained, it forms part of the material that forms the contract between the department and its providers.

Senator WONG—Are you claiming commercial in confidence? I want to be clear about the grounds on which you are claiming that it cannot be provided. I refer you to the Senate public interest immunity claims document. I think it was attached to the Clerk’s letter dated 19 May. There is a ground of ‘damaging commercial interests’. I have to say that I cannot see how that would be relevant. These are the principles the department is providing for the use of the job seeker account—public moneys.

Ms Golightly—I will take the question on notice and make sure there is nothing that would preclude its release.

Senator WONG—I draw your attention, Ms Golightly and Dr Boxall, to the document I am referring to, which are the grounds that are accepted by the Senate. The only one that seems to me could reasonably even be relevant would be ‘damage to commercial interests’. I indicate to you that I do not accept that a letter from the department outlining the use of public moneys to people who are contracted to the department—again, using public moneys—could possibly be found to damage commercial interests.

Senator Abetz—You may well be right on that. That is why the question is being taken on notice. The department will consider its totality. If they come to the conclusion that you just have, I dare say that it will be released.

Senator WONG—I suppose we always have the option of getting further advice on it. Thank you very much for your assistance. I am done.

Senator Abetz—So there are no further questions on Job Network?

Senator WONG—No, thank you.

[12.02 pm]

Senator MARSHALL—Dr Boxall, yesterday we were talking about some of the internal programs your department had in terms of disability employment, mature age employment

and Indigenous employment. You gave us some information on that, and you may as well finish that subject now at the commencement of this session. I would appreciate it if your departmental officers would expand on those programs and any others that you have run in your department.

Dr Boxall—I will pass over to Mr O'Sullivan.

Mr O'Sullivan—The department has a workplace diversity strategy that targets and assists people with disabilities. It is focused on Indigenous recruitment strategies and assisting those people in the department to get on and prosper. The strategy is set out in a document like this one. It is available to all employees in the department and it is focused on sustaining awareness of diversity, the benefits of diversity and it shows people how they can contact people and how the department can assist them with issues affecting diversity, including mature age employment, Indigenous employment and the employment of people with disabilities.

Senator Abetz—Can you identify the document for Hansard?

Mr O'Sullivan—It is the department's *Workplace diversity strategy 2003-2005*.

Senator MARSHALL—I think you are describing programs to assist people who are already in employment. You talk about targeting and assisting. How do you target people for employment and how do you get people in?

Dr Boxall—Ms Moore can answer that, starting with Indigenous.

Ms Moore—We have a number of specific strategies relating to the recruitment of people with disabilities, the recruitment of Indigenous Australians and the recruitment of mature age people. I will start off with the disability initiatives we have. We have in our recruitment and selection guide a specific area that deals with recruitment and assisting people who want to join the department who have a disability. We have an assistive technology guide for those who become employees. Recently, for our graduate recruitment, which will be our graduate intake for next year, we entered into a partnership with Disability Works Australia, who have referred graduate candidates from their database who match our requirements. So we have very specific strategies to recruit employees with disabilities, especially graduates, into the department. We are also looking at further ways to encourage the employment of people with disabilities in the department.

We have a specific strategy, which was launched last year, that looks at the attraction and retention of employees or people from mature age backgrounds. This includes initiatives such as a recruitment database for people who may be retiring from the APS but may wish to come and work on a non-ongoing basis or a casual basis and also for people who wish to put in an expression of interest for jobs in the department. That is just one of the initiatives that is part of our Maturing Workforce Strategy.

Senator MARSHALL—How to people find out about it? I am not being critical about this—I believe in positive discrimination in these areas—but how do you target people and find people? Do people get an advantage when they just rock up for an interview process, or do you go out and look for Indigenous communities and promote it to people in that way?

Ms Moore—In relation to Indigenous Australians we have very specific recruitment strategies. We have what we call special measures initiatives—for example, our contract management trainee initiative. We specifically target the recruitment of Indigenous Australians, and we can do this through the Public Service Act. It is call a special measure. We will go out and work with communities to try to find candidates for those positions. We are also in partnership with the APS Commission on specifically Indigenous traineeships in the department. We have cadetships specifically for Indigenous students out in universities so that we can attract potential graduates, who then become employees of the department. We have study awards. We advertise what we call ‘identified’ positions in the *Courier-Mail* and other relevant publications, to attract people from Indigenous backgrounds to the department.

Dr Boxall—In general, this material is on our web site, so somebody who might be interested could also look it up, in general terms.

Senator MARSHALL—The other thing which I was not clear about yesterday—and I think Senator Evans was asking about this—was quotas or goals in terms of percentages. How do you manage that? I think Dr Boxall indicated that there was not anything fixed like that. So how do you know when you are doing enough, and how do you look at the retention process?

Ms Moore—For example, with our special measure initiative, our contract management, we may in one year set a target of recruiting 12, or 24, Indigenous Australians into the department. But we do not set an overall target for the number of Indigenous Australians we attract. However, we do monitor our stats very carefully so that we know what the trends are from year to year and from quarter to quarter.

Senator MARSHALL—Is there a general percentage or numerical value that you would like to see? Is there are a goal?

Ms Moore—We have not set a specific goal, no.

Senator MARSHALL—You said in terms of Indigenous programs that the Public Service Act allows you to do that. Does it allow you to do positive discrimination in terms of disability and mature age programs, or are they different?

Ms Moore—I am not aware that we can do that with mature age people because that is discrimination on the basis of age. Certainly with people with disabilities we can put in initiatives to attract applicants to interviews in terms of assistive technology. But I am not aware of any special measure provisions for people with disabilities.

Senator MARSHALL—I understand what you have said. So the mature age strategy, therefore, must be quite different to both of those. Can you describe briefly to me how you actually encourage mature age people into employment?

Ms Moore—In terms of the marketing for people outside of the agency?

Senator MARSHALL—Is that the extent of the program—simply marketing?

Ms Moore—The program for mature age is both for our existing employees and for potential applicants for jobs. We provide that information through our web sites. Certainly, if people ring us up we are more than happy to send them a copy of the strategy, which sits, as I said, on our web sites. It is an initiative to both retain our mature age workers and also to attract them into the department.

Senator MARSHALL—Dr Boxall managed to get in a couple of times how proud he was of the department's results. Can you explain to me where you sit in those three categories in terms of your employment density compared to other Commonwealth departments?

Mr O'Sullivan—We are second after ATSI. We have 143 self-identified Indigenous Australian employees in DEWR currently. That ranks us as the No. 2 Commonwealth employer of Indigenous employees.

Senator MARSHALL—Ahead of who, did you say?

Mr O'Sullivan—ATSI—the former agency.

Dr Boxall—We would have to check this, but it is actually—

Senator MARSHALL—I was going to say that if it is ATSI or ATSI you are probably No. 1 already.

Dr Boxall—ATSI was No. 1 and we were No. 2. The question is whether OIPC is still No. 1.

Senator MARSHALL—Okay. What about disability and mature age?

Ms Moore—This is a self-identification process. We are aware that there are many more people in the department with disabilities and we have identified them. But those who have self-identified sit at 83 currently.

Senator MARSHALL—I have a general question about comparisons between your department and other Commonwealth departments. What sorts of comparisons do you regularly make? I am not talking about just in these areas but in terms of corporate competition, for example. These are areas where information is available and shared and some value is put on where you sit compared to other Commonwealth departments. I am wondering what other information is shared like that.

Ms Moore—There is information that is available through the APS commission, which is a statistical bulletin which provides aggregate data. But I do not know if it would necessarily be that helpful. As I said, people self-identify, so it is often an under-representation. We can look at that but we often know that we have more than—

Dr Boxall—The other issue which is relevant to your question is that the Public Service Commissioner in his or her *State of the service report* often does a special report on a particular group, such as Indigenous people or people with disabilities, and that also provides us with a source of information to see how we are tracking relative to other government agencies.

Senator MARSHALL—Thank you. That is all I had on that.

Senator GEORGE CAMPBELL—Mr Boxall, in your PBS statement on page 46 you set out a number of key priorities for 2005-06. Some of them have been changed from last year and some of them have been given different emphasis. For example, for 2004-05 it said 'develop and progress a legislative program to advance workplace relations reform'. That was replaced this year with 'develop a workplace relations reform package which implements the government's policy agenda'. Some others have been amended, for example, to include the phrases 'streamlining operations' and 'strengthen the operational framework of stakeholder

partnerships for GEERS'. Can you explain to us in each case the rationale behind the department's change in priorities and what this means in practical terms?

Dr Boxall—I am trying to make sure I get a copy of last year's PBS so that I can—

Senator Abetz—Make an accurate comparison.

Dr Boxall—The deputy secretary of workplace relations is on his way up here. Originally this session was scheduled for after lunch. I have the relevant page from last time. The first point that you raised was that last year we had 'continue to pursue reform in the building industry to achieve proper regard for the law'. Is that right?

Senator GEORGE CAMPBELL—No. You had 'develop and progress a legislative program to advance workplace relations reform'.

Dr Boxall—We had that last year. This year we have 'develop a workplace reform package which implements the Government's policy agenda'. As is well known, the government has announced what its policy agenda is, and that announcement was made recently. Therefore, the key priority for outcome 2 is to put that reform package into place. What we will be doing now is very much implementing the government's reform package. Last year we spent a lot of time, in a sense, working on policy advice and developing a program to advise government, and we did that. Then government decided on their agenda, after taking our advice and advice from elsewhere, of course. That is why we have an emphasis this year on implementing the government's policy agenda, whereas last year the emphasis was more on developing and progressing the legislative program—the bills that the government introduced, many of which stalled in the Senate—and developing policy options. That is one issue. Do you mind pointing me to the next issue?

Senator GEORGE CAMPBELL—The next one was in relation to where it says 'improve access for employers and employees to workplace information and advice through streamlining operations and innovative information technology applications'.

Senator Abetz—Is there any change?

Senator GEORGE CAMPBELL—'Streamlining operations' is the relevant part.

Dr Boxall—Unfortunately, we do not have the deputy here from outcome 2, but this goes very much to the advice that we give over Wageline. Last year we were very keen to make sure that employers and employees had access to that information—in other words, when people call up Wageline that they get a quick and accurate response. During last year—the end of the current financial year—we have put more resources into information technology in outcome 2. That was a decision that the department took and that is reflected in last year's key priority. For this year, the addition, as you quite rightly point out, is through streamlining the operations. We want to see whether we can make further progress over and above the information technology—whether we can deliver even better service. That is the issue it goes to, but I am happy to have that answer elaborated on when the deputy arrives.

Senator GEORGE CAMPBELL—Can you answer the one in relation to GEERS?

Dr Boxall—Last year we had strengthened partnership arrangements with key stakeholders to GEERS. This year we have strengthened the operational framework and stakeholder relations. We are looking to improve the operational framework. I think—and I would stand

corrected on this—that this is in terms of improving the operational framework and would involve further discussions with insolvency practitioners. We would consult with them so that the operational framework is strengthened. There are no major problems with it that I am aware of, but it is clearly an area that requires continuous improvement, and that is what we are doing. Again, the deputy will be able to give a fuller answer.

Senator GEORGE CAMPBELL—I accept what you are saying and we might get a bit more detail from the deputy. Do each of these issues require a reprioritisation of expenditure within the department? What resources, if any, have been moved across to assist in meeting these key performance indicators or key priorities?

Dr Boxall—The first one goes to the issue about implementing the government's program. You will observe that the resources available under output group 2.1, which is workplace relations policy and analysis, has been increased from the estimate last year to the budget estimate this year. On page 48 of the PBS, you will observe that the estimate has gone from \$16½ million to \$24.9 million. So, clearly, a lot of additional resources are being put into that area, and that goes very much to the implementation of the government's workplace reforms agenda.

Senator GEORGE CAMPBELL—Could I stop you there. What would those resources be directed at, because you have now shifted from a policy framework to an implementation framework, haven't you?

Dr Boxall—Yes. A lot of the carriage for the implementation falls very heavily on workplace relations policy advice. We gave the big picture advice, so to speak, and the government has taken its decision, but now, as we move into the drafting of the legislation, where we will need additional resources, there are various small 'p' policy issues that need to be sorted out with the minister and with the relevant members of cabinet as we implement the government's policy agenda. A lot of this work will be done by staff in the workplace relations policy advice area.

I take your point. Last year was very busy, but this year is going to be busier and it is going to be more focused on detail—on how legislation is drafted and things like that. All sorts of little policy issues crop up as we draft the legislation, some of which we might be able to make a decision on with the minister and some of which might need further consultation with the minister and possibly with some stakeholders. The CFO just drew my attention to the fact that not all the increase in funding is directed at what you and I are discussing, Senator Campbell. Some of it is to do with the asbestos management, which is a separate budget issue. The other issue is that we might be getting additional resources for the implementation. There may be an additional estimates bid by the department for additional resources.

Senator GEORGE CAMPBELL—Would that go to funding external as well as internal resources?

Dr Boxall—I am not sure that I quite understand the question. It will go to funding increased staff over and above what is in here. It will go to getting further legal advice, consultants and people on secondment to the department to build up the team sufficiently that we can implement the government's agenda.

Senator GEORGE CAMPBELL—Will that fund people on the road who go around talking to employers and employer associations?

Dr Boxall—It depends on the consultation program. If it is okay with you, Senator Campbell, I would like to leave that to outcome 2 so that the outcome 2 people can answer that question more fully.

Senator GEORGE CAMPBELL—Okay. We will come back to that in outcome 2.

Senator Abetz—The outcome 2 people be here after lunch. Is that right?

Dr Boxall—That is correct.

Senator GEORGE CAMPBELL—In the performance requirements, what is the difference between ‘effective and above’ and ‘satisfactory and above’?

Dr Boxall—For the advice that we give to ministers we used to have a list which had gradings such as excellent, very good, good, satisfactory and unsatisfactory. In the middle of last year, in consultation with the minister’s office, that list was changed to a different grading. It is now a grading which is—

Mr O’Sullivan—effective, superior and outstanding.

Ms Moore—No, that is performance management.

Dr Boxall—I might have a brief here. The new grading is outstanding, very good, effective, marginal and poor. Because we have a new grading system now, for a brief to pass muster it must be effective or greater whereas in the past it had to be satisfactory or greater. Obviously we hope to achieve ratings of outstanding and very good, and we do achieve that in a very large number of cases. The substance of the change is not great. It is just to reflect the change in the grading table.

Senator GEORGE CAMPBELL—Who marks that up?

Dr Boxall—The minister marks it up or, in some cases, they get their chief of staff to do it.

Senator GEORGE CAMPBELL—So it is done in a minister’s office?

Dr Boxall—That is correct. It comes back circled and sometimes with comments. It is particularly useful feedback for staff. When they score a high grade, such as outstanding or very good, that is very good for staff morale, and it also shows that they are delivering the sort of material that the ministers want. Similarly, in a very few cases where they might receive marginal or poor, staff can then discuss with the ministers’ offices why they pulled such a low rating and discuss with their managers what they can do to improve it.

Proceedings suspended from 12.29 pm to 1.31 pm

CHAIR—The committee will resume. I call Senator Crossin.

Senator CROSSIN—We are on Indigenous employment, are we not? I have questions about CDEP. Mr Harvey, at the CDEP feedback session on 4 May I think you indicated that the consultations around Australia had involved 2,100 participants. Did you get an indication of how many of those participants were Indigenous people?

Mr Harvey—No, we did not get an indication of how many were Indigenous, but there were a number of Indigenous people in each of the audiences.

Senator CROSSIN—So you could not say 50 per cent or 20 per cent?

Mr Harvey—It varied significantly. In some locations it was a lot more than 50 per cent and in some it was not. I would say that, generally, it was more than 50 per cent. But that is just from a look around the room.

Senator CROSSIN—Did you get a breakdown of where the participants were from?

Mr Harvey—We did get information about where the participants came from.

Senator CROSSIN—You did?

Mr Harvey—Yes. We got a list of where the participants came from.

Senator CROSSIN—So, from that, do you know how many were from urban centres or remote centres?

Mr Harvey—No, I do not have that breakdown.

Senator CROSSIN—Are you planning to do that sort of breakdown?

Mr Harvey—No, we are not planning to do that.

Senator CROSSIN—I do not think we will ask you for a list of where the participants came from, as 2,100 is quite a significant amount. Do you at this stage know whether at least 50 per cent of the people you spoke to were from remote communities? Do you have an idea?

Mr Harvey—No, I do not.

Senator CROSSIN—In your consultations, did you identify the different circumstances and needs of an urban CDEP versus a remote CDEP? Was that highlighted in your consultations?

Mr Harvey—The discussion paper talks about the unique needs of each CDEP. We recognised that each CDEP is a unique organisation which is influenced by the circumstance in which it operates and by the capacity of the organisation. They provide a range of services around employment, community type activities and business development. There is not only significant variability as between urban, regional and remote areas but also—and probably more—significant variability depending on the CDEP's circumstances and what sort of CDEP they are.

Senator CROSSIN—As part of the background work to the discussion paper, have you done any work that might analyse the labour market impact of a CDEP in an urban area versus a remote area?

Mr Harvey—We are aware that there are differences, but we have not done that analysis. The main thing about the developments with the CDEP is basically designing a program that has the flexibility to meet the needs of individual communities.

Senator CROSSIN—Do you have any idea of the number of CDEP recipients in a remote community who might be performing work that is being paid as a CDEP job that would normally be paid as a real job in an urban centre?

Mr Harvey—No, I have not.

Senator CROSSIN—So the department has never attempted to come to terms with the number of CDEP recipients who might actually be in, for want of better words, a real job in a remote community?

Mr Harvey—We are very concerned about that, and we have looked at the number of jobs that exist in, for example, Cape York. Cape York has around 4,000 jobs and an Indigenous working age population of around 3,500 people. However, we can go to many other communities across Australia. We are starting to do a lot more analysis regarding what jobs are in those communities and how we can develop the capacity of the CDEPs and individual communities to take on the provision of, for example, essential services. We are doing that more on a CDEP by CDEP basis and, to an extent, a region by region basis than across the board.

Senator CROSSIN—So when you talk about what jobs are in the communities, do you also look at what jobs are currently being held by CDEP recipients in the communities?

Mr Harvey—Yes.

Senator CROSSIN—Is that included in that number?

Mr Harvey—Where we talk about the 4,000, no. In that case, they are just jobs that exist within Cape York; they are not actually the CDEP jobs.

Dr Boxall—The point is that, for example, in the cape it is often said that there are no jobs, but there are actually about 4,000 jobs in the cape and, as Mr Harvey said, about 3,500 Indigenous people of working age. So there are jobs there. Obviously the Indigenous population is not ready to take on each of the jobs, because they do not have the right skills, but nevertheless the capacity is there with appropriate training. Hopefully, under the new CDEP Indigenous people will be able to fill these jobs.

Senator CROSSIN—When you look at a place like the cape and look at, say, a receptionist at the community council, if that receptionist is on CDEP do you not count that as a job?

Dr Boxall—We do. The 4,000 jobs would include those sorts of jobs—where it is a job, but, as you rightly point out, often it is done by somebody on CDEP. However, it is a job, and that would be one of the 4,000 jobs.

Senator CROSSIN—That is what I am trying to get at. Did the consultations take account of English as a second language?

Mr Harvey—Yes, they did.

Senator CROSSIN—In what way?

Mr Harvey—We basically approached communities and talked to them about whether they wanted English as a second language, particularly in the Pit lands, where we visited 12 communities. We went through the process very basically and slowly, and we had people from different communities translating to community members what was said. In the rest of the locations across Australia, it was indicated to us that we did not need to deal with those sorts of matters.

Senator CROSSIN—Have you had any of your information, such as the CDEP discussion paper or the announcement following your consultations, translated into Indigenous languages?

Mr Harvey—No, we have not, but when we went out and presented we went to each of the communities and presented what was in the Future Directions paper.

Senator CROSSIN—Has it been simplified into plain English?

Mr Harvey—One of the things we have been complimented on across Australia is that it is a very plain-English, simple document. It is a 14-page document it is well presented. We went out of our way to make it very simple because we wanted to get a consistent, simple message across Australia about building on the success of CDEP to date.

Dr Boxall—The short answer is that it is already in plain English.

Senator CROSSIN—Which people acknowledged it?

Dr Boxall—We have had a lot of unsolicited, positive feedback on the document. We made a special effort, in consultation with both our minister and Minister Vanstone, to make sure that the document was in plain English.

Senator CROSSIN—How many CDEP organisations were represented at your consultations?

Mr Harvey—I think it was about 197.

Senator CROSSIN—Out of how many?

Mr Harvey—Out of currently 225. We followed up and contacted the CDEPs that did not come along to the presentations.

Senator CROSSIN—Can you provide me with a list of the names and addresses of all the CDEP organisations that currently exist in the Northern Territory?

Mr Harvey—Yes.

Senator CROSSIN—Did you have any concerns expressed in the feedback sessions about the lack of any item dealing with culture in areas of your activity?

Mr Harvey—Across Australia we got a very positive response. Part of the Future Directions presentation talks about the importance of community activities and the importance of culture. In a number of locations issues were raised about wanting to know that culture was going to continue to be an important part of CDEP. Our response was, yes, it was, particularly in remote communities, through community activities running cultural activities.

Senator CROSSIN—Are you aware of a paper that Will Sanders has produced at CAEPR, entitled ‘CDEP under DEWR: the flexibility challenge’?

Mr Harvey—I am aware of the paper, yes.

Senator CROSSIN—He comments:

Now that DEWR has responsibility for CDEP it is predictable that a renewed emphasis on employment outcomes will emerge ... But CDEP has always involved more than just employment ...

Does DEWR understand and accept that other longstanding role of CDEP for community activities?

Dr Boxall—We do, and the government goes, and that is why the ‘Future Directions’ paper covers three aspects of CDEP: employment, community activities and business development. Within ‘community activities’ culture can be covered. Similarly, in the approach to employment, different cultural aspects are taken into account, so the government is well aware of that and so is the department.

Mr Harvey—CAEPR made a very positive contribution in their submission. They generally supported the directions that were going forward in the discussion paper and in Future Directions.

Senator CROSSIN—Are you telling me that communities with very limited employment opportunities will not be penalised?

Dr Boxall—No, they will not. The whole advantage of the new approach is that it can be tailored to an individual community. You might have a community in a remote area where employment opportunities are limited—notwithstanding our discussion about the fact that there are more jobs in the Cape York than there are Indigenous people of working age—and where, because of the development of the community and because of the capacity of CDEP, the employment aspect might be a very small proportion of the total CDEP activity, and community activities, including cultural activities, might be a very large proportion. You could have another community in a regional town with a very strong labour market where you would expect the percentage of activities from the CDEP on employment to be much higher.

Senator CROSSIN—Mr Harvey, at one of the feedback sessions that I attended, you talked about an Indigenous person in a homeland centre operating the generator. That would only attract the payment of wages for a couple of hours a week, which is far less than the CDEP. It would also attract a training component. With the discussion paper, is there an additional allocation of training provided through DEST to complement what you are hoping to achieve?

Mr Harvey—No additional funding is provided. We are looking at better linkages. One of the things emphasised in the ‘Future Directions’ paper is better linkages between government programs, but there is also the opportunity to fund training through the activity funding that we provide. So there are two angles on additional training. The first is better linkage with a whole range of programs that are offered by Commonwealth and state agencies—and also, to an extent, the private sector as well. The second one is through the way that we have now put in place a new funding formula where we are putting an emphasis not only on activities but also, importantly, on training that builds up employability skills.

Senator CROSSIN—If someone does get a job like that that pays a real wage for a couple of hours a week, why would they do that if it is going to be less than CDEP? Is some form of supplementation provided?

Mr Harvey—They can get a top-up through a range of arrangements that exist already through CDEP. With the example you are talking about, we are saying that if there are a number of jobs in a community that are currently done by people from outside the community there is no reason why Indigenous people within those communities cannot be trained up. The

more opportunities and the more jobs there are, the more opportunities there are for local people to get local jobs.

Senator CROSSIN—That is true. But in the case of operating the generator, that might involve only eight hours a week. Even if they were paid a real wage for that, that would be less than the CDEP that they are currently on.

Mr Harvey—They would have the CDEP and they would have a top-up through this arrangement that you just talked about. They can remain on CDEP and get a top-up through assistance provided through—

Senator CROSSIN—How does that change what currently exists?

Mr Harvey—We know that in each of these communities a number of jobs are done by people from outside the community. We are looking to build up the experience and the training of individuals within communities so that they can service their own communities. They can get funding for that through the local government, the state government or the Commonwealth government.

Senator CROSSIN—Are you suggesting that a means to do that is to put people into these jobs through CDEP?

Mr Harvey—Yes.

Senator CROSSIN—What are we doing about long service leave and superannuation for people on CDEP?

Mr Harvey—Currently if people are on CDEP they are exempt from superannuation under the Superannuation Act. But if they get a top-up then there is a requirement to pay superannuation.

Senator CROSSIN—On the top-up component?

Mr Harvey—Correct. Out of the funds that are available through CDEP we are able to pay for long service leave. Our analysis would indicate that a very small percentage of people are actually eligible for long service leave, so that should not be a problem with the funding that is there.

Senator CROSSIN—We know that in remote communities funds are very limited.

Mr Harvey—Yes.

Senator CROSSIN—Have remote communities budgeted to provide people with long service leave components if they have been on CDEP for 10 years or more?

Mr Harvey—We are doing this new funding model on what we call a fee-for-service basis—particularly management, but also the activity. We are looking what the needs are. At the margins, a remote community can put forward a case to get funding to cover a range of issues and that funding requirement is then negotiated with DEWR people across Australia. We are interested in making sure that, through the management fee and the activity fee, sufficient funds are there to manage the CDEP.

Senator CROSSIN—Will that include people who are currently in the scheme?

Mr Harvey—Yes.

Senator CROSSIN—You may recall that at the Darwin feedback session someone from Daly River said they had just had consultants look at several businesses they were running and these consultants had said that none of them would be viable without a subsidy. You seemed to suggest that if they worked with DEWR this situation would be overcome. Is DEWR able to assist communities in situations like this?

Dr Boxall—The answer is yes.

Mr Harvey—Yes. We have about seven business development programs. You would be well aware that IBA has joined the portfolio, and it brings with it business development programs. One of the measures that we are particularly looking at through the budget is streamlining and making sure that we effectively deliver that full suite of business programs. So we can provide small business funds, we can provide mentoring, we can provide loans, we can provide grants—whatever is basically needed to stimulate business activity and work with communities. Also, we have a program called Indigenous Community Volunteers, so a range of volunteers can come into a community. From changes that have gone through under the DEWR portfolio, we have a range of business development programs that can meet the requirements of CDEPs in terms of establishment and taking business forward, including in the early stages, for the first couple of years where you need mentoring assistance and so on.

Senator CROSSIN—So DEWR are able to help businesses that are assessed as nonviable without subsidising them? Is that correct?

Mr Harvey—Yes.

Senator CROSSIN—Can you tell me why there is a move to make services such as garbage collection, which are presently done under CDEP in many communities, come under contracts? What is the rationale behind that?

Mr Harvey—The rationale behind that is part of the business development strategy. Basically, with a number of these communities you find partly that the activity will be done by people outside or will be done without funding from local councils, or whatever. We are trying to put in place contractual arrangements with local councils, state governments, or whomever, so that the community can run a contract and be funded for the service they provide.

Senator CROSSIN—So the community council might win the contract to collect the garbage. Is that what you are saying?

Mr Correll—You were commenting earlier about whether there were real jobs, if you like, within CDEP, and we believe there are. Essential municipal services are a classic case where in other parts of Australia they would be delivered in a real labour market, a real jobs situation. What we are looking to do is, where possible, and without putting those essential services in any way at risk, to look at opportunities to move the jobs in providing those services off CDEP and into real business entities, out of the CDEP environment, and to have those services then provided on a contractual basis.

Senator CROSSIN—So you are telling me that if a community council wins a contract for the garbage service, part of that contract would be that none of those people would be on CDEP; they would be employed on real wages?

Mr Correll—It depends on the specifics in the community. This is not something that happens with the snap of the fingers; the capacity to do this has to be built over a period of time. Basically, we are looking at, where opportunities exist in communities, attempting to initially use the CDEP environment to be able to set up that team providing the service, to bring in support mechanisms to encourage a more commercial view to the provision of that service and, in some ways, to ring fence, if you like, that service within the CDEP operation initially and then to get to the point where the umbilical cord that is CDEP that is supporting that work team is able to be cut and we can have the essential service being purchased on a contractual basis. That, as I say, will not happen instantly. It will require business supports to come in, and that is what we are looking at doing at the present stage. We are initiating some work in that area, particularly in some communities in Cape York at the present stage.

Senator CROSSIN—But would some remote communities be ready to take on that contract now, without all that background work?

Mr Correll—Yes.

Senator CROSSIN—Would those community councils who can do that now be expected to employ those people on a real wage rather than subsidise the contract with CDEP?

Mr Correll—Not necessarily instantly at all. We would want to have a discussion with the communities concerned. In the particular locations where we are advancing some initiatives in this area, there is a very close dialogue with the community—the community wants to do this. Then you need to have the business support there—so some people who can provide some specific advice and services in setting up this as a business team. Then there is a period of time to achieve that. We need to have a situation which involves a genuine commercial operation here: not overemployment, but the right number of people doing the work. Then, in time, we would hope to be able to take that operation out of CDEP, as a genuine business entity, with its proper governance structure, and pay for the contracted services. You would appreciate that there are a number of issues in doing all of that, so we are working through it progressively where opportunities present on a community-by-community basis.

Senator CROSSIN—Moving on to the Thamarrurr and Port Keats COAG trial, where FaCS is the lead agency, have they provided to you the research paper by John Taylor and Owen Stanley, *The opportunity costs of the status quo in the Thamarrurr region*? Are you aware of that paper?

Mr Harvey—I would not be aware of it, but I am sure Ray Wilson—who is our state manager in the Northern Territory—would be aware of it.

Senator CROSSIN—In that paper they suggest that the only achievable jobs target in the short term is the Northern Territory Indigenous average, which would require 188 additional jobs to be filled by local people. They go on to say that the development of Thamarrurr cannot be ‘left to market forces alone’ and that ‘its development will require substantial additional government expenditure’. First of all, do you accept that that is valid research and that 188 jobs need to be created with additional expenditure, and what role will DEWR play in achieving that?

Dr Boxall—We do not know whether or not that research is valid because we have not seen the paper. But we can imagine that those sorts of issues would be raised in a community

like Port Keats. The second part of your question was about what role DEWR would play. Clearly, one role is through the work with the CDEP organisation which we have been discussing. Another role is through the solution brokers that we have in the Indigenous Coordination Centre where we would be able not only to work with the community through CDEP but also to bring to bear the other programs in the department, such as NEESS, Job Network and things like that. It is not just CDEP.

Senator CROSSIN—In this new whole-of-government approach, it is very valid research. These are highly renowned people who have done a lot of research in the Territory and are attached to CAEPR and the ANU. It is part of a jobs analysis program that was done as part of the COAG trial. It has been identified, as I said—

Dr Boxall—We did not say it was not valid research; we just said that we are not aware of it.

Senator CROSSIN—How then, in this new whole-of-government process, are people at your level made aware of this research? What response will you generate from DEWR to try to look at whether the proposal of 188 new jobs is valid, and how will you fund that?

Dr Boxall—That would be dealt with by our Northern Territory office. We are quite certain that the people in the Northern Territory are aware of this study but the three of us are not personally aware of it.

Senator CROSSIN—So there are no additional funds in this year's budget to assist with initiatives coming out of the COAG trials, such as the one at Port Keats?

Mr Harvey—I know our state manager is intimately involved in Port Keats and works on the training and employment plan. He has looked at a range of employment initiatives within Port Keats around additional places and he is working with the community, particularly around business development opportunities. I know he is actively involved. I know that the whole-of-government approach is actually working very well in Wadeye and that there is a lot of activity and a lot of commitment. We are willing to move quickly in partnership with the community and the NT government to get things in place. As I said, Ray Wilson, who is the state manager, would be well aware of the initiative and is working closely with other Commonwealth agencies and state government agencies as well.

Senator CROSSIN—Mr Correll, do you want to say anything?

Mr Correll—Yes. Senator Crossin, you asked earlier for a list of all CDEP organisations in the Northern Territory. I would like to table that.

Senator CROSSIN—Yes. I have one last question before I hand over to Senator Carr. Do DEWR have any plans for Thamarrurr in 2005-06?

Mr Harvey—Yes. It has very strong plans around the development of employment. There are business development opportunities and it works closely with the CDEP and the council. It is looking at business development opportunities and employment opportunities, and a very strong whole-of-government approach is being taken to that community.

Senator CROSSIN—Are those plans documented anywhere?

Mr Harvey—Through the shared responsibility agreements and the plan, there is a training and employment plan and a training and employment committee that is within that community.

Senator CROSSIN—Are you able to provide this committee with a copy of the training and employment plan?

Mr Harvey—I am sure I can get copies of that, yes.

Senator CARR—Dr Boxall, there was a return to order from the last sittings of the Senate, and Senator Colbeck gave a response on behalf of the government on 12 May. Are you familiar with that response to the return to order?

Dr Boxall—Who gave the response?

Senator CARR—Senator Colbeck. It was a return to order concerning CDEP submissions.

Dr Boxall—I am aware of it, I will pass over to Mr Harvey.

Mr Harvey—We are aware of it.

Senator CARR—The government, through Senator Colbeck, refused to release the submissions on the grounds that these matters were confidential. My colleague to my left here was gracious enough to stay back and respond on behalf of the opposition. It was put down very late on a Thursday night. It had all the appearance of the government seeking to hide information from the Senate. Mr Harvey, were you consulted about that statement?

Mr Harvey—The statement in the Senate did not say that we would hide information; we said that we would go back to the community and actually clear it with the people who made those submissions, which we have now done. Yesterday we tabled 40 of them in the Senate and, all going well today, we will table another 30. We were concerned about making sure that the submissions were cleared by the people who had made them and that there was no sensitive information within them.

Senator CARR—I see. Senator Marshall made the point that the submission pro forma had the following words:

Unless you request that your submission be treated confidentially, submissions will be made publicly available on the DEST website as part of the consultation process. In addition, you may wish to note that because DEST may be required to release your submission by operations of law, judicial or Parliamentary body or government agency, the Department can give no undertaking that your submission will never be made publicly available.

Given that, on what basis did the department claim confidentiality?

Dr Boxall—The department has not claimed confidentiality. The government has decided to respond to the Senate motion, if that is the right word, by having the department consult and check with the authors of the submissions and then table them as they become available. As Mr Harvey pointed out, they tabled 40 yesterday and today—

Senator CARR—30 more. What was so secret about it? What were you trying to hide?

Dr Boxall—We were not trying to hide anything. The government responds to Senate motions, not the department, and the government tables them, not the department.

Senator CARR—The minister's statement said that, if released, some of the submissions may be inflammatory. How many of the submissions did you discover were inflammatory?

Mr Harvey—I do not have the number, but a number of them talked about individuals and individual CDEPs. Just to make sure that we protected both those individuals and the individuals making the submissions, we decided to go back to them.

Senator CARR—I am having trouble following how many of these submissions were inflammatory.

Dr Boxall—The department, on behalf of the government, reviewed all the submissions and noted that in a number of submissions—and Mr Harvey does not have the number—there were comments about third parties, about CDEPs, which were judged as being inflammatory. So the department, on behalf of the government, consulted with the authors of those submissions and is processing them with a view to the government tabling them.

Senator CARR—How many were regarded by the department, on behalf of the government, as being inflammatory? Of the 70, how many?

Dr Boxall—Mr Harvey has just answered the question: he does not know. We will take it on notice.

Senator CARR—How many of the 70 requested being treated in confidence?

Mr Harvey—I do not have that information with me.

Senator CARR—Why not? Surely it is a basic question. It was the central point of the government's defence as to why it would defy a return to order, and you do not have that information. I am asking: why not?

Mr Harvey—I do not have it with me.

Senator CARR—You do not know now? How long will it take you to get it?

Mr Harvey—It would take me a little while to get it.

Senator CARR—I am surprised. Mr Harvey, you have been in this game for a long time. You would expect me to ask that question.

Mr Harvey—I am sorry, I do not have it.

Senator CARR—Of the 70, when will the 30 be released?

Mr Harvey—This afternoon, I hope.

Dr Boxall—We do not table. We anticipate they will be tabled this afternoon.

Senator CARR—Out of session. Forty on the night before the estimates committee and 30 the night after. Can you explain the timing to me or is it just a coincidence?

Dr Boxall—No, that is the timing that the government elected to table the submissions.

Senator CARR—The government chose to? Senator Abetz, could you advise me on behalf of the government why the government chose that timing? The secretary has just advised us that it was the government's decision.

Senator Abetz—I will take that on notice for you.

Senator CARR—Another one taken on notice.

Senator Abetz—If you do not want me to take it on notice, I will not. It is up to you.

Senator CARR—I am just surprised. A simple explanation is what I require here.

Senator Abetz—As you know, I am not the relevant minister and I am not clothed with all the information that Minister Andrews is clothed with in this portfolio, and therefore it is not surprising that from time to time I will need some information from the minister.

Senator CARR—Thank you, Minister. Mr Harvey, how long will it take you to get the information that I was seeking about the number that sought confidentiality, because I want to return to this issue?

Mr Harvey—I should be able to get that within a day.

Senator CARR—Within a day?

Mr Harvey—Yes.

Senator CARR—You really are straining your credibility—a day.

Dr Boxall—The answer is two.

Senator CARR—So two sought confidentiality?

Dr Boxall—That is the answer to the question you asked Mr Harvey.

Senator CARR—Thank you. So you did have the information here, Dr Boxall?

Dr Boxall—No, we did not. He just got the information and we have now given you the answer: two.

Senator CARR—And which two where they?

Mr Correll—I think we would need to take that on notice. These were submissions put in by two organisations that asked for their submissions to be kept confidential. It would not be fair for me to now say who those organisations are.

Senator CARR—Mr Correll, did they seek confidentiality before this matter was raised in the Senate by way of a return to order?

Mr Correll—Yes, my understanding is that was the case.

Senator CARR—Why then were the other 68 submissions withheld?

Dr Boxall—They were not withheld. The government asked the department to go through the submissions prior to the government tabling them. Forty were tabled last night and we anticipate that the government will table the other 30 today.

Senator CARR—So, regarding the 68 that did not seek confidentiality, I am just wondering what the rationale was for them being withheld until last night or tomorrow?

Dr Boxall—The government's rationale was to check with the authors of the submissions that they were comfortable that they be made public and to check on the issue of any comments on third parties that could be considered inflammatory.

Senator CARR—Did you seek advice from the Government Solicitor on this matter?

Dr Boxall—The department did not.

Senator CARR—Was any advice sought from the government division of PM&C on this matter?

Mr Harvey—Yes, we did seek advice from the government division of PM&C.

Senator CARR—Are you able to advise the committee on the nature of their advice?

Dr Boxall—No.

Senator CARR—On what basis did you seek advice from PM&C?

Dr Boxall—There was a return to order in the Senate. We sought advice from PM&C about what the normal processes are for our minister to respond to that return to order. Having taken advice from PM&C, we then consulted with our minister and the government made a decision to proceed as they have proceeded.

Senator CARR—I have a few questions with regard to Seawind Group Pty Ltd, a seafood processing company at Tweed Heads. They received a grant of \$273,000 from the fisheries department. I understand they were also provided with assistance from DEWR under STEP. Are you able to confirm that?

Ms Golightly—We will need to call back to the office for that information. We will try to do that right now.

Senator CARR—We will come back to that. In regard to the Aboriginal Employment Strategy, on what basis are locations selected for the funding of Aboriginal employment bodies? For instance, I understand there are services provided in Dubbo, Tamworth and Moree. Are you able to tell me whether or not that is correct?

Dr Boxall—The Aboriginal Employment Strategy already has three sites. The three sites are, as you just indicated, at Moree, Tamworth and Dubbo. Those sites are already in place. The Aboriginal Employment Strategy group selected those sites themselves. In the measure it says that they have been given funding to expand the number of sites from the existing three sites to an additional six in New South Wales. I am advised that it is an additional six sites and they do not have to be in New South Wales. Budget Paper No. 2 is not correct in that regard. It is an additional six sites and those six sites have yet to be determined.

Senator CARR—What is the funding for the six sites?

Dr Boxall—The measure is on page 222 of Budget Paper No. 2. Part of that funding is for the establishment of the additional sites. We will get that figure for you.

Senator CARR—Did you say that the budget papers are wrong?

Dr Boxall—I am saying that my staff have just advised that the reference to an additional six sites in New South Wales on page 222 should be just a reference to an additional six sites.

Senator CARR—I am interested to see how the funding has grown for this program. It was \$140,000 in 1997. There was an additional \$68,000 in 1998. Then it was \$242,000 and now it is up to \$5.2 million. What is the rationale for the expansion of the program?

Dr Boxall—Government elected to provide an additional \$17 million over four years to continue and expand the Aboriginal Employment Strategy. The government made the point that this strategy operates in parallel with other employment services for Indigenous

Australians. So the government decided that in the budget they would expand this particular operation.

Senator CARR—I take it that has been evaluated?

Dr Boxall—It has.

Senator CARR—I presume then you will be able to give me a list of the successful employment outcomes for the funding for each of the years back to 1997?

Dr Boxall—The evaluation has been prepared, but it has not been publicly released.

Senator CARR—Why not?

Dr Boxall—Because the government has not decided to. The minister has the evaluation, but the government has not decided to release it publicly yet.

Senator CARR—When was the evaluation concluded?

Dr Boxall—Two or three months ago.

Ms Caldwell—At the end of last year it was at the consideration and finalisation stage.

Senator CARR—How long has it been with the minister for?

Ms Caldwell—It has not been with the minister for all that time. I would need to check the date. The minister received it more recently than that.

Senator CARR—Could you also take on notice: when will the minister release the evaluation and, if he will not, why not?

Ms Caldwell—I will take that on notice.

Senator CARR—I do not expect you to answer that now. Could you give me a breakdown of the employment outcomes for this program since 1997? I am wondering about its relationship with other employment programs, because I understand it is said to be complementary to other employment outcomes, which is the thrust of what you were saying a moment ago, Dr Boxall. Where does it fit within the range of programs that are provided in the Moree area, for instance?

Mr Correll—The AES has been funded under the Indigenous Employment Program and has provided a type of employment services operation. It fits and works with other employment services operations, including Job Network operations and Indigenous employment centres. Basically, all of those services are geared to trying to maximise the employment outcomes being achieved in the local communities, be they Moree, Tamworth or, most recently for the AES, Dubbo.

Senator CARR—How does it relate to STEP and the Indigenous employment centre arrangements that are currently in existence?

Mr Correll—In terms of the provision of employment services, in any one of those centres there are a range of different initiatives that the department is funding. One would be Job Network services. In some cases there are specialist Indigenous Job Network services in operation and in place. Another element would be, through CDEP organisations, the operation of Indigenous employment centres, where a part of the CDEP is actively engaged in achieving employment outcomes under the IEC contract. The AES also works with other individual

Indigenous people in the community, helping them get into work. The three services work collaboratively and collectively together to achieve the best possible outcomes.

I am very familiar with the operation in Dubbo. With the establishment of the Aboriginal Employment Strategy in Dubbo, much work was done by the AES manager there to establish effective collaborative links with both the Job Network members in that location and the Indigenous employment centre. From the department's point of view, we are looking to have those services maximise the chance of getting people into work. The move of the AES into Dubbo was very much predicated on the basis of there being significant labour market opportunities in that region. The unemployment rate in Dubbo has reduced significantly over the last few years, there are strong labour market opportunities there and there is a very significant Indigenous population. The view was to attempt to have all the services working collaboratively to achieve the outcomes.

Senator CARR—Why is it not part of the general STEP? Why do we need a special project?

Dr Boxall—The Indigenous Employment Program is such that you could not fund an operation of this size continuously. The Indigenous Employment Program is a STEP project which, in a sense, acts as a catalyst for both Indigenous communities and employers to start engaging Indigenous people. It is not something which is more ongoing. That is why it was decided that, rather than to continue funding it through STEP, it would be funded on a stand-alone basis, a little akin to how Job Network specialists are funded and what have you.

Senator CARR—How much money has the department paid the Gwydir Valley Cotton Growers Association, for example, to participate in this program?

Dr Boxall—Through STEP we have paid money to the Aboriginal Employment Strategy, and they in turn have placed people with the Gwydir Valley Cotton Growers Association and elsewhere. So we have not paid any money directly, as far as I know, but I will stand corrected on that. Senator Carr, if you are asking what STEP projects were with the Gwydir Valley Cotton Growers Association before they entered into a relationship with the Aboriginal Employment Strategy, we will need to take that on notice.

Senator CARR—I would be interested to know how much money has been paid by the department, under whatever guise, to the Gwydir Valley cotton growers. I understand a special project was announced in 2001, so presumably it goes back to that time.

Dr Boxall—That would have pre-dated the Aboriginal Employment Strategy, but we will be able to get that information for you on notice.

Senator CARR—I have no doubt that you will be able to tell me that it has been highly successful. I look forward to hearing what the outcomes have been in that regard. The Indigenous employment centres were announced back in 2001. Is that right?

Ms Caldwell—Yes.

Senator CARR—Is that the only structural link there is between the CDEP programs and the other programs within the department or is there some other agency or component of the department I could look to?

Mr Correll—Could you expand on that a little?

Senator CARR—I can go through it with you. With the transfer of arrangements from CDEP, which become adjuncts to your existing employment programs, I presume that the department is using its existing structures—that is, Indigenous employment centres—as a vehicle by which there is a general coordination of those programs. Is that the case or not?

Mr Correll—No, not the Indigenous employment centres. You may be mistaking those for the Indigenous coordination centres.

Senator CARR—I am not. That is the point. The ICCs are an entirely different arrangement. I want to know what you are doing within this department about the coordination of Indigenous employment strategies.

Mr Correll—The whole modus operandi that we are trying to work to is that we do not manage our programs for Indigenous people, be they Indigenous specific programs or mainstream programs, through individual program stovepipes. We have been putting a huge amount of emphasis in our work in the field on connecting the programs and services. For example, with Indigenous employment centres we have been very strongly encouraging connections between the IECs and Job Network services. Where they work together we believe it maximises the results that can be achieved. We also see STEP projects and CDEP programs all working together to achieve results. It is why we have introduced to the department the concept that we call solution-brokering, which is now being taken up more widely on a whole-of-government basis, where our staff in the field take on a role where they have the full tool kit of programs and services available. They work on trying to connect those programs and services to provide solutions to meet Indigenous needs.

Senator CARR—Are the Indigenous employment centres still functioning?

Mr Correll—Yes, they are.

Senator Abetz—I do in fact have a response in relation to the submissions to the CDEP consultations. I am advised that Minister Andrews was concerned that a number of submissions made potentially defamatory allegations about a number of individuals and families. He was also concerned that those who made submissions be given the chance to make informed consent. The Senate motion, with respect, did not necessarily take all of these considerations into account in determining a time line. There was no accountability issue; the minister simply wanted to maximise consent and the protection of reputations of individuals and families, given that once a submission is tabled in the Senate privilege attaches to it and then it is for all to read what a certain person or group may be saying about a family or another group of individuals. That was the only reason. It was quite a task to be undertaken, and that is the reason for the delay. The minister and his office tried to do it in as timely a fashion as possible.

Senator CROSSIN—Can I follow up on that. You have now released 70 submissions—30 and 40. Is that correct?

Mr Harvey—The government tabled 42 yesterday, and the government may table another 30 today.

Senator CROSSIN—There were 104 submissions, all up, were there not?

Mr Harvey—That is correct.

Senator CROSSIN—So there were 32 submissions—

Mr Harvey—It is 106, I should say.

Senator CROSSIN—I have here in my notes: 32 from individuals and 72 from organisations.

Mr Harvey—It was 33 from individuals. There is 107.

Senator CROSSIN—Will the rest be tabled?

Mr Harvey—We are currently working through all of the submissions and will provide them to the government. We would hope that, given agreement by the authors, the government will be able to table the vast majority.

Senator CARR—How many CDEP organisations are there in 2005?

Mr Harvey—At this moment, now, there are 225.

Senator CARR—How many were there in 2000?

Mr Harvey—I do not know how many there were in 2000. We would have to check that.

Senator CARR—I am told there were about 262 in 2000. I am wondering why there has been such a significant drop in the number of CDEP organisations.

Mr Harvey—I can talk about since we took over the portfolio responsibility at the beginning of this year. We have gone through the database, and there are about 240 on the database but a number of those were inactive. So we have cleaned up the database, basically, and currently there are 225.

Senator CARR—You can tell me since the beginning of the year—

Mr Harvey—Sorry, there are 227.

Senator CARR—So you can tell me about the ones you know something of. Can I have a breakdown of the number of closures and amalgamations?

Mr Harvey—During this year there was only one closure. The rest were just for information.

Senator CARR—How many are under administration?

Mr Harvey—Currently?

Senator CARR—Yes.

Mr Harvey—Six.

Senator CARR—How many since the beginning of the year?

Mr Harvey—Since the beginning of the year we had a total of nine. With three of those, the administrations have ceased.

Senator CARR—Can I have a breakdown state by state of how many there were at the beginning of the year and how many there are now?

Mr Harvey—Yes.

Senator CARR—Can I have the numbers for participation, state by state?

Mr Harvey—The number of CDEP—

Senator CARR—The number of people involved directly. It is put to me that over the last five years there has been a rise in the number of participants of about 7,000 people. So that is 7,000 extra places. I am wondering what the impact has been of having fewer CDEP organisations with larger numbers of participants. Do you have any work on that at all?

Mr Harvey—I am aware that previously there were strategies to have regional CDEPs. A number of those regional CDEPs operate very effectively. Some do not operate as effectively as others. So there was quite a bit of change over the last couple of years. But I am aware of what is happening since we have taken over the program, and basically there has only been one organisation that has voluntarily ceased operation and another that has been taken over by another CDEP.

Senator CARR—Given that apparently there were some undertakings about the timing issue, I wonder whether I can ask some general questions about COAG trials.

Dr Boxall—We have an answer to one of Senator Carr's earlier questions.

Ms Caldwell—You were asking whether there was a STEP arrangement with Seawind.

Senator CARR—Yes.

Ms Caldwell—We had a funding agreement for a STEP project with Seawind from 9 January 2003 until 18 November 2004.

Senator CARR—How much money have you provided?

Ms Caldwell—A payment of \$17,000 was provided for that period.

Senator CARR—Have you had any discussions about the company's viability?

Ms Golightly—As I understand it, the contract ended on 18 November 2004.

Ms Caldwell—By agreement.

Senator CARR—Did it go to the issue of the company's viability?

Ms Golightly—The company, I think, asked to end the contract, and we agreed.

Senator CARR—At any point did you inspect the facilities and the equipment available in the company?

Ms Golightly—I do not have that information to hand.

Ms Caldwell—We would have conducted a monitoring visit for it. We have no details about that but a site visit did occur.

Senator CARR—It has been put to me that the industrial clothing, boots, aprons and the other materials provided to trainees was inadequate. Was that part of your monitoring report? Did you discover that?

Ms Caldwell—We have no details of the monitoring report with us.

Ms Golightly—We can check.

Senator CARR—If you could, please. Could I have a copy of that agreement that was entered into in November last year?

Ms Caldwell—We will take that on notice.

Senator CARR—Did the original agreement that was signed cover those basic issues about conditions of employment of the trainees?

Ms Caldwell—We will take that on notice.

Senator CARR—Thank you. I will put the rest on notice, obviously, because you are unable to provide me with any additional information.

CHAIR—Senator Carr, if you have further questions on the Indigenous part of the portfolio, I presume that they will be asked in reasonable time this afternoon so that the officers will know whether they will need to stay.

Senator CARR—I thought the time was up.

CHAIR—I thought you indicated you wanted to ask other questions in the general—

Senator MARSHALL—We can move to the cross-portfolio—

CHAIR—I am not giving you more time.

Senator CARR—That is right, because I can take as much time as we need.

CHAIR—No, I do not wish that to happen, thank you.

Senator MARSHALL—We can move to the cross-portfolio.

CHAIR—In that case we will move to the cross-portfolio.

Senator CARR—Could I ask about the COAG trials in Cape York and Shepparton?

Dr Boxall—We have one more answer to Senator Carr's questions.

Ms Golightly—Senator Carr asked about details of the funding for the Aboriginal Employment Strategy, as detailed in Budget Paper No. 2. I can advise that from 1 July 2005 funding for the AES will comprise a combination of service and outcome fees, and it will have access to a quarantined pool of funds that can only be used to purchase assistance for job seekers, similar to the sorts of Job Search support accounts and training accounts we have in IECs and in the Job Network.

Senator CARR—Do you have the total there? What is the total?

Ms Golightly—The total is as per the measure on page 222 of Budget Paper No. 2, which is \$17 million over four years.

CHAIR—In that case we will move to cross-portfolio questions.

Senator CARR—I refer to the COAG trials. The department is the lead agency for two COAG trials: Cape York and Shepparton. I wonder whether I could have some assistance with some basic information. Can you provide the committee with the amounts of money that have been spent on those trials? How much money have you spent on those two trials to date?

Mr Correll—In both of those locations there would have been a number of different investments made in a number of projects over a period of time. Are you looking for a consolidated listing over—

Senator CARR—Yes, I am, please.

Mr Correll—We would need to take that on notice and compile that quickly for you.

Senator CARR—Can you provide me with a breakdown of the expenditure by activity for each of the financial years of the trials for each of the sites?

Mr Correll—Yes. By financial year by activity, yes, or by nature of investment.

Senator CARR—By activity, yes. Have you provided any interpreter services?

Mr Correll—I do not know for sure; I would have to take that on notice.

Senator CARR—I understand that there has been a consultant engaged to undertake pilot projects in different regions focusing on communication methods and materials for communicating with Indigenous communities. Did such a pilot take place in regard to the Cape York or Shepparton trials?

Mr Correll—My understanding in relation to Shepparton is that it did not. In relation to Cape York, not to my knowledge. But I wish to check to make sure that my knowledge is fulsome.

Senator CARR—Have any types of consultancies been funded as part of the trials in regard to communications? Have you had any consultancies at all?

Mr Correll—Again, I would say that I do not think so. We will check to make sure that is accurate.

Senator CARR—Have you engaged any other consultants for any other activities in regard to these two trials?

Mr Harvey—In the case of the Shepparton trial, we engaged a consultant to assist with the development of what was called the compact, which was the shared responsibility agreement. That is all I can currently recall at this stage in regard to Shepparton.

Senator CARR—This was the Aboriginal Community Facilitation Group. Is that right?

Mr Harvey—That is correct.

Senator CARR—I understand that this compact, as you call it, will involve partnerships with government about longer-term community involvement in decision-making structures. Is that correct?

Mr Harvey—That is correct.

Senator CARR—Who were the signatories to that?

Mr Harvey—There were 12 community members who represented community organisations and a number of previous ATSIC representatives. All levels of government signed up to that as well.

Senator CARR—Is it the intention that this will be the new representative structure for the region?

Mr Harvey—It is not the intention that it be the representative structure; it is the structure through which consultation is undertaken on the COAG initiatives.

Senator CARR—Is that the body through which you will seek to have community consultations about decision-making?

Mr Harvey—In regard to COAG, yes.

Senator CARR—I understand that there has been a facilitator employed to develop this arrangement. Is that the case?

Mr Harvey—There was a community facilitator employed. Equally, on the ground, we had what we called outcome brokers from the Australian government and the state government. There was also very active involvement from local government as well.

Senator CARR—Is there also a small project management team?

Mr Harvey—There is current discussion about development of a project management team to take things further forward.

Senator CARR—Who was involved with that? What was the size of this team?

Mr Harvey—That team is not in place yet.

Senator CARR—So you will not be able to tell me what the plan is for the size of the team and what sort of seniority the staff who are involved in the team will have?

Mr Harvey—No.

Senator CARR—So there is no planning?

Mr Harvey—There is a lot of planning around the development of a team to continue to support the COAG initiative in Shepparton.

Senator CARR—What is the budget for the project team?

Mr Harvey—That is something that is being negotiated between the community and all levels of government.

Senator CARR—I am having trouble following this. When did you sign the agreement?

Mr Harvey—It was 18 months to two years ago.

Senator CARR—So two years ago you signed an agreement which you say is pretty important to getting a decision-making structure in place. It is not supported by any administrative arrangements two years after the event. Is that what you are saying to me?

Mr Harvey—No, it is supported by outcome brokers at the Commonwealth and state level and there is active involvement. There has been support from a community broker as well. There are a number of initiatives continuing currently in the area of education. There is also a youth initiative progressing at the moment. There has been funding for a youth coordinator. I think that is funded by FaCS.

Senator CARR—Can you specify precisely what you are doing to implement this compact that was signed 18 months ago.

Dr Boxall—That is an issue for the OIPC to take over. As you know, the COAG trials were a forerunner to these new delivery arrangements where we have the OIPC and Indigenous coordination centres. The Shepparton community has an SRA, which was one of the SRAs announced by Minister Vanstone last Friday. In order to take the matter forward, we would expect that the Office of Indigenous Policy Coordination would, from their Melbourne office, be playing an increased role there.

Senator CARR—You are the lead agency.

Dr Boxall—We were the lead agency. The role of DEWR in the COAG trial site in Shepparton will gradually wind down as the OIPC winds up.

Senator CARR—So you are handballing it.

Dr Boxall—No.

Senator CARR—It has all the appearance that you are saying that it is somebody else's responsibility.

Dr Boxall—I did not say that, and I did not handball it. I am just explaining to you what is happening. The COAG trial sites predated the new arrangements with the Office of Indigenous Policy Coordination and the establishment of the Indigenous coordination centres, so in the case of the Shepparton trial site the OIPC will gradually take up the responsibility.

Senator CARR—So I can assume from what you are saying that the COAG trials are essentially winding down.

Dr Boxall—What you can take from what I am saying is that, in the case of Shepparton, we are expecting the OIPC to gradually take up the responsibility.

Senator CARR—Has there been a statement to that effect somewhere?

Dr Boxall—This has been discussed at the secretary's meetings.

Senator CARR—What evaluation have you actually undertaken to date, given that you are handing it over to someone else to look after? Are you able to sign off on this with any evaluation to say what has been achieved?

Dr Boxall—My understanding is that the Office of Indigenous Policy Coordination is looking at the evaluation of COAG trial sites.

Senator CARR—In regard to Lockhart River in Cape York, there were agreements signed on 16 December 2003. Are those documents available yet?

Dr Boxall—My understanding is that Minister Vanstone issued a pack of SRAs on Friday.

Senator CARR—This was signed on 16 December 2003. This predates the SRAs.

Dr Boxall—My understanding is that a bunch of SRAs were announced on Friday, which I think included the Lockhart River.

Mr Correll—They did include the Lockhart River.

Senator CARR—Can you point me to any evaluations in regard to the Cape York trial?

Dr Boxall—The Cape York trial is a COAG trial, and again the OIPC is looking at the evaluation of the COAG trial sites.

Senator CARR—So there is nothing at this time that I can draw upon.

Mr Harvey—I can report that formative evaluations will commence in June this year and be completed by October this year.

Senator CARR—Is there a Hopevale agreement as well?

Mr Correll—Yes.

Senator CARR—Was that placed on the web site on Friday?

Mr Correll—It was part of the announcement, so I would assume it was.

Dr Boxall—It is on this list, which is the list that we understand—it is not our responsibility—was put out by Minister Vanstone on Friday, and, as Mr Correll says, it mentions Hopevale.

Senator MARSHALL—The 2005-06 portfolio budget statement shows that income from the sale of goods and services is set to decrease from \$15.932 million to \$7.054 million, which is roughly an \$8 million decrease. Can the department explain this change of course?

Dr Boxall—Yes. The chief financial officer will address this question.

Senator MARSHALL—It is about the reduction in the sale of goods and services of roughly \$8 million in the portfolio budget statement.

Ms Graham—The reduction in goods and services revenue from \$25 million to \$14.3 million—

Senator MARSHALL—I did not have that. I had from \$15.93 million—

Senator Abetz—What page are you on?

Senator MARSHALL—Table 3.1.2 on page 48.

Ms Graham—For outcome 2 on page 48, is that right?

Senator MARSHALL—Yes. There is the revenue from other sources, the sale of goods and services. We go from \$15.932 million to \$7.054 million.

Mr Pratt—The difference is explained largely by the addition to our funding this financial year of approximately \$7 million for the transfer of the National Occupational Health and Safety Commission, NOHSC, which came into the department from the beginning of February this year, so its funding came at that stage. The remainder is for the trades recognition authority and it is in the order of \$7 million.

Senator MARSHALL—I am sorry but how does that explain the reduction in sales of goods and services?

Mr Pratt—The \$15 million was funding for the operation of the office of NOHSC in this financial year. We got pro rata about five months of funding for NOHSC to come into the department to pay for the operation of the office of NOHSC. That is not found in the next financial year. If you look at 2.2.8, the office of the Australian Safety and Compensation Council, you will see \$18 million, which is largely funding for what has replaced the office of NOHSC, which is the office of the ASCC.

Senator MARSHALL—So it is not goods and services, it is—

Dr Boxall—No. I think the issue is that the \$15.932 million in 2004-05 is the extraordinary item. In other words, that is artificially high, and that is because it includes some revenue for NOHSC which was transferred to us. Normally this item in this outcome relates to the trades recognition authority, which is the bedrock \$7 million or so. What Mr Pratt is saying is that, because of the changed arrangements for NOHSC, because the government is setting up the Australian Safety and Compensation Council, which is being funded directly from the budget,

we have in a sense a switch from a funding which is called sales of goods and services, which came in with NOHSC, to a direct appropriation.

Senator MARSHALL—Can you give me details of the income that you think goods and services are going to generate in 2005-06?

Dr Boxall—Yes.

Mr Pratt—The \$7 million is for revenue generated by the operation of the trades recognition authority. There is also a very small amount of funding—it is in the order of tens of thousands or, at most, a hundred thousand—for the sale of publications, training manuals and things like that on public sector recruitment practices.

Senator MARSHALL—So that is the goods part.

Mr Pratt—But the vast bulk of it is to do with TRA—

Dr Boxall—The Trades Recognition Authority.

Senator MARSHALL—So how does that operate? That is fee-for-service, is it?

Mr Pratt—That is correct.

Senator MARSHALL—And that generates that amount of money? You are saying that that has been fairly consistent, if you take out the NOHSC transfer.

Mr Pratt—Yes. In fact, if you take out the NOHSC transfer, we estimate that the TRA revenue will grow slightly—we have been getting increased applications for trades recognition assessments.

Senator MARSHALL—Can you take on notice to track that back for me to the 2003-04 year so we can see the consistency that you have reported?

Mr Pratt—Yes.

Senator MARSHALL—I want to talk about the efficiency dividend. Can you explain what is actually meant by the efficiency dividend?

Ms Graham—Yes. The efficiency dividend is applied on all departmental costs—that is one per cent each year and it is cumulative. Essentially, it means that our departmental appropriation is reduced by one per cent each year. There was an additional efficiency dividend imposed as one of the measures in the measures tables this year, which was an additional 0.25 per cent, so it is now 1¼ per cent.

Dr Boxall—It is done by the department of finance. Obviously, it is a government decision and the department of finance applies the efficiency dividend to the departmental expenses of our department and many other departments. Basically, when they work out what your departmental expense is for next year they then dock it by 1¼ per cent.

Senator MARSHALL—So what efficiencies have you found in the past to meet the efficiency dividend?

Ms Graham—It is based on the total departmental appropriation, so when we look at our internal budgets each year we need to look for the efficiencies each time. They can differ each year, depending on what our priorities for that year are.

Senator MARSHALL—Is it adjusted to compensate for wages growth, for instance, or CPI?

Ms Graham—The departmental appropriation is also adjusted for a wage cost indexation factor, which increases it over time. Then the efficiency dividend is applied to that increased appropriation. So there is an increase but then there is also a decrease.

Senator MARSHALL—Which is the efficiency dividend.

Ms Graham—That is right.

Senator MARSHALL—How have you met that, specifically?

Ms Graham—We do not track exactly how we achieve those efficiencies: we basically have a total departmental appropriation which we plan to operate within each year.

Dr Boxall—At the beginning of each year, about this time, just after the budget comes down and we know what our appropriation is, we sit down and work out the internal allocation of resources consistent with the portfolio budget statement and we are always on the lookout to make efficiencies such as improved IT systems, seeing whether we can rationalise accommodation and things like that.

Senator MARSHALL—So what have you found for this year's dividend?

Dr Boxall—We actually have not finished it, but the sorts of things we will be looking at will be accommodation, the use of IT systems and things like that. It is an ongoing process—

Senator MARSHALL—You are confident that you will actually meet the dividend?

Dr Boxall—Yes, we are.

Senator MARSHALL—Will it have any impact on the operational side of the department?

Dr Boxall—We believe that we can operate within our budget and still deliver the outcomes required by government.

Senator MARSHALL—You were indicating that you were looking at rationalising some accommodation and improved efficiency in IT systems. I understand and accept that. The other, very obvious, way to achieve them would be reductions in what you do—services that you provide or reductions in staff.

Dr Boxall—That is correct.

Senator MARSHALL—I guess I am directly asking whether you will be reducing any of your services or operations that you provide or making reductions in staff in order to meet it.

Dr Boxall—Your question is appropriate in that regard. We believe that for the next financial year we will not have to reduce the number of services we provide or outcomes we achieve or the number of staff. We are confident that we can meet the efficiency dividend through other measures.

Senator MARSHALL—To meet it in previous years, have you been required to reduce operations in the same context that we are talking about this year?

Ms Graham—No, not really. We have been able to deliver against all of our outputs over the last few years and we have basically managed to find the efficiencies without reducing the quality of what we deliver.

Senator MARSHALL—What proportion of your expenses is salary and associated costs, such as superannuation?

Ms Graham—I would have to work out the proportion for you. In the financial statements there is a breakdown between salaries and other costs. For 2005-06 our employee expenses are estimated to be \$234 million. Supplies and expenses are \$1.1 billion.

Senator MARSHALL—The budget indicates that your agency is expected to grow by 425 staff over the next financial year. Is that correct?

Ms Graham—That is correct.

Senator MARSHALL—How do you reconcile the need to meet the efficiency dividend with the increase in staff? How does that gel?

Ms Graham—The increase in staff is largely related to the new measures, particularly the Welfare to Work measures in this budget, which are not subject to the efficiency dividend because they are new measures and are fully funded.

Senator MARSHALL—What happens next year? Do you have to apply an efficiency dividend to them?

Ms Graham—Yes, that is right.

Senator MARSHALL—Is that the same with any new expenditure, whether it be staff—

Dr Boxall—With any new policy or program where funding is provided, that is new money which we add to our budget and then live within it. The following year the efficiency dividend is applied to that new money as it continues.

Senator MARSHALL—You indicated earlier that there was an extra dividend payable. You may need to take this on notice. Can you provide what the efficiency dividends have been since 1996.

Ms Graham—I can take it on notice to confirm it. I can probably get someone to check before the end of the day. My understanding is that it has been one per cent since 1996. I understand that there may have been an additional efficiency dividend in 1996. I cannot remember what that is, but generally it is one per cent. As I recall, this is the first time an additional efficiency dividend has been applied in that time.

Senator MARSHALL—And you have met it every year.

Ms Graham—Yes, that is right.

Senator MARSHALL—If you have to meet an efficiency dividend every year and you are able to, does that not beg the question: why were greater efficiencies not being made earlier?

Ms Graham—Earlier than when?

Senator MARSHALL—If you are able to meet a one per cent improvement in efficiency each year—and you have been able to achieve that through a whole range of structural

reforms and you would anticipate meeting next year's as well—what are you going to find next year that you could not find this year?

Dr Boxall—It is a continuous process.

Senator MARSHALL—I am not trying to be smart about this. If you consistently have to find one per cent a year, what is wrong with finding five per cent this year if it is there to be found?

Dr Boxall—Ms Graham's answer to your question, essentially, was that it has been one per cent for as long as she can remember, up until this year, and it is now 1¼ per cent. So it is a form of what is generally known as CPI minus X pricing. Each year, the departmental appropriation is increased by the wage costs index and then they subtract one per cent—now 1¼ per cent—so it is a form of funding which encourages continuous improvement of agencies such as ours and most of the other Commonwealth agencies.

Of course, if we were asked to, we could meet a reduction of five per cent this year, but it would be very disruptive. It would mean a major change to staffing, a major change to the outputs that we produce for government but, under this method, even though we might move five per cent over five years we are able to do it in a more gradual way. We are able to adjust our recruiting or the mix of recruits. We are able to take longer-term decisions about the introduction of IT. We are able to take longer-term decisions with respect to accommodation and those things are important for an agency such as ours, which is now quite a large agency in the Commonwealth. That is the method and we have met it in past years and we expect to be able to meet it next year as well. We could meet five per cent overnight, but that would be a very disruptive way to do it.

Senator MARSHALL—But that would involve operational aspects of the department?

Dr Boxall—Exactly, whereas this way we are able to do it more with finetuning. With technical progress in the economy as a whole running at one per cent, 1½ per cent, this is a way that government agencies can meet that general technical progress which is met in the private sector.

Senator MARSHALL—You have partially answered this but, at some point in time, efficiencies that can be gained without moving into the operational aspects probably all have to be delivered at some point. There are only so many times you can go back and look at property rationalisation. There are only so many times you can move into driving efficiencies out of our IT system. At some point in time the efficiency dividend has to impact upon the operations of the department.

Dr Boxall—There might be a scenario in some departments or some agencies where it is simply not possible to manage an additional 1¼ per cent efficiency in a particular year. But, given that most of the economy in Australia has technical progress running at one per cent to 1½ per cent—I think those figures are right—it is possible that you can go on making those sorts of efficiency dividends for very long periods, but it varies from agency to agency.

Senator MARSHALL—Has meeting the dividend affected your graduate recruitment program?

Dr Boxall—No. It has not. We are increasing our graduate recruitment program quite substantially. The management board has taken a decision that recruitment of graduates is a prime source of new entrants into the department. We have found from experience that after a very short period of time—a couple of years, three years—the graduates perform at a very high level. So that is our main avenue for recruitment, including of Indigenous graduates and Indigenous contract manager trainees.

Senator MARSHALL—Thank you, Dr Boxall. I asked you before lunch about some of the programs that you had and you talked about being at the highest level in terms of retention, compared to some other departments, so let us go on to retention. I recall reading a report in the *Financial Review*, which indicated that DEWR has the second lowest retention rate in the Australian public sector. In fact, the only agency of over 1,000 staff that has had a worst retention rate than DEWR was ATSI-C-NATSIS, which now probably puts you at the bottom. Why is DEWR's retention rate so poor?

Ms Moore—DEWR's retention rate, based on APS data, is not significantly different from other large departments of this size. There is 0.5 per cent difference between the Department of the Environment and Heritage, and the Department of Family and Community Services. In the highest-performing agencies, there is a difference in the retention rate of about five per cent. So DEWR does not have a significant issue with retention rates. The differences are minimal between these large agencies.

Dr Boxall—Also, in the March quarter of this year, the third quarter of this year, our voluntary separation rate was higher than it had been in the past. One reason why it was higher was a direct result of the machinery of government changes. We had a lot of staff transfer over from ATSI-C and from Family and Community Services into our department and we have noticed, particularly in the case of Family and Community Services, that a number of staff who transferred over to us who work in Tuggeranong and live in Tuggeranong, many of whom have family commitments such as child care and picking up young children after school, have elected to transfer back to FaCS. We regard the voluntary separation rate for the third quarter of 2005, the March quarter, as being abnormally high, and for a specific reason.

Senator MARSHALL—What was it?

Ms Moore—It is 4.7 per cent

Senator MARSHALL—What is it, on average? I gather you measure it by quarters.

Ms Moore—Yes. The quarterly rate for separations in the same quarter in 2004 was 2.8 per cent, compared to 4.7 per cent.

Senator MARSHALL—Given what was being said then, is the average over a year different from the average quarterly rate?

Ms Moore—Yes, because it is annualised over the four quarters.

Senator MARSHALL—Can you tell me the annualised rate? Over the last couple of years has that rate gone up, or down?

Ms Moore—It has been fairly consistent until this recent quarter.

Senator MARSHALL—I understand if there is a blip, and Dr Boxall has explained that.

Dr Boxall—For 2004 the voluntary separation rate was 13.45 per cent. For 2003 the voluntary separation rate was 11.89 per cent. And 2004 was the year when we had the big machinery of government changes.

Senator MARSHALL—Do you know the average for the APS?

Ms Moore—I do not have that figure with me at the moment.

Senator MARSHALL—You were indicating that you were only slightly lower, though.

Ms Moore—It depends how it is measured. We are in the 75th percentile. I do not have the figure with me for the average for the whole of the APS.

Senator MARSHALL—If you could take it on notice and give me those comparisons on the annualised rate, I would appreciate that. The annualised rate is still fairly high, even though I do not have the information about what it is across the APS. Are you doing anything about it? Do you see it is an issue that you are responding to as a management team?

Dr Boxall—We are not overly concerned by the involuntary separation rate in 2003 or in 2004. But if the voluntary separation rate were to continue at the relatively high level that it was in March this year, that would be cause for concern.

Senator MARSHALL—Do you know what this level of separation rate costs?

Dr Boxall—No. We do not have a measure of the cost in terms of having to replace staff who voluntarily separate. We do not regard it as a real issue. In many organisations it is said that a voluntary separation rate of about 10 per cent or just over 10 per cent is quite healthy for the organisation in terms of turnover of staff. It is not an issue that we think requires a lot of focus at the moment, but it is an issue on which we are keeping a watching brief.

Senator MARSHALL—When did you last conduct a staff survey?

Ms Moore—The *State of the service* report includes annual surveys, and we have participated in each survey each year.

Senator MARSHALL—Who is involved in that?

Ms Moore—The Australian Public Service Commission provides us with the surveys and then we issue them to our employees.

Senator MARSHALL—All employees?

Ms Moore—No it is a random of sample.

Senator MARSHALL—Have any other surveys been conducted by DEWR?

Mr O'Sullivan—Yes. This information might be helpful. We conduct exit surveys for staff who leave the department. There were 273 staff members who separated from DEWR who completed an exit survey on departure during the 12-month period 1 April 2004 to 31 March 2005. This response rate equates to approximately 49 per cent of total separations. So it is a good indicator. The exit survey indicates that 86 per cent of respondents who left the department would recommend DEWR as an employer. I mention that because I think it is further evidence that the separation rate is not a great concern—it was a spike in the last quarter. Of those who completed the survey, 70 per cent rated the department good or better

on things like remuneration and conditions and 71 per cent rated the department good or better on the working environment.

Senator MARSHALL—Are you able to provide a summary of that to the committee?

Dr Boxall—Yes.

Senator GEORGE CAMPBELL—Are those exit surveys confidential?

Mr O’Sullivan—Yes, they would be confidential.

Senator GEORGE CAMPBELL—So you do not know what answers any particular individual gives?

Mr O’Sullivan—We do not drill down to that level—with a view to ensuring complete honesty and frankness in responses.

Senator MARSHALL—Referring to the same article in the *Financial Review*, one of the comparisons they made was to the Australian Taxation Office, which had the highest retention rates out of the APS. How do DEWR’s pay and conditions in the certified agreement compare with those in the certified agreement for the ATO?

Dr Boxall—I do not know what the pay and conditions are in the ATO. As you probably know, about half the staff in DEWR—probably over half now—are on AWAs. So the certified agreement is relevant for half the staff. We are currently in negotiation on the certified agreement, so I would be a bit unwilling to comment in too much detail on something with respect to the negotiations.

Senator MARSHALL—I am not asking you to tell me what the negotiated comparison will be, because I understand that is not done yet. I was going to also ask you how it now compares, including AWAs. Wouldn’t DEWR, as a matter of course, do a survey of the wages and conditions in other departments in the APS?

Dr Boxall—We conduct a survey APS-wide of wages and conditions for staff below SES and SES. Many agencies participate in that, including the Australian Taxation Office. But we do not see their individual results. The results go back to the tax office or the relevant agency. Similarly, our individual results come to us and we are able to compare our pay and conditions, including of those on AWAs, to the rest of the Public Service.

Senator MARSHALL—Can you provide that information to the committee?

Dr Boxall—I would need to take it on notice. I might say that that information at the individual agency level has been kept confidential. The information for the APS as a whole is released publicly. I am advised that, in 2004, we released the APS survey data for 2003 in June. It is quite likely that we will release the APS data for 2004 very shortly.

Senator MARSHALL—Why would the comparison between departments be confidential?

Mr Maynard—To ensure that agencies would contribute to the voluntary survey, one of the requirements, which agencies asked for, was that their confidentiality be maintained. Therefore, we published remuneration details for individual agencies relative to the APS medians and averages. We make the APS wide details available publicly to everybody.

Senator GEORGE CAMPBELL—Can you explain to us what the APS wide details consist of?

Mr Maynard—Certainly. We publish details in relation to base salary and total remuneration package—that would include employer contributions to superannuation and details on bonus payments—and, therefore, adding those components together, what the total reward is. In that way, agencies can determine where their remuneration strategy and remuneration levels fit within the broader APS. As part of that survey, we also provide data on the state and territory public sector pay levels and those of the private sector as a whole. Therefore, it enables agencies to set a remuneration strategy comparing each of those areas.

Senator GEORGE CAMPBELL—These are aggregated figures?

Mr Maynard—Yes, they are.

Senator GEORGE CAMPBELL—Does it include persons who are on AWAs and persons who are on certified agreements?

Mr Maynard—Yes, it certainly does.

Senator GEORGE CAMPBELL—So you cannot distinguish in those figures the differentiation between AWAs and certified agreements?

Mr Maynard—Yes, there is a level of granularity that provides median amounts paid under AWAs and collective agreements for non-SES.

Senator GEORGE CAMPBELL—Isn't it also true that a number of departments—I do not know if it is true of all of them—are quite open about what their certified agreements contain? In fact, they have them on their noticeboards?

Mr Maynard—Most if not all agencies' certified agreements are publicly available through the internet and through our Australian workplace internet site. However, of course, you will appreciate that individual agreements are not publicly available.

Senator GEORGE CAMPBELL—The AWAs, yes. It is possible to get a comparison from agency to agency in terms of their certified agreements?

Mr Maynard—It would be possible. I think Dr Boxall's answer earlier was that he does not have that information. I do not think we have that information here.

Senator GEORGE CAMPBELL—But you do not make that comparison as a department?

Dr Boxall—In negotiating our certified agreement we do look at what other agencies pay and we do look at how we stack up in terms of the APS. But, in answer to the specific question about what the tax office certified agreement is, I do not know off the top of my head.

Senator GEORGE CAMPBELL—You added the words 'off the top of my head'. The issue is whether or not the department knows.

Dr Boxall—I am quite happy to readdress this question. I thought the question was whether I had looked at the tax office certified agreement. The answer is no, not specifically. Also, as to whether the management board and the department have checked how our

certified agreement stacks up with pay and conditions elsewhere in the public sector, the answer is yes.

Senator GEORGE CAMPBELL—I might be wrong, but I thought Senator Marshall was asking whether there is a comparison done between certified agreements across each of the agencies in the public sector. We know you cannot do it with AWAs.

Dr Boxall—We do do that. We do collect information on certified agreements across the public sector. We have a table which we provide to the APS roundtable which is a meeting of secretaries and other agency heads, including the taxation commissioner, through which we report on the outcome of recent negotiations.

Senator GEORGE CAMPBELL—The other question is: is that information publicly available?

Mr Maynard—The results of the annual APS remuneration survey are publicly available and they are available on the Australian workplace web site. The certified agreement rates for individual agencies would be publicly available on their individual web sites.

Senator MARSHALL—When taking AWAs into account, how do DEWR's pay and conditions compare specifically with the ATO but with other agencies as well. Is that the information you were telling me is confidential?

Dr Boxall—We can take on notice a comparison between our certified agreement and the Tax Office's certified agreement.

Senator MARSHALL—That is one question, and I would appreciate it if you did that. The other question is, taking AWAs into consideration as well—and I understand the figures you quoted before about the percentage break down—how do your pay and conditions compare to other agencies?

Dr Boxall—We will take that on notice, but I will forewarn you that there might be an issue there for the reasons that Mr Maynard outlined.

Senator MARSHALL—If Mr Maynard's issues go to the reasons why questions should not be answered that is fine, but it should fall into those categories and we do not want to open up that debate again today. The other thing I should say is that when I ask you a direct question, Dr Boxall, I am really asking you as the secretary of the department and you should not assume that it means that if I do not say 'has the department' I am not really asking whether you as the secretary of the department know either.

Senator Abetz—Thank you for that guidance!

Senator MARSHALL—I thought it was a little bit rich for Dr Boxall to come back and say that he thought the question was whether he knew personally, not the management team as a whole. If we wanted to get down to that level of pedantry I guess we could, but we could be here for a long time.

Senator Abetz—That was a bit gratuitous, but I will not spend more time—

Senator MARSHALL—Then you should not have commented over me clarifying the position, Minister. Again, we can get into this debate if we want to.

CHAIR—I think we are here for a good time, not a long time, Senator Marshall, so perhaps we will proceed with questions.

Senator Abetz—Where is that in the standing orders?

Senator Marshall—Here for a good time?

Senator Abetz—Yes, it would be a first!

Senator GEORGE CAMPBELL—Is Mr Craig Symon here?

Senator Abetz—Yes, he is right behind us.

Dr Boxall—But he is not here in this capacity.

Senator GEORGE CAMPBELL—What capacity?

Dr Boxall—Craig Simon is no longer general manager of corporate.

Senator GEORGE CAMPBELL—Who is general manager of corporate?

Dr Boxall—Mr O'Sullivan.

Senator GEORGE CAMPBELL—Mr O'Sullivan, are you aware that in previous estimates, in February and May 2004, Mr Symon indicated that graduates were given a choice of an AWA or a certified agreement?

Dr Boxall—We are aware of that.

Senator GEORGE CAMPBELL—Can you explain how this is consistent with Mr Symon's quote in the *Workplace Express* of 15 April 2005, where he is quoted as saying that all the graduates were offered AWAs only?

Dr Boxall—We have dealt with that in two previous estimates, and the department has nothing to add to the effect that the last graduate intake and the intake before were given a choice between AWAs and certified agreements. My recollection of what Mr Symon said in the *Workplace Express* is that given that choice they all chose AWAs.

Senator GEORGE CAMPBELL—I have the *Workplace Express* here and that is not what he said. Are you saying now that graduates are given a choice between AWAs—

Dr Boxall—I am saying that the facts are that, for the last graduate intake, there was a choice between the certified agreement and AWAs, and I am advised that they were all offered an AWA and they all accepted it, and that was the case the year before.

Senator GEORGE CAMPBELL—What about the internet advice which says:

Acceptance of an Australian Workplace Agreement ... is a condition of engagement for all ... DEWR applicants who are new to the ... (APS).

Dr Boxall—That is correct. There has been a change of policy since the last two graduate intakes.

Senator GEORGE CAMPBELL—Are you saying now that all new employees, irrespective of their wish—

Dr Boxall—What we are saying now is that we have a policy change which came into effect on 4 April that all employees from outside the APS will be engaged on the basis of an AWA.

Senator GEORGE CAMPBELL—So, in fact, a refusal, an attempt to exercise choice, by any potential employee will result in them being refused employment?

Dr Boxall—No. We have a number of conditions of engagement, in respect of probation, citizenship, formal qualifications, security and character clearances, health clearance and the acceptance of an AWA.

Senator GEORGE CAMPBELL—Yes, but the bottom line is that, if I seek to exercise my rights under the Workplace Relations Act to have a certified agreement, that is a bar to employment in the Department of Employment and Workplace Relations.

Dr Boxall—The line is that we have exercised our rights under the Workplace Relations Act to only engage employees from outside the APS on the basis of AWAs.

Mr O’Sullivan—There is nothing inconsistent with our policy in the Workplace Relations Act.

Senator GEORGE CAMPBELL—The Prime Minister consistently says that employees have choice: the choice to join a union or not join a union; the choice to have an AWA or a certified agreement. Here you are applying an employment practice as a bar on that individual exercising choice.

Dr Boxall—The department does not accept that.

Senator GEORGE CAMPBELL—How else would you describe it?

Dr Boxall—The way the department describes this is that, from 4 April onwards, all new employees will be engaged on the basis of an AWA. Existing employees on the certified agreement can stay on the certified agreement. Employees who transfer from other APS agencies or are promoted from other APS agencies can go on a certified agreement if they like. They have a choice. What I am saying is that from now on, from 4 April onwards, all staff engaged, including non-ongoing employees, will be on the basis of an AWA.

Senator GEORGE CAMPBELL—I must say, with your turnover, it will not be long until they are all on AWAs.

Dr Boxall—If you have a turnover of 10 per cent, it takes only 10 years to turn over the whole agency, on average.

Senator GEORGE CAMPBELL—It may accelerate it, if that is the approach that you as an agency are taking to employment conditions.

Dr Boxall—It may not too, and that is a business decision that the management has taken.

Senator GEORGE CAMPBELL—It is a form of discrimination.

Dr Boxall—No, it is not. We have had this policy checked out. It is consistent with the Public Service Act and it does not offend the Workplace Relations Act.

Mr Maynard—In relation to your question about choice, the department has made clear in all of its public statements that this is the basis upon which it will engage people from outside the APS. Therefore, anybody who is applying for a position understands that that is the basis upon which they are applying. They choose to apply on that basis.

Senator GEORGE CAMPBELL—Yes. I understand that. That has been one of the major issues that have been raised with AWAs right from the start. It has been consistently denied by this government that the intention was to force people onto AWAs and it has consistently argued that people would have choice. People are being denied choice, starting with—

Senator Abetz—These things have been explained. Senator George Campbell is now making a statement—which is fine—but I know that Senator Marshall has a lot of questions, and he would be very upset if statements were being made at the expense of his questioning time.

Senator GEORGE CAMPBELL—Senator Marshall is a very patient individual.

Senator MARSHALL—Thank you, Senator Abetz.

Senator Abetz—I look after your interests, Senator Marshall.

Senator MARSHALL—You are very cooperative. If you maintain this cooperation I am sure we will finish on time, but somehow I doubt it.

CHAIR—I presume you have some ongoing questions, Senator Campbell.

Senator GEORGE CAMPBELL—Yes. If you tell the minister to stop butting in—

CHAIR—Ongoing questions we are talking about.

Senator GEORGE CAMPBELL—and confusing the issue. As for the AWAs that are offered, do new employees have an opportunity to negotiate their AWAs?

Dr Boxall—Yes indeed.

Senator GEORGE CAMPBELL—And how does that process occur?

Dr Boxall—They discuss with their manager aspects of their AWA. In some cases it is run by the HR area, who indicate whether it is acceptable to the department. That is for non-ongoing employees. Within certain parameters they indicate whether it is acceptable to the department. For ongoing employees the indicative agreement is run by the Remuneration Subcommittee to check whether it is acceptable to the department. If there is not enough time to go through the Remuneration Subcommittee it is dealt with out of session with members of the Remuneration Subcommittee.

Senator GEORGE CAMPBELL—Are they offered a blank sheet of paper or are they offered a pro forma agreement?

Mr O'Sullivan—A copies of typical AWAs for SES and non-SES employees are posted on the department's internet site so that people can have a look at them.

Senator GEORGE CAMPBELL—When a person applies for employment are they offered a standard AWA—

Dr Boxall—No.

Senator GEORGE CAMPBELL—with conditions set out in that AWA?

Ms Moore—An employee who joins the department can negotiate with their manager, subject to the approval of the Remuneration Subcommittee, salary and conditions of

employment as long as they do not contravene any act, such as the provision of long-service leave. AWAs can be tailored to individual needs.

Senator MARSHALL—Is that prior to or after employment?

Dr Boxall—Prior.

Ms Moore—It happens prior to employment.

Dr Boxall—It is an AWA on engagement.

Senator GEORGE CAMPBELL—What I am really asking is whether or not the individual is given a document which sets out basic terms and conditions of employment, whether they then proceed to talk to you about some variations that they may want to make to that document to suit their family circumstances et cetera, or whether they sit down and negotiate with you or someone else over the table, and out of those negotiations a document is created.

Ms Moore—We provide information which provides guidance to those prospective employees so that they know what they can discuss in relation to the content of their AWAs. We are not proscriptive in terms of what they can negotiate but we do like to provide them with some guidance. That is available through the department's internet. They may also ring our recruitment area, which can provide further documentation if they so wish. But it is for guidance so that they can negotiate.

Senator GEORGE CAMPBELL—Is that guidance document on the internet?

Ms Moore—There is information on the internet but we also encourage prospective employees to contact us so that we can give them further information. We also have specific personnel in the HR area who will talk through these matters with prospective employees to assist them.

Senator GEORGE CAMPBELL—Is that further information in writing?

Ms Moore—The further information?

Senator GEORGE CAMPBELL—Yes.

Ms Moore—In terms of information we provide to—

Senator GEORGE CAMPBELL—Do you have a document that you provide them?

Ms Moore—We do have documents, yes.

Senator GEORGE CAMPBELL—Can that document be made available to the committee?

Dr Boxall—We can take it on notice.

Ms Moore—We can take it on notice, yes.

Senator GEORGE CAMPBELL—And you say that the decision on all new appointments was made in April?

Dr Boxall—It took effect on 4 April.

Senator GEORGE CAMPBELL—Who made the decision?

Dr Boxall—Just to clarify the question, the decision to offer AWAs on engagement was—

Senator GEORGE CAMPBELL—I asked: when was the decision made to make all new appointments at DEWR conditional upon signing an AWA?

Dr Boxall—All appointments from outside the APS?

Senator GEORGE CAMPBELL—Yes.

Dr Boxall—That decision took effect on 4 April. It was a decision made by the management board a few weeks before then.

Senator GEORGE CAMPBELL—What comprises that management board?

Dr Boxall—That is in the annual report. The management board is chaired by the secretary. It has on it each of the three deputies, the general manager of Corporate and the chief financial officer.

Senator GEORGE CAMPBELL—Was the minister involved in this decision?

Dr Boxall—No, this is a departmental decision.

Senator GEORGE CAMPBELL—So the minister was not involved.

Dr Boxall—No. We made this decision. Of course we advised the minister of our decision, but it was our decision.

Senator GEORGE CAMPBELL—What is the current status of AWA bargaining within DEWR? Have you sought to extend AWAs to the rest of the work force?

Dr Boxall—The current situation of AWAs in DEWR is that about half the staff of DEWR have AWAs which have already been processed and registered by the Employment Advocate. Ongoing staff are signing AWAs at the rate of 65 a month—more than two a day.

Senator GEORGE CAMPBELL—Can you provide us with a breakdown of the AWAs that have been signed, by job, grade, gender and age?

Dr Boxall—We can provide statistics on the AWAs certainly by job grade and by gender. We might not be able to do it by age, but if we can we will.

Senator GEORGE CAMPBELL—In the circumstances of negotiating these AWAs have staff requested union or other representation to be present?

Dr Boxall—Not that I am aware of—and with Senator Marshall's indulgence, not that I am personally aware. But it is a right of any staff member to have a bargaining agent—which could be a union member, a relative, a lawyer or a friend—with them. That is perfectly acceptable to us and it is well publicised.

Senator GEORGE CAMPBELL—Is anyone able to tell us whether or not these requests have been made?

Ms Moore—I am not aware that a single request has been made in writing for a bargaining agent.

Senator GEORGE CAMPBELL—You are not aware?

Ms Moore—No.

Senator GEORGE CAMPBELL—How many staff have requested a collective agreement?

Dr Boxall—I do not know.

Senator GEORGE CAMPBELL—You are currently negotiating one, aren't you?

Dr Boxall—I do not know how many requested it. I am quite happy to answer the question but I do not understand it.

Senator GEORGE CAMPBELL—How many of the staff in DEWR are seeking to have their terms and conditions regulated by a collective agreement?

Dr Boxall—Presumably, the half that are not on AWAs are interested in the outcome of the collective agreement. But I might add that when we put out our LK collective agreement for a vote, when probably less than half the staff were on AWAs, the number of people who voted was well less than 1,000. So obviously not everybody on the certified agreement elected to vote.

Senator GEORGE CAMPBELL—What is the total number of employees in the department?

Dr Boxall—Nearly 3,000.

Senator GEORGE CAMPBELL—What sort of consultation with the unions is there within DEWR? Is a consultative mechanism established?

Ms Moore—As part of our existing certified agreement we have a staff consultative forum which consists of employee reps and union representation.

Senator GEORGE CAMPBELL—How regularly does that group meet?

Ms Moore—It meets three times a year.

Senator GEORGE CAMPBELL—Do you have an average of the time spent negotiating AWAs with each employee?

Dr Boxall—No, but we can give you some advice on that. It is remarkably efficient. Every second Monday afternoon the remuneration subcommittee, which is management and board plus the chief information officer, meet for an hour and a quarter. We process all the new AWAs, plus all the people on AWAs requesting a variation, which might be a salary increase, a change to their performance bonus or a new clause for gym membership or something like that. My preparation for that meeting probably takes me an hour. I am the chair of the committee. So I spend, say, two and a quarter hours every fortnight on AWAs. No doubt my colleagues on the remuneration subcommittee spend a similar amount of time. HR has to collate all the requests for AWAs and AWA variations and put them together in a folder, so there would be a little bit of staff time there. The important point is that even though the manager and the individual employee spend time discussing the employee's AWA, their pay and their performance bonus, this is all integrated into the performance management system in DEWR and the way we do business. It has created a very positive culture where individual staff members are treated as individuals. They are not treated as if one size fits all. It has had a remarkable effect in terms of productivity and staff morale. The AWA process is ancillary to that.

Senator GEORGE CAMPBELL—Is there a considerable similarity between the AWAs that exist in DEWR or is there a considerable fluctuation in the terms and conditions?

Dr Boxall—Very few AWAs are the same, but the AWAs of people of a similar level or who are in the same labour market would be roughly similar. I think that in the annual report the range of salary, which is only one aspect of an AWA, is given. You could have that checked and you would see that the salary range for an APS 6, for example, would encompass those people on AWAs and the CA.

Proceedings suspended from 3.44 pm to 4.02 pm

Senator GEORGE CAMPBELL—You obviously have two classes of employee within your organisation—those on AWAs and those on certified agreements, which you say are roughly at a ratio of fifty-fifty at the moment. What happens when an employee of DEWR seeks a promotion? Is it a condition of that promotion that they have to go on to an AWA if they are on a certified agreement?

Dr Boxall—No. If somebody on the certified agreement is successfully promoted, they can remain on the certified agreement. It is not conditional that they go on to an AWA.

Senator GEORGE CAMPBELL—And there is no discrimination against people on certified agreements in respect of promotion within the department?

Dr Boxall—Not at all.

Senator GEORGE CAMPBELL—Have there been examples of people who are on the certified agreement being promoted?

Dr Boxall—Yes. Indeed, there have been people on the certified agreement who have been promoted into the SES.

Senator GEORGE CAMPBELL—Over the top of people on AWAs, purely on a merit basis?

Dr Boxall—Yes, completely on a merit basis. Being on the certified agreement has nothing whatsoever to do with it.

Senator GEORGE CAMPBELL—Have you been able to measure the productivity of the department since you introduced this new AWA approach?

Dr Boxall—No, because it only began on 4 April.

Senator GEORGE CAMPBELL—It is a pretty short period. So you have not been able to measure whether it will make a contribution to productivity.

Dr Boxall—It is too early to say.

Senator GEORGE CAMPBELL—How do you see this new policy decision of the department sitting against the merit principles that are enshrined in the values of the Public Service Act?

Dr Boxall—It is completely okay with the Public Service Act and the merit principles.

Mr O'Sullivan—That is absolutely correct. The Public Service Commission is of that view too.

Senator GEORGE CAMPBELL—Have you had them have a look at it?

Mr O’Sullivan—Yes. We took all appropriate advice to ensure that that was the case.

Senator GEORGE CAMPBELL—Have you had legal advice in respect of the issue?

Ms Moore—Yes.

Senator GEORGE CAMPBELL—From A-G’s or outside consultants?

Mr O’Sullivan—From one of our external legal providers.

Senator GEORGE CAMPBELL—Are you able to tell us who that was?

Mr O’Sullivan—It was the Australian Government Solicitor’s Office.

[4.06 pm]

Office of the Employment Advocate

Senator MARSHALL—We have some questions in relation to the small business division. I note that the budget provided an additional \$9 million over three years. The reason given was to improve processing and efficiency and to promote the advantages of AWAs, and for an educational program that will help small business take advantage of the flexibility of AWAs. Can you tell me what the funding levels of this division are for 2004-05?

Mr McIlwain—Yes, we can tell you the distribution of that funding for the current financial year. I will hand over to my colleague, Geoffrey Casson.

Mr Casson—The funding allocation for this financial year was, in total, \$2,654,000 and the actual expenditure to date for this financial year has been \$1,850,184.

Senator MARSHALL—How many staff are in this division at the moment?

Mr Casson—There are 27 staff allocated on a full-time basis and 55 staff with an allocation of 30 per cent of their time. Total employee costs are \$1,409,000.

Senator MARSHALL—With the increased funding levels, what are your new numbers in the division going to be?

Mr McIlwain—These are the staff currently allocated to the activity, using the extra funding which the government has provided for small business initiatives. It is not our intention at this time to further increase the number of staff working in that dedicated way on small business initiatives.

Senator MARSHALL—What do you intend to use the money for, then?

Mr McIlwain—The money is to be used for three broad activities: increasing the efficiency of AWA processing, promoting AWAs to employers and employees in small business and providing educational material on AWAs for small business.

Senator MARSHALL—Yes. I told you that. Maybe I should have been more specific with the question. How is the money going to be spent?

Mr McIlwain—I can give you a disaggregated budget, if you would like. In the current financial year, 2004-05, we forecast that \$1.45 million will be spent on improving the efficiency of AWA processing.

Senator MARSHALL—How is that going to happen?

Mr McIlwain—We have increased the number of staff who are assigned to assess and process AWAs. There have been—

Senator MARSHALL—Maybe I am getting confused. I thought you told me that the new funding was not going to be used to increase your staff numbers?

Mr McIlwain—They have been increased already.

Senator MARSHALL—When were they increased?

Mr McIlwain—It has been progressive. But when the portion of the additional \$2.7 million—near enough—was made available following the election in the additional estimates process, we began in earnest to take on more staff in our processing division. That process is continuing.

Senator MARSHALL—Was that in anticipation of a further significant budget allocation in this budget?

Mr McIlwain—No. It was in anticipation of success in the additional estimates process confirming the government's allocation of an addition \$2.7 million to the OEA in 2004-05.

Senator MARSHALL—So is the \$9 million over three years new money?

Mr McIlwain—That is money that the government indicated would be made available to the OEA in its election policy last year. That was known in September-October 2004.

Senator MARSHALL—All right.

Senator GEORGE CAMPBELL—Is that money a general increase or—

Mr McIlwain—The money is specifically for small business initiatives and that was made clear in the additional estimates process.

Senator GEORGE CAMPBELL—So it cannot be used for any other activities?

Mr McIlwain—We are not using it for other activities, no.

Senator MARSHALL—We will step back a bit, then. What level of staff increase as a result of implementing the government's election promises has occurred? What do you expect them to be?

Mr McIlwain—Twenty-seven staff on a full-time basis. Most of them were staff additional to those who worked in the OEA at the time of the election announcement.

Senator MARSHALL—What are the levels of those staff? Can you give me a breakdown? You may need to take that on notice unless you have it there.

Mr McIlwain—We can take that on notice. They vary from staff at the bottom of our classification structure to staff near to the top of our non-SES structure. We will provide that to you on notice.

Senator MARSHALL—So no SES extra staff?

Mr McIlwain—No SES staff.

Senator MARSHALL—You expect that staffing profile to remain consistent?

Mr McIlwain—For the small business initiatives?

Senator MARSHALL—Yes.

Mr McIlwain—Yes, more or less.

Senator MARSHALL—Does that division have a strategic plan for the coming financial year?

Mr McIlwain—The small business unit, if I can describe it in that way, is part of our client service network, and the client service network has a business plan.

Senator MARSHALL—Are we able to be provided with a copy of the business plan?

Mr McIlwain—Yes, we can provide you with a copy of the business plan.

Senator MARSHALL—Apart from what I read out to you and you read back to me, are there any other specific aims of the division?

Mr McIlwain—We have a small business program prospectus. I am not sure whether it is available on our web site. I could check that. But I do have an unannotated copy of the prospectus which I am happy to table if the minister agrees.

Senator MARSHALL—Okay, and that is the only other project you are running under that division?

Mr McIlwain—The small business program covers all of the initiatives that are funded from that additional \$9 million over three years, or \$12 million over four years.

Senator MARSHALL—Is that the business plan that you mentioned earlier?

Mr McIlwain—No, this is different from the client service network business plan. That is a separate document. I am happy to take it on notice to provide the committee with that.

Senator MARSHALL—So the document that you have just provided us has your project focus, for want of a better description, for the next 12 months?

Mr McIlwain—It has.

Senator MARSHALL—Thanks. When was the small business division established?

Mr McIlwain—If I can just be clear about one thing, we do not have a small business division; we have a small business project team, which is in our client service network, which is best described as a division, in case there was any confusion there. The small business project team was formally put together in January 2005.

Senator MARSHALL—Apart from the objectives which we have both talked about, what was the reasoning or rationale for setting it up?

Mr McIlwain—We believed that it was important that this high-profile initiative be properly resourced in a dedicated way. It is customary in the APS when handed an important new initiative to tackle that by setting up a task force or a project team. We adopted that approach. We believe so far it has been very successful.

Senator MARSHALL—It is measured against what? Do you have targets and goals?

Mr McIlwain—Yes, we do. We have a broad target of increasing the number of AWAs for employees in small businesses by 10 per cent per annum. However, we have some other—

Mr Casson—If I might intervene, the project itself has key project outcomes. As the Employment Advocate has said, the objective of the program is to increase the uptake of AWAs in the small business sector by 10 per cent annually and to increase the number of small businesses using AWAs to improve their workplaces. Four other key project outcomes have already been achieved by the small business team. They are: setting up the small business template, the small business AWA help line, the small business web site and the implementation of a fast-track frameworks lodgment process.

Senator MARSHALL—What is the small business template?

Mr Casson—The small business template is an AWA template that is available to small businesses to guide and assist them in developing their own individualised AWAs for their particular businesses and for their particular employees. It is a guide, or a template.

Senator MARSHALL—I want to talk about target groups for AWAs, specifically non-English-speaking background people, women, young people. What are the current legislative obligations regarding reporting about special interest groups? Can you tell me about the take-up and outcomes for these groups that are presently on AWAs?

Mr McIlwain—The Employment Advocate has a special responsibility to have regard to the needs of people whom the legislation describes as being potentially in a disadvantaged bargaining position. These include some of the groups you have described. They include: people of non-English-speaking backgrounds, women, people with disabilities, and apprentices and trainees, whom you might also describe as young people. We are able to provide, I think, some information on apprentices and trainees and the extent of AWA making amongst that group. If my memory serves me correctly, I think we answered a question on notice, possibly from the last hearing, that provided information on apprentices and trainees making AWAs, perhaps in the current financial year, which we will confirm for you.

Senator MARSHALL—I am happy to take the numbers. You talked about your special obligation to look after these people. How do you do that, and what is it that you do to protect people who may be seen to be disadvantaged in the bargaining process?

Mr McIlwain—If I could take young people as an example, we have we have a youth services web site, which was launched some years ago. That provides information that we believe is of particular relevance to young people. The web site is linked to the OEA's web site. There is a prominent link there that takes you through to a web site, which I guess is a web site of its own, that contains information that we believe is particularly relevant to young people about being offered AWAs about their rights and obligations as an employee on an AWA. We have attempted to provide information that is relevant in a way that is accessible and attractive to young people, to encourage them to use the web site. That has been in place for several years now. In the 12 months to the end of April this year, it had been viewed 619,299 times.

Senator MARSHALL—So that is it: you provide a web site.

Mr McIlwain—We provide a web site, which we believe is an effective way of providing to young people the information specific to them. That is an example—

Senator MARSHALL—So do you think that actually does assist in redressing the imbalance in the bargaining position that you have talked about?

Mr McIlwain—Let me be clear: it is the legislation that describes these people as being potentially in a disadvantaged position. I believe that it having been viewed more than 600,000 times since it was launched is an indication that young people do find it of interest and of assistance. Clearly, those hits are not all one-off hits or single visit hits. A lot of those hits would be return hits.

Senator MARSHALL—But is that the sole source of what you are presenting to us? Is the fact that it has had a number of hits the evidence that it is providing some service in redressing what the legislation says is an imbalance in the bargaining position?

Mr McIlwain—You asked me whether I thought—

Senator MARSHALL—I am just trying to find out. I do not want to make a judgment at this point in time about it; I am just trying to find out what it is you do to redress that imbalance. If it is providing a web site, that is okay. We do not have to go in and justify that. I am trying to find out, if you are relying on the web site to do that, what evidence you rely on to say that the web site is doing that. If it is the number of hits, it is the number of hits. We do not need to get into a big philosophical argument about it. I just want to ask questions and get answers.

Mr McIlwain—We believe that that is a good indication in web site terms of the effectiveness of that web site. It indicates that there are a large number of return users.

Senator MARSHALL—Sure. What about the other categories?

Mr McIlwain—I might tell you what we also do with regard to youth employees. We have published a series of information statements for the parents of young people. We have published model AWA framework for trainees. We have also published model clauses that might be included in AWAs for young people.

Senator MARSHALL—How do young people access those?

Mr McIlwain—Again, all of that information is available on our web site. In regard to the other groups—

Senator MARSHALL—Just to clarify, when you say ‘published’ is that the extent of the publication—that it is available on the web site—or is it provided through other means?

Mr McIlwain—I believe that in the case of the information statements they are available in some New Apprenticeship offices and in some states, where there has been a particular interest or demand for information with regard to AWAs for young people, we have worked with state bodies to provide that information in a kind of reciprocal way.

Senator MARSHALL—How much do you spend on those publications? If you have the information for each category, that would save me asking it each time, which would be useful.

Mr McIlwain—I will take that one on notice, if I may.

Senator MARSHALL—Could you also tell me how much it cost to establish and maintain the web site?

Mr McIlwain—I might be able to tell you that.

Senator MARSHALL—I am happy to have it on notice. If you have it at your fingertips tell me.

Senator GEORGE CAMPBELL—Do you have the figures for the number of young people or apprentices who are on AWAs?

Mr McIlwain—I have some figures for young people. These are people under the age of 21 on AWAs. In the current financial year—that is until 30 April 2005—23,049 AWAs have been approved for persons under the age of 21. This represented 13.6 per cent of all AWAs approved in the financial year to date.

Senator GEORGE CAMPBELL—Do you know what percentage of that is repeat business?

Mr McIlwain—No, I do not.

Senator MARSHALL—What are you doing for women and those with non-English-speaking backgrounds?

Mr McIlwain—I will take those with non-English-speaking backgrounds first. We publish our information statement for employees in a range of community languages—in fact, in 14 community languages.

Senator MARSHALL—Where are they available from?

Mr McIlwain—They are available on our web site.

Senator MARSHALL—Are there different web sites for each of these categories or is it the same web site?

Mr McIlwain—It would be the same web site. It is not clear to me whether these are all available immediately on our web site or whether in fact people are able to make a request to receive copies of them. That is something we will confirm for you.

Senator MARSHALL—Do you have any information on the hit rate on your web site from those with a non-English-speaking background? To be honest, I would have thought it would be fairly problematic for people with non-English-speaking backgrounds. They have to access an English-speaking web site to get into the non-English-speaking-background portion of the web site.

Mr McIlwain—Yes. I do not have that information. As I said, I will check for you to see whether the actual documents are there or whether there is in fact an invitation for employers to seek those information statements in the community language that they require. I would also mention that, in addition to the measures I have just described, we also fund a group of services that we call ‘community partners’ in broad terms. Those services comprise organisations which are community legal centres or working women’s centres. They are funded for the express purpose of providing assistance to people in the categories described by the legislation as potentially disadvantaged in terms of bargaining.

Senator MARSHALL—How many community partners do you have, who are they and how much funding do they get?

Mr McIlwain—We have 13 community partners currently. They are some way through a current two-year contract which runs from 1 September 2004 to 31 August 2006. The total contract cost for that period for the 13 is \$1,361,610.48 including GST.

Senator MARSHALL—What do they do for that?

Mr McIlwain—They answer inquiries from employees who seek assistance principally with regard to the offer of AWAs. But, perhaps more broadly, the employment advocate has a broad remit to provide advice and assistance to employers and employees about the Workplace Relations Act. So they might answer other questions.

Senator MARSHALL—But you would expect this funding to be supporting those groups that are seen to have potential disadvantage? That is the purpose of the funding?

Mr McIlwain—Yes, that is the purpose.

Senator MARSHALL—That overlaps a bit with women?

Mr McIlwain—It would.

Senator MARSHALL—Tell me what else you are doing for women.

Mr McIlwain—That is the principal measure that we undertake to provide services to women who are being offered AWAs.

Senator MARSHALL—Are women doing badly out of AWAs?

Mr McIlwain—No, women are not doing badly out of AWAs.

Senator MARSHALL—I think it has been reported that your office is looking into statistics which show that women's average weekly pay under an AWA has significantly decreased from \$674.70 per week in 2002 to \$636.60 per week in 2004. Are you looking into those statistics?

Mr McIlwain—We are looking into those statistics, which are statistics from the Australian Bureau of Statistics employee earnings and hours survey of May 2004, which was published in 2005, only a couple of months ago. What that same set of data shows is that women on AWAs earn more on average than women on CAs. In the private sector it is two per cent more and in the public sector it is 51 per cent more, on average.

Senator MARSHALL—That is a comparison on average compared to certified agreements and AWAs?

Mr McIlwain—That is correct.

Senator MARSHALL—But what do you say about the average decrease of women on AWAs?

Mr McIlwain—What we—

Senator MARSHALL—Again, I am not looking to engage in a philosophical argument about this. There are obviously different sets of figures from which you can deduce different conclusions. If you want to give me all the information, that is fine, but I specifically want to look at the figures that show that the average weekly earnings for women on AWAs is actually decreasing.

Mr McIlwain—We are still looking at the data and we have obtained unpublished data from the Australian Bureau of Statistics, as we do when the survey is published every two years. We have made an initial analysis of that data. We need to dig deeper. But what we believe to be the case is that, as the number of AWAs in the work force increases and the spread across industries and the penetration within industries obviously also increases, and more AWAs are being made in employment categories, regardless of the employment instrument is in place, pay outcomes are lower than they might be in other employment categories. So we would—

Senator MARSHALL—So what is the increase in AWA take-up over that period for women?

Mr McIlwain—For women I am not able to say. Off the top of my head—

Senator MARSHALL—I thought you were relying on that as the argument.

Mr McIlwain—One of my colleagues will find the gender split for AWAs while I speak. In the last three years more than 400,000 AWAs were made. That is a dramatic increase. That inevitably is going to have a forceful effect on the employee earnings and hours data, as revealed by that ABS survey. As I said, we believe that the phenomenon that may be in operation here is one that sees more and more employees in all industries and in all employment categories being covered by AWAs.

Senator MARSHALL—Maybe.

Mr McIlwain—But comparative with the data in the previous ABS survey two years ago, more women in employment categories in industries are on AWAs than before in industries and in employment groups where, regardless of the employment instrument in place, pay outcomes are less than they might be in other industries and other employment groups.

Senator MARSHALL—Yes, and that may be an explanation and it may not be what comes out of it. I am wondering when and how you will be reporting on your analysis of those statistics and whether, regardless of the findings, it will be a public document.

Mr McIlwain—It is my intention that we will publish our analysis of those statistics.

Senator MARSHALL—Do you know when you might be doing that?

Mr McIlwain—I would think it would be in the next 12 weeks or so. I am now able to tell you the gender split for AWAs for the period 1997 until June 2003.

Senator MARSHALL—Let me be clear, because that is a big period over the life of a number of AWAs. What do those figures include? Before you give them to us, so that I understand what you are saying, are those AWAs that have been made and simply sit there so it is a cumulative effect?

Mr McIlwain—That is the cumulative total. If you prefer, I can give you the 2003-04 financial year figures, which I also have to hand.

Senator MARSHALL—Do you know which ones are rolled over or improved, or does every AWA stand alone as a new AWA?

Mr McIlwain—For the purposes of that cumulative total, every AWA ever approved is—

Senator MARSHALL—Of course, for the cumulative total, but it is not very useful information to anyone, is it?

Mr McIlwain—As I said before in my evidence to the committee, some of those AWAs will be second AWAs, third AWAs and possibly even fourth AWAs.

Senator MARSHALL—That is why I am asking: do we know that?

Senator GEORGE CAMPBELL—Until you separate those figures it is very hard to test the extent to which there has been penetration of AWAs across industry. You do not know how many of them are repeat business.

Mr McIlwain—What I can tell you is that in the last three years—the most common nominal expiry date for an AWA is three years—more than 400,000 AWAs have been approved. In fact, if my memory serves me correctly, the figure is 432,000. When I am asked to provide a figure for operative AWAs, I provide that figure, because I believe it to be based on sound methodology.

Senator MARSHALL—So that I understand that, are you saying that over a three-year period that is how many have been approved? I understand the logic of why you say that but you do not know how many are still in operation, whether someone was employed for six months and then moved on to another job, so the AWA in effect is inoperable. You do not know that information, or do you?

Mr McIlwain—No, that is true.

Senator MARSHALL—I am just asking.

Mr McIlwain—I do not know with regard to an individual AWA plucked out of those 432,000 whether—

Senator MARSHALL—Is there no obligation to terminate one once it has been made?

Mr McIlwain—No, there is not. An AWA may be terminated in several ways but when an employee ceases the employment to which that AWA pertained, the AWA ceases to operate. When an employee signs a new AWA, either with a new employer or with the same employer, that AWA begins to operate and any previous AWA that covered that employee ceases.

Senator MARSHALL—If we had a three-year AWA and then someone said, ‘I want to change it because my circumstances and family arrangements have changed; we can negotiate another one within six months,’ that replaces the old one but, as far as your statistics would go, there would be two operating AWAs, would that be correct?

Mr McIlwain—In that example, yes.

Senator MARSHALL—I am not suggesting that that happens all the time.

Mr McIlwain—No. On the other hand, where an AWA was made before the last 36 months and is still operating, that AWA would not have been counted in the 432,000. So there would in fact be a countervailing effect. There are AWAs in operation not counted in that methodology of 432,000 in three years.

Senator MARSHALL—Sure.

Senator GEORGE CAMPBELL—Is the total work force about 8 million?

Mr McIlwain—Yes. I believe it is about 8.3 million.

Senator GEORGE CAMPBELL—An article from the *Weekend Australian* breaks up AWAs—and the figures must have come from your organisation—into manager, non-manager, male, female, public sector and private sector.

Senator Abetz—Is that the latest *Weekend Australian*?

Senator GEORGE CAMPBELL—It was 16 April. It looks like the information came from the Office of the Employment Advocate. For the AWAs that are in existence, do you have a breakdown of the numbers in each of those categories?

Mr McIlwain—No. We would not have a breakdown. If I am thinking of the same article in the *Weekend Australian*, I believe it is data from the OEA, Access Economics and the ABS. I think it could be an extrapolation on the part of the journalist of ABS data from the employees' earnings and hours survey—the one we have just been speaking about.

Senator GEORGE CAMPBELL—So you do not have a breakdown?

Mr McIlwain—No, we do not.

Senator GEORGE CAMPBELL—What facilities and services do you provide to non English speaking workers who are in the process of negotiating AWAs?

Mr McIlwain—We have a national telephone advisory service, which is a call centre, that is available to all employers and employees and, in fact, to all Australians who have a question about the OEA, AWAs or some other matter under the Workplace Relations Act. A percentage of our callers are from non English speaking backgrounds. That call centre number, which is a local call cost number, is made widely available on all of our promotional material. If somebody from a non English speaking background telephones our advisory service, the call centre, and they are able to indicate what language they speak, we will use the services of the telephone interpreting service, and we will then provide the information that that employee is seeking via the TIS interpreter.

Senator GEORGE CAMPBELL—Do you provide them, or do you require the employer to provide them, with copies of the proposed AWA in their natural language?

Mr McIlwain—No. That is not a requirement of the OEA, nor is it a requirement of the Workplace Relations Act.

Senator GEORGE CAMPBELL—Would they not be severely disadvantaged in those circumstances?

Mr McIlwain—We provide, as I said before, the employee information statement in 14 community languages, which I am now advised are in fact available on our web site.

Senator GEORGE CAMPBELL—But the employee information statement you are talking about is a general statement.

Mr McIlwain—It is.

Senator GEORGE CAMPBELL—With all due respect, it would not indicate to them the specific terms of their AWA.

Mr McIlwain—But prominent on that information statement, if my memory serves me correctly, again is the telephone interpreting service number, and I believe also, in that community language, advice on what that service provides.

Senator GEORGE CAMPBELL—But you are dealing, with all due respect, with a range of workers who do not understand English and who have relatively low levels of education. There have been numerous examples of AWAs coming into your office from non English speaking background workers who have absolutely not understood what in fact they were signing up to and what they were being offered.

Mr McIlwain—I am not aware of there having been complaints to the OEA that employees have not understood what was being offered to them or had not had the opportunity to have explained to them, in their own language, the content of an AWA. But I think it is important to make—

Senator MARSHALL—But do you satisfy yourself that they have had it explained to them?

Mr McIlwain—We satisfy ourselves by making available the information statement in 14 community languages on our website, prominently displayed.

Senator GEORGE CAMPBELL—But how do you know that—

Mr McIlwain—The point I want to make is that I am not aware of awards and certified agreements being translated into community languages.

Senator MARSHALL—That is a point you can make, but I am not sure it particularly assists in this area. This is something that is being negotiated—

Senator Abetz—I am not sure I've seen interpreters at union rallies for these workers, but—

Senator GEORGE CAMPBELL—The truth is, Minister, we do.

Senator Abetz—Really?

Senator GEORGE CAMPBELL—We would not expect you to know that, of course, but we actually do.

Senator Abetz—Yes—on a very regular basis!

Senator GEORGE CAMPBELL—We do.

Senator MARSHALL—So I can relate the answer back to the question, which particular question were you answering, Minister?

Senator Abetz—We were starting to develop down an argumentative line, and I was just suggesting to you that it would not be a very sensible course.

CHAIR—I think we should proceed with questions. I am sure that you are expecting an answer, Senator Marshall.

Senator MARSHALL—That's right. The question was: is that the extent of you satisfying yourself that people understand what is in their AWA? I want to be clear on whether or not that is the extent of the check.

Mr McIlwain—There is the information statement available in the 14 community languages. There are the 13 community partners—working women’s centres or community legal centres—located in every state of Australia, who have a special remit, paid for by the OEA, to assist people in certain categories, including non English speaking background. Our own NTAS—national telephone advisory service—makes use of the telephone interpreting service when telephoned by employees of a non English speaking background. All of those measures combined are what the OEA does to satisfy itself that there are adequate and effective avenues available for employees of a non-English speaking background.

Senator MARSHALL—But you don’t actually do anything proactive. What you do to satisfy yourself is rely on the fact that those people have the ability to access information, in your view. You don’t do anything yourself, as the OEA, to ensure that an AWA that comes across your desk is understood by the individual. That is what you are saying to us, isn’t it?

Mr McIlwain—Combined, the measures I have described allow us, we believe, to be satisfied that there are effective avenues available for employees of a non English speaking background to have their questions about an AWA or an AWA offer process answered.

Senator GEORGE CAMPBELL—The industry partners you have described—there are 13 of them?

Mr McIlwain—There are 13 community partners.

Senator GEORGE CAMPBELL—Don’t you have industry partners as well?

Mr McIlwain—We have industry partners, but they perform a different function.

Senator GEORGE CAMPBELL—How many of those are there?

Mr McIlwain—I will get that figure for you—it is over 100.

Senator GEORGE CAMPBELL—Can you tell me how many of those 100-plus industry partners are either registered trade unions or registered employer organisations?

Mr McIlwain—There are 125 industry partners as at 30 April 2005. None of them are registered trade unions. I believe a little over 50 per cent are industry or employer associations. The other 50 per cent would be lawyers, accountants and consultants.

Senator GEORGE CAMPBELL—So there are registered employer unions that are working with you as industry partners?

Mr McIlwain—About 60 or so employer and industry associations are OEA industry partners.

Senator MARSHALL—Can you provide that list to the committee?

Mr McIlwain—Yes.

Senator MARSHALL—There are proposed changes that all future AWAs and certified agreements be lodged with your office. How do you intend to manage the increase in this workload?

Mr McIlwain—It is a little early for me to speak in anything but the broadest terms. By the time the legislation has been drafted and then introduced into the parliament, and we are able to see exactly what the government intends, we intend to already have established a task

force within the OEA that will consider all of the implications for the organisation of the government's intended changes.

Senator MARSHALL—Is the money allocated in the budget going to cover those requirements? Or are they seen as extra? We talked about the increase in the budgetary allocation earlier and I thought you had indicated that that was for specific purposes. Is this within the budget allocation or will you require extra funds to do this?

Mr McIlwain—I am unable to say at this stage. I simply do not know.

Senator MARSHALL—Was it something you anticipated?

Mr McIlwain—It will certainly be something that we give long careful consideration to. We will be obviously speaking with the government about what we believe to be the resource requirements of the OEA to undertake different or changed activities.

Senator MARSHALL—Has the government indicated that there will be more resources provided if required?

Mr McIlwain—I have not discussed it with the minister at this stage.

Senator MARSHALL—You may have given us some of these figures already—and you may need to take this on notice; I see you have a computer there and note that you have been fairly good with providing figures so far—but can you provide up-to-date figures outlining the comparative average weekly wages for workers expressed as managers and non-managers, males and females, public sector and private sector covered by awards, individual contracts, AWAs and enterprise bargaining agreements? If you can give me all of them now, you will have done very well.

Senator Abetz—I think we have a short answer on that one.

Mr McIlwain—I will take that one on notice, if I may.

Senator MARSHALL—That is very wise.

Senator GEORGE CAMPBELL—Why did the OEA blow its budget in 2004-05?

Mr McIlwain—I will ask Ann Skarratt, our corporate director, to answer that question.

Ms Skarratt—Are we talking about the budget for 2004-05? At this stage we have not yet completed the year. Can you clarify the question please?

Senator GEORGE CAMPBELL—Why did you blow your budget? I understand there was a blow-out of \$2.73 million for the 2004-05 year. That is according to the portfolio budget statement.

Ms Skarratt—I do not think that is correct. I think you are looking at the original budget, which was \$18.2 million. Added to that were additional estimates, of which we received \$2.7 million, so the OEA's total budget was actually \$20.9 million for 2004-05. We expect to finish very close to that figure. Perhaps there will be a very small overspend of less than 1 per cent, up to maybe \$200,000. That is indicated in the 2005-06 portfolio budget statements. If you look there you will be able to see that the projection is very close to the actual budget figure.

Senator GEORGE CAMPBELL—The portfolio budget statement of 2004-05 had you with an amount of \$18.1 million.

Ms Skarratt—That is right.

Senator GEORGE CAMPBELL—The current statement shows you spending \$20.8 million.

Ms Skarratt—That is correct. In between those two things we had additional estimates for small business—the money that we were talking about earlier with Senator Marshall. So that was added on to the \$18.2 million.

Senator GEORGE CAMPBELL—So the \$2.7 million was the small business money.

Ms Skarratt—Yes. So that gives us a total of \$20.9 million. If you go to page 48 of the portfolio budget statements for 2005-06, you will see the estimated actual expenditure for the OEA. It is about halfway down that page, under output 2.2.2—Assistance to the Employment Advocate. The estimated actual expenditure showing there is \$20.9 million. It is the 2005-06 PBS, not the 2004-05.

Senator Abetz—I think we have discovered where the money has come from and that there was no blow-out, which is important for the public record.

Ms Skarratt—You will see there that the estimated actual figure is very close to the budget.

Senator GEORGE CAMPBELL—Did you request additional funding for 2005-06?

Ms Skarratt—Yes, we did request that. In fact, you will see on page 52 of the same portfolio budget statements for 2005-06 that, under the OEA's new output number of 2.2.2, the funding we have been allocated for 2005-06 is \$23.2 million. So it has gone up by a further \$2.3 million.

Senator GEORGE CAMPBELL—Is that for general allocation?

Ms Skarratt—Yes.

Senator GEORGE CAMPBELL—It is not a specific allocation for any particular purpose.

Ms Skarratt—It is to enable the OEA to process the volume of AWAs that are coming through, more generally.

Senator GEORGE CAMPBELL—Have you prepared an internal budget for the coming year?

Ms Skarratt—We have prepared a draft of an internal budget, but it has not been finalised at this stage because the budget only came out a couple of weeks ago.

Senator GEORGE CAMPBELL—Can that be provided to the committee when it is finalised?

Ms Skarratt—Yes. I will have to take that on notice because it will not be ready for a few weeks yet.

Senator GEORGE CAMPBELL—Mr McIlwain, what process is followed within your office when you receive a number of AWAs from the same employer? Do you check each individually? Do you contact each employee individually?

Mr McIlwain—I will take the last part of your question first. Yes, we contact every employee for whom an AWA is lodged. We do that via a letter that is sent to their residential address. To answer the first part of your question, where AWAs are submitted in identical or substantially the same terms, once we have confirmed that, we do not perform an NDT over and over again afresh. That is if they are submitted in identical or substantially the same terms either for one employer or for different employers.

Senator GEORGE CAMPBELL—If you receive multiple AWAs from an employer and, when you check them, you find that they are in identical or substantially the same terms, do you seek to obtain from the employees advice as to whether or not they were given the capacity to negotiate their agreement or whether they were simply given a ‘take it or leave it’ offer?

Mr McIlwain—No, we do not ask the employee that question. I think the important point to make is that, whilst the act provides that AWAs may be individualised in almost an infinite variety of ways, the act does not require that AWAs be individualised.

Senator GEORGE CAMPBELL—No, but I thought the spirit behind AWAs was to meet the individual needs of each employee—

Mr McIlwain—Indeed it is.

Senator GEORGE CAMPBELL—and that the spirit of the process was that people would be given the right to negotiate their own agreement.

Mr McIlwain—Indeed it is and, in advising individual employers of best practice in AWA making, we tell them that we think it is an excellent idea for them to consult with their employees, either individually or via consultative mechanisms that they might have in place, to find out what groups of employees or individual employees would like to have in their AWAs. We see that as best practice.

Senator GEORGE CAMPBELL—Do you have any knowledge of how many AWAs have been registered where the employees have not been given the opportunity to negotiate?

Mr McIlwain—No, I do not have that information. In filing and approving AWAs, we apply the statutory tests. It is not a statutory test that every AWA be different from every other AWA.

Senator GEORGE CAMPBELL—Why have you outsourced your core functions to private sector organisations?

Mr McIlwain—We have not outsourced any core functions to private sector organisations.

Senator GEORGE CAMPBELL—What is the role of these industry partners, then? What do they do?

Mr McIlwain—Industry partners help employers and their employees to make AWAs.

Senator GEORGE CAMPBELL—But aren’t they also responsible for promoting and providing advice on AWAs?

Mr McIlwain—They do provide advice on AWAs, and I believe that some would also promote the benefits of AWAs.

Senator GEORGE CAMPBELL—But doesn't it create an imbalance in respect of the process if you have industry partners who are registered employers unions representing or being involved in the negotiations between individual employees and the employer in respect of the outcome of AWAs? Isn't this skewing the system in favour of the employers?

Mr McIlwain—I cannot see any imbalance. The act also provides that every employee can appoint a bargaining agent to assist them in the AWA process. The bargaining agent can be a friend, a fellow worker, a family member, a lawyer, a clergyman and also a trade union organiser or trade union delegate.

Senator GEORGE CAMPBELL—We understand that, but it is also true that in practice when most employees go for employment they are given an AWA and told to sign. The norm is that that AWA has usually been drawn up and negotiated, or the template has been prepared by, an employers registered organisation. I am trying to establish what protections there are in this process for employees to ensure that they get a fair shake.

Mr McIlwain—I have already spoken this afternoon about the protections that the act provides. I have spoken also about the measures that the OEA has put in place to ensure that the interests of employees are protected as required by the act when they are offered an AWA. And I have spoken about our funding of our community partners, which are the other side of the coin, and our industry partners. We have those 13 organisations around the country. In addition to that we have our national telephone advisory service which also provides advice and assistance directly to employees who call in and ask for that assistance.

Senator GEORGE CAMPBELL—Does your organisation do any random sampling? Do you pay random visits to factories to test whether or not AWAs have been made consistent with the act?

Mr McIlwain—No, we do not do random visits to work sites.

Senator GEORGE CAMPBELL—Why not?

Mr McIlwain—We do not believe that it is the most effective use of taxpayers' resources in ensuring that the objects of the act are met.

Senator GEORGE CAMPBELL—Surely one of the objectives behind your role is to ensure that employees are being properly treated in the workplace, consistent with the terms of the act.

Mr McIlwain—We take other measures—

Senator GEORGE CAMPBELL—Such as?

Mr McIlwain—to ensure that each employee who has been offered an AWA is aware of their rights under the Workplace Relations Act.

Senator GEORGE CAMPBELL—What other measures?

Mr McIlwain—In addition to the measures I have already mentioned, we send to every employee—I think I have already mentioned this too—a letter. We call it the genuine consent letter, because genuine consent is a requirement of which I must be satisfied before I or my delegate approves an AWA. The genuine consent letter sets out in clear, plain English the requirements upon an employer in lawfully offering an AWA. That goes to each employee's

home address. The OEA has imposed a 14-day moratorium, if I can describe it that way—it was a decision made in the very earliest days of the AWA—on the approval of every AWA. That gives the employee receiving that genuine consent letter 14 days in which to call the OEA if they have concerns about the process or to call one of our community partners if they have a concern about the process. I am also able to confirm that there is an information sheet attached to that genuine consent letter that contains the material I have just told you about. There is a segment of that information sheet in 16 community languages. That is what we do to ensure that employees understand what they are entitled to when they are offered an AWA.

Senator GEORGE CAMPBELL—And you are absolutely satisfied that, after going through all this process, they fully comprehend what they are signing up to?

Mr McIlwain—I am satisfied that we have provided abundant avenues for employees to seek the advice that they need to give genuine informed consent to their AWA.

Senator GEORGE CAMPBELL—Are these community groups or industry partners paid an income in respect of the assistance they provide in negotiating AWAs?

Mr McIlwain—We provide a grant. It is best described as that. It is not—

Senator MARSHALL—You have told us about the community partners. What about the industry partners?

Mr McIlwain—I beg your pardon, the industry partners. No.

Senator GEORGE CAMPBELL—They receive no remuneration whatsoever?

Mr McIlwain—No.

Senator GEORGE CAMPBELL—The community partners receive a grant?

Mr McIlwain—The community partners receive, as I have said, over the current two-year contract about \$1.6 million.

Senator GEORGE CAMPBELL—Why do you distinguish between the two?

Mr McIlwain—Because the industry partners have a commercial interest, clearly, and the community partners are community organisations.

Senator GEORGE CAMPBELL—How do you select the industry partners?

Mr McIlwain—We have a criteria for industry partners. To become an industry partner, an organisation must meet the following criteria: they must have a member or client base relevant to AWA making; they must have a track record of providing quality advice about workplace relations issues, and in particular about AWAs; they must maintain regular communication with their members or clients—for example, through newsletters, meetings or briefings; they must have established experience working with government agencies; and they must foster, through their efforts, a performance culture with a commitment to innovation in workplace relations.

Senator GEORGE CAMPBELL—Do you carry out any reviews in respect of the way in which these industry partners are applying the no disadvantage test?

Mr McIlwain—There is an annual review, and all industry partners are expected to meet a set of criteria for ongoing membership of the program. Those criteria are—and some of the

language is jargon; it is related to the work of the partners in the OEA—that they are an active e-lodger of AWAs which meet the requirements of the Workplace Relations Act; that they are an active supporter of OEA activities and initiatives; that they actively promote better work and management practices; that they actively help resolve alleged breaches of the Workplace Relations Act in regard to part 60 or breaches of approved AWAs; and that they are active supporters of a more efficient process for the lodgment, filing and approval of AWAs. Partners are expected to meet those criteria to remain members of the program.

Senator GEORGE CAMPBELL—Can you explain again for my benefit why you do not believe that it represents a conflict of interest when an industry partner can receive payment from an employer, as a member, to represent them and at the same time can act impartially on behalf of the employee and employer in striking an AWA.

Mr McIlwain—I think all of our industry partners would operate either on a fee-for-service basis if they have clients or on a subscription basis if they have members, if they are an industry or employer body. I do not see how the services that they provide to workplaces with regard to AWAs under those arrangements within that framework differ from the services that they provide to workplaces under the same or almost identical arrangements, where they are providing advice on certified agreements or awards.

Senator GEORGE CAMPBELL—There is a significant difference, because the employees in those circumstances are represented by their unions.

Mr McIlwain—There is no impediment in the law to an employee offered an AWA being—

Senator GEORGE CAMPBELL—I am not suggesting that there is, but you well know—I do not know if you keep the figures—that the vast majority of AWAs are made without the employees being represented.

Mr McIlwain—That must be their choice, then.

Senator GEORGE CAMPBELL—It is Hobson's choice in many respects.

Senator Abetz—That is an argumentative position.

Senator Marshall—It is a position that has been put. Mr McIlwain, can you explain the e-lodger to me? I got the impression that you said your industry partners would actually confirm through this e-lodger process whether or not the AWA conforms. Is that what you were telling me?

Mr McIlwain—No.

Senator MARSHALL—Can you explain what the e-lodger process is, then?

Mr McIlwain—More than 80 per cent of AWAs are lodged electronically. Electronic lodgment has significant benefits both for employers and employees and for the OEA and, through the OEA, more broadly for the taxpayer. The process when lodgment occurs electronically is dramatically cheaper; cheaper not only for employers but for the taxpayer as well.

Senator MARSHALL—So there is no overseeing role. Your industry partners have to be able to lodge them?

Mr McIlwain—Yes.

Senator MARSHALL—So who do they lodge it on behalf of, the employee or the employer? What is the normal process with AWAs?

Mr McIlwain—The normal process is on behalf of the employer.

Senator MARSHALL—I thought you also indicated that they had to be committed to dispute resolution. What role may they play in a dispute between an employee and an employer?

Mr McIlwain—They help actively in the resolution of alleged breaches of part 60 of the act for AWAs or the resolution of alleged breaches of approved AWAs. Part 60 of the act is about the process. There may be allegations that something was wrong with the process, as opposed to allegations that an AWA already approved is not now being honoured by the employer. An AWA breach is like an award breach. We require them, where such allegations are made, to cooperate quickly and fully with us in assisting in whatever investigation or process that the OEA undertakes.

Senator MARSHALL—What might you expect them to do, typically, in that process?

Mr McIlwain—We would expect them to provide the information that we are seeking very promptly and we would expect them to make very clear to the employer what his or her legal responsibilities are in terms of providing documentation to the OEA—things of that nature.

Senator MARSHALL—I do not want to make an enormous point of this but this somewhat comes back to the point that Senator Campbell was making about the conflict of interest. Potentially, you are asking someone who takes a fee from an employer—a member organisation, as you put it—or a subscription, if they are providing a professional service, not to act in the employer's interest in resolving that. How do you overcome that? That has to be a conflict.

Mr McIlwain—I understand the point you are making. What I would say, though, is that we believe it is absolutely in the employer's interest that any allegation regarding an AWA breach, for example, is resolved as quickly as possible. While in perhaps a strict technical sense someone might argue that there is a conflict of interest, we see no conflict of interest. We believe it is in the best interests of the employer to have the problem—whatever it might be—sorted out promptly in his or her workplace. We expect our industry partners to be active participants in assisting to sort out that problem.

Senator MARSHALL—But what you are describing is a perfect world. Quite frankly, if it was in everyone's best interests and everyone was acting appropriately it would never get to that point anyway, but it has. I take what you have said, though.

Mr McIlwain—Perhaps another thing I should say is that our preference always is of course that, where there has been a problem, the issue is resolved through voluntary compliance. That is what we always attempt to achieve. If you look at the role of the OEA and the role of an industry partner, within that scenario these issues of more technical conflicts of interest are less likely to arise.

Senator MARSHALL—You also talked about a letter and information sheets you send to every employee who has had an AWA lodged. Is that a standard letter?

Mr McIlwain—It is.

Senator MARSHALL—You may have provided it to the committee before, but if you have I have not seen it. Could you provide the standard letter and the information sheets?

Mr McIlwain—Certainly.

Senator MARSHALL—Thank you. Again, I just want to be clear on the issue. You were asked earlier about what funding is applied to the industry partners, and you said that there is none. Because they have a commitment to the same ‘philosophy’, for want of a better word, to promoting AWAs, they do it willingly. Putting direct funding for that service to one side, do any of your industry partners receive any other form of funding—for example, grants, or financial support from your office?

Mr McIlwain—There is no transfer of funds of any kind or any amount from the OEA to industry partners.

Senator MARSHALL—When you say the OEA, I accept that. What about from the overall department, from DEWR?

Mr McIlwain—I am not able to answer questions about funding from other areas of the portfolio.

Senator MARSHALL—That is all right. That was probably not an appropriate question to ask you.

Senator Abetz—Just off the top of my head, in relation to a lot of those organisations that I saw, the chances are they would get funding under ‘services’.

Senator MARSHALL—Did we ask you to provide that list?

Mr McIlwain—You did, yes.

Senator MARSHALL—And you are going to do that. When an AWA is lodged electronically, do you ever see and/or keep a signed copy of the AWA?

Mr McIlwain—We do not see a signed copy. However, there are very stern admonitions to employers and their agencies in the system with regard to their legal responsibilities. Every AWA which is lodged with the OEA must be signed. That is a requirement of the law—both the employer and the employee must sign the AWA. An AWA can be lodged over the internet, just like a tax return, for example, as long as the parties meet certain requirements that are set out not only in the Workplace Relations Act but also in the Electronic Transactions Act.

Senator MARSHALL—Do you rely on that letter that you talked about earlier coming back and saying, ‘I’ve agreed to the AWA.’ I have not seen the letter, but I am assuming that, in essence, that is what it says.

Mr McIlwain—Every employee for whom an AWA is lodged electronically would receive the genuine consent letter, just as every employee for whom an AWA is lodged in paper receives the genuine consent letter by post.

Senator MARSHALL—Have you ever approved an AWA without a genuine consent letter or without sighting a signed copy of the AWA?

Mr McIlwain—No. The system is automatic. If an AWA is filed by the OEA, the system generates automatically a genuine consent letter which goes to that employee's address. For every AWA filed, a genuine consent letter is generated.

Senator MARSHALL—Did I ask you earlier what the percentage of electronic lodgment was? I think you may have mentioned it in passing.

Mr McIlwain—Yes, I mentioned it. It is in excess of 80 per cent of AWAs.

Senator MARSHALL—And you are obviously promoting that as the preferred way?

Mr McIlwain—It has considerable benefits.

Senator MARSHALL—But do you have a target to increase that?

Mr McIlwain—We would desirably like to have 100 per cent of AWAs lodged electronically, but we will always maintain a postal lodgment arrangement for people who do not have access to the internet.

Senator MARSHALL—Are you aware of the BGC Contracting Pty Ltd v CFMEU case in the Federal Court?

Mr McIlwain—Yes, I am.

Senator MARSHALL—Can you confirm that in that case there was uncontested evidence given that an AWA was approved by the OEA despite the fact that the employee who was bound by the AWA had never seen, let alone signed, it until after the OEA's approval of it?

Mr McIlwain—Yes, I can. I believe the evidence—

Senator MARSHALL—There are smiles all around, so I suspect you have a good answer for me. Is that right?

Mr McIlwain—We do, and in fact why don't I—

Senator MARSHALL—I am very pleased that you have anticipated this question.

Mr McIlwain—hand this immediately to my colleague Mr Rushton, the Senior Legal Manager of the OEA.

Mr Rushton—We are aware of the case in the Federal Court. The case in fact related to an issue of union right of entry—the state right of entry provisions and their intersection with federal right of entry provisions. It involved some discussion of AWAs, but the final decision related to the intersection between state and federal right of entry. Justice French found that the state right of entry laws were not excluded by either or all parties being on AWAs, if they were, or indeed by the federal right of entry provisions. That was his finding.

Senator MARSHALL—I know, but the case was not about whether you did or did not approve an AWA without him sighting it. What I put to you is that there was evidence given in that case that was uncontested that there was an AWA approved by the Office of the Employment Advocate without the employee who was bound by that AWA ever having seen it or signed it. The question I have asked is: what do you say to that?

Mr Rushton—I should indicate that the OEA was not a party to those proceedings. Justice French made some comments but, as I said, the case was not about the issue of signing AWAs—

Senator MARSHALL—No, it was not.

Mr Rushton—and as such the comments that he made were strictly speaking obiter dicta.

Senator MARSHALL—Can you provide to the committee a copy of the genuine consent letter of that employee?

Mr Rushton—We can provide a copy of the genuine consent letter that was sent to that employee.

Senator MARSHALL—Okay! Can you provide a copy of the signed genuine consent letter from the employee that says that he genuinely consented to that AWA?

Mr McIlwain—Can I clarify this point?

Senator MARSHALL—Let me ask: does that letter exist? I do not really want to see it. The point I am making is—

Mr McIlwain—Sure. I can clarify this point. The letter does not require the employee to sign it and return it. The letter provides the employee with information about what is a proper and lawful process for the offering of an AWA. It asks them to telephone the OEA if one of those things has not occurred and it provides our national telephone advice service number.

Senator MARSHALL—All right. I am not saying that you misled me, but I must have jumped to the conclusion that the purpose of that letter was for you to be satisfied that the person genuinely made that agreement. However, there is no way of your knowing that because you have simply sent it to them and you do not know whether they received it or whether they agreed to it. Let us come back to the electronic lodgment process. How do you know that agreements that have been lodged electronically have actually been signed and consented to by the employee?

Mr McIlwain—We know because we send to every employee the genuine consent letter which, amongst—

Senator MARSHALL—But you do not know whether they get it or not.

Mr McIlwain—We send it to their residential address.

Senator MARSHALL—You do not know whether they get it or not!

Mr McIlwain—We send it to their residential address!

Senator MARSHALL—So what?

Mr McIlwain—That is what, for example, the tax office does with the vast majority of its tax notices—it sends them to the employee's residential address.

Senator MARSHALL—Yes, but the tax office expect a response, and if there is not a response, they follow it up. You do not expect anything. You have no idea whether or not people have received that genuine consent letter.

Mr McIlwain—We do send it to their residential address.

Senator MARSHALL—I understand that. That is your evidence. I am putting to you, though: how do you satisfy yourself that the person has genuinely consented? Simply by

sending them a letter? It is a giant leap of faith, firstly, to assume that they have received it and, secondly, to assume that they have understood it and that they genuinely consent.

Senator GEORGE CAMPBELL—That is what they do.

Mr McIlwain—The act does not require us to send the letter.

Senator MARSHALL—No.

Mr McIlwain—This is an initiative of the OEA which has been in place since the first AWAs were lodged.

Senator MARSHALL—I understand that. Do you sight in every instance a signed copy of the AWA before you approve it?

Mr McIlwain—When an AWA is lodged electronically we rely on the Workplace Relations Act, the Electronic Transactions Act and the stern admonitions which we have on our electronic lodgment web site, reminding employers of the legal requirement for every AWA. to be signed by both the employer and the employee and reminding employers that they have a responsibility to retain the signed copy of the AWA. and to produce it should the OEA ask them to produce it.

Senator MARSHALL—Thank you for that. If that is what you do, that is what you do. It occurs to me that you do not actually satisfy yourself, but other people might take a different view. Let us go back to the Federal Court case that I put to you. Let us go through it again. The evidence that was put was that an AWA was approved by your office and the first time the employee saw or knew about that AWA was after it had been approved by your office.

Mr McIlwain—Yes, in effect.

Senator MARSHALL—That was the uncontested evidence. You cannot say to me that you know that is not true.

Mr Rushton—We were not a party to the proceedings, as I have said before—

Senator MARSHALL—No, but—

Mr Rushton—and the judge has said what he said. I cannot add to what he said, but—

Senator MARSHALL—But it was not about that. I am talking about a piece of the evidence that was put in the court that was uncontested. Let us not rely on a decision that was found about something that was not relevant to that. You are unable to put to me—

Senator JOHNSTON—It might have been contested if they were a party to the proceedings.

Senator MARSHALL—Senator Johnston wants to debate me across the table. Let us do that. Obviously, he feels that the Office of the Employment Advocate needs some assistance at this point in time—

CHAIR—Senator Marshall, you are asking the questions. Please proceed.

Senator MARSHALL—but I would have thought he would have given better assistance than that.

Senator Abetz—Very droll!

Senator MARSHALL—All you have done, Senator Johnston, is highlight the flaw here. You are unable to tell the committee that there is a signed copy of the AWA that was mentioned in the case. Can you, or can't you?

Mr Rushton—As we discussed on the last occasion, as you would recall—

Senator MARSHALL—Either you can or you cannot. I do not need a—

CHAIR—Order!

Mr Rushton—Please let me finish.

Senator MARSHALL—The question is: can you or can't you?

CHAIR—Mr Rushton is answering the question.

Mr Rushton—Senator Marshall, could you please let me answer the question. As we discussed on the last occasion, this matter was brought to our attention by the union at the time of those proceedings, which they brought. We have been investigating that matter. That investigation is ongoing. As Mr McIlwain has said, an employer is required to provide a declaration that an AWA has been signed at the time of electronic lodgment. That investigation process is ongoing, and we have interviewed a number of people in relation to that matter. We hope to finalise that investigation shortly. Before that has concluded, in terms of prejudicing that investigation, I do not want to provide the answer you are seeking.

Senator MARSHALL—Thank you. Why didn't you offer me that information before?

Mr Rushton—I was trying to.

CHAIR—That is why.

Senator MARSHALL—That is not right. This is the second time we have visited this particular issue, and I revisited it based on finding out more information about what the compliance letter did. Maybe you should have offered me that information earlier. I thought you were telling me that the position I put to you that an unsigned AWA had been approved by the Office of the Employment Advocate was wrong. That is what thought your evidence was. You have corrected that. You are not saying it was right or wrong; there is an investigation going on. Is it an investigation and not an inquiry?

Mr Rushton—Investigation or inquiry—

Senator MARSHALL—No, there is a difference. There is an important difference. Is it an investigation or an inquiry?

Mr Rushton—It depends on your terminology.

Senator MARSHALL—You told me it was an investigation. I just want to be sure that it is one.

Mr Rushton—I regard it as an investigation.

Senator MARSHALL—Thank you. I knew that would be useful information that we got out of this morning.

Senator Johnston interjecting—

Senator MARSHALL—Well, you missed it.

CHAIR—Order, Senator Marshall!

Senator MARSHALL—It was an important point made by the department this morning—the difference between an inquiry and an investigation—and Senator Johnston may want to pay more attention. I did not understand there was such a significant difference either.

Senator JOHNSTON—Well, there is—in one particular area.

Senator MARSHALL—When do you think this investigation will be finished?

Mr Rushton—I am not sure, but I would expect it to be reasonably soon.

Senator MARSHALL—How long has it been going?

Mr McIlwain—It has been going since August 2004.

Senator MARSHALL—And you expect it to be finished reasonably soon?

Mr Rushton—Yes.

Senator MARSHALL—What do you intend to do when the investigation is finished?

Senator Abetz—It depends on the investigation outcome, surely.

Senator MARSHALL—But will you publish the outcome?

Senator Abetz—It depends.

Senator MARSHALL—It depends on what the outcome is?

Senator Abetz—Yes. The investigation might be such that—I do not know if it is possible—charges or other things might flow. As a result, you do not publish until the court proceedings or whatever are completely finalised.

Senator MARSHALL—So, if you believe that there has been any illegal activity, you will act on that?

Mr Rushton—That will be a matter for the Employment Advocate to make a decision on, but recommendations will be made.

Senator MARSHALL—Mr McIlwain, explain to me the process that you will then undertake.

Mr McIlwain—I will receive a recommendation from Mr Rushton and that will be based on the report of his staff who have made this investigation. If it seems that there is evidence of a prima facie breach of the Workplace Relations Act and/or any state criminal code, I will take action. I will have to take advice on whether I personally take that action or it is taken through the DPP. But if the evidence points to there having been some breach of the Workplace Relations Act and/or any other criminal code or legislation, I will take action.

Senator MARSHALL—At the completion of the investigation, can you advise the committee that the investigation is completed and what action you intend to take?

Senator Abetz—I would not have thought—

Senator MARSHALL—Mr McIlwain, you have just explained to me the processes that you are going to take. I would have thought that it was not a secret now. Surely you can—

Mr McIlwain—When I have made a decision—for example, if I refer the matter to the DPP—I will be able to say that.

Senator MARSHALL—Yes. So you will advise the committee that that has taken place.

Mr McIlwain—I will say that, yes.

Senator MARSHALL—And it shouldn't be long.

Senator GEORGE CAMPBELL—Mr McIlwain, can you provide us with details of OEA's plans to simplify the AWA approval process and the no disadvantage test?

Mr McIlwain—The OEA has a process of continuous improvement with regard to the processing of the legal requirements for the approval of AWAs. So we have a process of continuous improvement. We continually, for example, revise and refine the computer spreadsheet tool that OEA delegates use to help them form a view about whether the no disadvantage test has been passed. That is one example of what we do.

We have a continual process of reviewing our business rules within our processing division. Broadly speaking, those are the rules that give effect to the legislative requirements and the policy which is published in our AWA policy guide for the assessment of AWAs. We have a process of continually reviewing our work force requirements, our work force planning. All that continuous review feeds into an outcome where we hope that each year we become better and faster at applying the no disadvantage test.

Senator GEORGE CAMPBELL—Can you tell us how many AWAs did not pass the no disadvantage test last year?

Mr McIlwain—We referred I believe less than one per cent—I think it is something like 0.87 per cent—of AWAs to the Industrial Relations Commission. I am not by law allowed to refuse an AWA because it does not pass the no disadvantage test. Having sought from the employer an undertaking to fix up an AWA so it can pass the no disadvantage test, if that has not been provided or has not been provided to my satisfaction then all I can do is refer that AWA to the commission and the commission then considers that AWA against the no disadvantage test.

Senator GEORGE CAMPBELL—So are you saying that every AWA that did not pass the no disadvantage test was referred to the commission?

Mr McIlwain—Not every AWA. Some may have been withdrawn by one or other of the parties.

Senator GEORGE CAMPBELL—Can we separate the question into two. You said 0.87 per cent were referred to the commission. How many AWAs did not pass the no disadvantage test?

Mr McIlwain—If you give me a moment I should be able to tell you how many AWAs were withdrawn. This is for the 2003-04 financial year?

Senator GEORGE CAMPBELL—The last financial year.

Mr McIlwain—One of my colleagues will have a look at the annual report. I think that figure is located in the annual report. A very small number of AWAs—less than one per cent—need to go to the AIRC. Again another very small percentage—I do not know the actual

figure—are withdrawn. Some AWAs do not pass the no disadvantage test at first blush but the legislation allows me to seek then from the employer what the legislation describes as an undertaking—that is something the employer will give in writing to fix that AWA. Most commonly it will be to restrict hours of work or to increase a pay rate. If the employer gives that and I am then sure that with that undertaking the no disadvantage test is met, the law says that undertaking goes into the AWA and becomes part of the AWA as approved. I think about 11.3 per cent of AWAs approved in 2003-04 fell into that category where an undertaking was required before they could be approved.

As I said, in 2003-04 we referred 0.87 per cent of AWAs to the AIRC. That was where an employer would not provide an undertaking or provided an undertaking that was not good enough. Refusals are on other grounds not related to the no disadvantage test. That is where under the legislation what is known as an additional approval requirement, not the NDT, is not satisfied. Refusals were 0.3 per cent in 2003-04. I am afraid I do not have with me a figure for withdrawals, but it would be a similarly negligible number.

Senator GEORGE CAMPBELL—The Employment Advocate's web site contains AWA templates, does it not?

Mr McIlwain—It does.

Senator GEORGE CAMPBELL—Complete with voluntary overtime provisions?

Mr McIlwain—Yes, some do have voluntary overtime.

Senator GEORGE CAMPBELL—Is this not in fact a form of pattern bargaining for individuals?

Mr McIlwain—We do not see it that way. The key thing about an AWA is that it is entirely up to the parties as to what form the AWA takes. The AWA need only meet the additional approval requirements and pass the no disadvantage test. That test being met, it can take whatever form the parties wish it to take. However, that being said, many parties, from the earliest days of the OEA, have sought from the OEA and from others guidance as to the form of agreement that would meet their needs and pass the no disadvantage test. An employer and an employee are free to take any of our documents, except a particular category, and change them in whatever way they see fit.

Senator GEORGE CAMPBELL—I understand that but on your web site you promote a standard form of AWA. Presumably, employers could pick that up. It could be applied widely across the retail industry, the hospitality industry or what have you. That seems to be acceptable if it is applied to an individual. But if certified agreements are negotiated that provide similar conditions that is not acceptable. Why do you believe that there is a distinction made between the two if the outcome is the same?

Senator Abetz—That is a policy issue. I do not know how many ifs the question had. Just because you put up a template does not—

Senator GEORGE CAMPBELL—Senator Abetz, I am asking Mr McIlwain why he believes there is a distinction between a standard agreement form for individuals, which he provides on his web site, and a standard agreement that is negotiated through a collective agreement.

Senator Abetz—Mr McIlwain does not have responsibility for—

Senator GEORGE CAMPBELL—Why does one constitute pattern bargaining and the other not?

Senator Abetz—That is not Mr McIlwain's responsibility. It is a policy issue that the government has addressed.

Senator GEORGE CAMPBELL—Mr McIlwain is the person responsible for managing Australian workplace agreements.

Senator Abetz—But not for pattern bargaining.

Senator GEORGE CAMPBELL—He is the one who is promoting the standard form.

Senator MARSHALL—That is the question being put, isn't it?

Senator Abetz—It is not for Mr McIlwain to make commentary on different aspects for which he does not have responsibility. As minister at the table, I can intervene, which I have done—

Senator GEORGE CAMPBELL—But it is not a policy decision, Minister.

Senator Abetz—In determining whether something—

Senator GEORGE CAMPBELL—I am quite happy for you to try to answer it—it will give us a bit of fun.

Senator Abetz—Well why all the interruptions?

Senator GEORGE CAMPBELL—You are the one who is interrupting.

Senator MARSHALL—I thought you were directing Mr McIlwain not to answer the question and explaining why. Minister, if you want to answer the question, you should answer it.

Senator Abetz—Nobody is forced to use the templates. I am not sure that any union or any other organisation threatens employees and other people, saying, 'If you don't sign this particular template, you will have all sorts of occupational health and safety issues on your work sites,' et cetera. If you want to engage on that front, I am more than happy to take you on. But to suggest that pattern bargaining—

Senator MARSHALL—We are expecting you to answer the question.

Senator Abetz—is somehow similar—

Senator MARSHALL—If you want to move on to your ideological rhetoric, you can get plenty of opportunities to do that, but we are asking questions and we are expecting you to answer.

Senator Abetz—You were desperate for me to answer, then you interrupted, so I was not going to. You have asked me to answer—

Senator MARSHALL—We asked you a question; we expect an answer.

Senator Abetz—so I am answering and now you're interrupting again. Make up your mind.

Senator MARSHALL—Why don't you answer the question?

CHAIR—Order! Senator Marshall, the minister is answering the question in his own way.

Senator MARSHALL—It is political rhetoric.

Senator GEORGE CAMPBELL—No, he is not; he is just interrupting.

Senator Abetz—The provision of the template—

Senator MARSHALL—If you assisted the minister by asking him to direct his answer to the question that was asked, we would be able to move on.

CHAIR—He is.

Senator Abetz—The provision of a template on a web site can hardly be likened to the sorts of activities that the unions that these two gentlemen have been associated with in the past have engaged in with pattern bargaining. I find it astounding that anybody would try to draw a parallel.

CHAIR—I think the point has been made.

Senator GEORGE CAMPBELL—He may have made a point, but I do not accept it. The reality is that the advocate is promoting a standard form of agreement—

Senator Abetz—No. It is a template.

Senator GEORGE CAMPBELL—which is setting a pattern for individual agreements out in the marketplace. That is the reality.

Senator Abetz—Where is the evidence of that assertion?

CHAIR—Next question, please.

Senator GEORGE CAMPBELL—Mr McIlwain, on the web site, the introduction to the no disadvantage test states:

The OEA reserves the right to determine in each and every case whether a particular AWA passes the NDT.

What do you mean by that statement?

Mr McIlwain—It is just a stating of the law. The only competent authority to perform the no disadvantage test is the Employment Advocate and his or her delegates. So it is just a stating of the law.

Senator GEORGE CAMPBELL—But it is not an absolute right.

Mr McIlwain—To perform the no disadvantage test?

Senator GEORGE CAMPBELL—There is a test where if something meets certain requirements it passes. It is not a matter of you having an absolute right to say, 'I will let that pass,' or 'I won't let that pass.'

Mr McIlwain—No. It does not mean that. It means that the only competent authority to perform the no disadvantage test is the Employment Advocate. It does not mean the Employment Advocate has discretion as to whether to approve AWAs that do not meet the NDT. It absolutely does not mean that.

Senator GEORGE CAMPBELL—Or to not approve those that do.

Mr McIlwain—Quite. It does not mean that at all.

Senator GEORGE CAMPBELL—The way which it is presented on the web site could give you that idea.

Mr McIlwain—It is the first time it has been raised with us, but I will now consider whether there is room for confusion.

Senator GEORGE CAMPBELL—What capacity is there under the law to review decisions made by the Employment Advocate?

Mr McIlwain—We have legal advice that the Employment Advocate can reconsider the approval of an AWA. I might hand over to Mr Rushton, who is our expert on this.

Mr Rushton—What Mr McIlwain says is quite right. There is nothing in the legislation which says there is a capacity to review decisions, but we have advice from AGS to the effect that, as an administrative decision maker, we have a capacity, based on the Acts Interpretation Act, to revisit decisions if there has been an error of fact or law.

Senator GEORGE CAMPBELL—If I entered into an AWA and I believed that I had been unjustly done by, where would I go to appeal a decision of the Employment Advocate?

Mr Rushton—You would first need to raise it with the office. If you wanted to have the decision reconsidered, that would be the first port of call. In terms of appeals on decisions of the Employment Advocate, our advice is that there is no appeal provision in the Workplace Relations Act. An appeal would be by way of the High Court. That is the only avenue of appeal as a matter of law.

Senator GEORGE CAMPBELL—So the advocate is virtually a law unto himself.

Mr McIlwain—Mr Rushton has stated what the act says and what our legal advice is that the act says. That is what the law is.

Senator GEORGE CAMPBELL—I am trying to understand what the law is. From what Mr Rushton said, the advocate is virtually a law unto himself. Your decisions are virtually unchallengeable. Is that a reasonable assertion?

Mr Rushton—I cannot add to my answer.

Senator MARSHALL—I want to talk some more about the no disadvantage test and its adequacy to protect employees from a deterioration in their terms and conditions of employment in comparison with the relevant state or federal award. That is the purpose of the no disadvantage test, isn't it?

Mr McIlwain—Yes.

Senator MARSHALL—But it has to be on balance?

Mr McIlwain—Yes, it is a global test. The legislation says 'overall'. So it is possible for an employee to trade off some award conditions as long as they are compensated for by other conditions contained in the AWA.

Senator MARSHALL—So I assume that your office does not merely perform a rubber-stamp operation for employees in respect of that?

Mr McIlwain—We do not.

Senator MARSHALL—Can you explain to me the process that you go through to properly assess each AWA against the no disadvantage test?

Mr McIlwain—For an AWA that is lodged that we have never seen before, a no disadvantage test is conducted. That test is a global test. As I said a moment ago, that means that we have to take into account the conditions of the AWA and compare them globally with the conditions provided by the relevant award or—if you will pardon a bit of technical detail here—a designated award; that is, where an employer is award free and we have to find an appropriate award to conduct the no disadvantage test against. Additionally, the test is conducted against what is broadly described as relevant law—long service leave state laws, for example. We have an AWA policy guide which is available publicly on our web site. That shows the distillation of all of our consideration of the issues—of valuing particular benefits, primarily—

Senator MARSHALL—You cannot contract out of state legislation, though.

Mr McIlwain—No.

Senator MARSHALL—You use the example of long service leave, if it is legislated—

Mr McIlwain—You can, except for some particular prescribed pieces of legislation: apprenticeship legislation, OH&S legislation and workers compensation.

Senator MARSHALL—You can contract out of long service leave legislation prescribed by the states?

Mr McIlwain—You can. You could cash out long service leave, for example.

Senator MARSHALL—Is that the case in every state?

Mr McIlwain—Yes, it is. An OEA assessor, with the appropriate delegations, has regard to the AWA policy guide and also uses a spreadsheet tool, which we call the NDT calculator, which has certain fields and radio buttons built into it. It is a spreadsheet. So they are able to input the benefits of the award and relevant laws on one side, and the conditions of the AWA on the other, and that will give them a monetary outcome which assists them in exercising their judgment as to whether the no disadvantage test is passed. It is possible for an NDT to be passed without a positive outcome, with that monetary outcome. That would be where an AWA was tailored in a very specific way to meet perhaps the work and family needs of a specific employee. I should have said that there are also some additional approval requirements, as specified by the legislation, that must also be met before an AWA can be approved, but if they are satisfied, the law says, and if the delegate is sure that the NDT is passed—that is the word used in the legislation—that AWA can be approved.

Senator MARSHALL—How long does that take for an AWA?

Mr McIlwain—It might take five minutes or, in some cases, because of the levels of hierarchy needing to consider it, it might take weeks.

Senator MARSHALL—That description could not take five minutes, unless it was a repeat AWA where some preliminary work had already been done.

Mr McIlwain—Sure. It varies tremendously.

Senator MARSHALL—In terms of a new AWA that has not been sighted and which, because it is from a new employer, might have to have the award determined, can you break down the categories for me? I know this is a difficult question. But what I am trying to do is to get a feel for the amount of work that is put in in terms of going through the new disadvantage test.

Mr McIlwain—I am loathe to come up with a definitive average.

Senator MARSHALL—Let us do it this way: you said weeks. What percentage of AWAs would take weeks? A fraction?

Mr McIlwain—It would be a small percentage. But it could be as high as 10 per cent or 11 per cent. I say that because that is the percentage of AWAs that require an undertaking before the AWA can be approved. Those are AWAs that do not meet the no disadvantage test but which the OEA, with the employer's cooperation, is attempting to fix up. Those AWAs are handed from our processing division to our client services division. They are then dealt with one by one by our experienced consultants in our regional offices, who tic-tac with the employer or the employer's bargaining agent, or the employer and employees to come up with an undertaking that the employer is prepared to give and which will allow the AWA to meet the no disadvantage test. That process might take days or it could take weeks.

Senator MARSHALL—So the undertaking is required in circumstances where initially you have formed a view that it does not pass the no disadvantage test?

Mr McIlwain—That is correct.

Senator MARSHALL—Why would you then rely on undertakings? Why wouldn't you actually seek to have the AWA changed so it does comply?

Mr McIlwain—This is a technical term. That is exactly what we are doing. It is in the legislation.

Senator Marshall—So the undertaking is the change to the AWA?

Mr McIlwain—The legislation provides for a fix up, which it describes as an undertaking. That, if accepted by the employment advocate, becomes part of the approved AWA.

Senator MARSHALL—So it is rewritten?

Mr McIlwain—No, it is usually not rewritten, although the effect of the undertaking could be to supplant or strike out an offending clause or to change the method of operation of an offending clause.

Senator Abetz—Like a codicil to a will?

Mr McIlwain—Yes. If Mr Rushton does not demur, I—

Senator MARSHALL—That is why I make that point: why wouldn't we just change the agreement so—

Mr McIlwain—We are changing the agreement. That is what it is doing.

Senator MARSHALL—But in rather a clumsy form.

Mr Rushton—It is what the act—

Senator MARSHALL—What do you do to ensure that the employee is aware of and agrees to the undertaking?

Mr McIlwain—The legislation does not require the employee to agree to the undertaking.

Senator MARSHALL—So all this may happen without the employee even knowing that the original agreement they signed on to potentially was not going to pass the no disadvantage test—

Mr McIlwain—No.

Senator MARSHALL—and that the agreement in some form has changed?

Mr McIlwain—The employee will always know because the AWA return to the employer, which the employer is required by law to give a copy of to the employee, must contain with it our approval notice, which will refer to an undertaking, and a copy of the undertaking will be at the end—as the minister says, just like a codicil to a will. So it would be obvious to the employee that the agreement as approved had changed from the agreement as signed.

Senator MARSHALL—But you are relying on the employer to ensure that part of it—

Mr McIlwain—It is their legal responsibility to do that.

Senator MARSHALL—I understand. Again, it is a matter of who satisfies who. You are relying on the fact that it is a legal obligation for the employer to provide that information. Okay.

Senator JOHNSTON—Is there a penalty for not providing that information to the employee.

Mr Rushton—Yes, there is. There is a penalty provision in here.

Senator JOHNSTON—What is the penalty?

Mr Rushton—It is upwards of \$33,000 for a corporation and \$11,000 for an individual.

Senator MARSHALL—Good luck in your first case on this soon.

Mr Rushton—Thank you.

Senator MARSHALL—How many people are engaged in the activity of applying the no disadvantage test?

Mr McIlwain—In total, from time to time it would be in excess of 100 people. All of the employees of our processing division and all of the employees—perhaps save for some working on a special project, like the small business project at the moment—of our client services network as well.

Senator MARSHALL—So we are averaging 100 people in that area.

Mr McIlwain—More than 100 people. It would probably be around 110.

Senator MARSHALL—What is their industrial relations experience?

Mr McIlwain—Do you mean how many have industrial relations experience?

Senator MARSHALL—How would people, for instance, know which award to apply or that the award that the employer says applies in fact does apply?

Mr McIlwain—We provide quite extensive training to our staff—

Senator MARSHALL—What does that consist of?

Mr McIlwain—It consists of award interpretation. Award and AWA interpretation really require the same skills; they are both employment instruments. It also involves use of our NDT calculator—

Senator MARSHALL—How long does the training take?

Mr McIlwain—Some of it is course like training, and some of it is on-the-job training. I will take that question on notice and provide you with the exact duration—it varies, depending upon whether staff are in the client service network or in our AWA operations division. I will just update something. I had underestimated the number of staff who, at any given time, might be working on an NDT. If every staff member who could do an NDT was working on an NDT at one time—and this does not include me—there would be 143.

Senator MARSHALL—Is that happening all the time? I am not sure how useful that information is to me. I want to talk about pilot training bonds. Are you familiar with those?

Mr McIlwain—No.

Senator MARSHALL—Let me make you a little familiar. Training bonds typically form an appendix or schedule to a pilot's AWA. The relevant clause will generally state that the employer agrees to meet the training costs of the pilot on the condition that the pilot agrees to a return to service obligation period. During such a period, were a pilot to resign from the employ of the employer or somehow cause the relevant AWA to be nullified, the pilot must reimburse their employer the actual cost or a percentage of the actual cost on a pro rata basis incurred by the employer in providing such training. I am advised that an employee who resigns during the return to service obligation period will usually be responsible for training costs fixed at between \$10,000 and \$25,000. The relevant condition in the award that would cover air pilots in this circumstance—and I can probably give you that information if I need to—clearly mandates that all training costs are to be met by the employer. How would you manage the removal of that fundamental entitlement to training when it is coupled with the inclusion of a training bond without compensation anywhere else in a standard AWA for air pilots? I cannot, for the life of me, see any reasonable estimation that is compensated for in a no disadvantage to the employee. Could you explain to me how that would work?

Senator Abetz—Are there going to be any follow-up questions on that? The reason I ask is that it is a very long question and perhaps we could take it on notice. I do not want to stifle further examination, but if it is a question on its own it would be helpful if it could be taken on notice, because it is very long and detailed.

Senator MARSHALL—I accept that, and it is probably fair for that to be done, but a number of principles that we have been talking about apply there. The reason I want to use that example is that it is quite an enormous amount of money, and if you were going to balance that you would have to see a commensurate offset in an AWA, and it does not exist. My advice is, and you can either confirm or deny it, that this is a standard clause in pilot AWAs—of which there are a considerable number—and they are fairly much pattern AWAs,

as I would describe them. If you cannot answer it now, that is fair enough—I take what the minister has said. But, if you can comment now, I would appreciate it.

Mr McIlwain—I do not know whether this helps, but Mr Rushton and I have been racking our brains for the name of a court case that we have provided a digest to several parties on. It is almost publicly available, I would say. The critical point there is that the training bond was found by the court to be, in fact, outside the AWA. That, though, is different, I understand, from what you are putting to me, which is where AWAs include a training bond.

Senator MARSHALL—And there is the relevant clause in the award, which you must test it against, which says that training must be provided by the employer.

Mr McIlwain—Quite. I would like to take that question on notice, because it was detailed. If I may make a general observation, the NDT is always a global test and there is always the capacity for there to be countervailing advantages where there may be disadvantages as per award conditions. That is a very general response, and if you permit I will take that question on notice and provide you with a detailed response.

Senator MARSHALL—All right. Could you also advise me how many AWAs have been approved by the OEA that contain trading bonds that will be covered by awards that have a training obligation placed upon the employer? Thank you.

Mr Rushton—Just to assist, that case that Mr McIlwain was referring to was a South Australian case. I cannot remember the precise name but it was ‘Surveillance South Australia’, or some name like that. I can forward through a copy of the name. As Mr McIlwain said, that was the case where the training bond was outside the AWA.

Senator GEORGE CAMPBELL—I want to follow up on the answer to a question on notice, Mr McIlwain, that you gave us following the last estimates. It was question W160-05. Can you explain to us the differences between paid maternity leave and paid family leave, which includes paid maternity leave? You refer to the two provisions in your written answer on notice.

Mr McIlwain—Just bear with me one moment while I find that answer. Paid maternity leave is self-evidently for a confinement for the birth of a child, and paid family leave may be for caring for an ill child, accompanying an elderly parent to a medical examination or procedure—

Senator Abetz—A bloke cannot get maternity leave.

Mr McIlwain—The minister makes a good point: maternity leave is available, of course, only to women.

Senator ABETZ—Whereas family leave, I assume, blokes could get as well.

Senator GEORGE CAMPBELL—As I understand it, the paid family leave referred to in your answer includes paid maternity leave. I am trying to distinguish what is the difference.

Mr McIlwain—I take your point. It is a peculiarity of the coding method that was used by ACIRRT when they coded the sample of AWAs that were made in 2002-03. Clearly we would prefer, and we do this when we code AWAs, to distinguish between the two. It was a peculiarity of the methodology adopted by ACIRRT.

Senator GEORGE CAMPBELL—I may be wrong here—it has been a while since I have looked at an award—but I think there is a distinction in some awards between paid maternity leave and paid family leave.

Mr McIlwain—Yes, indeed.

Senator GEORGE CAMPBELL—Some provide the broader provision and some provide the narrower provision.

Mr McIlwain—It may be that the clauses that ACIRRT put into the paid family leave category were broad enough to include paid maternity leave or specifically included paid maternity leave whereas the clauses which ACIRRT put into the paid maternity leave only category were expressly regarding paid maternity leave.

Senator GEORGE CAMPBELL—Based on the figures provided in the answer, the percentage of sample AWAs studied in 2004 reveals that only two per cent of workers covered by AWAs have paid maternity leave entitlements. That is down from eight per cent in 2002-03. Is there any explanation for the drop in the number of workers covered?

Mr McIlwain—This data needs to be viewed with caution because of the size of the sample. The sample size is so small that in answering the question we agreed to do the sampling and the coding on the basis of the sample that was coded by ACIRRT previously. It is I think arguable that it is related to a very small sample size where aberrations because of that small size are likely. But then additionally it is important to remember that just because an agreement does not include a provision that does not mean that the employee is not entitled through workplace policies to that provision or provided with that provision nonetheless.

Senator GEORGE CAMPBELL—If those figures are an indication of what is happening out there, isn't that a matter for concern given the promotion of flexible workplace relations aimed at balancing work and family demands?

Mr McIlwain—I would be much more concerned if the sample size had been 5,000, 50,000 or 100,000 than I am with a sample size of 500.

Senator GEORGE CAMPBELL—When is the next study of this kind going to be undertaken?

Mr McIlwain—The OEA is currently looking at establishing its own database and coding arrangements for AWAs. We believe that will deliver more accurate data and be a more satisfactory approach.

Senator GEORGE CAMPBELL—When will that process be undertaken?

Mr McIlwain—I am not able to say at this stage. We are still looking at it. It is our intention to get a database up and running sometime this calendar year.

Senator GEORGE CAMPBELL—But you are not proposing to do any more studies of this kind until that occurs?

Mr McIlwain—We are considering doing some coding for the content of AWAs in a way that is similar to what is here. We can see definite improvements on the methodology that was employed by ACIRRT. We would like to employ a different methodology so that the kinds of questions that you ask are more easily answered.

Proceedings suspended from 6.24 pm to 7.32 pm**Department of Employment and Workplace Relations**

CHAIR—With the concurrence of the secretary of the department, in this session we will range right across outcome 2—Higher productivity, higher pay workplaces. Senator Campbell, you are going to open the batting.

Senator GEORGE CAMPBELL—Mr Pratt, are you aware of the national working women's centres?

Mr Pratt—Yes.

Senator GEORGE CAMPBELL—Is your department also aware that working women's centres fulfil a vital role in providing advice to some of the most vulnerable people in the labour force?

Mr Pratt—Yes.

Senator GEORGE CAMPBELL—Does DEWR support the continued funding of the New South Wales Working Women's Centre?

Mr Pratt—We currently have contracts in place.

Senator GEORGE CAMPBELL—Are you aware that, because DEWR has not assured their funding for the next financial year, they are once again in crisis?

Dr Boxall—Every year we determine the funding after the budget is brought down, and it will be the same this year.

Senator GEORGE CAMPBELL—Can we give them good news or bad news?

Dr Boxall—The decision will be communicated to them some time in June, which is what happened every other year.

Senator GEORGE CAMPBELL—Why does it keep operating like this every year? Why can't a more permanent arrangement be entered into to give them more certainty?

Dr Boxall—Because we enter into one-year contracts with them and we have to see what the budget allocation is before we can decide to fund them for another year's contract.

Senator GEORGE CAMPBELL—I understand that that is the basis upon which you are doing it. What I am really putting to you is: why can't this position be changed to give them more certainty? What is the funding for this working women's centre? I presume it is not a huge amount of money.

Mr Pratt—In 2004-05 the total Commonwealth funding to the New South Wales Working Women's Centre is \$256,890. In addition to that, it gets funding from the New South Wales government of \$100,000.

Senator GEORGE CAMPBELL—It is not a huge amount of money. Why does it have to be that they are constantly threatened with closure or have their funding approval left to the last minute?

Mr Pratt—It is an annual program; it is funded on that basis.

Senator GEORGE CAMPBELL—I understand it is an annual program. I am asking you why the department cannot look at it in a more favourable light. Why can't it be changed away from an annual program? Why does it have to be funded on an annual basis?

Mr Pratt—Ultimately, this is going to be a decision for government. The arrangements have been in place for many years and they appear to be working effectively. There does not seem to be a pressing need to change these funding arrangements.

Senator GEORGE CAMPBELL—But they do go into a considerable sweat at this time of the year every year, waiting to find out whether or not they are going to be funded for another 12 months.

Mr Pratt—I understand the point you are making.

Senator GEORGE CAMPBELL—When will the decision be made, Dr Boxall?

Dr Boxall—Before 30 June.

Senator GEORGE CAMPBELL—How will DEWR ensure that greater recognition is given to employees' family and caring commitments as well as employers' operational requirements for available labour supply in the current environment of predicted labour shortages?

Mr Pratt—That seems to be more of a question for outcome 1 of the department.

Senator GEORGE CAMPBELL—There has been a multitude of hearings since 1996—inquiries, task forces—on these issues. Can the department outline the key outcomes of these initiatives for working parents? Working parents do not come under outcome 1? We are talking about working parents and family-friendly policies.

Mr Kovacic—The government's view is that a flexible workplace relations system provides the best opportunity for employees and employers to develop family-friendly working arrangements that best suit the needs of the employees and the operating needs of the business.

Senator GEORGE CAMPBELL—Has the department given any consideration in the context of the proposed IR reforms to policy options or proposals that will ensure that women do not get left behind in the process?

Mr Pratt—Those issues are certainly ones which are obvious to us. However, the consideration by government to date on its reforms has been at the macro level. It is likely that those issues will be considered in greater detail as we move into the next stage and develop the legislation and the underpinning arrangements for the government's reforms.

Senator GEORGE CAMPBELL—What do you mean by 'the next stage'?

Mr Pratt—Last week the government announced its workplace relations reform package. Those reforms are very much high-level structural reforms. Following that, we are now working on the legislation which will implement those reforms and which will of course flesh out the detail of the reforms. It is in that phase of our process that the issues that you have raised will be considered in more detail.

Senator GEORGE CAMPBELL—Will issues such as pay equity, gender and so forth be considered in the context of that?

Mr Pratt—Yes.

Senator GEORGE CAMPBELL—Can you detail any provisions that they department is looking at in respect to balancing the well-published effects of the ageing population?

Mr Pratt—That is more a matter for outcome 1 and outcome 3 of the department. I believe those issues have been canvassed extensively across the course of the last day and a half.

Senator GEORGE CAMPBELL—In terms of the Welfare to Work package. We are talking about within the work force. The Treasurer keeps telling us we have to work beyond 65; we have to work until we drop. What consideration has been given to that issue in the context of the current workplace reform?

Mr Pratt—My answer there is the same as for the previous answer. Those are matters of detail which will be developed over the coming months.

Senator GEORGE CAMPBELL—Does that mean that those issues of detail have not been addressed and have not been considered at this point in time?

Mr Pratt—No. But they have not been the focus of the work of the department to date.

Senator GEORGE CAMPBELL—Is it fair to say that we could be adopting a macro policy position on industrial relations without really knowing what the implications are going to be in a whole range of micro areas?

Mr Pratt—No.

Dr Boxall—No.

Senator GEORGE CAMPBELL—That was well done, Dr Boxall. Ventriloquism is a very effective art.

Senator MARSHALL—Does the department have the detail of how the federal IR reform proposals will address the skills shortage?

Mr Pratt—I will quote here from their document *A new workplace relations system: a plan for a modern workplace*. It says:

Australia needs a more flexible labour market to maximise economic growth and employment opportunities and to maintain and improve our standard of living in an increasingly globalised economy. The reforms are aimed at ensuring a greater level of bargaining between employers and their employees and it is our view that that agenda will assist with improving the capacity of employees to gain skills in the workplace and for employers to have workplace arrangements which facilitate their employees getting skills.

Senator MARSHALL—What are you basing that opinion on?

Mr Kovacic—One of the other additional specific measures that will be part of the reform package is legislation which will remove industrial barriers to the take-up of school based apprentices and part-time apprentices as well, which is an area that is very important in addressing skills shortages. Before an employer can engage either a part-time or school based apprentice there is a requirement for the relevant industrial instrument to provide rates of pay for that position, given that the person may spend a combination of time at work and in formal

study or at school in the case of a school based apprenticeship. There is a significant number of awards, particularly state based awards, that do not provide for those rates of pay.

Senator MARSHALL—Removing pay rates for apprentices and enabling apprentices to be part time are two issues.

Mr Kovacic—Removing barriers to the take-up of school—

Senator MARSHALL—They are the two barriers you named. What other initiatives go to the skills question? Anything else?

Dr Boxall—The whole workplace relations reform agenda will provide more incentive for employers and employees to build skills in the work force. By having a system which is more attuned to the needs of the enterprise and the workers in the enterprise, either in a collective sense or in an individual sense, the agreements will be tailored such that those who aspire to get more skills will be able to do so. In general, the whole workplace relations reform agenda will provide greater incentive for employers and employees to increase the skill level.

Senator MARSHALL—How?

Dr Boxall—Because there will be a greater incentive—

Senator MARSHALL—Because it provides flexibility?

Dr Boxall—Enhanced flexibility means that employers and employees will be able to strike an arrangement whereby the employees can receive compensation for the skills that they acquire in terms of a higher rate of pay if they are able to produce more.

Senator GEORGE CAMPBELL—But they can do that now.

Senator MARSHALL—I thought the government was moving to take out career structures from awards and agreements.

Dr Boxall—The whole point is that, with a system which is based primarily on agreement making above certain minima, it means that you have the capacity to get an outcome which is tailored to the circumstances of individual employers and employees. Under a system like that, individual employers and employees can pursue options which they think are in their best interests, including the acquisition of skills.

Senator MARSHALL—Apart from wishful thinking, are you basing this on any evidence, research or—

Dr Boxall—That is not wishful thinking. It is well established that flexible—

Senator MARSHALL—It is wishful thinking. You are talking about other people that you have no control over having some flexibility to enter into some arrangements.

Dr Boxall—If I can finish the answer to my question—

Senator MARSHALL—Sure.

Dr Boxall—Thank you. In a system where you have an outcome which is negotiated in the interests of the employers and the employees you are going to get an outcome which is tailored to the individual's needs, including the acquisition of skills, as opposed to a system which is centrally based where it is absolutely impossible, because the information is not

available, to tailor results for the individual's circumstance. That is one of the bases for this system being able to give rise to greater skill acquisition than a centralised system.

Senator GEORGE CAMPBELL—With all due respect to your argument—I can understand why you are arguing it—we have had a centralised system in this country from 1905 and we have only had a skills shortage in the past few years.

Dr Boxall—We had a situation in—

Senator Abetz—What?

Senator GEORGE CAMPBELL—We have only had a skills shortage in the past five years or so. We have had a centralised system in place for the past hundred years.

Senator Abetz—What?

Senator GEORGE CAMPBELL—It is absolute nonsense to suggest that there is a link between a centralised system and skills shortages. The reason there are skills shortages in this country today is that companies will not train—they will not pay the money to train.

Senator Abetz—The reason my family came out to Australia was that there was a skills shortage and employment was made available. I would have thought the post-war immigration period was a period of great skill and labour shortage in this country that is written large in every single history book.

Senator GEORGE CAMPBELL—There was not a skills shortage; there was a shortage of labour.

Senator Abetz—We can argue about that, but I am just astounded that that claim is being made.

Senator GEORGE CAMPBELL—I came out as a £10-tourist, Senator Abetz, and there was a shortage of labour generally in this country.

Senator Abetz—You clearly were not a skilled migrant.

Senator GEORGE CAMPBELL—So there was.

Senator Abetz—If we are going to go down this path—

Senator GEORGE CAMPBELL—I want to come back to Mr Kovacic's issue. The two points you raise in relation to apprenticeships disturb me greatly, because this committee did an inquiry into skills shortages a couple of years ago and we saw ample evidence all around the country of school based apprenticeships and part-time apprenticeships occurring.

Mr Kovacic—The point I am making is that there remain barriers that prevent the access to school based apprenticeships and part-time apprenticeships under a number of industrial awards, primarily state awards.

Senator GEORGE CAMPBELL—I am not aware of any evidence that we have received that there are any barriers in the award system to those school based apprenticeships or part-time apprenticeships.

Mr Kovacic—Our understanding is that in New South Wales, for instance, no state awards provide for school based apprenticeships.

Senator GEORGE CAMPBELL—There is a problem in relation to teaching, in the interface between the TAFE teachers and the school teachers. No impediments were drawn to our attention that related to awards or rates of pay for school based apprentices.

Mr Pratt—But we understand that there are no provisions for school based apprenticeships in New South Wales.

Senator GEORGE CAMPBELL—There may not be.

Mr Pratt—And that is a barrier.

Senator GEORGE CAMPBELL—It may not be. Whether or not you deal with them at the award level may not change the situation in terms of whether or not you are able to achieve them in the schools.

Senator MARSHALL—I would like to come back to the question. Apart from what you have told me a number of times, the rhetoric which we have heard repeated and regurgitated many times, can you point to any research that the department has used or commissioned to back up the claim?

Mr Pratt—I will check.

Senator MARSHALL—Thank you. And if you can find any, could you point us to it and make it available to us?

Mr Pratt—Yes. Apparently we are waiting for data from DEST, so when that data is available we will make it available to you.

Senator MARSHALL—All right. So the research takes place after the event in this case? The federal government has proposed using the corporations power to create a so-called unitary industrial relations system. Can the department please answer the following question: how does the department intend to deal with businesses that would prefer to stay in a state IR systems rather than move into the proposed federal unitary system as proposed?

Dr Boxall—The first point to make is that the Prime Minister will be exploring an option with the states for the states to transfer their powers to the federal government, as did Victoria in the past. So, if that were to happen, there may not be the use of the corporation's power.

Senator MARSHALL—Yes, but you have not answered the question.

Dr Boxall—That is in answer to the first part of your question.

Senator MARSHALL—But the government has proposed using the corporations power to create a unitary system, haven't they?

Dr Boxall—That is one option. As a fall-back option

Senator MARSHALL—That is fine. Yes, all right.

Mr Pratt—It would be inappropriate for us to speculate on what the government may do ahead of the government actually having an opportunity to talk with the states on Friday at COAG.

Senator MARSHALL—Are you saying that the government position is not to necessarily force a unitary system? I thought that, given everything that has been said, if the states do not

agree—and I do not think it is a secret; I think it is on the public record more than once—the government intends to use its corporations powers.

Mr Pratt—Let me quote from the government’s announcement of last week:

The Government will work towards a unified national system in a cooperative manner with the States. At the June 2005 Council of Australian Governments’ meeting, States will be invited to refer their powers on workplace relations to the Commonwealth to create a modern workplace system suitable for Australia in the 21st Century.

Senator MARSHALL—Are you aware of any states that have rejected that offer yet?

Dr Boxall—It has not been put to them yet. It will be put to them at COAG.

Senator MARSHALL—You were able to read it out to me. I suspect it has been put to them.

Mr Pratt—I am not aware of any state that has rejected that.

Senator MARSHALL—Will state bodies that currently have the power of intervention in an industrial relations matter be allowed the same intervention rights in the proposed federal system?

Mr Pratt—Again, that is subject to the outcome of the discussion with the states.

Senator MARSHALL—But you have a proposed federal system, don’t you?

Mr Pratt—If the states were to refer their powers, it is conceivable that those bodies would still have those rights of intervention, but that would be subject to an agreement between the Commonwealth government and the state governments.

Senator MARSHALL—Does the department have an existing model regarding how they think the unitary system would work?

Mr Pratt—Again, the government has just announced its reform package, and it sets out its proposals and plans at a macro level and a high level, and part of that plan involves giving the states the opportunity to refer their workplace relations powers to the Commonwealth. Beyond that, we are only speculating on what might happen. Until we know what the decisions of the states are and what circumstances under which they may or may not do that, we cannot speculate on what the model might look like.

Senator MARSHALL—What work has the department done on this up until now?

Mr Pratt—We have done considerable work on the underpinning arrangements for the government’s workplace relations reforms. However, the government has not announced its detailed policy on this. That will happen when the legislation is introduced.

Senator MARSHALL—Has the department proposed a model?

Dr Boxall—That goes to the nature of advice to government. The department have been busy advising the government on the workplace relations reforms, including in the lead-up to the announcement last week, and we stand ready to advise them further in the event that the states decide not to transfer their powers.

Senator MARSHALL—Are you ready with that advice?

Dr Boxall—We stand ready to advise in all circumstances.

Senator MARSHALL—According to table 16 in Budget Paper No. 1, \$381 million has been set aside under the broad heading of ‘industrial relations’. This amount is approximately \$100 million more than projected for this expense over the next four budgets. Can you provide specific detail about why an additional \$100 million has been allocated to this budget item and what these funds are intended to be used for?

Mr Pratt—The information in Budget Paper No. 1 is incorrect.

Senator MARSHALL—What is the correct information?

Mr Pratt—I take you to page 48 of our portfolio budget statement, which sets out the funding for this financial year and next financial year. That gives you a truer picture of the level of resources which will be available for industrial relations.

Senator MARSHALL—Before you do that, what exactly is wrong with the information in table 16 of Budget Paper No. 1?

Mr Pratt—Essentially, the figures for next financial year and the out years are incorrect because they drop down too far. In fact, the funding stays at about that level across future years.

Senator MARSHALL—When did you identify this error?

Dr Boxall—It is not our error.

Senator MARSHALL—I never said it was your error.

Dr Boxall—I have just explained to you—

Senator MARSHALL—That is okay. I was just asking when you identified the error.

Dr Boxall—Because it was not our error, it was identified in consultation with another department.

Senator MARSHALL—I thought you might want to take credit for identifying the error first?

Dr Boxall—Not at all. We have a whole-of-government approach.

Senator MARSHALL—How do you identify an error in consultation with another department?

Dr Boxall—Because you see a figure which you think might not be correct and, if it is not your responsibility, you call up the department who is responsible and you inquire about it.

Senator MARSHALL—When did you identify this figure which you thought might not be correct?

Mr Pratt—It would have been in early to mid May—in that period. I do not know exactly.

Senator MARSHALL—Early to mid May? So it could have been before the budget was announced?

Mr Pratt—It was after the budget.

Senator MARSHALL—Between the budget and mid May?

Mr Pratt—That is correct.

Senator MARSHALL—What department was responsible for the error, Dr Boxall?

Dr Boxall—The budget papers are prepared by Finance and Treasury.

Senator MARSHALL—Do you now want to take me through what it should say on page 48?

Mr Pratt—The money over the next few years is within \$10 million or \$15 million of each year. If you were to look at the table on page 48 of our portfolio budget statement, you would see it shows that in 2004-05 we estimate that total resourcing for outcome 2 will be in the order of \$332 million. In addition, we would add \$53.6 million from the AIRC. In 2005-06, the equivalent figures are \$326 million for the department and about \$60 million for the AIRC. You can see that those figures are all very close to each other.

Senator MARSHALL—How far out is the figure?

Mr Pratt—Essentially, in the out years it drops, incorrectly, by the order of \$80 million to \$90 million.

Senator MARSHALL—So it is an \$80 million to \$90 million error in the budget papers? Is that how I could describe it, because I do not want to misdescribe it?

Dr Boxall—The way to describe the—

Senator MARSHALL—This might be my only claim to fame in the budget estimates!

Senator GEORGE CAMPBELL—Where is the AIRC figure, Mr Pratt?

Senator MARSHALL—Is \$190 million a lot in relation to the budget?

Dr Boxall—Broadly speaking, regarding table A1, statement 6, 'Industrial relations for 2005-06 and the out years,' there is very little change, whereas the table shows a substantial decline in 2005-06 and indeed a further decline. But, broadly speaking, the correct position is that there is very little change in the expenses under industrial relations and, as Mr Pratt has pointed out, if one looks at the expenses for outcome 2 for the department, plus the Industrial Relations Commission—which are the main components; they are not the only components which make up that table—one will see that there is no decline in the expenditure in the budget year.

Senator GEORGE CAMPBELL—Mr Pratt, where is the figure for the AIRC in that table?

Mr Pratt—It is on page 94.

Senator GEORGE CAMPBELL—I thought we were looking at page 48.

Mr Pratt—That is for outcome 2 in the department, and the AIRC is on page 94 of the portfolio budget statement.

Senator MARSHALL—So are these figures also incorrect?

Dr Boxall—No, these figures are correct.

Senator MARSHALL—It is just that they should be added elsewhere?

Senator GEORGE CAMPBELL—So it is \$53 million and \$60 million. Is that right?

Dr Boxall—What happens is the figures from the portfolio budget statement are taken and they then compile a table, which is the table to which you referred, which is expense by function. It so happens that to compile in the table the line for expenses on industrial relations the main inputs are the expenditure of outcome 2 in our department and the expenditure of the AIRC. But it is not as simple as just adding them. People in central agencies have to do a consolidation which nets out various bits and pieces. In order to assist the committee, we are saying that the corrected figures will show broadly no change in the expense on the industrial relations function from the estimate for 2004-05.

Senator MARSHALL—That is what the figures show, but there will be a change to the expense.

Dr Boxall—When they are corrected, the figures will show, broadly speaking, that there is no change in the expense under the industrial relations function from the current estimate of \$381 million in 2004-05. That is what the figures will show when they are corrected.

Senator MARSHALL—Do we know when they will be corrected?

Dr Boxall—No. You would need to ask Treasury when they plan to do that.

Senator MARSHALL—Do you know what knock-on effects this incorrect set of figures has had?

Dr Boxall—No, we do not know that, because it goes to issues of consolidation.

Senator MARSHALL—But it is still in the scale of \$80 million to \$90 million?

Dr Boxall—Yes. It is probably likely to be immaterial, but that is really a view from our perspective. These issues go to consolidation, and one would need to get the advice of Treasury or Finance.

Senator GEORGE CAMPBELL—Mr Pratt, has there been any research, surveys or studies conducted by the department regarding the operation of the federal and state IR systems?

Mr Pratt—Undoubtedly.

Mr Kovacic—Research in what sense? Certainly we have examined the key elements of the various systems.

Senator GEORGE CAMPBELL—I presume you have done some research into the state systems and the federal system and into the possibility of using the corporations power.

Mr Kovacic—We have certainly looked at the way the systems function at the moment, yes.

Senator GEORGE CAMPBELL—Can those studies or research work be made available to the committee?

Mr Pratt—The research that Mr Kovacic is talking about is in the way of internal departmental analysis of state systems, which would go to the issue of advice to the minister.

Senator GEORGE CAMPBELL—Are you saying that you have had no external work done in relation to looking at the implications of merging the six systems?

Dr Boxall—We are saying that, at least in the last six months, we have analysed the issue and we have advised the government, and we will continue to advise the government.

Senator GEORGE CAMPBELL—I accept that is what you have said. I am asking whether there were any surveys, research work or studies conducted that can be made available to the committee.

Mr Pratt—Not recently.

Senator GEORGE CAMPBELL—Not recently? Not in the context of preparing this current bout of workplace reform?

Mr Pratt—No.

Mr Smythe—You may be aware that some years ago former minister Reith put out a series of papers entitled, *Breaking the Gridlock: Towards A Simpler National Workplace Relations System*, which canvassed the issue of a unitary industrial relations system. As part of that series of papers there were some discussion papers on the advantages and disadvantages of moving to a unitary system.

Senator GEORGE CAMPBELL—What are you saying, Mr Smythe? Are you saying that it is that material that is being used as the basis for proceeding on the current proposals?

Mr Smythe—I am saying that in part the information that came from those discussion papers informed the department's thinking on these issues.

Senator GEORGE CAMPBELL—Has the department received any correspondence concerning complaints about the operation of the federal system?

Mr Pratt—Not to my knowledge. But the department does receive enormous amounts of correspondence via the minister.

Senator GEORGE CAMPBELL—But you have not received volumes of correspondence complaining about the operation of the current system?

Mr Pratt—No.

Senator GEORGE CAMPBELL—So there is no movement out there for change? The movement is in here.

Mr Pratt—I am sorry: is that a question?

Senator Abetz—It is a statement: let us move on.

Senator GEORGE CAMPBELL—It is a question and a statement. You obviously have not received volumes of complaint from practitioners—

Senator Abetz—It depends what 'volumes' means.

Senator GEORGE CAMPBELL—out there complaining about the operation of the system, have you?

Senator Abetz—We could spend all night talking about what 'volume' actually means. I know that I have received numerous requests. Indeed, there was a function at the COSBOA conference dealing with industrial reform that I and Sharan Burrow addressed together. I can tell you that in that room there was a very strong push for the need for reform. But you will

undoubtedly tell me about a union function somewhere where there was great opposition to it—

Senator GEORGE CAMPBELL—No, I have to agree with you. I was at a roundtable of small businesses from Western Australia where there was a considerable push to keep the two systems in Western Australia so that they could keep their options open.

CHAIR—Your next question, Senator Campbell.

Senator GEORGE CAMPBELL—I am trying to get an answer to my last one, thank you.

Senator Abetz—It was not a question.

CHAIR—It was not a question; it was a statement.

Senator Abetz—It was an assertion that the push is coming from in here. That is a political comment. It is a good point, a scoring point—whatever you like to call it.

Senator GEORGE CAMPBELL—I asked a question of Mr Pratt, which was: have they received any volumes of correspondence from people out there complaining about the operation of the current system?

Senator Abetz—And he said no.

Senator GEORGE CAMPBELL—That is right, he said no.

Senator Abetz—Right, next question.

Mr Pratt—In the context of your earlier question, that is correct.

Senator GEORGE CAMPBELL—Mr Pratt, has the department done any estimation of the numbers of people who do not have a job because they have been locked out of the work force because of the minimum wage?

Dr Boxall—The empirical work on the impact of the minimum wages on the demand for labour shows that there is a negative relationship—it is a negative elasticity. It is quite clear from all the empirical work conducted by academics that increasing the minimum wage causes a decrease in the demand for employment.

Mr Kovacic—The government commissioned the Centre of Policy Studies at Monash University to model the impact that granting the ACTU's claim would have on the Australian economy and the economies of the states and territories and regions. That report was presented to the Industrial Relations Commission together with the government's submission to this year's safety net review.

Senator GEORGE CAMPBELL—That is the current claim that is before the commission.

Mr Kovacic—Exactly. The report found that the effect of an across-the-board wage increase in 2005 of \$26.60 would lead to employment by 74,000 jobs less in 2005 than if a zero award wage increase were granted.

Senator GEORGE CAMPBELL—I understand that; I understand that that would have been presented. That is not really the question I am asking. The question I am asking is: has the department done any analysis or estimate of the number of people who have been locked

out of the work force because the minimum wage is too high? That is essentially the argument—it is certainly the argument the minister has been putting.

Dr Boxall—The point made by Mr Kovacic and by me goes to the answer to that question.

Senator GEORGE CAMPBELL—No, the answer by Mr Kovacic goes to a specific claim for a specific increase—an analysis by Monash that if that specific increase were granted what that implication would be. That is a different question altogether. I am talking about an increase here. The minister has argued, for example, that the federal minimum wage is \$70 a week too high.

Dr Boxall—How much?

Senator GEORGE CAMPBELL—Some \$70 a week too high.

Mr Pratt—The minister, to my knowledge, has not argued that.

Senator GEORGE CAMPBELL—I beg your pardon?

Mr Pratt—The minister, to my knowledge, has never argued that.

Senator GEORGE CAMPBELL—He has, and he has used that figure.

Dr Boxall—Do you have a transcript of him using that figure?

Senator GEORGE CAMPBELL—We can get it.

Mr Kovacic—There was a report done by Dr Harding in the context of the 2004 safety net review which found that annual safety net claims could be reducing employment demand by up to 240,000 jobs over five years. Again, that goes to reinforcing the point that Dr Boxall made previously on the impact of unsustainable minimum wage increases.

Senator GEORGE CAMPBELL—I understand all the work that has been done out there. I have asked a specific question: has the department made any estimate?

Dr Boxall—The answer to your question, if I understand it correctly—I am happy to be corrected—is that the department has commissioned pieces of work. Mr Kovacic has given two examples. I have referred to the overwhelming results of academic studies which show that the elasticity is negative, which means that if you increase the minimum wage you reduce employment. That is a vast body of empirical evidence. If you are asking whether we have done some internal study over and above that, the answer is no.

Senator GEORGE CAMPBELL—I did not understand; I may have interpreted Mr Kovacic wrongly. Are you saying that the department commissioned the Monash study?

Dr Boxall—That is correct. The government commissioned—

Senator GEORGE CAMPBELL—The government commissioned it and that forms part of the government's submission.

Dr Boxall—Yes.

Senator GEORGE CAMPBELL—I am sorry, I misunderstood what you said.

Mr Pratt—You were going to identify the source of the minister—

Senator GEORGE CAMPBELL—I will have a look through this in a minute for you. Can the department guarantee that no workers' wages will be reduced by the creation of a low pay commission?

Dr Boxall—The department has nothing to add to the Prime Minister's statements on this matter.

Senator GEORGE CAMPBELL—The government has announced that it wishes to create a low pay commission. Can the department provide details about who will decide their appointment?

Dr Boxall—The government has not announced that it will appoint a low pay commission. It has announced that it will establish the Fair Pay Commission.

Senator GEORGE CAMPBELL—Your interpretation is that it is fair. We know what the understanding of the word 'fair' is in the context of legislation by this government.

Senator BARNETT—That is out of order.

Senator GEORGE CAMPBELL—What is out of order?

Senator BARNETT—That is out of order. The correct name is 'Fair Pay Commission', not 'low pay commission'.

Senator GEORGE CAMPBELL—It is not out of order. It is a low pay commission—the same as your 'fair' dismissals are unfair dismissals.

CHAIR—Senator George Campbell, that is not the correct term; Dr Boxall has corrected it.

Senator Abetz—If Senator George Campbell wants the cooperation of departmental officials, he might like to refer to the appropriate authorities by the appropriate name, because if he starts using the names—

Senator GEORGE CAMPBELL—I do not regard it as the appropriate name, Minister. That might be the name that your government has given it.

CHAIR—Senator George Campbell, I would ask you to use the correct term which Dr Boxall has identified.

Senator GEORGE CAMPBELL—The commission that the government is calling 'fair'.

CHAIR—It is the Australian Fair Pay Commission, as I understand it.

Senator GEORGE CAMPBELL—What will be the terms of engagement of the people who sit on that commission?

Dr Boxall—The details of the terms of engagement will be worked out now that the government has announced the broad policy. We are not in a position to say what they will be just yet.

Senator GEORGE CAMPBELL—In any areas?

Dr Boxall—For the Australian Fair Pay Commission, which the government has announced it will establish, the government has yet to finalise the details of the appointments and the issues that you are asking about, so we are not in a position to answer the question.

Senator GEORGE CAMPBELL—Have they determined yet how many will be appointed?

Dr Boxall—No, they have not finalised that.

Senator GEORGE CAMPBELL—Have they determined yet what the qualifications will be for appointment?

Dr Boxall—No, they have not finalised that either.

Senator GEORGE CAMPBELL—Have they determined what the remuneration will be?

Dr Boxall—No.

Senator GEORGE CAMPBELL—Have they determined the length of the appointment?

Dr Boxall—No.

Senator Abetz—No announcements or determinations have been made, as I understand it, in relation to this commission, other than that there will be such a commission.

Senator MARSHALL—And the name.

Senator Abetz—And the name; quite right, Senator Marshall. Well done.

Senator GEORGE CAMPBELL—The low pay commission.

CHAIR—Senator Campbell, I have warned you.

Senator GEORGE CAMPBELL—How will minimum wages be set, or haven't those issues been determined yet?

Mr Pratt—The government has not announced its views on that yet.

Senator GEORGE CAMPBELL—So really we have only the broad bones that there will be a commission?

Mr Pratt—Allow me to tell you what we do know. The government's announcement is that a new body called the Australian Fair Pay Commission will be established to set minimum wage rates. The commission will set and periodically adjust a single adult minimum wage, non-adult minimum wages—such as the training wage, minimum wages for award classification levels and casual loadings.

Senator GEORGE CAMPBELL—That is the extent of the knowledge at this point in time about the commission?

Dr Boxall—That is the extent of the announcement. The government has announced the overarching or macro level of its workplace relations policy and now it will proceed to settle on the details, including the legislation, and make announcements at the time that it chooses.

Mr Pratt—In fact, the announcement goes on to say that wage rates contained within awards will also be set by the Fair Pay Commission. This means award based classification wages will not fall below the level set after the inclusion of any increase from the 2005 safety net review, although they will be capable of upwards adjustment by the commission. Decisions of the commission will be guided by parameters set in legislation to ensure minimum wages operate as a genuine safety net for agreement making.

Senator MARSHALL—So it will set the lowest pay and conditions that are available?

Mr Pratt—It will set the wages—the minimum wage and award wages above the minimum wages.

Senator MARSHALL—It was worth a try.

Senator GEORGE CAMPBELL—How often will it perform that task?

Mr Pratt—That is yet to be announced.

Senator GEORGE CAMPBELL—Can you explain to us how the department measures or defines the term ‘average real wages’?

Mr Kovacic—That is a question for the Australian Bureau of Statistics.

Mr Andrews—It depends on the context in which the question is asked. What do you mean by average weekly earnings?

Senator GEORGE CAMPBELL—We quite often hear the terminology ‘people are earning average real wages’. I want to know what is used to determine that. How do you measure average real wages? What is the definition of average real wages?

Mr Andrews—That is an ABS question.

Senator GEORGE CAMPBELL—The government is fond of claiming that average real wages have grown by 14 per cent since it came to power.

Mr Andrews—That is based on the wage price index, which is a survey carried out by the ABS every quarter.

Senator GEORGE CAMPBELL—And that is what you use to measure average real wages?

Mr Andrews—And we would discount those by movements in the CPI over that particular period as well.

Mr Andrews—That is based on the wage price index, which is a survey carried out by the ABS every quarter.

Senator GEORGE CAMPBELL—And that is what you use to measure average real wages.

Mr Andrews—Yes. We would discount those by movements in the CPI over that particular period as well.

Senator GEORGE CAMPBELL—So do you just accept the figures that are provided by the ABS?

Mr Andrews—Yes.

Senator GEORGE CAMPBELL—And use them as your basis of measurement?

Mr Andrews—Yes.

Senator GEORGE CAMPBELL—Would you be able to detail the number and percentage of employees whose average real wages have increased over the period 1996 to 2004?

Mr Andrews—Yes, we would be able to give you the figure of wages growth over that period.

Senator GEORGE CAMPBELL—And by how much they have increased?

Mr Andrews—Yes.

Senator GEORGE CAMPBELL—Would you be able to break those figures down by industry, gender, occupation and skill level?

Mr Andrews—We could break it down by industry and occupation. I am not sure whether we could break it down by gender. We could certainly not break it down by skill level—or only to the extent that ASCO, the Australian Standard Classifications of Occupations, which the ABS has put together, does reflect broad skill levels.

Senator GEORGE CAMPBELL—Can you take that on notice and provide us with an answer?

Mr Andrews—Certainly.

Dr Boxall—We can take that on notice. I will mention that this data is publicly available—it is Australian Bureau of Statistics data—but we will dig it out and answer the question on notice.

Senator MARSHALL—Dr Boxall, are you or any of your officers aware of any other figures in the budget that may be considered by you to be an error or may be considered by you to require further investigation which may lead to an error being determined by the responsible department?

Mr Pratt—No.

Senator MARSHALL—So it is just that one.

Mr Pratt—In relation to outcome 2, yes.

Senator MARSHALL—I was not limiting it to outcome 2: I was asking you a question—

Mr Pratt—I have no knowledge—

Senator MARSHALL—I was actually asking Dr Boxall whether he or any of his officers were aware of any—

Dr Boxall—Certainly, but we are on outcome 2—I put it in that context.

Senator Abetz—There was a little error referred to, wasn't there, by the Office of the Employment Advocate, when there was reference made to six in New South Wales when New South Wales should not have been included, if I recall?

Senator MARSHALL—That may be. And if Dr Boxall or his officers are aware of that they can answer yes and if they are aware of any others they can give me the details of those too. That is what I am asking. It is pretty simple.

Senator Abetz—Yes, but they are restricted to the area of outcome 2.

Senator MARSHALL—So your answer has a condition on it that you are not aware of any figures in the budget that may have an error—or what may be considered to be an error—

within the budget for outcome 2, but you are not prepared to say whether you are aware of any figures outside of outcome 1 that may be an error. Is that what you are putting to me?

Mr Pratt—That is my answer. I am not qualified to answer outside of outcome 2.

Senator MARSHALL—That is good for me. It works. Can the department explain why it has moved away from its original assertion that the exemption of small businesses from unfair dismissal laws will create 77,000 new jobs?

Mr Pratt—The department has not moved away from its statements about the impact of unfair dismissal laws on new jobs.

Senator MARSHALL—So your position is that 77,000 new jobs will be created by the exemption of small businesses from unfair dismissal laws?

Mr Pratt—That is an estimate made by Don Harding in 2002, and we believe that is the most solid available estimate of the employment impact of Australia's unfair dismissal laws. There are other estimates, but that is the one which we believe is the most solid available one.

Senator MARSHALL—Are you aware of a claim made in the Senate by the Minister representing the Minister for Employment and Workplace Relations—

Senator Abetz—A very reliable source, I must say.

Senator MARSHALL—I think you claimed that 73,000 jobs would be created overnight with the removal of the unfair dismissal laws.

Senator Abetz—How many?

Senator GEORGE CAMPBELL—It was 75,000 overnight.

Senator MARSHALL—Was it 75,000? I thought it was less than the official figure.

Senator GEORGE CAMPBELL—It was 75,000 overnight.

Senator Abetz—I am usually conservative, so yes. And the removal of the roadblock overnight would, according to this study, allow the development of—

Senator GEORGE CAMPBELL—You said you would create 75,000 new jobs overnight. That was unequivocal.

Senator Abetz—Oh, my goodness.

Senator MARSHALL—I think you asked him the question, didn't you, Senator Barnett?

Senator GEORGE CAMPBELL—He did.

Senator Abetz—It would have been a very searching question.

Senator GEORGE CAMPBELL—A dorothy dixer!

Senator BARNETT—A good question and a good answer!

Senator MARSHALL—Does the department support the view that 75,000 new jobs will be created overnight with the removal of the unfair dismissal laws?

Mr Pratt—As I said before, certainly the survey we think provides the most solid estimate is the Don Harding one from 2002. It estimates the creation of 77,000 new jobs. There are

surveys which are less conservative than Don Harding and the minister are; one by Sensis suggests that it might be in the order of 150,000 extra jobs.

Senator Abetz—I am even more conservative than I realised!

Senator MARSHALL—Given that the proposal now is to exempt businesses with up to 100 employees, what is the department's estimation of the jobs created overnight?

Mr Pratt—We do not have an estimate.

Senator MARSHALL—You do not have an estimate on that?

Mr Pratt—No.

Senator MARSHALL—Would you think it would be more, or less, than it would be from exempting small businesses?

Mr Pratt—Intuitively, it would be more.

Senator MARSHALL—What measures are you going to put in place to measure the overnight increase in jobs when this legislation is passed?

Mr Pratt—We will be able to use the statistics we use all the time to measure the number of jobs in the Australian labour market.

Senator MARSHALL—And you are fairly confident that those measures will pick up an overnight surge of at least 75,000 new jobs?

Mr Pratt—I am confident in the capacity of the Australian Bureau of Statistics to pick up significant changes in the labour market, yes.

Senator MARSHALL—Do you think the department is resourced enough to cope with new employment of 75,000 overnight, or are there areas that might need further expenditure?

Mr Pratt—That assumes that the increase in employment in the Australian labour market would have a negative impact on the department's resourcing. I am not sure how that follows.

Senator MARSHALL—Maybe it is a question I should have asked the Office of the Employment Advocate. I suspect there will be a push for a lot of those new positions to be on AWAs. You would think that the statistics would pick up fairly quickly a surge of employment like that. I am concerned that we are in a position to cope with such an overnight surge of employment. Are you confident that the department can cope with such a surge?

Dr Boxall—I do not see how it is going to impact on the department.

Senator MARSHALL—It will not impact on the department? I am relieved to have your assurances. Would it be a worthwhile exercise for the department to put some mechanisms in place to specifically measure the impact on employment of the removal of such laws?

Mr Pratt—To return to my previous answer, the arrangements we have in place already enable us to measure such changes.

Senator MARSHALL—Would you be able to detail those arrangements and take it on notice to provide the committee information on how those arrangements will measure an overnight increase in employment of 75,000?

Mr Pratt—Yes.

Senator MARSHALL—Does the government have any data on the number and nature of unfair dismissal cases involving workers with caring responsibilities?

Mr Kovacic—Not that I am aware of.

Senator MARSHALL—Have you given any consideration to how the diminished capacity to protect workers with caring responsibilities in small and medium businesses will affect family life in Australia as a consequence of the removal of the unfair dismissal laws?

Mr Kovacic—We do not accept the thrust of the question.

Senator MARSHALL—I was not thrusting anything. I was asking whether you have put anything in place to measure that. Have you done any studies to look at its impact?

Mr Kovacic—In terms of unfair dismissal?

Mr Pratt—I am sorry, Senator, your question was preceded by a rather large assumption, which I guess we are not prepared to agree to. Therefore, it makes the question very difficult to answer.

Senator MARSHALL—Don't unfair dismissal laws protect employees from unfair dismissal?

Mr Kovacic—Certainly. Perhaps I can assist you: the unlawful termination provisions of the Workplace Relations Act prohibit an employer terminating an employee's employment for a range of reasons, including family responsibilities and absence from work during maternity leave or other parental leave. Those provisions of the Workplace Relations Act will not be affected by the workplace relations reform package. They will remain as they are.

Senator MARSHALL—So how do you access unfair dismissal? Are you saying to me that the legislation that is already there is going to remain unchanged?

Mr Kovacic—There are two streams.

Senator MARSHALL—I have not seen the new legislation; it has only just been announced.

Mr Kovacic—In the existing Workplace Relations Act there are two streams: firstly, unfair dismissal, which in essence goes to whether the process of dismissal has been fair; and, secondly, unlawful termination, which deals with termination which is on unlawful grounds—there is a range of grounds, a couple of which I have mentioned, which go particularly to family responsibilities and related issues.

Senator MARSHALL—Can you explain to me how you see that working? Let us say someone with caring responsibilities turns up to work late and they indicate it is because they had some caring responsibilities and, regardless, their employment is terminated because of late arrival to work, not because they had caring responsibilities. How is the legislation going to manage situations like that?

Mr Smythe—It is difficult to speculate on precisely how it will work. The point Mr Kovacic makes is that the provisions presently in the act which provide protections for people with family responsibilities will not be changed. The access to unlawful termination remedies in respect of family responsibilities will remain exactly as they are at the moment.

Senator MARSHALL—So you say there will be no impact on workers with caring responsibilities?

Dr Boxall—There is no specific link between unfair dismissals and caring responsibilities. Caring responsibilities are dealt with under unlawful termination.

Senator MARSHALL—So you say there will be no impact on workers with caring responsibilities by the removal of unfair dismissals?

Dr Boxall—There is no reason there would be an impact. The issue about caring responsibilities is dealt with under unlawful termination, not under unfair dismissal.

Senator MARSHALL—I am just trying to clarify the answer. If that is what you are saying then that is what you are saying.

Dr Boxall—I am clarifying the department's position.

Senator GEORGE CAMPBELL—On 9 December 2004 the House of Representatives Standing Committee on Employment, Workplace Relations and Workforce Participation announced that the Minister for Employment and Workplace relations had requested that the committee inquire into independent contractor and labour hire arrangements. As a result, the committee then proceeded to establish an inquiry for which submissions closed on 11 March 2005. On 30 March 2005, the minister issued a media release announcing a DEWR discussion paper regarding independent contractors and labour hire arrangements with submissions in response to be lodged by 11 May. Given that these two undertakings address the same substantive policy area, what is the relationship between them, if any?

Mr Smythe—They are two processes that are running in parallel.

Senator GEORGE CAMPBELL—Is there a relationship between them?

Mr Smythe—Not a direct relationship, no.

Senator GEORGE CAMPBELL—Is DEWR proceeding to conduct its work independent of the House of Representatives committee?

Mr Smythe—Yes.

Senator GEORGE CAMPBELL—Are you taking into account any of the material that has been presented to the House of Representatives committee?

Mr Smythe—Yes.

Senator GEORGE CAMPBELL—Can you explain what the minister envisages are the purpose and the likely outcomes of the House of Representatives inquiry?

Mr Smythe—I cannot speculate as to what the outcomes might be. Therefore I cannot speculate as to what the purpose might be in having two separate processes other than to maximise the amount of exposure and inquiry that will take place on this issue.

Senator GEORGE CAMPBELL—Are you able to tell the committee why the minister found it necessary to initiate the DEWR discussion paper at the same time the House of Representatives inquiry was on foot?

Mr Smythe—I will repeat what I have just said: to maximise the exposure of the issue.

Senator GEORGE CAMPBELL—Can you identify the cost of the House of Representatives inquiry and the DEWR discussion paper?

Mr Smythe—I will have to take that on notice.

Senator Abetz—Sorry, the cost of what?

Senator GEORGE CAMPBELL—Conducting the House of Representatives inquiry and the cost of the DEWR discussion paper.

Senator Abetz—Shouldn't you be asking that of the President of the Senate or the—

Senator GEORGE CAMPBELL—And the DEWR discussion paper.

Senator Abetz—On the DEWR discussion paper we might but in relation to a parliamentary inquiry—

CHAIR—I am not sure whether you would agree, Minister, but I am not sure whether that is within the scope of this committee.

Senator Abetz—I would not have thought so.

Senator GEORGE CAMPBELL—Certainly the cost of producing the DEWR discussion paper is within the scope of this committee.

Dr Boxall—We can take the cost of the DEWR discussion paper exercise on notice.

Senator GEORGE CAMPBELL—The DEWR discussion paper refers to court or tribunal decisions which could be said to have erected barriers to the freedom to contract and the freedom to engage workers through labour hire arrangements. That is on page 5. But in the paper no examples of such decisions were provided. Can the department provide examples of those decisions and explain how the department believes that they have erected barriers of the type referred to?

Mr Smythe—I am not sure but I suspect that that question was asked of the department in the House of Representatives committee inquiry which members of the department appeared before. In any event, I shall take that question on notice and see what examples can be provided.

Senator GEORGE CAMPBELL—Can you elaborate on the specific economic effects of such barriers and limitations? Can you quantify in dollar terms the specific economic effects of such barriers and limitations?

Mr Smythe—I will take on notice whether that question can be answered.

Senator GEORGE CAMPBELL—Can you explain how current state laws, such as the New South Wales unfair contracts jurisdiction and current deeming provisions, create barriers to the freedom to contract and the freedom to engage workers through labour hire arrangements?

Mr Smythe—I am struggling a bit. I wonder whether that would require me to give a legal opinion, which would not be appropriate for me to do in this committee.

Senator GEORGE CAMPBELL—Perhaps you can take it on notice and see to what extent you can respond.

Mr Smythe—I will do that.

Senator GEORGE CAMPBELL—Dr Boxall, the government has indicated that it intends to outsource the evaluation process of determining whether recipients of the disability support pension are capable of working. What performance measures will be put in place?

Dr Boxall—Chair, this is clearly a question for outcome 1 and outcome 3.

Senator GEORGE CAMPBELL—Are you saying that you are not in a position to be able to answer that?

Dr Boxall—I did not say that. I said that is clearly a question for outcome 1 and outcome 3 and—

CHAIR—Yes, it should be asked in that context.

Dr Boxall—all of the staff for outcome 1 and outcome 3 have been dismissed in consultation with the committee.

Senator GEORGE CAMPBELL—As to the workplace relations policy advice, the budget papers have made provision for an extra \$8 million in round terms for this section of DEWR—it has gone from \$11.195 million to \$19.085 million—yet there does not seem to be any specific target for the additional funding.

Mr Pratt—The bulk of that funding is to do with the asbestos measure that we discussed earlier on.

Senator GEORGE CAMPBELL—Can you outline that specifically?

Mr Pratt—In Budget Paper No. 2 on page 145 it describes this measure in detail. The government will provide \$86.1 million over five years, including \$0.4 million in 2004-05, for the centralised management of common law injury claims against the Australian government involving asbestos related diseases. A new policy function has been established in the Department of Employment and Workplace Relations. Following the passage of enabling legislation, the management of non-Defence asbestos related personal injury claims will be undertaken by Comcare. That describes the measure. In our portfolio budget statement we find on page 24 under table 2.2.1 the summary of expense measures disclosed in the 2005 budget continued. We have a line there on asbestos claims management which shows that the department is receiving, in 2005-06, \$6.149 million, which goes to that increase between years. There are a number of other minor matters there as well.

Senator GEORGE CAMPBELL—What is the policy advice that is going to be performed, or is it just the management of it?

Mr Kovacic—It is in essence putting in place the structure to deal with claims and to coordinate the handling of claims to ensure there is a consistent policy framework for the management of those claims across the government's area of responsibility. There is also to be a review of the Department of Defence asbestos related injury claims, which is to be concluded by July 2006. There would also be involvement in issues related to that review as well.

Senator GEORGE CAMPBELL—But this would essentially be providing policy advice; the actual management or dealing with the claims would be a Comcare issue. Is that right?

Mr Kovacic—That is correct.

Senator GEORGE CAMPBELL—How many staff will be involved in this?

Mr Kovacic—There is funding for three staff.

Senator GEORGE CAMPBELL—Over what period of time?

Mr Kovacic—That is over the five years of the program.

Senator GEORGE CAMPBELL—Is it anticipated that the program will be completed in five years or will it be an ongoing thing?

Mr Kovacic—It will be an ongoing responsibility.

Senator GEORGE CAMPBELL—An ongoing responsibility.

Senator MARSHALL—How many legal officers are involved with the development of the government's proposed industrial relations changes?

Mr Pratt—This is a reasonably rough estimate, but it will be in the order of at least 30.

Senator MARSHALL—Are any of those officers from other APS agencies?

Mr Pratt—Possibly.

Senator MARSHALL—Can you find out for me?

Mr Pratt—It is subject to negotiations with other agencies, but there are other agencies which we are dealing with in order to get additional resources to help us with the legislation underpinning the government's workplace relations reforms.

Senator MARSHALL—They are advising your department? You said that this was subject to other agencies. Why is it subject to anybody?

Dr Boxall—We have to negotiate their secondment.

Senator MARSHALL—I thought that telling me whether you had any people from other departments in the APS was subject to other agencies. That is what I asked. Let us start again: are any of these officers from other APS agencies?

Mr Pratt—We hope so. We hope that we will have some from AGS and—

Senator MARSHALL—I do not think that is what you said last time. Oh: you said 'I hope so'. I am sorry. You will need to speak up. Can you tell me which agencies and how many from each agency?

Mr Pratt—I cannot, because the negotiations have not been completed.

Senator Abetz—We will take that on notice.

Senator MARSHALL—All right. Are any of these legal officers from outside the APS?

Mr Pratt—Potentially.

Senator MARSHALL—If so, where are these officers from and how many of them will there be?

Mr Pratt—Again, we are in negotiations with a number of major law firms to second people for the purpose of developing the legislation. We have not finalised those negotiations.

Senator MARSHALL—How many do you need? How many are you negotiating for?

Mr Pratt—It could be as many as half-a-dozen to 10. But, as I said, this is an estimate at this stage.

Senator MARSHALL—That is all right.

Dr Boxall—We are just setting it up.

Senator MARSHALL—So how many companies are you negotiating with?

Mr Smythe—Six.

Senator MARSHALL—How many of your own legal officers are involved with the development of the proposed industrial relations changes?

Mr Pratt—As I said before, up to around 30.

Senator MARSHALL—Right. I thought you said 30 included everybody else. So that is yours. So, in addition, there could be around six to 10 from—

Mr Pratt—Conceivably. It is not that simple. We might have—

Senator MARSHALL—I am trying to get a picture of how much legal work is going into this. Maybe you could be helpful—

Mr Pratt—Perhaps 30 of our legal officers may work on these reforms over the course of the next few months. Not all of them will do it at the same time. In addition to that, we will have—potentially—six to 10 additional legal officers from the legal firms and from other departments.

Senator MARSHALL—How are you managing that within the department? Are you setting up a task force or a separate group?

Mr Pratt—We are setting up a task force; we, in fact, have established a task force.

Senator MARSHALL—All right. How many people will be in the task force?

Mr Pratt—Initially, about 50.

Senator MARSHALL—How much money have you allocated to it?

Mr Pratt—We have not allocated any at this stage.

Senator MARSHALL—Do you intend to?

Mr Pratt—It certainly will have a budget but it will be dependent on the size of the task and that task is being scoped out.

Senator MARSHALL—What level officer will manage it?

Mr Pratt—I will manage it.

Senator MARSHALL—You will manage it. What is your level, Mr Pratt?

Mr Pratt—Deputy secretary.

Senator MARSHALL—Thank you. How many non-legal officers will be involved in the task force?

Mr Pratt—At least 20.

Senator MARSHALL—Will any of those officers be from other APS agencies?

Mr Pratt—It is less likely, but not impossible.

Senator MARSHALL—All right. Will any of the officers be from outside the APS?

Mr Pratt—There is one that I am aware of.

Senator MARSHALL—What role will that person play?

Mr Pratt—I stand corrected: the officer I had in mind will actually be working on ongoing work, not on the reforms, and specifically on the mediation pilot.

Senator MARSHALL—Right. So it is not part of the government's reform agenda.

Mr Pratt—It is, but it is not part of the issues we have been talking about today.

Senator MARSHALL—Right. To be fair, I think I described it as the government's proposed industrial relations changes, which is fairly broad.

Mr Pratt—I am not trying to be difficult.

Senator MARSHALL—I know.

Mr Pratt—The mediation pilot I referred to was announced by the government as part of its election platform which contributes to the overarching reforms of the government. But it is not a direct part of the task force's responsibilities.

Senator MARSHALL—For the sake of completeness, where will that officer be engaged from?

Mr Pratt—It is one of the legal firms, I believe.

Mr Kovacic—No, it is from an employer organisation in Victoria.

Senator MARSHALL—Which one?

Mr Kovacic—VECCI is the acronym. It stands for Victorian Employers Chamber of Commerce and Industry.

Senator MARSHALL—And what is their job going to be?

Mr Kovacic—As Mr Pratt has indicated—

Senator MARSHALL—He has indicated they will be working on the mediation project.

Mr Kovacic—They will be working as an officer on the mediation pilot in terms of assisting with the implementation of that pilot by the industrial registry.

Senator MARSHALL—You don't have more of a specific role for a person you are bringing from outside?

Mr Kovacic—It is a policy advising sort of role, in a general sort of sense.

Mr Pratt—It is probably worthwhile explaining the nature of this external officer's involvement. It is part of a package deal which enables a family friendly arrangement to be in place whereby we have—hopefully—a high-level legal officer coming from one of the external legal firms and his spouse is also able to work in the department on another area of policy. It means they can be in Canberra together.

Senator MARSHALL—Right. Have you got any other arrangements like that?

Mr Pratt—Not at this stage.

Senator MARSHALL—Have there been drafting instructions prepared as yet by the task force you are setting up?

Mr Pratt—As in for the legislation?

Senator MARSHALL—Yes.

Mr Pratt—The task force is working on those matters at this stage.

Senator MARSHALL—You were telling me the task force is still in its development, so if it is actually working on the drafting can you tell me the extent of the development of the task force at this point in time? Have you got half-a-dozen people working on it and are you building up? Are you at half strength or nearly full strength?

Mr Smythe—I may be corrected, but I think we are nearly at full strength.

Mr Kovacic—It is at about two-thirds.

Senator MARSHALL—So the people missing are the people from outside agencies and from private firms that you are still negotiating with. Is that right?

Mr Pratt—Yes, that would be the case with many of them.

Mr Smythe—Some of the internal staff have not yet commenced working full-time on the project.

Senator MARSHALL—Are there specific roles that it is intended that the legal personnel from private firms will undertake?

Mr Smythe—As Mr Pratt has indicated, we are still scoping the size of the task. There is a lot of ground to cover and a lot of changes to be contemplated—sub-teams should be able to identify themselves relatively easily, and I would imagine that a person from a private sector law firm will be appointed to each of the sub-teams.

Senator MARSHALL—Are you aware of the law firm referred to as Freehills?

Mr Pratt—Yes.

Senator MARSHALL—Are you aware of any legal practitioners employed by Freehills that are working in the minister's office?

Senator Abetz—Why do we need specific names? We had this arising in the Finance and Public Administration estimates as well. The gratuitous trawling of individuals' names through the *Hansard* is not something that I personally support. Unless it is absolutely necessary to the point senators are trying to make or they are asserting that somebody has misbehaved, I do not believe that the giving of names is for anybody's benefit, so I just ask you to reconsider that question, please.

Senator MARSHALL—I did not ask for anyone's name; I was asking whether you are aware of any lawyers employed by Freehills who are working in the minister's office.

Mr Pratt—From my perspective, I do not know the employment conditions of the minister's—

Dr Boxall—The department is not aware of anybody who is employed by Freehills who is also working in the minister's office.

Senator MARSHALL—Okay.

Proceedings suspended from 9.00 pm to 9.19 pm

CHAIR—Before we start questions again, the committee will sit again on Friday morning from nine until 12.30. During that time, we will consider the building industry task force. I would like to ask the relevant department officials to be prepared to appear on Friday morning.

Dr Boxall—Just to clarify, the building industry task force is part of outcome 2. Is it just the building industry task force?

CHAIR—Yes.

Senator GEORGE CAMPBELL—No, it is not. It is the building industry task force and related building industry issues. There are other issues as well as the task force.

Dr Boxall—Essentially, it is outcome 2, with an emphasis on the building industry task force and building industry issues.

Senator GEORGE CAMPBELL—It will be a part of it and the building industry in general.

Senator Abetz—CFMEU day.

Dr Boxall—The relevant officials will be here. I will not be here, because I am going over to the ILO to represent the minister and this has been scheduled for some time.

Senator GEORGE CAMPBELL—The *Sunday Age* of 1 May carried an article in which mention was made of the package of reform for the auto industry and concerns by the minister that industrial relations reform in that industry was moving too slow. I think it followed up on one of the comments he made at the auto industry dinner a month previously. At the estimates yesterday, the Department of Industry, Tourism and Resources indicated that they had had meetings with members of DEWR to consider these issues and that some meetings have been held with some sections of the industry—I think both components and the plant producers. Can you advise us to what extent these discussions have taken place and what the status of the discussions is?

Mr Pratt—We have had a number of meetings with major automotive manufacturers over the last nine months. In addition to that we have had a number of meetings with component manufacturers and the industry department. In those meetings we have been examining the pace of workplace relations reform in the automotive industry.

Senator GEORGE CAMPBELL—And that has involved discussions with the industry department as well?

Mr Pratt—Yes.

Senator GEORGE CAMPBELL—What account has been taken of the changes that have occurred in that industry over the past decade or so?

Mr Pratt—We are quite aware of the changes that have occurred in that industry. Certainly in the discussions those changes have come up from the industry itself.

Senator GEORGE CAMPBELL—And it is fair to say that there have been significant productivity gains in the industry over that period?

Mr Symon—We have ongoing discussions with all of the major automotive manufacturers and they advise us of their productivity gains at all times. Obviously, a lot of the dialogue is with the department of industry but we are also plugged into those ongoing discussions. There are formal discussions as well, but those are not the only discussions. Our officers regularly are in discussion with all of the majors.

Senator GEORGE CAMPBELL—Has the industry expressed concern to you in those discussions about industrial relations issues being caught up in terms of the support package for the industry?

Mr Symon—Many of the discussions are done on the basis that they wish them to stay confidential, and we enter those discussions on that basis.

Senator GEORGE CAMPBELL—Has any consideration been given to taking a proposal on this issue to cabinet—that is, tying industry assistance to industrial relations reform?

Mr Symon—Any such proposal going to cabinet would be largely by the department of industry.

Senator GEORGE CAMPBELL—Has this matter been an issue of consideration between the two departments? What is the status of the working group between the two departments?

Mr Symon—The status of the working group?

Ms Merryfull—You will be aware that in the minister's speech to the FCAI a couple of months ago he referred to the fact that he and his colleague Ian Macfarlane would be making a report to cabinet on the progress of workplace relations reform and productivity in the automotive sector. We have been meeting with the department of industry about that matter.

Senator GEORGE CAMPBELL—What is the status of the working group with the department of industry? Is it a working group or is it just you meeting with that department? There have been several meetings, haven't there?

Ms Merryfull—Yes, we have had a couple of meetings since the election about that, we have undertaken some joint visits with representatives of the department to automotive component makers, and there are further visits to automakers planned. It is a work in progress.

Senator GEORGE CAMPBELL—It is a work in progress?

Ms Merryfull—Yes.

Senator GEORGE CAMPBELL—What is the time line for the minister and Minister Macfarlane to take a report to cabinet?

Ms Merryfull—That minister has not publicly spoken about that time line so I am unable to comment on that.

Senator GEORGE CAMPBELL—If there were to be changes in this area it would require legislation, wouldn't it?

Ms Merryfull—ACIS funding is governed by the ACIS act. It is the responsibility of the department of industry. We have no responsibility for that act.

Senator GEORGE CAMPBELL—But to tie that funding to industrial relations reform would require legislation through the parliament to change the ACIS legislation.

Ms Merryfull—I would just prefer not to comment on someone else's legislation.

Senator GEORGE CAMPBELL—Is there any plan for a royal commission into the industry? Has that been raised in the discussions?

Ms Merryfull—Not that I am aware of.

Senator GEORGE CAMPBELL—Has the department conducted any research into the operations of the Australian vehicle producers?

Ms Merryfull—It depends on what you mean by 'research'.

Senator GEORGE CAMPBELL—Into the operations of the vehicle producers.

Ms Merryfull—We have an interest in vehicle producers, as we are interested in a number of manufacturing sectors. We visit them and we talk to them about what they do and what their workplace arrangements are. It is part of our job to do that across industry.

Senator GEORGE CAMPBELL—The criticism by the minister is that reform in the industry is too slow. Have you undertaken any research into what is occurring within the industry to prove or disprove that comment by the minister?

Ms Merryfull—It is not my place to prove or disprove a comment by the minister. As part of the report we are examining the workplace arrangements and productivity performance of the whole sector.

Senator GEORGE CAMPBELL—Have you done an examination of productivity increases in the sector since 1996?

Ms Merryfull—The productivity part of it is the responsibility of the department of industry.

Senator GEORGE CAMPBELL—So what is your role? What is DEWR's role in this?

Dr Boxall—It is to provide advice to government on workplace relations aspects of the automotive vehicle industry.

Senator GEORGE CAMPBELL—I am trying to understand what their role is in the interaction with the department of industry. If all of the work is theirs to do, what is the role for DEWR?

Ms Merryfull—No, the report is on workplace relations and productivity in the automotive sector.

Senator GEORGE CAMPBELL—If it is on workplace relations, haven't you done any research into what is occurring in the industry?

Ms Merryfull—As I have said, we have been talking to and meeting with representatives of the sector for a considerable period of time, gathering information for that report.

Mr Pratt—As Ms Merryfull mentioned before, it really does depend on your definition of ‘research’. We are doing a great deal of analytical work on what is happening in the industry. It is direct research but not academic research in the way that people typically would characterise it.

Senator GEORGE CAMPBELL—I understand that. I am just trying to understand what is being done. I am not suggesting that you should go and hire Econtech or someone to do research into the industry. I presume it would be based on your own knowledge of the industry and of what is best practice in terms of this industry globally. I am just trying to understand what it is that the department is doing in conjunction with the Department of Industry, Tourism and Resources and what is going to form the basis of this report. How does the department define and calculate productivity?

Ms Merryfull—As I said, the productivity component of the report is a matter for the department of industry. We are looking at the workplace relations side of things.

Senator GEORGE CAMPBELL—But surely you have to look at the workplace relations side of things in the context of productivity. What are you looking at in terms of the workplace relations? Is it how many AWAs they have in place?

Dr Boxall—In general—and this is a general statement rather than a specific statement on the automobile industry—you can have labour productivity, which is output per worker where there might be some adjustment made for the skill level of workers; you can have capital productivity, which is output per machine or capital investment; and you can have overall productivity, which is output per combination of labour and capital inputs. I should imagine that the sort of work that the department of industry is doing—and, of course, you can question them at their Senate estimates—would be looking at what the productivity performance of various automobile manufacturers is.

Senator GEORGE CAMPBELL—I understand they have been doing that. I did question them at their estimates yesterday about the issue. I am trying to understand what the interaction is between the two departments in terms of—

Dr Boxall—The interaction is that the two ministers made a statement that they are preparing a study, I think—

Ms Merryfull—They are preparing a report to cabinet.

Dr Boxall—Yes, they are preparing a report to cabinet on the automobile industry. Clearly, the main carriage from this department’s perspective is for workplace relations aspects of that study. The department of industry has the main carriage for productivity and other aspects. I think it will be a joint report.

Senator GEORGE CAMPBELL—When you say ‘the workplace relations aspects of that study’, what do you mean by that? What are the types of issues that you are looking at?

Ms Merryfull—We would be looking at the workplace arrangements that the various companies have in place in their enterprise; what the relevant clauses are—for example, if they have a certified agreement, what the relevant clauses are in the certified agreement—

what sort of relationship they have with their employees; what sorts of flexibilities might be in place; and what sorts of barriers to flexible arrangements might be found in their agreements and that kind of thing.

Senator GEORGE CAMPBELL—What do you mean by ‘barriers to flexible arrangements’ in the agreements?

Dr Boxall—I do not know, because I have not conducted this review, but a review of any certified agreement, including those in the automobile industry, might point out that there are certain clauses in the agreement which limit the flexibility of management and workers to respond to changes in demand and to respond to changes in technology. That would be a hypothetical example of a barrier to a more productive workplace.

Senator GEORGE CAMPBELL—So you are talking about restrictive work practices?

Dr Boxall—That is one example of a barrier.

Senator GEORGE CAMPBELL—What other examples are there?

Dr Boxall—Any clause which limits the options of management and workers to respond to changes in demand, changes in technology and changes in the marketplace would be viewed as a barrier.

Senator GEORGE CAMPBELL—But that does not appear to have been a problem in this industry for the past decade and a half.

Dr Boxall—That is an issue that the staff are looking at and are going to advise the minister on—whether it has been a problem or not.

Senator Abetz—It is a bit like wide combs—new technology coming in and people being opposed to it. What one person regards as a barrier may be regarded by another person, especially from your side, as potentially a safeguard. I think we all accept and understand that. They are the political points to be made, but can we move on with the questioning? Given that we are sitting Friday, I cannot believe we are using time tonight on these sorts of inquiries.

Senator GEORGE CAMPBELL—We will make the judgement about what questions we ask, Minister—not you.

Senator Abetz—It is quite obvious that that is the case. If I were making those judgments, they would not be asked.

Senator GEORGE CAMPBELL—At this stage, is this exercise being limited to the auto industry?

Ms Merryfull—Yes. Consistent with what the minister said, it is a report on the automotive industry.

Senator GEORGE CAMPBELL—Does it involve only the plant producers or does it involve the components suppliers as well?

Ms Merryfull—The minister has referred to it as the ‘automotive sector’. So it is the components manufacturers and assemblers.

Senator GEORGE CAMPBELL—There is a very significant number of players in the components sector.

Ms Merryfull—Indeed.

Senator GEORGE CAMPBELL—Do you intend to look at every one of them?

Ms Merryfull—I cannot answer that, Senator. Could you be a bit more specific? What are you asking?

Senator GEORGE CAMPBELL—In the components sector, there is a very significant number of companies—some very small and some substantial. Is it your intention to look at every one of them?

Ms Merryfull—No.

Senator GEORGE CAMPBELL—So it would be a snapshot across the industry?

Ms Merryfull—We would hope that it is a representative examination.

Senator GEORGE CAMPBELL—To your knowledge, do all of these companies have agreements of one form or another which have been registered in the Industrial Relations Commission?

Ms Merryfull—I could not say whether every, single components maker, for example, has a certified agreement. Some may be covered by awards and some might be covered by AWAs or common law arrangements in the workplace. I could not speak for every, single manufacturer. There are a lot of people making components.

Senator GEORGE CAMPBELL—The plant producers all have agreements which are registered in the commission, in conformity with the law as it currently applies.

Ms Merryfull—The big four have. Certainly the four assemblers do. I guess you could say the large ones do. But I could not give a guarantee as to the workplace arrangements for every components maker, for example.

Senator MARSHALL—I have some questions on higher education. Can you tell us how the higher education workplace relations regulations are intended to improve the standard of education offered to students in universities?

Dr Boxall—Yes.

Mr Symon—The government's stated policy is that they believe further workplace reform is necessary and they have put that in the context of assisting universities to become more productive—that is what was contained in the joint ministers' letter—so that we have more efficient, flexible and internationally competitive universities.

Senator MARSHALL—So that is how it will improve the standard of education?

Mr Symon—Which will improve things for students, yes. That is what was explain in the ministers' letter.

Senator MARSHALL—Do you have any research or evidence to back that up?

Mr Symon—I am repeating what was in the statement that came from both ministers.

Senator MARSHALL—So that is the extent of it? Are you aware of any research or evidence that supports that contention?

Mr Maynard—This particular program is administered by DEST and you may wish to ask them those questions. However, from a workplace relations perspective, providing each of the universities with greater flexibility in agreement making and being able to customise it to their particular business need rather than the existing—

Senator MARSHALL—We have had the rhetoric answers. I was asking specifically whether there is research or evidence to back it up.

Dr Boxall—Madam Chair, those answers are not rhetoric; they are the department's answers on behalf of the minister to questions from Senator Marshall.

Senator MARSHALL—Yes, but I was asking whether there was any research or evidence to back it up. I did not want the rhetoric about flexibility and all those sorts of things.

CHAIR—I think Mr Maynard was explaining that, so would you allow him to continue?

Senator MARSHALL—We will move on. We will agree to disagree about what is rhetoric and what is not.

Mr Maynard—Senator Marshall, you asked whether there was any particular research. In 2003, when the HEWRR were first proposed, it was based on the Crossroads review, which was undertaken by DEST and released by Minister Nelson.

Senator MARSHALL—Did DEWR consult with DEST on the formulation of the higher education workplace relations regulations?

Mr Maynard—Yes.

Senator MARSHALL—Which department actually formulated them?

Mr Maynard—It was a joint announcement which reflected the joint development process.

Senator MARSHALL—Was there a lead agency involved in the development? Who took the lead?

Mr Maynard—It was a joint process.

Senator MARSHALL—So who ran the process? Was it the officer from—

Dr Boxall—It was a joint process run by both departments. They were both equal leaders.

Senator Abetz—Comrades together.

Senator MARSHALL—What was that, Minister?

Senator Abetz—It was to Senator Johnston.

Senator MARSHALL—He gets answers to questions he has not even asked.

Senator Abetz—Exactly.

Senator MARSHALL—We are really progressing now in the estimates, aren't we! Did DEWR, in contributing to the development of the regulations, consult with the management of any of the universities?

Mr Maynard—There was considerable consultation directly between the ministers, representatives from the Australian Vice-Chancellors Committee, individual vice-chancellors

and chancellors. There were also discussions between this department and DEST based on our general interactions with the sector.

Senator MARSHALL—Was the consultation with the management of universities with the vice-chancellors of all universities or just some?

Mr Maynard—It would have been with the Australian Vice-Chancellors Committee and their nominated representatives and with specific vice-chancellors who sought out the minister to discuss the issues.

Senator MARSHALL—Did any do that?

Mr Maynard—To my knowledge, yes.

Senator MARSHALL—Which universities were they representing?

Mr Maynard—I would have to take that on notice. It is a process that has been going on for a number of years.

Senator MARSHALL—Sure. Can you tell me when those consultations took place?

Mr Maynard—I would have to take that on notice.

Senator MARSHALL—Sure. Did DEWR consult with the AHEIA or the AVCC? Did they play any role in the formulation of the regulations?

Dr Boxall—Mr Maynard has just said that we consulted with the AVCC—that is, the Australian Vice-Chancellors Committee.

Senator MARSHALL—I guess what I am trying to get to here is: were those meetings formally set up to discuss the regulations or were they part of the general consultation that may go on from time to time?

Dr Boxall—No. A subcommittee of the Australian Vice-Chancellors Committee met with departmental representatives to discuss these sorts of issues.

Senator MARSHALL—Were the consultations done jointly with DEST?

Mr Maynard—Consultations were done independently and jointly, from my recollection.

Senator MARSHALL—So DEST ran their own consultation process as well?

Mr Maynard—There is ongoing liaison between DEST and the sector as well as between DEWR and the sector.

Senator MARSHALL—Did any universities make a request of DEWR that they be required to offer Australian workplace agreements?

Mr Maynard—Not that I am aware of.

Dr Boxall—I think you might have meant that question the other way around.

Senator MARSHALL—You may be right—it might have been structured a bit poorly. But the answer is the same anyway—is that right?

Dr Boxall—No—it depends on the question.

Senator MARSHALL—I will get clarification on that question and come back to it. Are you aware if any Australian university vice-chancellor has suggested to DEWR that the

offering of AWAs to all staff would in fact improve workplace relations or educational outcomes for students?

Mr Maynard—I am aware that quite a number of universities already offer AWAs.

Senator MARSHALL—Yes, but could you answer the question? That may be a fact, and it is useful to me, so thank you. But I would rather you answer the question: have any Australian university vice-chancellors suggested to DEWR that the offering of AWAs to all staff would actually improve work place relations or educational outcomes for students?

Mr Maynard—Not that I am aware of, in those terms, but, as I have said, many universities already offer AWAs and have found that to be useful.

Senator MARSHALL—Has DEWR corresponded with individual universities providing more detailed instructions regarding their compliance with the regulations? If so, could you detail the contents of that correspondence and when it was sent.

Mr Maynard—As outlined in the minister's announcement on 29 April, the Department of Education, Science and Training provide questions and answers on their web site. They would be the conduit through which further information would be provided to universities.

Senator MARSHALL—Under the regulations, are universities required to actively promote the use of AWAs or just to offer them?

Mr Maynard—The requirement states that they are to offer AWAs.

Senator MARSHALL—What role, if any, will DEWR take in the process of deciding whether institutions' certified agreements, policies and practices will qualify institutions for their additional Commonwealth grants scheme funding?

Mr Maynard—As was made clear in the minister's announcement, the assessment of compliance with the HEWRRs will be undertaken by the Department of Education, Science and Training.

Senator MARSHALL—You won't play any role?

Mr Maynard—The role that DEWR would play would be to provide workplace relations policy advice.

Senator MARSHALL—Has DEWR reviewed any certified agreements currently in force in these institutions?

Mr Maynard—A number of institutions have approached DEST and/or DEWR to have a number of their agreements reviewed. That process is under way. None have been completed.

Senator MARSHALL—Has DEWR provided universities with any advice or direction on allowable matters in certified agreements signed between universities and their staff?

Mr Maynard—Not to my knowledge.

Senator MARSHALL—Are you able to tell us what provisions in agreements do not facilitate and promote fair and flexible arrangements, as set out in the regulations? You may not be able to, given the answer to an earlier question. Have you identified any so far in the review process that you are conducting?

Mr Maynard—As I mentioned, the reviews that we are currently undertaking have not yet been completed. Each of those reviews needs to be done on a case by case basis and, in the context within which they are set, it would be very difficult to provide a generic answer that would give any guidance to the sector.

Senator MARSHALL—I did not ask for a generic answer; I was asking whether you had identified any provisions in any of the agreements.

Mr Maynard—The HEWRRs set out a range of requirements and they encompass, obviously, offering AWAs, the ‘Direct relationships with employees, workplace flexibility, productivity and performance and freedom of association.’ An example that would be in conflict with ‘direct relationships with employees’ would be the automatic involvement of any third party, without the invitation of the employee. That is probably one that would be readily identifiable within the majority of universities’ workplace policies and practices at this point.

Senator MARSHALL—Is that all you have identified?

Dr Boxall—No, that is just one of them.

Senator MARSHALL—Can you tell us what else you have identified so far?

CHAIR—Could you repeat the question.

Senator MARSHALL—The original question, to which we got part of an answer, was: ‘Could you tell us what DEWR has identified in university workplace agreements, policies and practices that does not facilitate and promote fair and flexible arrangements, as set out in the regulations?’

Dr Boxall—And the department’s answer—from Mr Maynard—is that we have yet to complete the process and Mr Maynard then gave an example of a clause which would be considered to be not promoting fair and flexible workplaces.

Senator MARSHALL—I will try to be a bit more specific. Could you tell us what DEWR has identified in university workplace agreements, policies and practices that do not include a fair and transparent performance management scheme which rewards high-performing individual staff?

Mr Maynard—As you will appreciate, the agreements, policies and practices of all of the universities have yet to be reviewed; therefore, I would be providing only a generic answer. But, in general, there are issues that go to the provision of performance based pay and the treatment of underperformance that, based on our initial assessment—which, I would hasten to reiterate, has not yet been completed—would suggest that it does not meet the HEWRRs requirements in that it is not efficient in terms of the underperformance processes and would not provide for performance based remuneration or reward for high performance.

Senator MARSHALL—Regulation No. 4 requires agreements to include a fair and transparent performance management scheme which rewards high-performing individual staff?

Mr Maynard—That is correct.

Senator MARSHALL—Can you tell us how offering staff AWAs will help to bring about that, given that AWAs have to be kept confidential?

Dr Boxall—The fact that they are kept confidential has nothing to do with it.

Senator MARSHALL—How can it be transparent? The regulation says that it has to include a fair and transparent performance management scheme which rewards high-performing individual staff. How can you possibly achieve that when AWAs are—

Dr Boxall—It has been achieved in the Department of Employment and Workplace Relations already. The Department of Employment and Workplace Relations has roughly 50 per cent of staff on AWAs and a fair and transparent performance management system. That is just one example. I am sure there are lots of other examples.

Senator MARSHALL—How is that transparent if the agreements are confidential?

Mr Maynard—Can I address this? There are two issues that you have raised in that statement. One is the assumption that the performance management system must be defined in toto within the AWA. That is not the case. The performance management system could be defined outside of that in guidelines, processes and practices of the university. The second issue is that you said that AWAs must be kept confidential. Under the Workplace Relations Act there are certainly issues associated with the amount of information that can be provided in relation to AWAs. However, it is open to either party, subject to the other, to release information. One of the misunderstandings within the sector is that there would be some sorts of confidentiality clauses built in to AWAs. I note that that would actually be in contravention of the no disadvantage test and therefore such AWAs could not be approved by the OEA. Unfortunately, that is an urban myth that is currently in the marketplace and one that we would be keen to bust.

[9.59 pm]

Equal Opportunity for Women in the Workplace Agency

CHAIR—I welcome the Director of the Equal Opportunity for Women in the Workplace Agency, Ms Anna McPhee.

Senator ALLISON—I refer to the analysis by the Australian Bureau of Statistics of employee earnings and hours. That survey showed that, with respect to individual contracts, women's pay on average is falling below that of men. Is it possible for the department to provide details and statistics on women's average pay by type of workplace agreement—in other words, award, certified agreement, independent contract and AWAs? Do you keep that data? Is it possible to produce?

Ms McPhee—That is perhaps a question for the Office of the Employee Advocate, which answered a similar question earlier today.

CHAIR—It was dealt with earlier.

Senator Abetz—Yes, I think it was a question from Senator Campbell.

Senator ALLISON—What do you do?

Senator Abetz—Not that!

Ms McPhee—EOWA works with businesses with 100-plus employees on their workplace practices and programs for women in the workplace across seven employment matters. One

issue we look at is pay equity, but we rely on the ABS data and data available from OEA in relation to their AWA analysis. We do not do any specific cross-business analysis ourselves.

Senator ALLISON—Okay. Do you have a view or have you done any work on the question of whether Australia's relatively high minimum wage is one of the reasons why Australia's gender pay gap is narrower than that of many other OECD countries.

Ms McPhee—We have not looked at the reasons why. What EOWA is looking at and working with businesses on is to increase that gap between us and other OECD countries and reduce the gap between men and women in Australia. A couple of months ago EOWA launched a pay equity toolkit for business which helps businesses analyse their pay issues in their workplace and understand where the dimensions of pay equity might exist in the workplace. So we are looking at that issue.

Senator ALLISON—Are the companies with which you work able to make an improvement in that gap?

Ms McPhee—Yes. Organisations with 100-plus employees report to EOWA annually on a range of issues—the seven employment matters—one of which can be in relation to pay. We do have a number of organisations which have identified pay equity issues in their workplace and have addressed those issues. They are putting in place a whole range of initiatives which will reduce that gap—including increases in salary, looking at succession planning, leadership training, mentoring and moving women into non-traditional roles within the organisation. Those reports are public.

Senator ALLISON—If that process is working, how is it that women's wages are still falling behind men's? The situation is worse now, is it not, than it was some years ago?

Ms McPhee—I think the statistic you might be referring to was in an article that I think Senator Campbell referred to earlier today in relation to the average wage of women on AWAs. I believe the explanation given by OEA was that the number of organisations or individuals on AWAs is increasing and that what they are finding—and this analysis is not complete, as I understand it—is that the individuals that are moving onto AWAs are perhaps in areas where the salaries of women are low paying, and therefore the average is going down on AWAs, but that women on AWAs are better off than women on certified agreements. But you could refer to the *Hansard* from earlier today.

Senator ALLISON—Is the data complete on that issue?

Ms McPhee—As I understand it, OEA has not made that information available. That was an explanation they gave earlier today.

Senator ALLISON—Okay. Does your agency provide advice to government on workplace relations laws and how they might benefit or otherwise women and women's pay?

Ms McPhee—The EOWA works with the businesses and regulates business and the programs and policies that they put in place for women.

Senator ALLISON—So you do not advise the government on workplace relations.

Ms McPhee—Not specifically, no.

Senator GEORGE CAMPBELL—Congratulations, Ms McPhee, on your appointment as the director.

Ms McPhee—Thank you.

Senator GEORGE CAMPBELL—Can you tell us the process for the advertising and filling of this position?

Ms McPhee—I am probably not in the best position to answer that question. It was advertised and—

Senator GEORGE CAMPBELL—you applied and you got it.

Ms McPhee—I applied and I got it.

Senator GEORGE CAMPBELL—Page 11 of your annual report for 2003-04 says:

Australian Workplace Agreements are forming an important vehicle for women to negotiate directly with their employers to obtain benefits and flexibility which will enable them to balance competing priorities.

What information does the EOWA keep to ensure that AWAs actually do assist women to obtain benefits and flexibility from their AWAs?

Ms McPhee—What we are finding with the organisations that report to EOWA is that it is the flexibility in the workplaces which enables them to deliver benefits for all employees, including women, in relation to managing their other priorities—mainly caring responsibilities. The AWAs provide that flexibility for those negotiations to be had at the workplace. Each workplace is different, each sector is different, and the needs of the employees within those businesses are different. That flexibility creates delivery of those needs.

Senator GEORGE CAMPBELL—But what specific information does your organisation keep to ensure that AWAs actually do assist women to obtain benefits of flexibility?

Ms McPhee—We do not specifically look at the AWAs. Businesses report across seven employment matters in their workplace, and we look at those issues to ensure that businesses are delivering benefits and advantages for women that do not discriminate against them in the workplace.

Senator GEORGE CAMPBELL—Do you know what proportion of AWAs have paid maternity leave?

Ms McPhee—I do not have that figure of the top of my head, but I can tell you that, in 2004, 41 per cent of businesses that reported to EOWA provided paid maternity leave.

Senator GEORGE CAMPBELL—That was 41 per cent of the businesses? And you do not know what percentage of those had AWAs?

Ms McPhee—No.

Senator GEORGE CAMPBELL—I will ask the reverse question: do you know what proportion of collective agreements have paid maternity leave?

Ms McPhee—Not off the top of my head. But I can get that information for you.

Senator GEORGE CAMPBELL—Can you take that on notice and see if you can provide that information.

Ms McPhee—Certainly.

Senator GEORGE CAMPBELL—Do you know what proportion of AWAs have specifically tailored provisions to enable a woman to balance her competing priorities that are more beneficial than their relevant collective agreements?

Ms McPhee—I do not have the proportion, but certainly the no disadvantage test would say that they would not be worse off under an AWA.

Senator GEORGE CAMPBELL—They would not be?

Ms McPhee—Under the no disadvantage test they could not be worse off under an AWA.

Senator GEORGE CAMPBELL—Can you tell us what studies the EOWA have undertaken that indicate whether individual contracts are more, or less, beneficial for women than collectively bargained contracts? Do any of these studies differentiate between highly skilled female employees and lower skilled and casual female employees?

Ms McPhee—We have not done any research specific to that at EOWA.

Senator GEORGE CAMPBELL—Haven't you? Page 26 of your annual report indicates that the incidence of paid maternity leave is much higher in industries which have a high number of skilled female employees as opposed to those which are dominated by low-skilled and casual female employees.

Ms McPhee—Sorry; that is an analysis of an EOWA survey of employers every year in relation to their provision of paid maternity leave. So it is looking at the ANZSIC code break-up of industry, and that is the break-up.

Senator GEORGE CAMPBELL—What is the EOWA's position regarding paid maternity leave?

Ms McPhee—We provide information on our web site for organisations to assist them to evaluate that as an offering within their workplaces. What businesses are finding in the provision of paid maternity leave is that they are experiencing a high rate of return and therefore a greater rate of retention of their female work force.

Senator GEORGE CAMPBELL—Does the EOWA not have a position in respect of paid maternity leave?

Ms McPhee—As part of its suite of offerings, it is a benefit for those businesses that provide paid maternity leave.

Senator GEORGE CAMPBELL—Why doesn't the EOWA provide the ILO recommended standard of 14 weeks paid maternity leave in its own agency agreement?

Ms McPhee—The Commonwealth government standard I believe is 12 weeks. EOWA's certified agreement has the Commonwealth government's standard of 12 weeks. That agreement was negotiated I believe in 2001. The certified agreement is up for renegotiation in a year or so.

Senator GEORGE CAMPBELL—Don't you think it is incumbent upon the Equal Opportunity for Women in the Workplace Agency to model the level of paid maternity leave that is becoming increasingly common in the rest of the Australian Public Service?

Ms McPhee—I am not sure when the ILO 14 weeks level was agreed.

Senator GEORGE CAMPBELL—It is becoming common across the Public Service.

Ms McPhee—As I said, the EOWA certified agreement was negotiated I believe in 2001.

Senator GEORGE CAMPBELL—So next time around you will put the 14 weeks in?

Ms McPhee—It is something that we could look at, yes.

Senator GEORGE CAMPBELL—I note from your annual report of 2003-04 that staff turnover during the period was 23. From my calculations, 85 per cent of your staff left that year, and 20 of the 23 were female.

Ms McPhee—EOWA has a part-time work force. We bring in a non-ongoing work force to complete the regulatory work of the agency. Those employees are non-ongoing so they do not stay on with the agency. I do not think the other turnover was that high, so it could be an error in the annual report. I will take that on notice.

Senator GEORGE CAMPBELL—Could you also take on notice to provide us with the reasons for the turnover if it is not what you have just indicated it to be?

Ms McPhee—Yes, certainly.

Senator GEORGE CAMPBELL—Can you update us with the number of staff on AWAs and the number who are on the certified agreement?

Ms McPhee—Currently those on AWAs are executive level or above, so about five staff. The remaining are on the certified agreement—APS1 to 6.

Senator GEORGE CAMPBELL—What is the remainder?

Ms McPhee—That is around 15 staff.

Senator GEORGE CAMPBELL—Is performance pay available under the certified agreement as well as under the AWAs?

Ms McPhee—Performance pay is not part of the certified agreement or for the EL staff.

Senator GEORGE CAMPBELL—You may have to take this on notice. Can you provide us with an indication of the performance pay outcomes by gender and classification for 2004-05 to date?

Ms McPhee—To date a performance payment has been made to the former director, who was female.

Senator GEORGE CAMPBELL—And that is the only one?

Ms McPhee—Correct.

Senator GEORGE CAMPBELL—The former director got performance pay. There is hope for the current director then! That is all I have, thank you.

CHAIR—I now call the officials responsible for the Special Employee Entitlements Scheme for Ansett group employees.

Senator ALLISON—Has a report been made to the Commonwealth under section 24 of the Air Passenger Ticket Levy Collection Act for the period 1 April 2004 to 31 March 2005? In other words, has there been an update on the last one?

Ms Connell—The report for the current term has not been completed as yet.

Senator ALLISON—When do you expect that it will be?

Ms Connell—It is currently being finalised. I expect that it will be released shortly.

Senator ALLISON—Can you provide the committee with an update on the asset sales?

Ms Connell—For the Ansett administrators?

Senator ALLISON—Yes.

Ms Connell—There has been a fifth creditor's report that has been published which is available publicly on the Ansett administrator's web site. That report details the current situation with the administration.

Senator ALLISON—I do not have it in front of me. Since the last time we asked, what assets have been sold and at what value and what assets remain and what is the anticipated realisation value of those?

Mr Armstrong—The report is 28 pages long and it goes through every aspect of the Ansett administration for the calendar year 2004.

Senator ALLISON—What report are you referring to?

Mr Armstrong—The fifth report to creditors, which Ms Connell referred to.

Senator ALLISON—The one that is on the web site?

Mr Armstrong—Yes. It is 28 pages long and it goes through every aspect of the Ansett administration for the calendar year 2004. It details each of the elements, what assets were sold in that year, what assets are yet to be sold and gives a complete accounting of the Ansett administration at that point in time. I have not broken that down to respond to the questions, but the report itself certainly does provide that breakdown.

Senator ALLISON—Can you at least give me the total amount that has been secured by asset sales so far? If you are not able to provide what has been sold between February and now, can you at least give me a total?

Mr Armstrong—The Ansett administrators say in this report that they expect to realise net asset value of \$590 million.

Senator ALLISON—Can you break that down into what remains to be sold and what has already been realised?

Mr Armstrong—To advise on, for example, what is yet to be sold, the report goes into individual types of aircraft and individual aircraft yet to be sold. The report goes into some considerable detail.

Senator ALLISON—But you are not able to provide—

Mr Armstrong—I could certainly do so, but I would be reading to you from the report. In reading to you from the report—

Senator ALLISON—I am just asking you for two figures: how much has been realised from the sales so far and how much is expected to be realised? With respect, if you cannot find those from the web site, then I probably cannot either. Perhaps there is another document that can assist.

Mr Armstrong—As I said, they expect to realise \$590 million.

Senator ALLISON—Can you tell me how much of that is still to be realised and how much has already been realised?

Mr Armstrong—Yes, I can. They expect \$32 million from assets still to be realised and \$61.5 million from aircraft still to be realised.

Senator ALLISON—So if I add those together and take them away from \$590 million then that will tell me the value of what has been sold. Is that correct?

Mr Armstrong—It should, yes.

Senator ALLISON—What is the time frame for selling the \$93.5 million worth of assets yet to be sold?

Mr Armstrong—The one thing I should make you aware of in quoting these figures to you is that the Ansett administrators heavily qualify all of their reports. At 5.4 in the report there is a heading of ‘major risks and assumptions’. It goes through a list of issues that the Ansett administrators are confronted with. For example, there is an issue called ‘pooling’ that they need to resolve to achieve those asset sales. There are aircraft values. It says:

Realisations of aircraft will depend on the state of the world aviation market. This may give rise to further adjustments to aircraft values.

Senator ALLISON—I am sorry to interrupt. I am sure that is correct. But if you do not have an estimate of how long it will take to sell those remaining assets, just say so.

Mr Armstrong—No, I do not.

Mr Pratt—I do not mean to be difficult here but the officer is trying to explain something which is not actually a responsibility of the department. We have to be very careful here. We are basically giving you information from something which is already publicly available which is provided by an organisation which we are not responsible for.

Senator ALLISON—I did not suggest you were, Mr Pratt. I am grateful for the officer’s advice in this respect, since I do not have my computer in front of me and cannot look up the internet. That is all I need to ask. Thank you.

[10.24 pm]

Indigenous Business Australia

CHAIR—I welcome Mr Morony and Mr Myers from Indigenous Business Australia to the table.

Senator JOHNSTON—To whom should I address questions about Presspower?

Mr Myers—Probably to me.

Senator JOHNSTON—You have inherited this little matter. Where did it come from? Was it AT SIS?

Mr Myers—It was originally a loan by the Aboriginal and Torres Strait Islander Commission.

Senator JOHNSTON—Are you aware of the questions I asked last estimates about this matter?

Mr Myers—They were going to the term of the appointment of the administrator and costs associated with that.

Senator JOHNSTON—That is right. With respect to your predecessors in command of this matter, I do not think we actually got to the nub of what the overall costs to government have been of the administration. If you need to take any of these matters on notice do not hesitate to tell me, because we can short-circuit this fairly conveniently. Do we have a figure on what this whole thing has cost in terms of fees, firstly to Deloitte? I take it Deloitte were the lead agent who submitted disbursement costs for lawyers and other advice.

Mr Myers—We have figures on what the original loan amount was, the balances that have been acquired so far from the sale of various assets and what the shortfall is. Clearly, the administrator will have consumed costs over and above that, but we are not meeting any costs that are currently being met by the administrator.

Senator JOHNSTON—Doesn't he have to render accounts to you now, or us as the appointing creditor, before he can deduct his fees?

Mr Myers—There are a few things he needs to do. He needs to provide a formal report to ASIC on the conduct of the previous directors of Presspower.

Senator JOHNSTON—Has he done that?

Mr Myers—He is in the process of preparing that report.

Senator JOHNSTON—When he does, will I be able to get it?

Mr Myers—I will find out whether it is a publicly available report. I cannot answer that. I will take that part on notice.

Mr JOHNSON—Thank you.

Mr Myers—In terms of the loan itself, the original loan was \$2.2 million. The assets that have been recovered to date I believe are in the order of \$900,000. If that is incorrect I will get a correct figure to you. They were the only assets that were realisable. Another matter has arisen which may give us claim against some other assets which were not part of the original business but which would be covered the directors guarantees. That is why we are not terminating the appointment at this stage. We want to get a handle on the possible recovery against those other assets.

Senator JOHNSTON—So the receiver has not been terminated at this point in time?

Mr Myers—No. I have had correspondence with him to ascertain what is the likely chance of recovery against those other assets.

Senator JOHNSTON—And he has told you recently that there are directors guarantees that he seeks to now pursue?

Mr Myers—There are guarantees that directors gave when they originally went into that business. These were the people who sold Presspower into the joint venture.

Senator JOHNSTON—We are talking about 1998, aren't we?

Mr Myers—I believe it was quite some time ago that the guarantees were given.

Senator JOHNSTON—Are you interested to find that we are now talking about directors guarantees in 2005?

Mr Moroney—The point is that we inherited this program nine weeks ago.

Senator JOHNSTON—I sympathise with you greatly on that matter.

Mr Moroney—We have begun to look at a number of these former loans that we have inherited. In the end we will make a commercial decision. We are at the moment in correspondence with the administrator to try to find out what the current position is. We are taking advice as to what would be the best position for IBA. We will put that to our board, I would say in the next two months, to have a clear decision made as to whether we will terminate the arrangement with the administrator or not.

Senator JOHNSTON—Who is IBA's client? In other words, who is your first priority?

Mr Myers—In this particular case we have inherited what might be deemed assets and liabilities from the commission. One of the matters outstanding is the remaining debt that is owed to IBA.

Senator JOHNSTON—So there has been a deed of assignment across from ATSIC or its lending arm to IBA. Do you need any approval for IBA to become the creditor in execution?

Mr Myers—No. All that occurred with the passage of the legislation. The legislation provided for the transfer of all assets and liabilities.

Senator JOHNSTON—That is good. The problem that I want to draw to your attention is that I am instructed that the administrator was involved in advising as to the advisability of the initial purchase. That strikes me as being very odd. It also strikes me that there is a limitation period running on that, which I tried to alert the minister to last time and she expressed some interest in that. What can you tell me to ease my concern with respect to our investigating that aspect of this matter? There may well be a professional indemnity claim that indemnifies the taxpayer to a very large proportion of the fees that have been incurred in this administration.

Mr Myers—I am not in a position to go into the detail, because we do not have the detail yet, but there are allegations that the joint venture partners, in selling the business into the joint venture, created false documentation. So the question is whether the accounting firm who assisted in the due diligence process were at fault for not picking up the faults in the documentation or whether as a reasonable course of action they accepted the information as presented.

Senator JOHNSTON—Just pause there. Can you tell me if the accounting firm that you have mentioned is the firm of the administrator as appointed?

Mr Myers—I cannot answer that question. I do not know.

Senator JOHNSTON—I would ask you to have a close look at that.

Mr Myers—Yes.

Senator JOHNSTON—I might be wrong in this but I suspect that there is an element of connection there that makes me say what I have just said. I am happy to have you stop me if you do not want to discuss any of these potential litigation matters. You are investigating all those things?

Mr Myers—Yes. We are investigating a range of things. As the general manager has said, if we cannot get clear advice about a likely good outcome in terms of a financial outcome, we will terminate the matter on proper commercial terms, bearing in mind that the administrator has to pursue the conduct of the previous directors separately with ASIC. So that part of it does not go away from IBA from a commercial perspective.

Senator JOHNSTON—From my point of view I am rather more interested in the conduct of the administrator, because we have paid him a lot of money over the last seven years to no great advantage. I cannot believe that this administration has gone on so long and so optimistically with no return. That is the problem that is glaring here—not that we are now chasing various directors' guarantees and other things seven years later. I am interested in how it has gone on for so long in circumstances where all of this should have come out within one or two years.

Mr Myers—We share your discomfort there, which is why we are reviewing it.

Senator JOHNSTON—Can you tell me if you are taking independent separate legal advice on the matter?

Mr Myers—We have consulted our legal firm about some of the issues that have arisen.

Senator JOHNSTON—I am obliged to you for that. Can you tell me the costs—I do not want to get into the potential litigation—that have been incurred in maintaining the administrator?

Mr Myers—I will have to take that on notice. We have not paid any accounts since the matter came to our attention. From communication with the person we do not expect to be paying any further accounts.

Senator JOHNSTON—Good. But do you know what we paid prior to it coming to your—

Mr Myers—I will take that on notice and find out for you.

Senator JOHNSTON—Thank you. I expect to see you back here at the next estimates or whatever, but I draw your attention to the limitation periods in this. I really would hate to have you tell me down the track, 'I'm sorry, these choses in action or actions are now statute barred, time barred.'

Mr Myers—The claims have already commenced.

Senator JOHNSTON—Including the claim against the receiver?

Mr Myers—No, the claim against the former director.

Senator JOHNSTON—I draw your attention to the claim against the receiver because there is a conflict there. The professional indemnity insurer will cover every bit of money that he has taken out of the assets—in other words, the Commonwealth will get back some money out of this. Enough said?

Mr Myers—Noted.

The CHAIRMAN—Thank you, gentlemen.

[10.34 pm]

Australian Industrial Registry

Senator GEORGE CAMPBELL—On 6 May in the *Australian Financial Review* it was reported that the minister had written to the President of the Australian Industrial Relations Commission in relation to the role of commission members in advising on whether enterprise agreements comply with the building code. Can you tell us what was in the letter?

Mr Wilson—No, I cannot. I have not been privy to that correspondence, if in fact there is correspondence.

Senator GEORGE CAMPBELL—Are you aware of what the minister was seeking from the AIRC?

Mr Wilson—No. As I said, I am not privy to whether or not there has been any correspondence or to what it might have contained.

Senator GEORGE CAMPBELL—Are you aware of the minister writing similar letters to AIRC as a regular habit?

Mr Wilson—No. Periodically there is, I suppose, correspondence from the minister to the president or from the minister to myself. Usually that is in the nature of correspondence about financial matters or other things of organisational construct.

Senator GEORGE CAMPBELL—Are you aware of the report in the *Australian Financial Review* which refers to complaints raised in respect to the vice-president, Ian Ross?

Mr Wilson—I certainly recall seeing that particular newspaper article.

Senator GEORGE CAMPBELL—But as far as the letter is concerned you don't know whether one was sent or not?

Mr Wilson—No, I do not. I think I need to indicate that I do not speak for the president in this matter. Presumably if there were correspondence between him and the minister then on occasion he would raise the correspondence with me and it would become a matter for my attention. But on this occasion there has been no such conversation between myself and the president.

Senator GEORGE CAMPBELL—There was an article in the *Workplace Express* on 11 May which indicated that the AIRC is cutting back its Sydney occupancy by one quarter. Why is the space leased by the AIRC being so drastically reduced in Sydney?

Mr Wilson—That relates to a series of decisions made, principally by me, over the course of the past year. The Sydney premises currently are surplus to requirements. The lease came up for renewal—I forget the exact date—at some point last year. We went to market on our

requirements. At the same time we conducted a fairly forensic analysis of the amount of space that was required, based upon the known and forecast workloads. A decision was taken that we no longer needed, from recollection, about 9,500 square metres and that we could curtail our space. I do not have the *Workplace Express* article with me but, from recollection, the 25 per cent reduction relates to handing back two particular floors. So far I have made a decision to hand back one of those floors and I have indicated, effectively, a wait-and-see position in respect of the other floor. My recollection is that if both floors were handed back then it certainly would be a reduction in the order of 25 per cent.

Senator GEORGE CAMPBELL—What areas are being cut back? Court areas?

Mr Wilson—Effectively, the decision at the moment relates to level 7 in 80 Williams Street, which is a floor space of about 1,200 square metres. My recollection is that there are about four visiting chambers there; people who are not resident in Sydney sometimes use those offices. There are, I think, three courtrooms and a library. The modelling we have done indicates that the remaining part of the Sydney premises can certainly cater well for the existing workload.

Senator GEORGE CAMPBELL—The budget papers indicate that the government is providing \$2 million over two years, including \$0.4 million in 2004-05 to the AIRC and \$0.1 million to DEWR to conduct the pilot program providing small businesses with access to mediation services at a low cost and as an alternative to conciliation and arbitration processes. The pilots are to be conducted in Victoria and managed by your registry, I think. DEWR will manage an independent evaluation. How many mediators have been taken on as part of this pilot?

Mr Nassios—Maybe I should explain how it will work. At a time that a matter is first listed before the commission, with that notice of listing we are forwarding an invitation for mediation to the parties to that particular listing, asking them to answer two questions. One question is whether they wish to participate in the pilot mediation program and if they do the second question is to do with representation and whether they have any issue as to whether they or the other party are represented. They have five days to respond. That started two Mondays ago, which I think would have been about 15 May. We have sent out about 130 invitations, and to date we have received seven responses.

Senator GEORGE CAMPBELL—Are there any costs involved for those people who want to use the mediators?

Mr Nassios—No, not to the parties.

Senator GEORGE CAMPBELL—How many mediators are taking part in the pilot?

Mr Nassios—We advertised an expression of interest process. Out of that process we received 113 expressions of interest. Approximately 30 to 35 of those were over what we had budgeted for the cost for an individual mediation. There were about another 15 or so that we felt did not meet the criteria. I have commenced interviewing about 50 or 60 who were in the middle, and to date we have had about 15 who have signed up as mediators.

Senator GEORGE CAMPBELL—How will they be chosen? By You, Mr Nassios?

Mr Nassios—Yes. Basically, they were required in their expression of interest to indicate how they met the selection criteria. There were three selection criteria. One was experience or qualifications as a mediator. The second was knowledge of workplace relations, and the third was that they had to mediate in the sense of how we wanted mediation to occur—that is, they were to be a facilitative mediator rather than a mediator that was to advise or give some sort of indication as to the merits of the matter.

Senator GEORGE CAMPBELL—How are they to be paid?

Mr Nassios—The expression of interest allowed them to cost their mediation process. As I said, there was a maximum figure which we had in mind and about 35 of the responses went above that figure. The others are below it.

Senator GEORGE CAMPBELL—How many mediations are you expecting to occur using this process? Not many, by the sounds of things.

Mr Nassios—We have budgeted for 1,000.

Senator GEORGE CAMPBELL—Can you explain to us how the panel of commissioners who determine the safety net adjustment is chosen?

Mr Wilson—That is something within the purview of the president of the commission, Justice Geoffrey Giudice. Traditionally, he would appoint a panel of his choosing. It generally follows the form of two vice-presidents, two senior deputy presidents and two commissioners. I am not privy to this, but I believe that he rotates people through that experience.

Senator GEORGE CAMPBELL—In meeting the requirements of the Workplace Relations Act 1996, how does the AIRC take account of the desirability of full employment in making its decision in respect of the safety net adjustment?

Mr Wilson—I am not equipped to answer that question. I would have to refer you to the decisions of the full commission in respect of the safety net. I repeat that I do not speak for the president directly on matters pertaining to the commission.

Senator GEORGE CAMPBELL—How does the AIRC plan to spend the additional \$2.75 million that has been earmarked for the processing arm for dismissals, given the decision of the government to abolish them, effectively?

Mr Wilson—The government's announcements of last week are still to be digested by the commission and the registry as to what workload requirements there may be. Obviously I cannot speak for the future, in a sense, but, in respect of the amount of appropriation which is contained within the current portfolio budget statements, the expectation is that that related to a system designed pretty much around the bills which have already been before the Senate on quite a number of occasions. The expectation was that there would be a part-year commencement of those measures, probably from sometime between October and December this year. The expectation was that there would be an eventual increase in the number of unfair terminations, from about the 7,000 mark to slightly less than double that, but that would escalate over a period of months. Quite clearly, that was predicated on policy, as I said, previously before the Senate. That modelling and the appropriation which relates to it, I suppose, do not particularly take into account the government's announcements of last week.

Senator GEORGE CAMPBELL—Finally, has the AIRC been involved in discussions with the department over the establishment of the government's plan for a pay commission?

Mr Wilson—I can speak only for myself; I cannot speak for the commission. Certainly in respect of the Australian Industrial Registry, there has been no consultation with me.

CHAIR—Thank you very much, gentlemen and Minister.

Senator Abetz—Thank you, Chair.

Committee adjourned at 10.47 pm