



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

SENATE

LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE

ESTIMATES

(Additional Estimates)

MONDAY, 13 FEBRUARY 2006

CANBERRA

BY AUTHORITY OF THE SENATE

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SENATE

LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE

Monday, 13 February 2006

Members: Senator Payne (*Chair*), Senator Crossin (*Deputy Chair*), Senators Bartlett, Kirk, Mason and Scullion

Senators in attendance: Senator Payne (*Chair*), Senator Crossin (*Deputy Chair*), Senators Bartlett, Hurley, Ludwig, Lundy, Nettle, Parry and Scullion

Committee met at 9.03 am

IMMIGRATION AND MULTICULTURAL AFFAIRS PORTFOLIO

In Attendance

Senator the Hon. Amanda Vanstone, Minister for Immigration and Multicultural Affairs

Department of Immigration and Multicultural Affairs

Executive

Mr Andrew Metcalfe, Secretary
Mr Bob Correll PSM, Deputy Secretary
Mr Abul Rizvi PSM, Deputy Secretary
Ms Carmel McGregor, Deputy Secretary

Internal Products

Financial Services

Ms Louise Gray, First Assistant Secretary, Financial Strategy and Reporting Division

Human Resource Services, Internal Investigations and Property

Mr John Moorhouse, First Assistant Secretary, Client Services Division
Mr Des Storer, First Assistant Secretary, Ministerial, Corporate Support and Assurance Division
Ms Christine McPaul, Assistant Secretary, People Services Branch

Parliamentary and Legal Services

Ms Robyn Bicket, Chief Lawyer, Legal Division
Mr Des Storer, First Assistant Secretary, Ministerial, Corporate Support and Assurance Division
Mr Tony Striegl, Acting Assistant Secretary, Ministerial and Parliamentary Services Section
Ms Deborah Jacka, Assistant Secretary, Review Coordination Branch
Ms Wendy Southern PSM, First Assistant Secretary, Strategic Policy Group
Mr Douglas Walker, Assistant Secretary, Policy Coordination Branch
Ms Janice Wykes, Assistant Secretary, Palmer Programme Office

Information Technology and Office Services

Ms Cheryl Hannah, First Assistant Secretary, Business Solutions Group IT Services and Security Division

Mr Peter McKeon, First Assistant Secretary, Business Solutions Group Systems Delivery Division

Outcome 1 – Contributing to Australia’s Society and Its Economic Advancement through the Lawful and Orderly Entry and Stay of People

Output 1.1 – Non-humanitarian entry and stay

Mr Gregory Mills PSM, Assistant Secretary, Migration Branch

Mr Paul Farrell, Assistant Secretary, Temporary Entry Branch

Mr Bernie Waters, Assistant Secretary, Business Branch

Ms Jacki Hickman, Assistant Secretary, Delivery Innovation Branch

Output 1.2 – Refugee and humanitarian entry and stay

Mr Peter Hughes PSM, First Assistant Secretary, Refugee, Humanitarian and International Division

Mr Robert Illingworth, Assistant Secretary, Onshore Protection Branch

Ms Arja Keski Nummi, Assistant Secretary, Humanitarian Branch

Ms Rosemary Greaves, Assistant Secretary, International Cooperation Branch

Output 1.3 – Enforcement of immigration law

Ms Lyn O’Connell, First Assistant Secretary, Detention Services Division

Mr Dermot Casey, Assistant Secretary, Detention Health Taskforce

Mr David Doherty, Assistant Secretary, Detention Infrastructure Management Branch

Mr Steve Dreezer, Assistant Secretary, Detention Reform Taskforce

Mr Michael Robinson, Acting Assistant Secretary, Detention Infrastructure Management Branch

Mr Vincent McMahon PSM, First Assistant Secretary, Border Security Division

Ms Janette Haughton, Assistant Secretary, Identity Branch

Mr Robert Hoitink, Assistant Secretary, Border Intelligence and Unauthorised Arrivals Branch

Mr Todd Frew, Assistant Secretary, Entry Policy and Procedures Branch

Mr Stephen Allen, Assistant Secretary, Border Security Systems Branch

Mr Neil Mann, First Assistant Secretary, Compliance Policy and Case Coordination Division

Mr Garry Fleming, Assistant Secretary, Case Management Support Branch

Mr Peter White, Assistant Secretary, Character, Cancellations and Investigations Branch

Ms Sally Babbage, Assistant Secretary, Case Management Framework Taskforce

Mr John Norman, Acting Assistant Secretary, Compliance Framework Branch

Ms Robyn Bicket, Chief Lawyer, Legal Division

Mr John Eyers, Assistant Secretary, Litigation Branch

Mr Colin Minihan, Acting Assistant Secretary Information Law Branch

Output 1.4 – Safe Haven

Mr Peter Hughes PSM, First Assistant Secretary, Refugee, Humanitarian and International Division

Ms Arja Keski-Nummi, Assistant Secretary, Humanitarian Branch

Output 1.5 – Offshore asylum seeker management

Mr John Okely, Major Projects Officer, Border Security Division

Outcome 2 – A Society Which Values Australian Citizenship, Appreciates Cultural Diversity and Enables Migrants to Participate Equitably**Output 2.1 – Settlement services**

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

Ms Kate Pope, Assistant Secretary, Settlement Branch

Output 2.2 – Translating and interpreting services

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

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

Mr Chris Greatorex, Director, TIS National

Output 2.3 – Australian citizenship

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

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

Output 2.4 – Appreciation of cultural diversity

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

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

Migration Review Tribunal

Mr Steve Karas AO, Principal Member

Mr John Lynch, Registrar

Mr Rhys Jones, Deputy Registrar

CHAIR (Senator Payne)—I declare open this public meeting of the Senate Legal and Constitutional Legislation Committee. The committee will today commence its examination of the Immigration and Multicultural Affairs portfolio, proceeding according to the order on the circulated agenda. The committee has authorised the recording and rebroadcasting of its proceedings in accordance with the rules contained in the order of the Senate dated 31 August 1999. The committee has agreed to the date of Friday, 31 March 2006 for receipt of answers to questions taken on notice and additional information. The committee requests that answers be provided to the secretariat in electronic format where possible.

I welcome Senator the Hon. Amanda Vanstone, the Minister for Immigration and Multicultural Affairs; Mr Andrew Metcalfe, the Secretary of the Department of Immigration and Multicultural Affairs; and other officers of the department and associated agencies. I remind officers that the Senate has resolved that there are no areas in connection with the expenditure of public funds where any person has the discretion to withhold details or explanations from the parliament or its committees unless the parliament has expressly provided otherwise. I also draw to the attention of witnesses the resolutions agreed to by the Senate on 25 February 1988, 'Procedures to be observed by Senate committees for the protection of witnesses', and in particular to resolution 110, which states in part:

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

I also draw your attention to resolution 116, which states:

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

Witnesses are reminded that the evidence given to the committee is protected by parliamentary privilege. I also remind witnesses that the giving of false or misleading evidence to the committee may constitute a contempt of the Senate.

For the record, I note that there are no outstanding answers to questions on notice from the supplementary estimates round of November 2005. I thank the minister and departmental officers for their responses. A significant number of the responses were received between the beginning of the year and 31 January, some time after the due date, but it has been of assistance to the committee to receive those at least in some advance of these hearings. Minister or Mr Metcalfe, do either of you have an opening statement?

Senator Vanstone—I would like to make some brief remarks, if I may. Thank you for the opportunity. I know Mr Metcalfe has some remarks he would like to make. I will not go into the detail that I think he will go into. As you know, last year was a difficult year for the immigration department, primarily because of the focus that was put on two particular cases, and a review of one of those cases became a review of the second and subsequent cases that could have fallen into that bracket. The focus was on how that matter was perceived by the media and what we learnt from those inquiries. I say ‘perceived by the media’ because there are many people who, because of the media coverage, do not know about all the good things that happen in the immigration department.

If you asked many people in the street, ‘What does the immigration department do?’, they would probably focus on the compliance and detention area and perhaps not be fully aware of the tremendous role immigration plays in building a better Australia, which includes the Skilled Migration Program, where we bring in nearly 100,000 people each year with skills that Australia needs; the family reunion programs; the assistance to Australians who are genuinely struck by Cupid and wish to bring a partner to Australia to become, presumably, a permanent resident and/or Australian; and the help to all the people who come here as tourists, students or short-stay businesspeople in whatever capacity.

The new slogan for the department ‘People: our business’ really has hit it right on the knocker. That is what we do: we deal with people all the time—millions and millions a year involving hundreds of thousands of visas. There is an ongoing gigantic workload to assist Australians to travel where they want and to assist other people to come into Australia and stay here either permanently or on a temporary basis. Having said that, that there is not enough focus on the tremendous work this department does, I understand that. Newspapers do not sell with that kind of story. I for one would not always buy the newspaper that advertised, ‘Buy this. Buy this. Only good stories.’ I would think, ‘Where is the rest of the story?’ Equally, I think the public get a bit jaded and lose the palate for the discussion of politics and government when the only diet they are fed is a negative one. I will be doing what I can this year to change that and make sure that immigration opens itself up to the media so that they can see the good work that the department does.

Let me move on to the more substantive issues that I think would be of concern to this committee—that is, what are we doing to make sure that the systemic changes that need to be

made are made and are made as expeditiously as possible and as well as possible. I think some of that is what Mr Metcalfe is going to go into. In an overall sense, I can tell the committee that a tremendous amount of work has been done. There is a lot of preparatory work that has to be done when such substantial change is being undertaken.

For example, if you recognise that your electronic systems are not as good as they ought to be, it is not simply a case of getting the money, making a press release and announcing you are going to get new systems. That is just the start of the process. After that, you have to have a full and thorough assessment of what is wrong with the systems, what could be done to make them better and where you need to go. It is not like going and buying a packet of Omo. Some of that work has already been done. I mention that because, while we could identify, for example, through the Alvarez Solon case where improvements in the systems might have assisted in preventing that from happening, it would be silly just to fix those. If you are going to have a major overhaul IT fix, you may as well do the whole job and do it properly. One does not, for example, take one's car in to be serviced and expect only those things which you can identify as a problem to be fixed; you expect the whole car to be tested over and come back to you—

Senator LUDWIG—That is hopeful.

Senator Vanstone—as good as new, not as Senator Ludwig says 'hopeful'—I have had that experience myself. That is what we are aiming to do, not just with the IT systems, frankly, but with the whole department. We regard the department as in for service—

Senator LUDWIG—More the analogy, Minister, with the service station.

Senator Vanstone—and to come out as good as it possibly can be. Just as in the analogy of the vehicle, there are substantial parts of the department that need no touching at all and that are in far better condition than many other areas.

I make the point that it is not only this long-term process. You cannot just go and buy IT systems. There is a lot of work in working out what you need and to consider, also, the effort that is being put in terms of personnel. We now have a situation where we have got quite a lot of new people and quite a lot of old people. I am sure you will all understand from your former workplaces that when new people come in there is necessarily a meshing process that has to go on. It is certainly not the case that everything that was in the immigration department before and everyone that has been there for a long time is somehow tainted—certainly not in my mind and certainly not in the government's mind. The government recognises very clearly what a tremendous job immigration has been doing in so many areas. Equally, the new people bring in new skills and they are valued but they do not have all the answers either.

We are in the process of meshing those two groups together, and that does not happen overnight. In reality, you do not just sit 30 people down with 40 people from a previous enterprise and expect that within a week or two they are working as though they have worked together for two years. I think that work is very well under way. I am very pleased with the quality of people that are in immigration at the moment both in terms of those who have been there for a long time and those that have come on board. I am very pleased with the attitude

that I get anecdotally through the department about looking forward to change and opening up.

I have one other point—I took the opportunity to make this point to the department just recently. While I am very pleased with the advice that I get anecdotally about what is happening in terms of an attitude to change—I mentioned recently there was some reporting of this—I had heard just a few murmurs that perhaps it was a mistake to send off all the cases that could possibly in our view be affected to give them a clean bill of health or otherwise from the Ombudsman. I think there might be a few who thought the minister should, in the words I heard, ‘tough it out’. I want to assure members of the committee that I made it very clear to the department that the government has not the slightest intention of ever toughing it out when a citizen is deported or toughing it out when a permanent resident is left against instructions in jail for longer than they should be. There is no acceptance of that, and that will never be toughed out. It will never be swept under the rug. I have made it very clear to the department that, where there are problems, the rug has to be pulled up and cleaned up.

I have gone so far as to suggest to the vast majority of people in the department, who are as entitled as anyone else to be proud of what they do and proud of the place they work, that, if they have any trouble from people who do not want to change, who are resistant to change, they should give them the government *Gazette* and suggest that there might be another department that they would be more happy in, because this department is on the move for change. Big change does not happen very often in large departments—in any department. You get one chance at it in probably 10 or 20 years—in a generation. You can look at it as the opportunity to manage this change, the responsibility to manage the change or the bad luck to be there to manage the change. Put it whatever way you want. We are determined that change is going to happen, and this department is going to come out as good as any vehicle that has been in for the best service it has ever had.

CHAIR—Thanks very much, Minister. Mr Metcalfe, I gather you have some remarks.

Mr Metcalfe—Thank you. Because of the great interest this committee has shown in the issues the department has been managing, I thought it was appropriate to provide an update on our implementation of the government’s responses to the Palmer and Comrie reports and our broader reform and improvement agenda. When we last appeared before this committee in Senate estimates, I provided you with an overview of the implementation plan to achieve the three key objectives identified as necessary to respond effectively to the well-deserved criticism that had been directed towards the department and some of its operations.

To remind you briefly, in order to meet the expectations of the government, the parliament and the wider community, we believe that the department must, firstly, be open and accountable; secondly, deal fairly and reasonably with its clients; and, thirdly, have staff who are well trained and well supported. The department has been very conscientious in acknowledging recent mistakes. With the minister’s very strong support and that of the wider public sector, we have developed a strong framework to respond and to put in place these changes, which are clearly necessary to achieve our three objectives.

Much has been said about the department’s culture, and aspects of it have been the subject of deserved criticism. Of course, in any large organisation it would be unrealistic to simply

talk about one culture. Mr Palmer and Mr Comrie both had concerns that certain areas of the department had an assumption based unquestioning culture that led to the reprehensible outcomes in relation to Cornelia Rau and Vivian Alvarez. This should not detract, however, from the reality that elsewhere in the department there is an exceptional culture of great commitment and service delivery which acts on the basis of known facts and is committed to excellence. As the minister has indicated, we want that to be true of everywhere.

I have stressed to staff on many occasions, and I will continue to stress to staff, the requirement that all officers of the department act fairly, reasonably and lawfully. I have asked them to be vigilant and to quickly escalate any issues of concern to senior levels so they can be dealt with in a timely and appropriate way. Underpinning all of these three objectives is a strong positive view that, as the minister said, people are our business. Much has been done since the government committed \$231 million in October last year, and over the next few minutes I would like to update you on our activities and seek agreement that I table and have incorporated in *Hansard* a more detailed account of our progress.

Since the Palmer and Comrie reports, the minister has twice directly and personally addressed all staff in the department on the government's expectations of the reform agenda. She continues to encourage staff to share ideas for change and improvement. I have continued my practice of communicating twice-weekly with all staff in the department, delivering keynote addresses, updating staff on current issues and achievements and seeking their input and ideas. I have travelled to all of our capital city offices in Australia and a number of our overseas posts to discuss the reform agenda and hear first-hand the impact it is having on our state, territory and overseas operations.

We have continued to engage with our clients, our critics and other organisations, particularly those who have a role in scrutinising the activities of the department. We have very constructive relationships with the Commonwealth Ombudsman's office and the Office of the Federal Privacy Commissioner, and their feedback and advice are highly valued. The restructure of our national office is now complete and new and stronger governance arrangements are in place. A whole range of appointments have been made to senior executive service and state director positions.

I am particularly pleased that the new values and standards committee is up and running. It has three external members: the Deputy Ombudsman, the Deputy Public Service Commissioner and members from the community. It is well placed to ensure the department is meeting community expectations. An expanded audit and evaluation committee with an external chair is providing rigorous oversight of the enhanced internal audit program.

For the first time in many years there has been a comprehensive staff survey to address and assess the views of staff and to provide a benchmark for monitoring change. The report will be available shortly for the department's executive and the minister, and we will be taking a close, strong and personal interest in developing responses to staff ideas and concerns.

Improving client service must be a key focus for our clients. Client satisfaction surveys and value creation workshops where DIMA staff must actively listen to the views and concerns of clients will be conducted in the early part of this year. This will allow us to better understand the differences between client groups and their needs and will allow us to respond to systemic

concerns the clients raise. Our national office in Canberra is a long way from our service delivery points in the states and territories where we interact with our clients. I have therefore asked all of our senior executives to spend some time in operational or service delivery parts of the department in the first half of this year to get first-hand experience of client service.

Our draft client service charter, released last year for public comment, is now being finalised to take account of the largely positive feedback we received. It will set out clearly the expectations for both clients and DIMA staff. Better arrangements are being put in place for handling client feedback and providing clients with choice about how they connect with the department. Every month, I recognise a member of staff or team through the secretary's Award for Client Service Excellence, the ACSE, on the basis of positive client feedback.

We have built on improvements made last year to health service delivery for immigration detainees, in particular at Baxter, with other centres to progressively follow over coming months. All detainees are screened for mental health problems, using two internationally recognised screening tools, on admission and they are routinely and regularly screened after that. Mental health plans are developed for any detainee who screens positive. We are currently finalising the membership of the detention health advisory group, which will provide expert professional health advice on health service standards and research projects to improve health outcomes for people detained.

Physical improvements at Baxter and other immigration detention centres have been made well beyond the recommendations made in the Palmer report. The Baxter plan, which was launched by the minister in September last year, included development of the interim visitor processing centre, which opened in December, and sporting facilities. Self-catering options have improved and further design options to open up the closed compounds, develop a new primary health care facility and a new central cafeteria have been developed.

Considerable progress has been made in developing a new holistic case management framework for the case management of clients with exceptional circumstances. In conjunction with case management, we are developing a community care pilot in Sydney and Melbourne to trial and evaluate a model where case management is supported by access to additional community services to vulnerable clients. Appropriately skilled and qualified case management staff have been recruited and trained and are now working in our Sydney and Melbourne offices.

Our compliance activities have been properly criticised and will continue to be criticised in those cases which come to light where people have been improperly determined to be unlawful and detained. Clearly, DIMA officers exercise extraordinary powers and we have to be extraordinarily careful in our decision-making where the outcome can be the deprivation of liberty. We are making committed efforts to ensure that decisions to detain are only made where there is no realistic alternative, that they are lawfully and fairly based, and that they are subject to ongoing review.

We will continue to place a strong focus on training for staff in these operational roles and ensuring that there are strong accountability mechanisms in place. This is especially the case where we are faced with people who are not easily identified, either because they do not wish to cooperate, have mental health issues or for other reasons. These difficulties do not release

us from our obligation to make each decision on the basis of law and facts and to review those decisions regularly.

Enhanced training for staff is the centrepiece of the reform agenda for DIMA. Plans for the new College of Immigration, Border Security and Compliance are on track to commence training in mid-2006. In the meantime, specialist technical training is being provided, addressing areas such as making decisions on the basis of a reasonable suspicion, using all available methods to identify people, issuing search warrants and case management. These courses will ultimately become part of the college curriculum. Enhanced training in ICSE, our main processing system, was rolled out in November and December last year, and further modules in this e-learning program are being delivered in 2006.

Leadership, values, standards and management skills were also areas of concern raised by both Mr Palmer and Mr Comrie. A new national training manager was appointed in early December to develop and lead the department-wide training programs in these areas. The executive leadership program commenced delivery in September last year. All our executive level staff will undertake this course. A development program for lower level managers, a fundamentals of leadership program and enhanced induction training are all being delivered to staff.

The significant systems issues identified by Palmer and Comrie are being addressed. Independent reviews of our business information needs, systems governance, the IT platform and records management arrangements have been finalised and their recommendations are currently being considered. Pilot projects to better support our staff in the field have also been completed, including using BlackBerry technology to remotely connect to the ICSE system and trialling a field office. These pilots have shown acceptable results and will be considered for further development.

The year 2006 will be a year in which the department continues to build on the reforms introduced last year and implements many of the projects commenced as a response to the Palmer and Comrie reports. It is, if you like, the second chapter of this particular story. I will be reporting through the minister to the parliament later this year on our progress. Our reform agenda is very, very important, but our agenda in relation to our achieving our migration and settlement, multiculturalism, community harmony and citizenship objectives, of course, does not take a back seat at the same time. Like any large public organisation, we will continue to face challenges.

As you know, we are administering large and complex migration and refugee programs. We are working with Customs and other agencies to effectively manage the movement of people across our border. To give you a sense of scale, in addition to the 43 per cent of Australians who are either born overseas or have at least one parent born overseas, Australia is host to very large numbers of temporary entrants. In December 2005, for example, there were around three-quarters of a million people in the country on a temporary basis. In the 10 minutes or so that I have been speaking, the department has considered and granted around 90 visas and around 550 people have entered and left our country—that is almost one every second. Getting those decisions right every time is something that we regard as being of the utmost importance. I have said before that we have an ambitious reform agenda ahead of us. The department's executive and its staff are firmly committed to working with the minister to

continuing the work that we commenced last year. I also have a document that reports in more detail on some of the projects. I will be pleased to table that and suggest that it be incorporated in *Hansard*.

CHAIR—Is this the one entitled ‘Progress on implementing the Palmer program’?

Mr Metcalfe—That is correct.

CHAIR—We will receive that as a tabled document. We will begin by taking questions on outcome 1.

Senator LUDWIG—I thought I might deal with some of the matters raised in ‘Progress on implementing the Palmer program’ first. Who is the chief lawyer?

Mr Metcalfe—It is Ms Robyn Bicket.

Senator LUDWIG—What is her role?

Mr Metcalfe—She is the head of a division that we have created bringing together the legal branches in the department. Essentially, she acts as a division head responsible for the administration of that division. She is also a resource for me to provide high-level legal advice. She works in close cooperation with the chief counsel to the department, who is an outposted Attorney-General’s or Australian Government Solicitor department officer.

Senator LUDWIG—Let me understand that: you had a chief counsel and you still do?

Mr Metcalfe—We have had for many years a senior officer or a division head level officer from the Australian Government Solicitor who is a constant presence in the department and able to provide independent legal advice. Because the department has had for many years its own teams of internal lawyers providing legal advice, developing legislation and administering departmental litigation, as part of the reorganisation last year I thought it was important to bring those areas together under a legally qualified individual and to name that particular position, as head of that division, the chief lawyer. So that is an administrative position responsible for all of those issues and, as I said, working in close partnership with the outposted AGS general counsel.

Senator LUDWIG—So there is a new division that has been created?

Mr Metcalfe—We have essentially brought together the legal areas into one division. Previously, they were part of a division dealing with ministerial executive services and legal issues.

Senator LUDWIG—Do the portfolio additional estimates include that new division?

Mr Metcalfe—They do, Senator, as part of the overall resourcing for the department.

Senator LUDWIG—Is that under figure 2, outcomes and output groups and administered items?

Mr Metcalfe—If you are looking at page 9 of the document, figure 1, you will see an organisation chart of the department and you will see—

Senator LUDWIG—Yes, I’ve got it now.

Mr Metcalfe—the legal division beneath Deputy Secretary Carmel McGregor.

Senator LUDWIG—Where does the Chief Internal Auditor sit?

Mr Metcalfe—That is an assistant secretary level position which also sits in that group of functions administered by Ms McGregor. Again, of course, the department has had an internal audit function for a long period of time. We have now essentially elevated that and expanded our resourcing for internal audit, and we have an assistant secretary responsible for the administration of that internal audit program.

Senator LUDWIG—And the National Communications Manager?

Mr Metcalfe—That is again an upgrade of the public affairs role in the department, and they essentially report directly to me. They are responsible for our internal communications and our external communications.

Senator LUDWIG—And where does that position sit on page 9?

Mr Metcalfe—If you see me at the top—

Senator LUDWIG—I do!

Mr Metcalfe—it sits directly in the line under me—National Communications, Sandi Logan.

Senator LUDWIG—Yes. You've got a lot more people reporting directly to you now.

Mr Metcalfe—I have changed the structure in a sense. As I think I mentioned when we were last here, previously there were two deputy secretaries in the department, neither of whom had formal line responsibility for particular areas but they had particular areas of interest and activity. I have restructured the department so each deputy secretary reports to me and they have a series of division heads reporting to them, with a couple of exceptions who report directly to me—Mr Logan is one, and the head of the Strategic Policy Group is another. The Chief Lawyer is in a group of divisions administered by Ms McGregor but, for reasons of legal professional privilege and associated issues on legal matters, there needs to be a direct line of reporting to me. On administrative matters, Ms Bicket reports directly to Ms McGregor.

Senator LUDWIG—Are the revised terms of reference for the new structure and expanded membership of the Immigration Detention Advisory Group available?

Mr Correll—Yes, Senator, we can make those available.

Senator LUDWIG—When you say expanded membership is being considered, can you be a little bit more specific as to what you mean by that? Are those who are currently there going to remain or is the whole membership being reconsidered?

Mr Correll—No, consideration is being given to expanding the membership of IDAG.

Senator LUDWIG—What point are you at—are you still considering it or is there a view about the types of skills you wanted to include in the membership?

Mr Correll—No. It is still under consideration. It has not been resolved at this point.

Senator LUDWIG—What is the problem there; what needs to be resolved?

Mr Correll—There is no problem as such. We are simply considering possible candidates for the role on IDAG.

Senator LUDWIG—What additional skill areas are you interested in including in the membership of IDAG?

Mr Correll—We are particularly keen to ensure that IDAG has a good cross-representation of people on it, consistent with the overall detention population. So we are looking to ensure there is a good balance across the membership.

Senator LUDWIG—Are you saying it doesn't have balance at the moment?

Mr Correll—No. It is more a reflection of the fact that the detention population is changing, and the composition of IDAG needs to be reviewed to ensure it is consistent with that changing population.

Senator LUDWIG—In what way, then? Is there a concrete example that you can give me so that I can perhaps understand what you are talking about?

Mr Correll—We would want to ensure there is a balance across gender, a balance in terms of community areas and nationalities and a balance that picks up geographic considerations. So we are looking at all of those factors in the composition of IDAG.

Senator LUDWIG—When will that be finalised?

Mr Correll—As soon as possible. As I said, it is being actively worked on at present. There is not a specific target date as such; it is a work in progress.

Senator LUDWIG—Is the membership—the final selection of eligible candidates—determined by Mr Metcalfe or the minister?

Mr Correll—It is determined by the minister.

Senator Vanstone—I agree with what Mr Correll said but you should not take that to mean that there is any lack of capacity in IDAG at the moment. The people there are tremendously well qualified, they bring a broad range of perspectives and they have been doing a lot of work in relation to the reform process—giving up a lot of time, meeting with community people. They don't just come along to a meeting and let a bit of hot air out of their lungs regarding what their own personal views are. They actually visit the centres, they meet with community people, they have got community liaison groups going, and they are really doing a tremendous job.

Senator LUDWIG—I take it that the detention review managers and the detention review committee are in place now?

Mr Correll—Yes.

Senator LUDWIG—You have indicated that the DRC has been restructured to better focus its operations and that the DRM is reviewing all cases of persons taken into detention. Is there a list of outcomes to date, from when the detention review managers were put in place, and the cases that they review? Is there an audit of how they are going, so to speak?

Mr Correll—The reviews that are undertaken by detention review managers are ongoing. The process is monitored by the overall detention review committee, which is looking in particular at trends, durations of people in detention and broader issues of operation and policies in the detention centres. In terms of reports on progress, the detention review managers provide reports in a normal operational way as part of their work. The detention

review committee's deliberations are formally recorded and outcomes from those meetings are minuted.

Senator LUDWIG—Do they review individual cases or do they review more generally the detention centres and an overview of cases?

Mr Correll—The detention review managers certainly look at individual cases. The detention review committee has a more strategic rather than an operational focus. Having said that, that is not to say that from time to time it would not focus on particularly complex cases in the processes of its deliberations.

Senator LUDWIG—Do they make decisions about whether people should continue in detention?

Mr Correll—The decisions in relation to detention are made through the minister.

Senator LUDWIG—Do they make recommendations to the minister about particular cases?

Mr Correll—Submissions are made to the minister which set out the options that are available for particular individual cases.

Mr Metcalfe—I think the best way to describe the detention review managers is as senior local officers in the state and territory offices who very quickly review the circumstances where it has been decided by the department that a person should be placed in detention—in other words, that the conditions of section 189 of the Migration Act are present—to ensure that that decision has been well made and is well based. They then provide an ongoing process of local review.

You asked whether that process was the subject of an audit. From my recollection, the system was announced in May last year and implemented soon after. Because of the importance of the decision to deprive somebody of their liberty and the absolute commitment of the department to ensure that that is being done properly, we have decided that it is now timely to commence an audit of the activity of the detention review managers to establish that that is in fact working properly and, if not, to recommend what we should do. That audit is now commencing activity.

Senator LUDWIG—Some of these are new positions. What I am going to establish is what information the committee may be able to obtain from the department about the review of those decisions—whether or not they have confirmed the original decision by the officers for detention or whether they have overruled them, and what has happened as a consequence.

Mr Metcalfe—I do not have information available to me as to whether there is an aggregated tabular form of the activity of those DRMs. If there is that information, we will provide it to you. If it does not require huge amounts of work, we could take it on notice. But, essentially, they are looking at individual cases. Of the individuals who are detained by the department, there needs to be a review. That is occurring in relation to those persons. We will check whether there is information as to the number of occasions or circumstances in which a detention decision was changed as a result of the activity. But certainly the audit we have commissioned is because we feel it is important to seek reassurance as to whether those

arrangements are working properly and, as I said, if improvements can be made then they will.

Senator LUDWIG—If that information is available in its tabulated form, the committee would appreciate that. The caveat always is that it depends on the workload. If it is a significant impost then please don't not do it; come back and ask the committee about the way forward.

Mr Metcalfe—We will.

Senator LUDWIG—You put down the relationship with external scrutineers. Is there a contract or an undertaking? I am not sure of the link you are trying to highlight.

Mr Metcalfe—There is of course a formal relationship where the Ombudsman, the human rights commission and the Privacy Commissioner may receive complaints. That formal relationship of responding to those complaints continues being dealt with at a highly professional level. But I also thought it was essential—and I am not unique in this sense; there is nothing new about this—for us to have strong working relationships at both chief executive level and other levels with those key bodies so that we can take on their views of our operations. The Ombudsman in particular is regularly looking at the way we are doing things. It is important to us to deal with not only the individual cases but also the issues that may be coming forward. We certainly talk and meet with the Ombudsman's office on a very regular basis.

Similarly, the Privacy Commissioner and I have met on a couple of occasions and will continue to meet on a regular basis. One of the issues that Mr Palmer talked about was the approach to privacy matters within the department. Again, we are keen to ensure that our new training programs are well informed by the Privacy Commissioner. The Public Service Commissioner does not, of course, have a complaint-handling role apart from particular aspects relating to staffing issues, but broadly the Australian Public Service values as laid down in the Public Service Act and related issues such as good governance are areas where we believe we can draw wise counsel from the commission. As the minister indicated earlier, we are a department that is keen to be open and we are keen to tap into the best advice that we can. We are talking with lots of people, including some of those key accountability bodies, about that.

Senator LUDWIG—And are the key migration series instructions, the MSIs, now available on the web?

Mr Correll—I do not believe that they are publicly available on the web, but I want to check that position. To my knowledge, they are not publicly on the web. My colleagues may correct me.

Senator LUDWIG—They never have been. I am just wondering if you had ever decided to change that course. I take it that you have now finalised or established and published the key instructions to assist compliance and detention officers in establishing identity and visa status. In that sense, you do not put them on the web. Where are they published and who sees them?

Mr Correll—They are published internally to staff. We have been going through a process of progressively reviewing, rewriting and reissuing those instructions. We are focusing on priority areas in the first instance. That program of reissuing the instructions to staff is well advanced.

Senator LUDWIG—Perhaps you could make a copy of those ones which have been reissued or newly published available to the committee. The Perth office has trialled passport reader technology. What is that, other than passport reader technology?

Mr Correll—It is virtually as you described. It is putting additional facilities into the office to enable the staff in that office to quickly read information off the passport. Those facilities exist in other locations. This has been an expansion of facilities into those areas to help with the business operations.

Mr Metcalfe—Senator, you know that, whenever you come into and out of an international airport, a Customs officer will simply scan your passport.

Senator LUDWIG—Yes.

Mr Metcalfe—The data that is captured off that passport—names, personal identifiers, whatever—is able to be taken directly into the computer systems without the need for rekeying or whatever. A lot of data errors occur during the keying or rekeying of documentation. This trial is to look at whether we simply do the same thing at our front counters so that, rather than having to rekey client details, we can simply take them off a passport, which (1) saves time and (2) reduces errors.

Senator LUDWIG—I am interested in that. In the sense that it is done at the Customs front office—in other words, when someone comes into the country—

Mr Metcalfe—The primary line.

Senator LUDWIG—what happens with the SmartGate technology when they do not come to the primary line?

Mr Metcalfe—The SmartGate technology essentially removes the need for a Customs officer to directly manage the entry of the person. That technology allows the person who has registered and whose biometric details are thus available to present their passport to a reading machine themselves, but you also need to establish that the person with that passport is in fact the person who owns that passport, so you need to go through a biometric identifier, whether it is a fingerprint or some other technology, to ensure that it is the same person. That technology is in place. I have seen it working in Singapore, for example. That trial is occurring here between relevant departments.

Senator LUDWIG—Yes, but I am interested in the direction Customs are going with SmartGate and their primary line. I think they also update their passport reader technology as well. If they no longer go to the primary line, will your trialling still work effectively?

Mr Metcalfe—They are quite separate circumstances. The primary line is essentially administered by Customs on behalf of Immigration. We, Customs and Foreign Affairs are working very closely because of the connectivity of the Australian passport, our entry requirements and Customs' entry requirements. This trial here is a client services trial. If you went into the department's office in Brisbane and you wanted to lodge an application for

something, this is a way for us to capture that data at that particular service point, so it is quite separate to the SmartGate concept but, obviously, all of these systems are interrelated and inform each other as to the technology.

Senator LUDWIG—Who can access that information from the department once this trial is finalised?

Mr Metcalfe—This is simply an entry point to departmental records. We would usually have a record in relation to a noncitizen who comes and sees us at a departmental office, because that person would have held a visa, would be holding a visa, would have entered Australia. This is simply a way of bringing up their records quickly without having to rekey the material. It provides efficiencies in terms of there being no longer any need to key in data. There is a time efficiency, and it also prevents keying errors which lead to data accuracy problems. That simply means that the normal information that the department would have about a client is then available to the officer dealing with that particular matter.

Senator LUDWIG—Would the majority of passports be foreign passports?

Mr Metcalfe—The majority of passports that we see in a state or territory office are certainly foreign passports. We occasionally see Australian passports, because someone may be wanting to sponsor a relative or something like that. There are a roughly equal number of Australian passports and foreign passports coming across the borders—about one every second, as I said earlier.

Senator LUDWIG—What are the cost and time frame of developing this program?

Mr Metcalfe—We do not have that information at the table. We will check and, through the course of the day, I would expect we would be able to provide you with some advice on that.

Senator BARTLETT—As part of all the changes you have made, as well as for the committee's interest: with the recent reshuffle, what is the impact of the change in ministerial arrangements—not so much losing Indigenous affairs but the abolition of the citizenship minister and the reinstatement of the parliamentary secretaries? Firstly, has it affected your restructure in any significant way? Secondly, have the different responsibilities for the new parl sec been finalised yet?

Mr Metcalfe—To answer the second question first: the minister has yet to advise formally as to the duties that Mr Robb will be allocated. That is a matter between the minister, the parliamentary secretary and the Prime Minister. In relation to the department, I would not envisage that the change in responsibilities or arrangements would have any impact upon our organisational structure. As a department we report to and support Senator Vanstone as a cabinet minister, and relevant areas of the department will provide advice to and support Mr Robb as parliamentary secretary once the details of his duties are finalised.

Senator BARTLETT—Could I ask the minister: is there any time line as to when the new duties for the parliamentary secretary are expected to be finalised? Is it possible for the parl sec to take on ministerial discretion?

Senator Vanstone—That is already clear. There was a case—the name of which escapes me but I am sure somebody can look it up for you if you would like—that came about when, I

think, I was the junior minister in the Attorney-General's portfolio in Justice and Customs. The question was raised whether I could make a decision in relation to extradition. I think it is in that case that the whole question of who is a minister was canvassed. If it is not that case it is another one, and we will get it for you. It makes it very clear that, for the purposes of carrying out ministerial duties, parliamentary secretaries, as members of Executive Council, are the equivalent of ministers. That is well settled, as I understand it. I would plan and hope that Mr Robb can undertake some of those duties, and my reasoning would be this: as you know, the people who seek intervention are people who have tried every other legal means by the rules and regulations that we set for who will come here and the circumstances under which they come. These people would get a 'no'.

What they want to have said is that their case is so particular and so exceptional that an exception should be made to those rules. I think it is helpful for someone doing any work in the immigration area to get a good look at those sorts of cases and see what comes up through them—what sorts of people are, through the system we have set up, getting a 'no'. It can give you some insight into whether any of that needs to be changed. It can also give you insight into where compliance might need to be improved, because sometimes you look and wonder how it has happened that a person has been here so long, when it should have been a 'no' first up. So it is a very useful and informative process, one that takes you right to the heart of the decision-making process in immigration. So I hope he can do some of that work.

Senator BARTLETT—Do you have any idea of how soon all of those arrangements are likely to be finalised?

Senator Vanstone—I expect and hope it will be finalised this week. It is not entirely in my hands, as you will appreciate.

Senator CROSSIN—I would also like to ask a few questions about the table that you have provided this morning. I am interested in the review of the detention services contract. Who was involved in that review, in terms of people consulted or who conducted the review?

Mr Correll—The review was conducted by Mr Mick Roche. He consulted widely with a range of different stakeholders, including IDAG representatives, officers within the department and external agencies. His consultations have been quite widely based.

Senator CROSSIN—Is Mr Roche a departmental employee?

Mr Correll—No. He is a former public servant who is currently operating in a consultancy capacity.

Mr Metcalfe—He is a former head of the Defence Materiel Organisation so, effectively, was an undersecretary of Defence. He was formerly the Deputy CEO of the Australian Customs Service and worked for the department many years ago. I think he was our regional director in London over 20 years ago—it was at about assistant secretary level. He has extensive experience in government procurement and contracting issues.

Senator Vanstone—You might be aware, Senator, of the eight Bay class vessels—the one you might have heard of is *Arnhem Bay*—from Customs. They are big aluminium ones made in Western Australia. Mr Roche oversaw that project and I think it is one of the few projects

of that size in shipbuilding that has come in on time and on budget. So he has particular experience in contracting, which I thought would be very helpful in this case.

Senator CROSSIN—Which external clients or community groups were consulted?

Mr Correll—There would have been a long list. I will check if we have it immediately to hand. We will ask Ms O'Connell, who is the head of the detention services division, to join us. She might have a bit more detail.

Ms O'Connell—The Roche review specifically addressed some of the Palmer recommendations and the terms of reference were drawn directly from those Palmer recommendations. They are recommendations 7.5, 7.6 and 7.7. Those recommendations specifically referred to the person conducting the review consulting with ANAO. Those consultations took place as part of that review. There were extensive internal consultations within DIMIA, including with the current centre managers and many other internal staff. There were also consultations with all of the members of IDAG, the Immigration Detention Advisory Group, and consultations with the current detention services contract provider, GSL.

Senator CROSSIN—Is the report public and available to the committee?

Ms O'Connell—The report was a draft up until only last week. At the end of last week we received a finalised version of the report. It is currently undergoing internal consultations within Immigration. So it is not yet available.

Senator CROSSIN—The GSL contract is due to be renewed or retendered this year. Is that correct?

Ms O'Connell—It is 2008.

Senator CROSSIN—So is this a review that will inform the retendering process?

Ms O'Connell—Certainly it would.

Senator CROSSIN—In what way?

Ms O'Connell—Specifically the terms of reference look at things like: whether the contract should be insourced or outsourced; the structure of the contract, including prime contractor arrangements and subcontractor arrangements; and any changes needed to the contract in terms of findings from the Palmer report and ANAO reports. So, yes, it would have a major influence.

Senator CROSSIN—The pilot of the community care model is scheduled to commence shortly. Where will the pilot commence and what does it involve?

Mr Correll—The pilot is focused on Melbourne and Sydney. It involves working with a lead non-government agency, the Red Cross, who are working in turn with a number of non-government organisations in providing a more systematic and structured form of care services for people who are in detention in the community. It is being linked in very closely with another initiative, which is the case management pilot. Under the case management pilot it is establishing a framework of case management services within the department. The case managers would be looking to work closely with the community care providers. So the two elements go hand in hand. The community care pilots will be up and running very soon. We are in the final stages of setting up those arrangements now.

Senator CROSSIN—And Red Cross will be doing that in both Melbourne and Sydney?

Mr Correll—Yes.

Senator CROSSIN—What is the client base for the community care models?

Mr Correll—In the pilot, we are looking at around 400 to 500 clients—in that sort of order.

Senator CROSSIN—Are these settlement services?

Mr Correll—They are providing the types of services that are used to support people who are in detention in the community. So they are community care arrangements linking in with other potential service providers as well as, for those people who are in detention facilities, providing access to information and services in relation to the overall framework of how the migration system works. So it is providing access to a potentially quite wide range of services, depending on the individual needs of specific clients.

Mr Metcalfe—I think it is true to say that the concept grew out of the work that was done last year following the initiative to move women and children out of detention centres and to provide for a system of residence determinations whereby, although legally detained, people were actually detained in the sense of being in the community but with a regular reporting contact with the department. That has been a significant success and we thought it was an excellent opportunity to extend that concept and work in partnership with the Red Cross and others who worked with us at that time.

I think this is an indication of the sort of flexibility that we are looking for to manage individual circumstances across a range of different situations, where ultimately we are interested in an outcome. That outcome for an individual might be that they should have a visa and stay in Australia or alternatively that there is no reason for them to stay here and that they must go home. This is a significant area of change and we are quite excited about it.

Senator Vanstone—I might mention, having mentioned the IDAG committee members before, that one component of this program includes counselling. The IDAG members raised with me before Cornelia Rau—late the previous year, I think—and again during that time the need for immigration to consider that what happens to people who perhaps are not entitled to stay is that they get detained, they are told they have to go and that is pretty much that and that it would be helpful to have assistance for some of these people to face the choice that they had or the lack of it. The refugee groups that I come in contact with day to day—I do not mean just the advocates; I mean the ones who actually do the work and maybe advocacy groups as well—do not want overstayers and people who have breached their visas to be able to claim to be refugees and successfully get that status. They want the people who really are refugees to get it and they recognise that that means the ones who are not have to go, and they are happy to assist in that process.

Senator CROSSIN—Further to this list, I wanted to ask about the long-term detention strategy that is on here. What do you mean by the partial opening up of the compounds at Baxter? What exactly does that mean?

Mr Correll—At Baxter the compounds at the present stage are not completely but largely inward looking. They are surrounded by walls so that people inside those compounds do not

have line of sight out into the local landscape and local community. What we are looking at doing is breaking that down. In feedback and analysis from Baxter that has been a quite significant issue that has been raised, and it was certainly raised specifically in the Palmer report. So we are looking at creating openings in the space so that there is not just, if you like, a complete sense of enclosure in those compound areas, and opening it up into more of an open environment rather than a closed-off environment so that people do have a line of sight out into the local landscape.

Senator CROSSIN—Thanks for that. Can I ask about the razor wire—has that been removed from Villawood?

Mr Correll—Correct. Most areas in Villawood, not all areas in Villawood.

Senator CROSSIN—What has replaced the razor wire?

Ms O'Connell—In most of the areas other than the high security area of Villawood the razor wire has been removed. In most areas where the razor wire has been removed it has not been replaced by anything. In one area where the razor wire has been removed another form of detection fencing has been put in place on top of an existing wire fence.

Senator CROSSIN—At Villawood?

Ms O'Connell—At Villawood, yes.

Senator CROSSIN—Is that what we would have seen being constructed when we were there as a committee last year? It seemed to me that the second lot of fencing was actually being electrified.

Ms O'Connell—There is one area of fencing that had this electrified detection placed on top of it. In most of the areas where razor wire was removed there has been no subsequent fencing applied to them.

Senator CROSSIN—But in some areas you have taken down the razor wire—

Ms O'Connell—In one area.

Senator CROSSIN—and electrified the fence.

Ms O'Connell—On the top of the fence, well above the existing high fence line, there is electrified detention fencing. That electrified fencing is the same as the fencing used by the commercial premises around the Villawood centre on top of their existing fences. It is a standard use detection material for fencing and it is on top of an existing three-metre fence.

Senator CROSSIN—How many volts go through there?

Ms O'Connell—I do not know that.

Senator CROSSIN—Can you find that out for us?

Ms O'Connell—Yes.

Senator CROSSIN—I have some questions about detention centres around the place but, while we are talking about razor wire, why is it necessary to have razor wire on the temporary processing centre on Christmas Island—not the one being constructed but the one up the hill near the recreation centre?

Senator Vanstone—I will have a look at it, and if it is not necessary it will be removed.

Mr Correll—We should note that the Phosphate Hill facility is relatively short term and is being replaced by a new facility that is being built on Christmas Island.

Senator CROSSIN—I understand that, but it struck me when I was there a couple of weeks ago that, even if you managed to climb the fence, on Christmas Island there are not too many places you can go.

Ms O'Connell—I can also confirm that there is no razor wire on the plan for the new centre on Christmas Island.

Senator CROSSIN—Are there electric fences, though?

Ms O'Connell—No.

Mr Correll—The issue might be the cost of removal in the context of a new centre being built that does not have the razor wire anyway.

Senator CROSSIN—Would you be able to provide this committee with a copy of the detainee management procedures at Baxter, if they are not too onerous?

Ms O'Connell—Certainly, we will provide the specific operating procedure that relates to detainee management.

Senator CROSSIN—Thanks.

CHAIR—Senator Nettle has questions on the tabled document.

Senator NETTLE—Can you outline what the new national communications manager role involves?

Mr Metcalfe—It is the role of managing the national communications branch. Like all large public organisations, we are the subject of numerous media inquiries and we have to be able to efficiently respond to those. That is a function that we have had forever. We have simply said that, because of the significance and volume of issues that we are dealing with, it should be elevated to a branch within the organisation. There is also important internal communication. We are an organisation of over 5,000 people and, if any chief executive is serious about culture, morale and consistency of message, then it is important that we have a good communication capability. That position is responsible for the people working on media inquiries, departmental publications, which we produce on a regular basis providing information about matters, and internal communication.

Senator NETTLE—So it is not a decision maker or operational position; it is a media spokesperson?

Mr Metcalfe—That is right, yes.

Senator NETTLE—The first mental health issue that you mention in this table is the memorandum of understanding with the South Australian Department of Health. Is it possible for the committee to get a copy of that? What is the status of that?

Mr Correll—I see no problems with a copy of that being provided to the committee.

Senator NETTLE—Thanks. You mentioned mental health screening of detainees. Mr Metcalfe, I think you said that was an initial assessment phase. I want to check when the mental health screening occurs.

Mr Metcalfe—That is correct. If you have a series of questions on this issue then I might ask the relevant people to come to the table, because we have some very expert people working on these issues.

Senator NETTLE—It was in response to the area that you focused on in your opening statement. At what stage of the initial screening is it carried out? By whom is it carried out? You mentioned two tools. What are those tools?

Mr Casey—The mental state examination is carried out by the nurse as part of the health assessment. The health of the nation outcome scale is administered by a psychiatric trained nurse. That is done within approximately three days. It takes three days to be able to see how somebody is managing to get the sorts of observations necessary for that screening instrument.

Senator NETTLE—I want to make sure I am getting that right. You said there is a nurse with some training who is doing it in the first instance.

Mr Casey—The mental state examination is a fairly standardised assessment tool that asks specific questions. That is administered as part of the general health assessment of the detainees.

Senator NETTLE—Mr Metcalfe mentioned two instruments before. What were those?

Mr Casey—The mental state examination and the health of the nation outcome scale are the two clinical instruments that are currently being used by the clinical staff.

Ms O'Connell—I have a diagram of the mental health model, which shows the steps undertaken and those screening tools. We are quite happy to provide that to you. It explains the timing around it and the rescreening processes.

Senator NETTLE—That would be great; thank you. Also in your comments, Mr Metcalfe, you mentioned the membership of the health group advisory that was being set up. I wanted to ask for an update on where that was up to.

Mr Casey—We have contacted a number of health professional groups and invited them to provide one or two names or a single person who they felt would best be able to represent that professional interest within the detention health advisory group. This is off the top of my head now. We have been in touch with the College of General Practitioners, the AMA, the college of psychiatrists, the relevant body that provides for dentistry—and I running out of memory at the moment—

Ms O'Connell—Nursing.

Mr Casey—and the groups that deal with torture and trauma, the Mental Health Council of Australia and the Australian Psychological Society.

Senator NETTLE—The last time I remember asking about this, there was a similar answer in that you had contacted some of the groups. I got the sense from Mr Metcalfe's

answer that perhaps that had gone a little further and you might be setting that group up. Was that a correct impression?

Mr Casey—Yes. About 50 per cent have got back to us now. We are still chasing a few organisations to finalise the proposed membership of this group. It is proposed that it would be chaired by Associate Professor Harry Minas, who is on the Immigration Detention Advisory Group and who is a research psychiatrist.

Ms O’Connell—It is also proposed that the first meeting will be in March.

Senator NETTLE—That is obviously when you intend to have the membership finalised by.

Ms O’Connell—Yes.

Senator NETTLE—In regard to the setting up of the advisory group, having previously looked at the detention services contract, my understanding is that one of the requirements of the contract was the setting up of that. I know I have asked this question previously but there may be an update. Because that was a requirement of the contract when GSL took over the contract and clearly that is not going to be met until March, has there been any breach of contract in the time leading up to March when the first meeting occurs because of the inability to set up that group, or has it now become a joint departmental-GSL function to set up that group?

Ms O’Connell—The obligation under the contract is slightly different. It was to have a health advisory panel. GSL, on taking over the contract, did make several attempts to put in place that health advisory panel but it was unsuccessful. This new detention health advisory group has different terms of reference from those of the original health advisory panel. We have subsequently also requested enhanced health services from those that were contemplated under the existing contract. In that group of measures, we have withdrawn the obligation for a health advisory panel and have put in place this detention health advisory group. So it is not a GSL construction obligation; it is a departmental one.

Senator NETTLE—So the panel has been dropped and has been replaced by the group?

Ms O’Connell—By this group, who also have different terms of reference from those that the advisory panel had.

Senator NETTLE—Presumably this group has not always been in existence, so there was some period of time during which GSL had the contract and a panel was required. Was there any penalty—

Ms O’Connell—Applied to them for not having it in place?

Senator NETTLE—Yes.

Ms O’Connell—I would have to check that, Senator. Certainly, they put in place several endeavours to have that advisory panel. As to whether that satisfied the contractual terms, I would need to check whether it has been penalised.

Senator NETTLE—Yes, I would like you to check that so that we can get an idea of when that dropped out of the contract because it was being replaced by a group, and whether there was any penalty beforehand.

Ms O'Connell—Yes.

Senator NETTLE—There is another issue relating to mental health. In these dot points in the table, you say that arrangements for access to private psychiatric facilities have been made in some states. Does that include Christmas Island? Was that one of the places where arrangements had been made for access to private psychiatric facilities?

Mr Casey—No, Senator, there are no private psychiatric services on Christmas Island, to my knowledge, other than a private psychologist.

Senator NETTLE—Is there any intention for those facilities to be available, particularly in light of the new facility that is being built on Christmas Island?

Mr Casey—The current operational aspects of Christmas Island will help us to assess what contingencies we may need in the future. At the moment I don't have any specific plans. We do provide staff to go to Christmas Island. Psychologists have been to Christmas Island. The HoNOS roll-out is occurring at this stage across the other mainland detention centres. We don't have specific plans yet for Christmas Island, but that will be something that will be part of our future planning.

Senator NETTLE—What was the term you used for the roll-out?

Mr Casey—At the moment we have what I have described to you before operating at Baxter. We are now recruiting and moving into the training phase for Villawood, for Maribyrnong and for Perth. They have not yet commenced using this systemised screening of the HoNOS in those centres. They all do a mental state examination but they are not using the HoNOS yet.

Mr Metcalfe—HoNOS is the Health of the Nation Outcomes Scale.

Senator NETTLE—The other issue I wanted to ask about was the training for reasonable suspicion which Mr Metcalfe mentioned. Can we be provided with a copy of the documentation—new MSIs or a training manual?

Mr Metcalfe—I spent the weekend looking through our answers to questions given to this committee. I think that in the answers to questions taken on notice last time there is a copy of the training materials that are in use. It is quite a large attachment to one of the questions on notice.

Senator NETTLE—That is for the reasonable suspicion—

Mr Metcalfe—That is correct. Essentially it is refresher training for compliance officers, particularly around the issues of that obligation under section 189 to detain a person if there is a reasonable suspicion that they are in fact an unlawful noncitizen.

Senator NETTLE—You also mention in that table the pilot mental health awareness training course. Are we able to be provided with a copy of that?

Ms O'Connell—Certainly. Would you like us to provide you with the actual training material that was used for the pilot mental health training?

Senator NETTLE—Yes.

Ms O'Connell—We will do that.

CHAIR—Are there any more questions about the table that Mr Metcalfe provided to the committee? If not, we will move on to the outcomes as indicated on the schedule, starting with outcome 1, Contributing to Australia's society and its economic advancement through the lawful and orderly entry and stay of people, and going to output group 1.1 to begin with.

[10.24 am]

Senator Vanstone—During a response to a question in the Senate on 8 February, I said the caseworker to the Niyonsaba family was from Burundi. My department has advised me that the information they gave me in that context was incorrect. The caseworker is from the Democratic Republic of the Congo, not Burundi.

ACL, the caseworker's employer, has advised that the caseworker speaks Swahili and some Kirundi. The UNHCR records provided to my department I am advised indicate that Richard's father spoke both Kirundi and Swahili. ACL also advises that Richard's father and the caseworker used both Swahili and Kirundi to communicate. So, in short form, the advice is correct in that they can both speak the same language, but not correct in the context that the caseworker is from Burundi. I should also say that I have written to the senator who asked me the question offering a private briefing and the same advice was given to her today, not by me but by officials from the department.

Mr Metcalfe—This is an opportunity for me to say that there was an error in the departmental briefing to the minister. The error goes to the issue of the nationality of the case worker, not the language skills. But I have taken the opportunity to formally apologise to the minister for that error, which caused her to unintentionally mislead the Senate.

CHAIR—Senator Ludwig, I was seeking your acknowledgement that Senator Crossin would be starting questioning in output 1.1.

Senator CROSSIN—I will seek your guidance here. I predominantly have questions about the enforcement, really. I have questions about the detention centre.

Mr Metcalfe—I think that is 1.3.

Senator CROSSIN—I also want to ask some questions about the West Papuans.

Mr Metcalfe—That is 1.2.

Senator CROSSIN—Perhaps somebody else might want to start off 1.1.

Senator BARTLETT—Output 1.1 looks like main program stuff.

CHAIR—Yes.

Senator BARTLETT—I want to ask about the permanent economic entry section. This is the area where I think the aim was to get close to a 100,000 intake or a little bit less than that. Is the trend suggesting that target is likely to be met?

Mr Rizvi—On the basis of visas granted to the end of December 2005, we are slightly ahead of pro rata for delivering a skill stream of 97,500.

Senator BARTLETT—And within that, is there a breakdown in terms of the different subcategories, for want of a better word, in meeting particular areas with skills shortages and

also areas within Australia where we are seeking to get people to settle? Are there any significant shortcomings, shortfalls or overshoots within those subcategories?

Mr Rizvi—Essentially, when the government announced the 97,500 skill stream earlier this year, they identified three main priorities for the delivery of that number of visas. The first was employer sponsored visas where an employer selects the individual migrant and sponsors them on that basis. The year-to-date figures for employer sponsored visas, to the end of December, was 8,142, which is about 8.6 per cent above pro rata the target that we were aiming at at the start of this year. It represents about 16.7 per cent of the year-to-date skill stream outcome.

The second area of priority is where a state or regional area of Australia sponsors the individual migrant. The year-to-date outcome for state specific and regional mechanism visas to the end of December was 13,392. That compares to a full-year outcome for the same visas in the year before of 18,697. So if we were to double the figure there on a pro rata basis, we would see this year's outcome as being well over 26,000 state sponsored and regional migration mechanism visas, so that is also running very strongly.

The third area of targeting was occupations that are in national shortage. As at the end of December 2005, the total number of visas granted where the assessed applicant's occupation was on the migration occupations in demand list was 18,051, which included 8,608 principal applicants, the remainder being their spouses and family. That too is now running very much ahead of pro rata and well above the level of targeting the year before.

Senator BARTLETT—Is that aspect of running ahead of target broadly seen as a good thing? Does it generate any extra management issues?

Mr Rizvi—It is usually preferable to be slightly ahead than slightly behind, I must say, but you are absolutely right: you do not want to be too far ahead or too far behind because that does create difficulties. Being slightly ahead of pro rata means that you are able to take into account contingencies that might occur in the second half of the year.

Senator BARTLETT—With regard to the parent category, you gave me some figures on notice from the last estimates. The 1,000 places in the non-contributory category or original parent category were filled last financial year. I presume they will be fairly easily filled this financial year. Is the contributory parent category for this financial year looking likely to be filled on current trends?

Mr Rizvi—Yes. Both categories are running well ahead of pro rata. It is likely that both categories will need to be capped later this program year. The non-contributory category, as you pointed out, is at 1,000 places and the contributory parent category at 3,500 places. For the year to date in the non-contributory category, some 593 visas had been granted. That is 18.6 per cent of pro rata and, in the contributory parent category, 2,449 visas had been granted until the end of December, which is 39.9 per cent above pro rata against the planning level of 3,500.

Senator BARTLETT—Could you provide, perhaps on notice to save time, the pipeline and waiting list—

Mr Rizvi—I have that in front of me, so I can provide that.

Senator BARTLETT—Okay.

Mr Rizvi—In the non-contributory category, the number of applicants that had been queued rather than the number of applications was 16,900. That was at the end of 31 December. In the contributory parent category, none of them have been queued but they will start to be queued once the cap is reached later this financial year.

Senator BARTLETT—From memory, there is a distinction between queue and pipeline.

Mr Rizvi—That is correct. Mr Mills has the pipeline figure. I will ask him to advise you on the length of the pipeline in the non-contributory category.

Mr Mills—The pipeline figure for the contributory parent category is 3,587. Non-contributory is just over 4,000 in addition to the 16,900 queued.

Senator BARTLETT—Thank you. I move onto the visitor and working holiday maker visa categories. What is the trend with the working holiday visas? Is that increase of over 11 per cent in the last financial year still trending upwards, or has it plateaued?

Mr Rizvi—The working holiday maker visa?

Senator BARTLETT—I have meshed the two together, actually—the normal one, the working holiday maker visa.

Mr Rizvi—The working holiday maker visa is running ahead of pro rata, and we expect between a five and 10 per cent increase over the previous financial year for working holiday maker visas. Last year's outcome was about 110,000 or 111,000, from memory, and we will exceed that by five to 10 per cent this year.

Senator BARTLETT—Have there been new countries added to that to explain that, or is it just more people coming from the same countries?

Mr Rizvi—I do not think in this financial year there have been any additional countries for the working holiday maker visa. I think that still stands at 19 agreement countries.

Senator BARTLETT—Are there any others we are planning or negotiating with to add?

Mr Rizvi—We have been holding ongoing negotiations with a range of countries. The one where we are perhaps making the greatest progress in terms of those negotiations is probably the Czech Republic.

Senator BARTLETT—Are we talking with Turkey about it?

Mr Rizvi—We are talking with Turkey about a work and holiday visa. I think some announcements in that regard were made when the President of Turkey was in Australia late last year.

Senator BARTLETT—What are the arrangements with that?

Mr Rizvi—I think we are very close to agreement. It is a matter of pinning down the details and putting in place the infrastructure to start the program.

Senator BARTLETT—What is the trend with the student visa category?

Mr Rizvi—In the last year or year and a half there has been some plateauing in the rate of growth in the student visa category, but for the first six months of 2005-06 there has been a

very substantial increase, and I think we are back to the growth rates that we were experiencing in the late nineties and early 2000s.

Senator LUDWIG—Does the new maritime visa come under 1.1? I was just looking at the summary of capital measures. It seems to say here outcome 1; it does not say 1.2 or 1.3. It says ‘National security—introducing a maritime crews visa, outcome 1’, ‘output groups affected’, and you have left that blank. So either you know it is—

Mr Metcalfe—There is an ideal opportunity. If you want to ask questions, we are ready to answer them.

Senator LUDWIG—Thank you very much.

CHAIR—Though I am very keen to keep things in order, as you know, Senator Ludwig. We are slightly obsessive about those things.

Senator LUDWIG—I am happy to keep it in order. They did not identify which—

CHAIR—Which order. I understand that.

Mr Metcalfe—The relevant officers are available, so if it suits the committee—

CHAIR—You are not disturbing the natural order of things, are you, Mr Metcalfe? Mr McMahan, does that mean you are the relevant officer?

Mr McMahan—I am one of the relevant officers, yes.

CHAIR—Excellent.

Senator LUDWIG—I am happy to keep it in whichever one they want to ascribe it to.

CHAIR—We have lots of ‘yesses’ happening, so go for it.

Senator LUDWIG—Is it \$55 million that has been allocated to this new measure? How much is your share of that?

Mr Metcalfe—Page 18 of the additional estimates statement, I think, is the place to look.

Senator LUDWIG—No, I was looking at the joint media release. It is more informative sometimes.

Mr Metcalfe—If we are examining this document, I think page 12, table 1.2, indicates the spread of expenditure for this department on that issue.

Mr Correll—From a quick calculation, over the forward estimates period it is, I think, just over \$40 million.

Senator LUDWIG—The press release says there is:

... \$55.3 million for IT systems associated with the new visa and to record sea crew movement records; employ 19 additional Regional Seaports Officers to assist industry with the new visa, conduct vessel boardings and manage compliance and employ additional staff in DIMIA’s Entry Operations Centre to support the shipping industry.

Mr McMahan—My recollection is that the total amount of money going towards the visa is around \$100 million, but it is actually across three agencies.

Senator LUDWIG—I am reading about your share.

Mr McMahon—Yes, that sounds correct. I actually do not have the total in front of me, but that sounds like the order of magnitude.

Senator LUDWIG—I am after a breakdown of how those funds are going to be distributed within your area. It seems that there is a general idea, which I note from the media release, and that seems appropriate. I want to know how the department intends to break those funds down.

Mr McMahon—It is quite a complex table. I only have the figures annually, so I would be able to tell you what the break-up is per year. If you want to get an indication of the sorts of things that we are doing, I can tell you we have an implementation team and we have to build up the entry operations centre to support the arrangement. That is a 24/7 operation which actually would respond in respect of notifications which arose from a match on the sea crew visa. We have training of seaport officers and regional sea crew officers for boarding and those sorts of things. We have the IT costs associated with it. We have funding for compliance operations. We have some funding for detention operations, equipment, sea crew visa activity processing and some other smaller costs. We could actually provide that breakdown on notice if you would like.

Senator LUDWIG—That would be helpful. Are these seaport officers already employed, are they in the process of being employed or are they being assigned from other areas?

Mr McMahon—We will have some additional regional sea crew officers in place. We actually do have them at the moment. At the moment, we have around 18 employed and that will increase.

Senator LUDWIG—To how many?

Mr McMahon—I think probably to about 25.

Senator LUDWIG—How many additional?

Mr McMahon—I think about seven, but I would have to get the detail.

Mr Metcalfe—We will check precisely on the number.

Senator LUDWIG—The press release says that there will be 19 additional regional seaport officers. Is that not the case?

Mr Metcalfe—I think it is probably best if we quickly check that. We can probably come back to you during the course of this morning on that.

Senator LUDWIG—That would be helpful. Is the IT system associated with the new visa an upgrade, a change to the existing IT system or will additional hardware be required?

Mr McMahon—It builds off the e-visa system platform that we already have. Essentially the way the system would work is that either the crew themselves or the agents—and it is more likely to be agents—would actually make applications through the internet or electronically. We have to build and extend that functionality.

Senator LUDWIG—So there will be no new hardware as such?

Mr McMahon—I doubt whether there would be hardware; there is certainly capital.

Senator LUDWIG—What would that be?

Mr McMahan—The capital is essentially the cost of the intellectual property around developing the system, if you like. A lot of the developmental costs are capitalised. Whether or not there is an additional server or something is relatively incidental in the development cost of this visa.

Senator LUDWIG—Has it been determined where the regional seaport officers will be stationed?

Mr McMahan—We have not made a final determination about that yet. To some degree, there is no doubt that there will be a proportionately greater focus in Queensland and Western Australia, because that is where something like 60 per cent of all first port entries take place.

Senator LUDWIG—When will you know when these additional seaport officers will be deployed and where?

Mr McMahan—Probably not for a while. We are still some time off in terms of implementation of the visa, which is not due until July 2007.

Senator LUDWIG—Do you know whether or not the IT is going to be awarded by an open tender process?

Mr McMahan—I think it is highly likely that it will be an internal development.

Senator LUDWIG—That will be from your IT section?

Mr McMahan—Yes.

Senator LUDWIG—If that changes in the short to medium term or before we next meet—if you decide to make it an open, or closed, tender system—can you let the committee know?

Mr McMahan—Certainly.

Senator LUDWIG—Thank you. At the last estimates, Senator Conroy asked about internal product and asked for a breakdown in the spending of the ICT function—communications, security, private network. In the response, you indicated that ICT spending was in line with the forecast budget. There is not a question number for this, which is unusual.

Mr Metcalfe—Was this in response to a question on notice?

Senator LUDWIG—It was a question taken on notice at supplementary budget estimates, to do with internal product: was the spending in line with budget forecasts for this 12-month period? You indicated that it was in line with forecast budget spending.

Mr Metcalfe—I think we have that in front of us. It is a question from Senator Conroy?

Senator LUDWIG—Yes. This is about the budget forecasts for the extent of the ICT spending. When you say they are in line with forecast budget, do you mean that they correspond with the budget amounts? Do they still hold for the portfolio additional estimates or have they changed? It is a relatively easy question. It is just a matter of trying to identify where we started. Have they been altered as a consequence of the portfolio additional estimates statement?

Mr Correll—I would need to check the response to the last question, but essentially this represents the budget for ICT in the department and its phased spend pattern over the year. At the moment, we are tracking consistently with that. If we are able to, very quickly I can just

determine whether we have had any variation to that in the additional estimates. I do not believe so, but if you are happy to move on we can come back to that later.

Senator LUDWIG—If there is any change to that, I am happy for you to take that on notice and advise the committee in due course.

Mr Correll—Sure.

Senator LUDWIG—On that more general question: the answers to the questions that were taken on notice were not all returned on time, were they, Mr Metcalfe?

Mr Metcalfe—They were all returned before today, but somewhat after the due date, yes.

Senator LUDWIG—Of the total that were returned, what percentage would you say were returned after the return date?

Mr Metcalfe—I will need to check that. I can do that now if you would like.

Senator LUDWIG—And when was the last batch of questions returned to the committee?

Mr Metcalfe—I think some were returned last week, but I can again provide advice on that if you would like.

Senator LUDWIG—That would be helpful. That is many months after the return date?

Mr Metcalfe—I do not think it is many months, because we were here in November, but it would have been some weeks after the return date, yes.

Senator LUDWIG—Is there a difficulty in being able to meet that return date?

Mr Metcalfe—There are always difficulties in meeting that return date, and I think our record of returning all of the responses before today is, in fact, something I am very pleased about. My preference, of course, is that we would meet all of those matters before the return dates. You would be familiar with the amount of work that is involved across the organisation in establishing the facts for the many dozens—if not hundreds—of questions that are taken. As I said earlier to Senator Nettle, I refreshed my memory on our responses over the weekend. I was presented with two very large binders of material to read through in relation to that. So, having said all of that, we take our responsibilities to this committee seriously and we will continue to endeavour to provide timely responses.

Mr Correll—I can confirm that there has been no adjustment to those budget figures in the additional estimates.

Senator LUDWIG—Thanks very much.

[10.51 am]

CHAIR—If there are no further questions in 1.1, we will go to 1.2, Refugee and humanitarian entry and stay. Senator Crossin, you indicated you had questions in relation to West Papua which I think Mr Metcalfe indicated would fall in this area.

Senator CROSSIN—I want to ask about the removal of the West Papuans from Brisbane to Christmas Island. Can you tell me how many and on what day those people were transferred to Christmas Island?

Mr Correll—Yes. The group of 43 Indonesians from West Papua arrived on Cape York on 18 January 2006. They were then transferred that afternoon and evening to Weipa, where they stayed overnight in a facility. Then they were moved to Christmas Island the following day.

Senator CROSSIN—Prior to being moved to Christmas Island, did they all undergo health checks?

Mr Correll—Correct. These health checks were fitness to travel health assessments.

Senator CROSSIN—I think you probably know where I am heading to, then, Mr Correll. Who conducts those assessments?

Mr Correll—They are undertaken by the Queensland health authorities. I might call again on my colleague, Mr Casey, who can provide very precise information in this area.

Mr Casey—Can you repeat that question, Senator?

Senator CROSSIN—Are the health checks undertaken by Queensland health authorities?

Mr Casey—On this occasion Queensland health authorities undertook the health assessments of the Papuans in Weipa.

Senator CROSSIN—That occurred in Weipa?

Mr Casey—Yes.

Senator CROSSIN—My understanding is that two of these 43 were diagnosed with TB. Did that occur in Weipa?

Mr Casey—No, it did not.

Senator CROSSIN—That diagnosis was not made until they reached Christmas Island—is that correct?

Mr Casey—No, my understanding, currently, is that only one diagnosis has been made. That was made at Fremantle Hospital in Perth some 10 days after the people came to Weipa. My understanding is that a second child is still undergoing testing.

Senator CROSSIN—Let us just go through this process. Forty-three are assessed as being able to travel. What sorts of tests are carried out in Weipa?

Mr Casey—The assessments that were carried out by Queensland Health involved seeing each of the detainees, undertaking a chest X-ray on all of them and then, on the basis of that, determining that there were no immediate public health threats and that they were fit enough to be removed from Weipa.

Senator CROSSIN—So 43 were then air-evacuated right across to Christmas Island.

Mr Casey—Correct.

Senator CROSSIN—My understanding is that two of those people had to be air-medivaced out of Christmas Island. Is that your understanding?

Mr Casey—Yes, that did occur.

Senator CROSSIN—Why were they airlifted out of Christmas Island?

Mr Casey—When they arrived in Christmas Island, one gentleman was unwell and was taken to the Christmas Island hospital. The doctor there was concerned about his health and suspected that he may have TB. Accordingly, we arranged for him to be transported to Perth along with his daughter, who he was also concerned had TB. That was the recommendation of the doctor at Christmas Island.

Senator CROSSIN—What is the cost of transporting those two people from Christmas Island to Perth?

Mr Casey—I have not got the exact cost, but I can get that for you. I think we have a listing of the exact costs of the air evacuation.

Mr Correll—We will come back to you later on today with that figure. We just need to check back with the office.

Senator CROSSIN—Have you got an idea of what the estimated cost was?

Mr Casey—I would rather get the exact figure from the office, and we can do that quickly.

Senator CROSSIN—How satisfactory then are the health checks that were conducted in Weipa? Chest X-rays were taken but, by the time these people got to Christmas Island, their sickness was at the stage where doctors there believed they needed to be airlifted to Perth. Why was that not detected in Weipa and those people perhaps sent to Brisbane?

Mr Casey—I am aware of the fact that, in Weipa, a medical recommendation was given to us that they were fit to travel and, 24 hours later, different medical advice was given to us that they should be transferred to Perth. There are some concerns that the original assessments may have been incorrect. However, I have not been able to speak directly to the medical staff at Weipa who undertook those. We acted upon the advice of Queensland Health and were advised before they left Weipa that, at that stage, the gentleman subsequently sent to Perth was suspected of having TB. We were advised by Queensland Health that that was negative. That is why they were removed.

Senator CROSSIN—But that turned out to not be the case, didn't it?

Mr Casey—Yes, it has not turned out to be the case. We received different advice from different assessments.

Senator CROSSIN—Where does the department go from here in terms of reviewing that conflicting advice?

Mr Casey—At all times, we act on the advice of clinicians in relation to the health of people who are being detained. That is across the board. Sometimes we get different advice from different clinicians. It is important for us to go back—and we have already agreed to do this—to talk not so much about the individual decisions on the day but on the processes to ensure that, if this situation arose again, we would get advice from Queensland of the things that were under consideration by them rather than just the outcome of the decision in the end. We were not aware of the circumstances and the assessment processes that Queensland Health undertook until after they had been removed from Weipa and then arrived on Christmas Island. We did not find out any of this until after the event.

Senator CROSSIN—Surely that is a cause for a review for prevention in the future, is it not?

Mr Casey—I think that this is something that we do want to go back to. As we have said in relation to earlier questions, at the moment we are contacting and in touch with all states and territories across a range of health issues to try and improve and have in place formal agreements as to how we manage issues where there is health related business that is of concern to both the states and, as in this case, the Commonwealth because they relate to, say, people who arrived on the shores or people who have been arrested for illegal fishing. There are a range of issues that we are currently taking up, and we are trying to put in place the sorts of arrangements we have with South Australia across all state health authorities.

Senator CROSSIN—Was there some question over the ability to travel of the two that ended up in Perth Hospital? Were all 43 given a 100 per cent assessment or was there some doubt over these two?

Mr Casey—In hindsight, yes, we have been informed by Queensland Health that there was some concern and that some internal discussions went on within Queensland Health. We were not made aware of this until, as I say, the circumstances when they arrived in Christmas Island made us go back and ask, ‘This person is presenting as being unwell. Can you tell us what’s gone on?’

Senator CROSSIN—I understand the detention centre is operating in Darwin. I will ask you some questions about that in a moment. To my knowledge, there have been some illegal fishing people put in Darwin. Why was the decision made to send these people to Christmas Island rather than Darwin, where there would have been a hospital available for them?

Mr Correll—The Christmas Island immigration reception and processing centre is used as a specific facility for processing unauthorised boat arrivals. The facility has very good conditions for housing families and children. Overall, it was seen as clearly the most appropriate facility to be used. It is specifically used for unauthorised boat arrivals, so it was the logical choice. There is a substantial hospital on Christmas Island.

Senator CROSSIN—I understand that, but it cannot be that substantial if two have now been air evacuated to Perth. There must have been quite serious concerns about their health to medivac them out.

Mr Correll—Yes. I understand, though, that the subsequent prognosis from the Western Australian health authorities was that, whilst the gentleman had TB, it was in a non-contagious form. Indeed, I understand that both the gentleman and the daughter are likely to be returning to Christmas Island in the very near future.

Senator Vanstone—It is a case of caution. The department got advice from Queensland Health. I want to make it very clear that the government is grateful to Queensland Health. This was an unannounced arrival. Both Queensland Police and Queensland Health—I say the departments, but it was really the people on the ground and the Weipa community generally—came together. You might find it not that easy to find food at 9.30 at night in Weipa. The whole community pulled together and was a tremendous assistance in this matter. I am sure that everybody at Weipa did the best they could. There was apparently some disagreement, discussion or just a different point of view within Queensland Health, but that was not

conveyed to us. When a particular concern was raised, I think an abundance of caution was appropriate. If it turns out later that that caution was not required, well and good. That would be better than taking the opposite path.

Senator CROSSIN—I think the situation, though, highlights in some way that the assessment has been deficient to the point where two people have arrived on Christmas Island—I am assuming the doctor there suspected they had TB—but Christmas Island did not have the medication to treat TB. Even if Queensland Health had that doubt, surely medication to treat TB should have gone with them on the plane, or they could have gone to Brisbane, I suppose—

Senator Vanstone—It may not be a case of medication; it may be a case of isolation capacity. It may not be a medication issue.

Senator CROSSIN—It was probably both. But when it was diagnosed that it was not the contagious form, it still did not matter on Christmas Island. They did not have the medication, as I understand it, to treat TB. The point of the exercise, and you have acknowledged it today, is: there is some deficiency in the assessment or the method, and I am assuming the committee would want to hear that it will be looked at or reviewed.

Mr Metcalfe—We are not doctors. We rely upon doctors for medical advice, and the medical advice was that they were fit to travel. I am sure that Queensland Health and others will review their procedures if it turns out that there was a misdiagnosis. That is an issue that is, as Mr Casey has indicated, the subject of ongoing work. We are many things, but when it comes to medical issues we rely upon practitioners.

Senator CROSSIN—In relation to cases where asylum seekers land at places like Weipa or Cape York and eventually end up at Christmas Island, if there is even an element of doubt about what condition they may be suffering from, are there any checks in place to ring the Christmas Island hospital to say, ‘We have person X here who may be suffering from Y. Do you currently have a stock of medication to treat that person if we send them?’ Is there anything your department does to cross-check that the hospital can cope with that?

Senator Vanstone—If your general question is whether we send someone to a place with a reckless disregard for their health outcomes, the answer is no.

Senator CROSSIN—I am not suggesting that at all.

Mr Casey—In relation to the situation that arose, if we were to have another arrival in Queensland we would, on the experience of this, say to them, ‘If there is anybody whose health you are concerned about, you should let us know, because we can provide whatever health care you advise.’ In this case we were advised that there was nobody in that circumstance, and therefore they were all airlifted to Christmas Island. When they arrived in Christmas Island somebody was required to go to Perth, but in the eventuality of this happening again, clearly everyone would be saying, ‘If the doctor has any concerns, please tell us so that alternatives might be considered.’

Senator CROSSIN—The second issue I am trying to highlight today, from staff we met on Christmas Island, is that it is worth one phone call, even if you are sending someone to Christmas Island who has a particular illness, to check that the Christmas Island hospital has

the medication or the equipment to deal with that. It should not automatically be assumed that they have got those resources on Christmas Island.

Mr Correll—I understand that the hospital on Christmas Island did not have the full facilities to be able to assess fully for TB, and that is the reason why the local medical staff made a recommendation that the individual should be medivaced to Perth. It should also be noted that, before the removal of any of the group and the relocation to Christmas Island, we had contingency plans in place at Weipa in case any of the medical assessments that came through showed that any individual was not fit to travel. Throughout the whole time, we were taking great care and concern for the health and wellbeing of the group.

Essentially what occurred was a slightly different view at Christmas Island, from the medical staff there, and that was taken on a very precautionary basis, given that they did not have the full testing facilities on the island. In the new facility that is being built on Christmas Island, there is a substantial medical centre and we certainly will be looking at the health arrangements, staffing and facilities available at that centre for the future.

Senator CROSSIN—If Queensland Health had said, ‘We do suspect that one or two of these people may have TB,’ even if it is not contagious, is there any process in place within DIMA to ring Christmas Island and say, ‘If we send these people to you and we suspect they have got this, are you able to cope with that illness?’

Senator Vanstone—I was advised earlier in the day that the health checks were being done. Earlier in the day, before we could get that clearance, the view at that point was that, if there were any problems, some people would not be going to Christmas Island. So if we had encountered problems, we would have dealt with them.

Senator CROSSIN—I see.

Mr Casey—It is not uncommon for this population to have TB; it is fairly common in that part of the world. The issue is about contagion in the first place. What would normally happen if somebody was identified as possibly having TB is that the medical staff would test them for contagion. It is a three-day test, and it is a test of sputum, to see whether, even if they have TB, they can spread it to somebody else. Of course, if somebody has contagion, they are kept in isolation. I think that is the issue—it is about isolation. A lot of people who come to our shores end up getting treated for TB and subsequently go home again if we find TB in them. It is a normal health response: if you find TB, you treat it. But it is not uncommon amongst a population from the tropics to have TB. It is not always contagious. The reason I offer this information is that clearly we have had lots of discussions with Queensland and Western Australian public health and the tuberculosis control units about how we should operate, and we follow their advice all the way through. So there has been a lot of discussion with the appropriate public health authorities about this particular case.

Mr Correll—Senator, we have information now on the cost of the medical transfer to Perth. The overall charter cost was \$73,000.

Senator CROSSIN—What contingent plans are in place to ensure that the Christmas Island medical centre has got any necessary medication to deal with conditions in the future?

Mr Casey—We have asked IHMS, which is the medical provider, to work with Christmas Island, to come back to us and give us a view if they think there are any issues for the future that we might need to plan around in relation to health services. So they are currently undertaking that review.

Senator NETTLE—I noted a comment by the minister that was reported in the *Age* on the 30th of last month in response to what appears to have been a question about the time frame during which the assessment of the West Papuans would occur. The minister stated that she hoped to have an initial decision within two to four weeks. I am wondering whether there is any update on when that might be anticipated to occur.

Mr Hughes—As you know, there is now a legislated 90-day processing time limit. We would expect to make the decision well within that time limit. The actual applications were only completed in the first week of February, with the assistance of the legal service providers from Melbourne. In the kind of time frames the minister was talking about, if we are able to do it that quickly and meet no difficulties along the way, that would suggest a date some time in March.

Senator NETTLE—Whereabouts in the department was the decision made to transfer in this instance—and as a reference for a general standard—the West Papuans from Weipa to Christmas Island? Who makes that decision? Is it the secretary? Does it go to the minister's office? Where does that decision get made?

Mr Correll—Certainly it would be a discussion that occurs between the head of the detention services division and me. So I would have been involved in the consideration of that matter. We look at the overall circumstances. The logical place was Christmas Island, because that is specifically structured for unauthorised boat arrivals. Some of the immediate considerations were the composition of the group, the significant number of women and children in the group and the availability of facilities to support those family considerations. There are very good facilities to cope with families on Christmas Island. So all of those factors led logically to that being the place for their transfer.

The logical place was Christmas Island, because that is specifically structured for unauthorised boat arrivals. Some of the immediate considerations were the composition of the group, the significant number of women and children in the group and the availability of facilities to support those family considerations. There were in fact very good facilities to cope with families on Christmas Island. So all of those factors led logically to that being the place for their transfer.

Senator NETTLE—You say that was the logical place to transfer people. I asked a question during the Senate inquiry into migration, not in the estimates committee. In the answer I received in October last year, the department stated:

At present, the centre on Christmas Island is a contingency for unauthorised boat arrivals arriving in areas excised from the migration zone. There are no plans to change this.

I note that both the West Papuans and the West Timorese—I am not sure about the East Timorese—on Christmas Island all reached mainland Australia. I am wondering: has there been a change in policy in relation to what Christmas Island is used for, or is that answer not correct?

Mr Metcalfe—That answer is correct, but there has been no change. That answer does not imply that persons who arrive other than at an excised place would not go to Christmas Island; it simply says that people who arrive at an excised place would go to Christmas Island.

Senator NETTLE—Is there now any position in relation to Christmas Island being the preferred facility that people are sent to? I am just trying to get a sense of how those decisions are made.

Mr Correll—When you look at the range of different facilities available across Australia, many of the mainland facilities are more logically geared to people who are overstaying visas, for compliance purposes. A number of the facilities at the present stage also have significant number of illegal foreign fishers—Indonesian illegal foreign fishers. All of those factors were considered in that particular decision. Again, it was the sensible course: (1) it was a facility designed for that sort of group of unauthorised boat arrivals; (2) it provided good facilities for the composition of the group. These all pointed to that being the sensible location.

Senator NETTLE—So the families on Christmas Island are for residence determination rather than residential housing projects like you might find at Baxter.

Mr Correll—Correct.

Senator NETTLE—Residence determinations—and I may be wrong—to my understanding do not have a requirement for a particular location. So anywhere in Australia is an equally appropriate place for somebody of residence determination to be placed—is that correct?

Mr Correll—No, normally a residential determination would have a specific geographic location attached to it. A residential determination can be made in various geographic locations throughout Australia, but normally it would be with a geographic location attached to it.

Senator NETTLE—So there would be examples of other family groupings in detention under a residence determination who would be on the mainland—is that correct?

Mr Correll—That would be correct.

Senator NETTLE—Would any of them have associated with them single men in a facility? I am thinking about Baxter—although that was a residential housing project—or even Villawood, for example. Would there be groupings like that where there are some of that grouping in a detention centre and some in a residence determination nearby on the mainland?

Mr Correll—It is normally the whole family situation. That has certainly been the case in relation to the group on Christmas Island; it has been the whole family units.

Senator NETTLE—I was just trying to understand your answer, because you were saying that, because of the composition of the group, it made sense to have families in a residence determination. I presumed, and maybe I was wrong, that you meant those people were there and then some of that same grouping who were single men were in the facility. I was just wondering whether there was a comparable example of another group where that same requirement of some families in residence determinations and some single men in detention centres is being met elsewhere. That was my question.

Senator Vanstone—It is not some here and some there. The government has a policy that, where we can and as quickly as we can, women and children—and obviously the fathers—will not be in detention, that we will do our best to accommodate them in the community. We have indicated that there might be a short period of time where people will have to be in a detention facility, sorting out a range of matters. Health issues might be one. It is not as though there are some that are out and some that are not. The policy is that that is what will happen with women and children—all of them.

Senator NETTLE—I was not suggesting that, Minister. I will try again to explain myself. Mr Correll said to me in his answer that, because of the composition of that group—I presumed he meant the 43 West Papuans—some of them, those family groups, needed to be in residence determination. I totally accept that for complete family groups. In that group of 43, I presumed that some of the other members did not fit into that category.

Senator Vanstone—That is right.

Senator NETTLE—So my question was about whether there is any example on the mainland where you might have a similar grouping.

Senator Vanstone—I do not think we have had a boat arrival since the policy was made.

Senator NETTLE—Do you mean the policy of residence determinations?

Senator Vanstone—I do not think we have had a boat arrival since that time, so you are not going to get an equivalent sort of group.

Senator NETTLE—Do you mean since the time that residence determinations were made—

Senator Vanstone—Yes.

Senator NETTLE—or do you mean since the time the West Papuans arrived?

Mr Metcalfe—To be absolutely clear, for some years the government has had an established position that unauthorised arrivals should be dealt with at an offshore location, whether the territory of Christmas Island or elsewhere. As it turns out, the facilities on Christmas Island are in fact quite flexible: not only do they accommodate the policy position that unauthorised arrivals are processed at Christmas Island but also they accommodate the policy position, providing the numbers do not grow, that we are able to offer a mix of accommodation, including accommodation in the community for women and children.

Senator NETTLE—Do you have a cost for the transfer of the group from Weipa? I think you gave Senator Crossin the one from Christmas Island.

Mr Metcalfe—We gave Senator Crossin the cost for the medevac from Christmas Island to Perth.

Senator NETTLE—Do you have the Weipa to Christmas Island cost?

Mr Correll—The transfer from Weipa to Christmas Island was via a RAAF Hercules aircraft. It was undertaken by the Defence Force and there was not a charge levied on the department, so I cannot give you a cost of that Hercules flight.

Senator NETTLE—Are you saying there will be no cost?

Mr Correll—There was a cost but it was a cost borne by Defence.

Senator NETTLE—I think it was Mr Casey, who was at the table before, talking about the transfer of psychologists to Christmas Island. I want to get a cost for that as well. As a separate question, are there any other personnel who have been transferred to Christmas Island for dealing with the West Papuans or others there? I would like a cost for that.

Mr Metcalfe—We will need to take that on notice. Clearly, the detention services provider has now had to beef up their representation. There was of course a smaller number of people already there undergoing processing, so there was a presence there. Presumably the department and the other service providers have had to increase their staffing numbers. I think we need to bring those costs together and take that on notice.

Senator NETTLE—In making a decision about where the West Papuans and others are transferred, is cost a consideration? Mr Correll talked about family groups—

Mr Metcalfe—I think I made clear in my comments before the rationale for their location on Christmas Island.

Senator NETTLE—I was simply asking whether cost was a consideration in not necessarily just that transfer but in other decisions on a boat arrival. Is that a factor or not?

Mr Metcalfe—No. The government has made a policy position in relation to the location of unauthorised arrivals and their processing. We therefore have to give effect to that accordingly.

Senator NETTLE—So cost is no barrier?

Mr Metcalfe—The government has made decisions based on a range of factors, but the department has to now implement that. I think that facility has been under construction for some time. Clearly that facility would not be under construction if the government did not have a view that that was the appropriate place for this particular group.

Senator NETTLE—So the intention is that all new unauthorised boat arrivals will go to Christmas Island?

Mr Metcalfe—Providing there is room for them. There is one exception, of course, in relation to persons who arrive at an excised place. It still remains government policy and there is still the ability for any claims to be considered at an offshore location, such as in Papua New Guinea.

Senator NETTLE—Or Nauru?

Mr Metcalfe—That is correct.

Senator CROSSIN—To clarify something, are you saying that you would never use the Darwin IRPC for asylum seekers in the future? Is that correct?

Mr Metcalfe—No, I am not saying that. I never say ‘never’. I could imagine circumstances such as we have had in the past, when a group arrived in Darwin itself, in which of course that facility might be used for a short-term stay. The government policy is that, ordinarily, unauthorised arrivals will be accommodated at an offshore location, but that then begs the question of whether the facilities are available, if there are spaces there and so on. You mentioned Darwin earlier, and I think I should put on the record that the Darwin

facility at the moment is really only geared up for short-term transit of the Indonesian fishermen. They are not being—

Senator CROSSIN—I will get to those questions when we get to that output.

Mr Metcalfe—We might come to that later, but it was not an option for us to say, ‘This group of Indonesians from West Papua should be located in Darwin,’ because the facility there is currently being used simply as a transit facility and has replaced the vessel-based detention that was previously in place. However, that facility, as you know, is being expanded and will be able to accommodate people for longer stays. At the time that it is available, it will still not be the first choice or, I suspect, the second choice for unauthorised arrivals.

Senator NETTLE—I presume that DIMA covered the costs of the lawyers who went out to visit the asylum seekers on Christmas Island in the last two weeks.

Mr Metcalfe—That is correct.

Senator NETTLE—With their list of costs that you are providing on notice, could I also have one for that?

Mr Metcalfe—Yes. I think it would be good if we made that a separate cost because there is one set of costs associated with the care and facilities provided to people, and the fact that this particular group have sought to engage Australia’s protection obligations brings with it the application assistance process which has been available for many years now. I think we would want to disaggregate that particular set of costs.

Senator NETTLE—Sure. I understand that the initial process was that the lawyers were paid for in that circumstance. For any other visits that the lawyers require with their clients, does DIMA pay for the costs of getting them there?

Mr Metcalfe—Mr Hughes might be able to give an explanation of how that application assistance scheme operates.

Mr Hughes—We would fund what is required to enable the people to make effective applications. If there were any further need to go there, I think that would have to be examined on a case-by-case basis.

Senator NETTLE—So initially you would pay for the one visit and after that it would be on a case-by-case basis?

Mr Hughes—It is a question of whether any further work needs to be done or if the work is completed. If the work is completed then there would not necessarily be a need to fund any further visits.

Senator NETTLE—What about any health requirements that people have? Would any health professionals required to go there be funded?

Mr Correll—Of course.

Senator NETTLE—We have had lots of discussions here before about instances in which there is another opinion in relation to a health assessment. Would that cover those circumstances as well?

Mr Correll—Yes. The cost of health requirements is all met by the Commonwealth.

Senator NETTLE—Earlier you mentioned the new facility on Christmas Island. What is the capacity of that?

Ms O’Connell—The new facility on Christmas Island will have a capacity of up to 800. It will preferably operate with 400, but it will be able to accommodate 400 to 800 people.

Senator NETTLE—What is the current proposed finish date?

Ms O’Connell—The building completion will be by the end of this calendar year, by the end of 2006. A couple of months after that it will be available for occupancy while appropriate tests et cetera and facilities gear-up is done. But the building construction will be completed by the end of 2006. That is the scheduled time at present.

Senator NETTLE—What is the latest cost projection?

Ms O’Connell—The latest cost projection we have is just under \$210 million. The management of the building is being done by the department of finance.

Senator NETTLE—What consultation was there with the people of Christmas Island before the construction of the facility—or was there any?

Ms O’Connell—There was consultation before the construction. Indeed, there is an ongoing consultative group that meets regularly. Staff from the department of immigration and the department of finance meet regularly with the consultative group on Christmas Island. I think that occurs every two months, but I might ask someone to confirm that for me. Yes, it is every two months.

Senator NETTLE—During our recent visit there, concerns were raised with us by members of the local community—and I am sure Senator Crossin has had these concerns raised with her as well—about the issue of the proposed gates that would have the potential to block locals’ access to beaches in that area. I presume if you are meeting every two months you are aware of those concerns.

Ms O’Connell—Yes.

Senator NETTLE—Can I be given an update of what is being proposed in relation to the gates?

Mr Metcalfe—We will do what we can, Senator. As Ms O’Connell mentioned, the actual project management of the building is being undertaken by the Department of Finance and Administration. So there may be some areas which are properly within their purview. So to the extent that we can assist, we will, but I don’t want us to step across into areas that are properly their responsibility.

Senator NETTLE—I accept that.

Senator CROSSIN—I am interested in knowing who is on your consultative committee on Christmas Island. If you could provide me with a list of those people or associations, that would be useful. Mr Metcalfe, as I understand it, instructions have come out from DIMA to say that the road will—

Mr Metcalfe—Senator, I have not said that we won’t answer the questions. I am simply saying that we may have some knowledge and the department of finance may have some knowledge, and we will certainly assist the committee in any way we can.

Senator CROSSIN—Are you aware of any instructions to close the road?

Mr Metcalfe—We were about to get to that.

Ms O'Connell—The only time I have been aware of any issue with the road so far has been in relation to the actual construction time when things were taking place. I am not aware of proposals to cut off the road.

Senator CROSSIN—My understanding is that there was a view on the island that the road would be—and this is what we sought to clarify today—either temporarily from time to time or permanently closed to residents. Yet the road to the IRPC is also the road to one of the very few beaches on the island, a major water spot and a major fishing spot. So the concern is: has there been a direction to close the road temporarily, sometimes or permanently? What is going on?

Mr Metcalfe—We will check that point. It is something we can do during the course of the day, so that we can provide you with crystal-clear advice. It sounds odd that we would ask for such a thing. Without wanting to rule it in or out, let us check and we will certainly be happy to clarify that point.

Ms O'Connell—Senator, I have just been handed some relevant information. This is quite specific about the area. It says: 'Access to the Dales environmental area, which includes the Hughes waterfalls, will not be affected by the IRPC project.' It goes on to say: 'The Australian Federal Police are the only body with the authority to close the island's access roads for operational or safety reasons.' There have been one or two instances when the road has been very briefly closed while large pieces of construction material were delivered, but it was only for safety and operational reasons.

Mr Metcalfe—Senator, it sounds from what you heard when you were on the island that there was a concern in the community about this particular point. Am I correct?

Senator CROSSIN—That is correct.

Mr Metcalfe—I think that it would be useful if we spoke with the department of finance this morning and made that absolutely crystal clear, and if in fact there is a concern in the community which is misplaced we will obviously seek to address that.

Senator NETTLE—Was there an environmental impact statement carried out for the construction of the new detention facility?

Ms O'Connell—Yes, there was. As part of the department of finance's brief they did conduct an environmental impact statement. I am sorry; I have been corrected: the project was exempted from the EPBC Act.

Senator NETTLE—Can you explain why that exemption occurred?

Mr Metcalfe—The department of finance are the people to ask in relation to that, because, as I have said, they are managing the construction of the facility. We are their client in that regard.

Senator NETTLE—All right. Do you have a proposed operational cost for the facility at this stage?

Ms O'Connell—Not at this stage.

Senator NETTLE—For the West Papuans and the West Timorese who are currently there—I know you have given this figure before but there may be an updated one—what is the cost per detainee per day of being held in that facility and how does that compare with other mainland facilities? We have had those figures in the past, but it is always worth asking to see if there is an update.

Mr Correll—We will take that on that notice.

Ms O’Connell—I think we provided that from the last hearings.

Mr Metcalfe—I think that is one of the things in the big folder that I have seen.

Senator NETTLE—But that may have been from before, when there were only seven people rather than 43.

Mr Metcalfe—We will give you the up-to-date cost.

Senator NETTLE—The other issue in relation to West Papuans is: does the department have records of other West Papuan asylum seekers that have been intercepted at sea in the last few years? Is the department aware of any or is this the only group? I do not know; I am just asking.

Mr Correll—In recent times, the last six months, this represents the only group of Indonesians from West Papua that I am aware of, but I might ask my colleague whether there have been any cases of asylum seekers.

Mr Metcalfe—I think that it would be difficult for us to answer that. The department does not, as far as I know, keep records of persons from the different provinces of Indonesia. To us, they are all Indonesians. For example, at the moment there are a significant number of Indonesian fishermen detained in Australia. Whether some of those may come from the province of West Papua I am not sure. To the question of whether Indonesians from West Papua have been intercepted at sea, the answer is: I do not know. We can check to see if there is any light that we can shed on that, but it could be that amongst the illegal fishing population there are some. Experts may disagree on that. I am just saying it is a possibility. Given the proximity of the border between Indonesia and Papua New Guinea and Australia, it is possible that there have been other encounters as well. I would very much like to take that on notice as to whether we can provide any assistance.

Senator NETTLE—Okay. You may need to take this on notice as well: how many West Papuans have been given protection? They may not have been boat arrivals—

Mr Metcalfe—I think the answer will be the same: that we do not distinguish in our figures between Indonesians from particular provinces. But if we can assist further we will.

Senator NETTLE—Is the department expecting there to be any more West Papuans coming to Australian seeking protection? In the past, the department has been prepared for—

Mr Metcalfe—I would not want to hypothesise on that sort of issue. I just think it is inappropriate. I would not want that to be assumed to be a yes or a no; it is simply that I am not prepared to comment on those issues.

Senator NETTLE—I have a couple of questions that relate to the West Timorese on Christmas Island. Would you like me to ask them now or later?

Mr Metcalfe—We are sort of in 1.2, Chair—

CHAIR—In theory we are, Mr Metcalfe, yes.

Mr Metcalfe—and it is an issue that falls between 1.2 and 1.3, so we are in your hands. We are all here and we are happy to deal with it whenever you wish.

CHAIR—What I might do, Senator Nettle, given that you have just had that opportunity, is seek some clarification from Senator Lundy about where her questions are and whether it is appropriate to ask them now.

Senator LUNDY—I have questions in relation to the 457 visas.

Mr Metcalfe—That goes back to 1.1.

CHAIR—I suggest we deal with those and then come back to the remaining matters in 1.2.

Senator LUNDY—As I am sure the minister is aware, a situation has developed here in the ACT affecting migrant workers on 457 visas from the Philippines in the restaurant sector. My questions specifically relate to the requirements of an employer who sponsors an employee under a 457 visa. I was hoping the minister could take this opportunity to confirm that the Migration Act provides for payment of the relevant awards under the 457 visa.

Senator Vanstone—It does, yes.

Senator LUNDY—Can you outline to the committee what the broad requirements are for employers beyond the payment of the relevant federal awards?

Mr Rizvi—I might give a broad overview of the 457 visa and then we can go into the specific obligations and undertakings that an employer makes, which are themselves quite extensive, and we will go through those. I think it is worth pointing out that all workers in Australia, irrespective of their nationality or visa status, are entitled to be treated with respect and paid according to Australian award wages and conditions. These entitlements are generally enforced for the workforce as a whole by relevant Commonwealth and state workplace relations and other agencies. In considering the situation of people from overseas, we need to remember that these people may be here on a range of visa arrangements. It is often the case that media reports confuse people in different circumstances and confuse the rights of those individuals. For example, many of the people involved may well be on permanent residence visas, they may be overstayers, they may be visitors or students and, as you pointed out, some of them will be on 457 skilled temporary residence visas. It is important to note the different circumstances of each of the above groups, because the law as it applies to these people from the migration perspective varies, albeit that in terms of awards and treatment in the employment context there is no difference.

We recognise that people here on temporary work visas can be especially vulnerable. It is for this reason that there are additional protections in place for subclass 457 visa holders. I will quickly go through some of those. Before an employer in Australia can become a sponsor under the 457 arrangements, DIMA requires that they have a good record in terms of complying with workplace relations legislation. Based on advice from relevant agencies, we maintain an alert list of employers of concern. If these employers seek to sponsor overseas workers under 457 visa arrangements, their applications are referred to relevant workplace relations agencies for their consideration. In those circumstances, where concerns are

reinforced by the relevant workplace relations agencies, the sponsorship may well fail. Australian employers who wish to become 457 sponsors must also have a good record of training Australians. A 457 sponsor must sign a legally enforceable set of undertakings regarding their obligations to the workers they sponsor. In the visa approval letter to 457 visa holders, they are advised of the obligations and undertakings made of their sponsor so that they are aware of their entitlements.

DIMA requires 457 sponsors to report back to us on the steps they have taken to meet their obligations, 12 months after the arrival of relevant workers. Using these reports, and sometimes often quite a bit earlier, we will also site visit around 25 per cent of 457 sponsors, during which time the sponsor and/or the workers may be interviewed. We follow up any other reports of workers being mistreated. In a number of instances, we have worked very closely with union officials—particularly in Western Australia and in New South Wales, where these issues have been raised with us—to follow up concerns that are raised. Where contravention of sponsor obligations is apparent, DIMA will refer the matter to the relevant Commonwealth and/or state agency for investigation. If we ourselves hold sufficient evidence or based on reports that we received from the relevant agencies, we may issue a notice of intention to cancel the sponsorship.

If a breach is established, we can take a number of steps, depending on the breach. Where the breach is minor and the employer makes restitution, DIMA will usually issue a warning notice. Where the breach is more significant, we can cancel the sponsorship and/or bar the sponsor from sponsoring workers in the future. Of course, these consequences are in addition to any other consequences the employer may face under any other legislation.

The workers will be given reasonable time to find another employer to sponsor them. If they are unable to find another sponsor, the original sponsor can be required to pay for their return travel costs. That is broadly how the issue of exploitation for 457 visa holders is managed. I will ask Mr Waters to go through the specific obligations and undertakings which all 457 employers must sign up to.

Mr Waters—In signing a sponsorship, employers are required to sign to a number of undertakings. These are with regard to the sponsored person and include any family that may accompany the primary worker. They are: to ensure that the cost of return travel by a sponsored person is met; not to employ a person who would be in breach of an immigration law as a result of being employed; to comply with the employer's responsibilities under the immigration laws of Australia; to notify immigration of any change in circumstances that may affect the business's capacity to honour its sponsorship obligations or any change to the information that contributed to the business's ability to be approved as a sponsor or nominator; and to cooperate with the department's monitoring of the business or of any sponsored persons.

This undertaking continues until the earlier of the following: if the sponsored person ceases to hold the visa for which the visa was granted, the earlier of the times when the person leaves Australia and when the person is granted a substantive visa, which covers the situation where a person would obtain resident status in Australia, for example; the time when the sponsor ceases to be an approved sponsor of the sponsored person—for example, the sponsored person moves on to another employer. They must notify immigration within five working

days after a sponsored person ceases to be in the business's employment to comply with laws relating to workplace relations that are applicable to the business and any workplace agreement that the business may enter into with a sponsored person. They must ensure that a sponsored person holds any licence, registration or membership that is mandatory for the performance of the work by that person—for example, in the trades areas and a number of professional areas there are licence or registration requirements to be met; to ensure that if there is a gazetted minimum salary in force in relation to the nominated position occupied by the sponsored person, that the person is paid at least that salary. They must ensure that, if it is a term of the approval of the nomination of a position that a sponsored person must be employed in a particular location, the business will notify immigration of any change in location which would affect the nomination approval—for example, if a person is approved to come to regional Australia, then there is a requirement that the position be in regional Australia. If the person moves with that same company to a metropolitan area, then that must be notified. They must agree to pay all medical or hospital expenses for a sponsored person other than costs that are met by health insurance arrangements.

This undertaking continues until any expenses are paid; to make any superannuation contributions required for a sponsored person while the sponsored person is in the business's employment; to deduct tax instalments and make payments of tax while the sponsored person is in the business's employment; and, finally, to pay the Commonwealth an amount equal to all costs incurred by the Commonwealth in relation to a sponsored person. These costs may include those relating to locating and detaining the sponsored person, removing the sponsored person from Australia and processing any application for a protection visa made by the sponsored person. This undertaking also continues until all such costs are paid, although there are limits on the monetary level expected of the employer.

Senator LUNDY—Thank you both for those explanations. In relation to specific sanctions or penalties imposed on an employer, obviously in the case to which I have referred 12 months had not passed and therefore the department had not initiated any inspection or standard investigations. What is your process when complaints relating to workplace conditions and underpayment of the federal award are brought to your attention? I ask this in the context of it having been reported to me by the relevant union that they received an unsatisfactory response from the department—specifically that the complaints raised were mere allegations and therefore somehow not worthy of even the most rudimentary investigation.

Mr Rizvi—That is something of a misrepresentation from my understanding of what took place during that meeting. The point that the DIMA officers were seeking to make is that allegations have been made. Prior to the meeting with the union, a number of those allegations had been discussed, including with other workers—not the workers that the union was referring to but other workers. We had also had meetings with the Philippine embassy. We had had discussions with the ACT government. We have had discussions with the Department of Employment and Workplace Relations. We are aware of some work that has been done by the Chamber of Commerce with regard to those investigations and we have asked the chamber to provide us with the outcome of their investigations.

At the present time, we are working with the Department of Employment and Workplace Relations investigating the allegations. It will be based on the outcome of those investigations that we will decide what steps we take. The point that we were seeking to stress is that at this stage we have allegations—we certainly did not use the word ‘mere’—and they may need to be properly tested. They are serious allegations and we take allegations of exploitation very seriously. Depending on the outcome of the investigations that we are working on with the Department of Employment and Workplace Relations, that will determine what steps we take.

In respect of the workers involved, we have indicated to the workers that if they wish to remain with their current employers they are certainly entitled to do that. If they wish to leave their current employer we will give them reasonable time to find an alternative employer who will sponsor them. We will be flexible in that regard. Until the investigations are complete, certainly we would not seek to take any action in terms of the immigration status of the individuals concerned.

Senator LUNDY—Thank you for that. Perhaps you could tell me how many cases you are actually investigating at the current time.

Mr Rizvi—In respect of this particular group?

Senator LUNDY—Yes.

Mr Rizvi—At the moment we have six restaurants that are involved. They have recruited in the order of 20 chefs from the Philippines, and the focus of the investigation is on that group.

Senator LUNDY—Are you able to provide the committee with an indicative time frame for these investigations to occur and for reporting back to DIMA for, I suppose, a determination as to whether or not the conditions have been breached?

Mr Rizvi—The key breaches that are alleged in this regard relate to workplace relations legislation. It is in that regard that we are continuing to work closely with the Department of Employment and Workplace Relations. They have indicated to us that investigations of one of the set of allegations in terms of one of the restaurants may be completed towards the end of February or early March. Beyond that, I am not able to comment on how much longer it may take to investigate the other allegations. We certainly view the matter seriously and we will certainly be trying to progress these matters as quickly as we can. At the same time, we want to make sure that everyone gets an opportunity to have natural justice and that we do not take any precipitous action in this regard.

Senator LUNDY—Can you confirm the status of the employees affected, particularly those who have, for reasons of either underpayment of conditions or intolerable work environment, ceased employment with the employer who has sponsored them?

Mr Rizvi—I have a spreadsheet here of the 20 employees. Without naming anyone, I will go through the circumstances of each employee, if that is satisfactory.

Mr Metcalfe—We will do that in a way that would not allow them to be recognised through the description of the circumstances.

CHAIR—If there are 20 employees on the list, Mr Rizvi and Senator Lundy, might it not be a better idea to take that question on notice so that you can be very certain that there is no identifying material inadvertently put on the public record?

Mr Rizvi—That would be fine.

Senator LUNDY—I am happy to do that, but perhaps you could now describe generally the situation of those employees who no longer have a contract of employment.

Mr Waters—Essentially, these people are still on their subclass 457 visas. Three of the workers have, with the department's knowledge and assistance, moved to other employers. Of those three that have moved, I understand that two have recently returned to the Philippines. The one who is still here has moved to Sydney and is working in a restaurant there, and there are no issues. The people in Canberra are still on their 457 visas. Some of them are still working at the restaurants—some happily; some still with allegations unresolved—and others are not working at the restaurants. We have spoken to two of the three people who we know not to be at the restaurants, and we are working with them as to their future. We are yet to speak to the third person who made allegations, although we have approached the union about setting up an arrangement and have done so on three separate occasions.

Senator LUNDY—Are you able to offer any assistance to the former employees who are still on their subclass 457 visas here in Canberra about an employment contract with other restaurants? Can you provide support in any way?

Mr Waters—The department does not provide financial or other support to temporary residents in Australia. That said, the occupation of chef or cook is very much one that is in demand in Canberra and other parts of Australia, so I would not imagine it would be terribly difficult for such people to be able to find employment.

Senator LUNDY—I will rephrase my question. Can you assist them to find further employment, as opposed to financially support them?

Mr Rizvi—We are in a position to provide them with advice on what their immigration circumstances are. Assisting people into further employment is not an area that we have expertise in, and we could not advise them. Having said that, I note that two of the first three who made complaints found employment in another Canberra restaurant very quickly. The third person, who Mr Waters mentioned, found a job in a Sydney restaurant fairly readily.

Senator LUNDY—If you were to receive advice that award breaches had occurred and moneys were owing to these employees, what is the process of sanctions or penalties that DIMA would oversee to ensure that all award obligations had been honoured?

Mr Rizvi—There are a range of measures contained both in the Migration Act and in the relevant workplace relations act that we could pursue. First and foremost, we would work with the department of employment or any other relevant workplace relations agency to make sure that the workers were recompensed for any shortfalls against the award that took place. Secondly, there may be penalties in the relevant workplace relations legislation that may also be applicable, and the Department of Employment and Workplace Relations would consider that. Within the immigration sphere, there are penalties that relate to costs that might have been incurred by the Commonwealth in pursuing these matters that the employers may be

subject to. There are also costs that the employers would need to meet. For example, if the individual decided that they wished to return home, it would be an obligation of the employer to meet the costs of that person returning home. Finally, we are in a position to apply a number of sanctions on the employer through to the possibility of barring them from being able to bring in or employ foreign workers again.

Senator LUNDY—I would like some specific information about the sanctions. One of them you have stated is that they will never be allowed to sponsor other 457 class visa workers again. What other sanctions exist?

Mr Rizvi—There are essentially three beyond the monetary ones that we have described. One is that we can issue a warning.

Senator LUNDY—What does a warning mean?

Mr Rizvi—A warning would mean that, if the employer transgressed again, that would have consequences for the employer.

Senator LUNDY—What consequences?

Mr Rizvi—The consequences may be that they may not be able to recruit skilled workers from overseas again under this arrangement.

Senator LUNDY—So it is a warning towards banning them from entering that arrangement again.

Mr Rizvi—That is right. The second thing we can do is cancel their sponsorship, which would essentially mean that they have to fulfil their obligations for the workers that are already here but they cannot sponsor any more for a period. Finally, we can bar them from sponsoring again.

Senator LUNDY—Have you applied any of those sanctions previously in relation to subclass 457 visas in any industry? Obviously, I am particularly interested in restaurants.

Mr Rizvi—I have not got the figures by industry but, overall, in 2004-05, following investigations into allegations made, we issued 19 notices of intention to consider cancellation of sponsorship agreements or to impose a bar. Nine sponsorships were cancelled, one sponsorship bar was imposed and there were 10 cases where the sanction was not imposed but the sponsor was counselled and scheduled for further monitoring.

Senator LUNDY—Over what period of time?

Mr Rizvi—That was during 2004-05.

Senator LUNDY—Could you take on notice to provide that same information for the five years prior to 2004-05.

Mr Rizvi—I might mention that the legislation that introduced our ability to introduce these sanctions was only relatively recently introduced. I think it may be about 1 July 2004, so I do not think there would be any—

Senator LUNDY—That would represent the only instances of this occurring.

Mr Rizvi—The Migration Act did not provide those powers prior to 1 July 2004.

Senator LUNDY—Thank you for that clarification. I think the information you have provided me with then constitutes all of the information available. That being the case, can you tell me how many 457 visas have been granted since 1 July 2004 and how many were previously in existence and ongoing?

Mr Rizvi—I could give you some trends over the last five years, if that would help.

Senator LUNDY—Thank you.

Mr Rizvi—In 2000-01, there were 40,493 subclass 457 visas granted. In highlighting that number, I should stress that that is a combination of onshore visa grants and offshore visa grants, so many of those visas would in fact be extensions of people who are already here on a 457 visa. As you know, a 457 visa can be issued for any period up to four years. Then it can be extended onshore, if that is what the employer and the employee wish. In 2001-02, there were 37, 597. In 2002-03, there were 42,363. In 2003-04, there were 40,633. In 2004-05, there were 49,855.

Senator LUNDY—Thank you. Nineteen notices, nine cancellations and one ban do not constitute a large percentage of the overall sponsorships, do they?

Mr Rizvi—It is not a large number, and it may reflect the fact that most Australian employers do take their obligations seriously.

Senator LUNDY—One would hope so. It has been reported to me by the union that, whilst they are aware of inquiries having been made by DIMA to employers—and this is the ACT branch—they cannot remember a situation where it has been reported to them that specific inquiries have been made by the department to employees under these arrangements. Can you provide the committee with some information about where the department has specifically sought an interview or an interaction with an employee for the purposes of ascertaining the quality of their experience and whether or not their workplace conditions have been, as far as they know, in accordance with Australian law? I am happy for that to be taken on notice.

Mr Rizvi—Yes. When we do our site visits, we will often speak to visa holders. We will usually talk to those people on site with the employer. I think seeking to have separate interviews with those people without any foundation or basis for doing so is quite inappropriate, especially as we are there at the courtesy of the employer, so we do not as a matter of course take the employees away and interview them separately. We tend to do that if issues arise out of our monitoring or a site visit. Then a particular effort would be made to speak to the visa holder in an effort to resolve issues fully.

If there are any allegations made in regard to the employer, the visa holder would always be interviewed about the allegation, and we will provide an interpreter if that is needed in those circumstances. In most of the instances where we have undertaken site visits, there are no allegations or indications of any other issues. We have followed up allegations where they have been made by unions and, in a number of instances, those allegations have been borne out and sanctions have been applied. Just as often, however, the allegations have not been borne out.

If the visa holder is on site and readily available, they might simply be asked if things are going well and asked if there is anything they would like to talk to the DIMA staff member about. It will not be a formal interview process. We do not want to make these threatening or intimidating circumstances. We would be unlikely to follow up with visa holders who were not readily available during a site visit and speak to them unless there was a specific reason to do so.

Senator LUNDY—Thank you. Perhaps you could advise the committee, if visa holders do have specific complaints, how best they can lodge a complaint with DIMA. Obviously, in this case the union representation was quite critical. Perhaps you could use this opportunity to place on the record the most appropriate and effective way for visa holders to lodge complaints with the department and be assured that you would follow up with an investigation.

Mr Rizvi—All visa holders and indeed employee associations can be assured we will follow up the allegations and we will investigate them, but we will investigate them impartially. The best way this can be done is to contact one of our business centres at any one of our state offices and advise our business centres that the individual is the holder of a subclass 457 visa and that they have some complaints. That can be the basis of an appointment. The individuals are welcome to bring along their union representatives if they wish to. At those meetings, we will discuss the allegations made. We will then tend to follow that up by contacting the relevant workplace relations agency and we will jointly decide how to pursue the investigation and how that might proceed.

CHAIR—Senator Lundy, we do need to keep moving if we can, if I could seek your assistance with that.

Senator LUNDY—With respect to the labour agreements that are struck between the employers and the employees—in this case the 457 visa holders—my understanding is that one of the requirements is that Australian law must be abided by. Is there any way a signed contract of employment in that environment could in fact override the application of an Australian federal award and workplace conditions as prescribed under Australian law?

Mr Rizvi—It should not. If there are private arrangements that have been made between the employee and the employer that we are not aware of then of course I cannot comment on that. But certainly, in these circumstances, we will often see the contract of employment. If there were anything in there that suggested a breach or something contrary to an Australian law, we would obviously seek to resolve that.

Senator LUNDY—Chair, I note that the minister has left the table. I had a number of questions that I would have liked to address specifically to the minister. Perhaps I will get an opportunity to do that later in the day and come back to that point. In the meantime, I will place any further questions I have on notice. I thank the committee for their time.

CHAIR—Thank you. That means we will continue in 1.2. Are there any further questions in 1.2?

Senator CROSSIN—I wanted to ask a question that follows on from this.

CHAIR—From what?

Senator CROSSIN—I think it is from the category of visa applications.

CHAIR—That is really in 1.1. We were just indulging Senator Lundy.

Senator CROSSIN—That is right, but it is something that has arisen from Senator Lundy's questions that I wanted to follow up.

CHAIR—Okay. Then we will go to Senator Bartlett.

Senator CROSSIN—At least I think it is in this area. I will ask the question and see where it goes. I understand contractors Durr Ltd, project managers, and Reschka, an installation company, have been subcontracted by CMH in South Australia. Is that familiar to you? Both companies are based in Germany, with Reschka bringing an installation crew from Slovenia. Is that correct?

Mr Rizvi—Yes, we are aware of the case.

Senator CROSSIN—What visa applications applied in that instance?

Mr Rizvi—In that instance my understanding is that the installation of this plant was quite critical and quite urgent. GMH wanted this portion of the plant put in place very quickly. As a result, the individuals applied for what is known as a subclass 456 business visitor visa, which is a short-stay—less than three months stay—business visitor visa, whereby they are allowed to undertake emergency skilled employment. As a general rule, this is not the appropriate visa for work purposes. It is only to be used in emergency circumstances. In this particular instance, evidence was presented to us that these workers were needed very urgently, and for that reason our posts in Europe agreed to grant subclass 456 visas. We are in consultation with Reschka at the moment to ensure that these workers are transferred to the more appropriate subclass 457 visa, particularly if there is any intention to have these workers return at any time in the future—their visas expire in March—to complete or rectify any aspects of the installation of this particular plant.

Senator CROSSIN—So a 456 visa is for urgent, emergency purposes?

Mr Rizvi—It can be used for someone who has to do some skilled work in very short-term emergency circumstances, yes.

Senator CROSSIN—Is it commonly known in the department as a light touch upfront?

Mr Rizvi—We are looking at a circumstance which is of an emergency nature, and clearly that means we must process it quickly, because of its nature, and that means the extent of checks that we do in respect of a subclass 456 visa are, by definition, fewer than the checks we would do in respect of a subclass 457 visa.

Senator CROSSIN—So the visa granting is based purely on the information on the application?

Mr Rizvi—No, we can check and make investigations, but the formal requirements associated with a subclass 456 visa are fewer.

Senator CROSSIN—What correspondence would have transpired between the department and these companies?

Mr Rizvi—There would have been correspondence between the companies and the visa issuing post in Europe.

Senator CROSSIN—Is this a normal requirement to apply for a 456?

Mr Rizvi—As I said, in these sorts of circumstances it should only be used in an emergency. The vast majority of 456 visa holders would not be involved in doing the kind of work that these workers are doing. Indeed, the more appropriate visa for the kind of work that these workers are doing is a subclass 457 visa, which has more of the relevant protections available in it.

Senator CROSSIN—So these visas run out in March?

Mr Rizvi—That is correct.

Senator CROSSIN—Is there an application to extend at this stage that you are aware of?

Mr Rizvi—We are not aware of an application to extend, but we are aware that the company has a relationship with Holden and hence may need to bring in workers in the future. We are talking with the company to ensure that they understand the 457 arrangements and, if they are going to bring in workers in the future, that they bring them in through the 457 arrangements.

Senator BARTLETT—I have some questions on 1.2. I refer first to the full Federal Court case that came down last year regarding the interpretation of the cessation clause of the refugee convention. I gather that decision has been appealed to the High Court. What principle is being applied, particularly with respect to further protection visa applications that are being assessed at the moment? Are they being assessed in accordance with the court's interpretation in the intervening period until the High Court rules on that?

Mr Illingworth—We are aware of that decision and have analysed it. We have issued instructions to staff to enable them to implement the law as it stands at the moment.

Senator BARTLETT—There was basically a new set of staff instructions—

Mr Illingworth—There were specific instructions issued to staff on the implications of that case and the approach to be taken in making decisions that could be affected by that change in interpretation in the law.

Senator BARTLETT—So it was seen as requiring a change of interpretation from the assessor's point of view?

Mr Illingworth—That is correct.

Senator BARTLETT—Do you have the latest figures on the number of people who have been on temporary protection visas and have now received further protection visas, and how many of those are permanent protection visas and how many are temporary?

Mr Hughes—As at 13 January, there have been some 8,100 visas issued, of which just under 8,000 are permanent and 111 are temporary.

Senator BARTLETT—What is the criteria for the temporary ones—as to why they are temporary?

Mr Hughes—Ninety-eight of the ones that were temporary visas were related to the regulation that says that if you have been convicted of a crime that carries a penalty of at least one year, you get a further temporary visa. So 98 of them were generated by that regulation and 13 by the seven-day rule in relation to seeking protection en route to Australia.

Senator BARTLETT—Could you, perhaps on notice, break down those figures by nationality?

Mr Hughes—I can take that on notice, yes.

Senator BARTLETT—In answer to a question on notice from last estimates, you provided us with information that there had been 30 removal pending bridging visas issued as at 24 November last year. How many of those 30 have now been removed, and how many more of those visas have been issued?

Mr Hughes—That is probably better answered in output 1.3.

Senator BARTLETT—Okay. With the offshore program, I noted in the annual report that there were a greater number of the refugee visas. I think there were 5,500 refugee visas issued last financial year, and a higher proportion than ever before were granted to ‘women at risk’ applicants. I want to get a sense of whether that is likely to be a one-off or whether that is likely to continue. About 15 per cent were ‘women at risk’ applicants. Is it likely to remain around that proportion?

Mr Hughes—From the outset, we work very hard to make sure that we make use of the notional 10.5 per cent allocation that we make to women at risk. If we go over that, it is better still. The last program year in particular, there were certain caseloads that had come to our attention in conjunction with UNHCR that allowed us to bring more women in under that particular designation. As to the future, we will be aiming to at least meet the 10.5 per cent, but we will be working with UNHCR and others to identify caseloads and, if there are more that we can bring, or a higher proportion, we will do so.

Senator BARTLETT—I suppose it is probably better to wait until the latest consultation phase when the refugee program has finished before drilling down into where that might go next.

Mr Hughes—Yes.

CHAIR—Is there more on 1.2?

Senator NETTLE—I will go back to where I was before; then I have a couple of other bits on 1.2. I was just about to ask some questions in relation to the West Timorese on Christmas Island. I met with the father of the young children who is in community detention and spoke with him about the process of his application for asylum whilst in Darwin prior to being transferred to Christmas Island. He was regularly asked whether he wanted to meet with Indonesian officials, to which he replied ‘no’. But he described to me—and it has subsequently also been reported in the media—how Indonesian officials were brought in to meet with him and began asking him questions. He described that process to me and the point at which he was able to end that questioning. He also mentioned in the media reporting that there were photographs taken. Can somebody provide some information in relation to how

that situation occurred? Clearly I hold the view that that would not be usual practice for people but if I am wrong please let me know I am wrong.

Mr Correll—I will open up and my colleagues can help me out. As I understand it, the Indonesian group from West Timor—I think we are talking about the Timorese here—

Senator NETTLE—The West Timorese on Christmas Island.

Mr Correll—were initially screened out and had not, in fact, made claims initially. As a result, arrangements were being made for their removal back to West Timor from Darwin. As part of those arrangements, there were interviews with consular officials, I understand, to assure and validate their identity, which is a key requirement for the travel documents. It was only subsequent to that, as I understand it, that asylum claims were then made. So those were the circumstances in which the contact had been made by the consular officials. It was, in fact, to establish identity to assist in the removal when initial screening out had occurred rather than there being an assessment of potentially a claim for refugee status having been made by the individuals.

Mr McMahon—I will just add to that because I was managing that little bit of the process at the time. They had been screened out. We were in a process of removal. The Indonesian authorities simply wanted to satisfy themselves that they were Indonesians. It is not unreasonable, before they issue travel documents, for them to be satisfied that they were people from their country. The process was quite brief, as I was briefed on it. Essentially the Rotinese did not converse with the Indonesian authorities. The Indonesian authorities entered. They looked at them. I understand that they may have asked a couple of questions but they were non-responsive. They nonetheless looked at them, satisfied themselves that they were Indonesians and left again.

Senator NETTLE—You were describing the process of them being screened out in the first place and then subsequently making an asylum claim. In order for me to understand that process, were they screened out because they did not make an asylum claim at that point and then they subsequently did? Is that why that change occurred?

Mr Illingworth—The process of what we call screening is really a safeguard that the state applies to ensure that a person who presents at our borders without authority to enter is not refouled if they are a refugee. So these people when they arrived at the border were free to make an application for protection if they wished, and there are legal safeguards which oblige the provision of assistance and forms if they do want to do that. The screening assessment is really an active inquiry of the individuals to see, over and above their entitlement, whether we are comfortable in removing them if they do not apply for protection. So a screen-out does not mean that we are somehow preventing them from doing something. They are able to do whatever they want to do, under the Migration Act. The screening assessment is an active attempt to identify and screen in people who have not done that under the Migration Act—who have not followed the courses available to them.

The initial assessment made in the cases of those individuals who had not applied for protection in their own right was because the reasons they presented for arriving and for not wishing to return did not pass the threshold test which we apply in these cases, which is: are they raising any claims or giving information which, on the face of it, might possibly engage

an international protection obligation from Australia? So it is a very low threshold; we are just looking for an expression of an unwillingness to return which could possibly be connected with the refugees convention, and these people did not provide those reasons when first interviewed.

Senator NETTLE—I am just trying to understand why the situation occurred, why they were screened out. I understand the process that occurs. They described to me the process of being taken to the airport—they saw the Indonesian travel documents that were there for them, they had another interview with a DIMIA official and then they were taken back to the housing they were in in Darwin. I am trying to understand why a decision was made at the initial point that, ‘No, we’re not going to look at this issue and you’ll be returned,’ and then subsequently changed. Was that an incorrect first decision or was it about the application?

Mr Metcalfe—Let me try and summarise, Senator. The group that was found on the north Western Australian coast was transferred by patrol boat to Darwin and, obviously, we talked with them about why they had come here. As Mr Illingworth has explained, they did not make any application for asylum, and in our discussions with them—which were not simply decisions taken on the spot; they are matters referred back to a senior official here in Canberra—there was no indication that they were seeking refugee status in Australia or seeking international protection in any way. Essentially, they had come here for other reasons.

As a result of that, it became quite routine. They had no authority to enter Australia. They had arrived without a visa and therefore the law required their return home. It is at that stage, as Mr McMahon has described, that there is a requirement for them to have a travel document so they can travel home. Subsequent to the issuing of the travel document and around the time of their planned removal, they said further things to us which, for the first time, indicated that there were issues that might possibly give rise to international protection obligations. So, in terms of the very low threshold that Mr Illingworth described, it was decided that it was not appropriate to force their departure from Australia, that in fact we should then allow them to access the protection visa process—and that is what occurred.

Senator NETTLE—Did they see a lawyer at any point in that process, or was that later? I am just trying to work out if they had any contact with the lawyer before they met the Indonesians—or was it only subsequent to the protection visa claim that they were able to access the lawyer?

Mr Illingworth—Individuals in detention are always able to access a lawyer if they request that access. There is a statutory obligation to provide reasonable facilities for such people to access legal advice on immigration matters. In this instance, all people who are protection visa applicants are offered publicly funded migration agent assistance to assist them with protection visa applications, and that applies irrespective of whether they ask to enter the PV process of their own accord or whether we in essence invite them in as a result of an entry screening.

Mr Metcalfe—So the answer is, Senator, they did not ask to see a lawyer and therefore we did not provide them with a lawyer—not until the time they were screened in. At that stage, as we have heard in relation to the other group, government funded legal assistance is provided to allow them to complete their application.

Senator NETTLE—Okay. You might want to take this one on notice, on cost. They were then flown from Darwin to Christmas Island, were they?

Mr Metcalfe—I imagine they would have been.

Mr Correll—I think so, yes.

Senator NETTLE—Can I put the cost of that on notice, unless you know it off the top of your head?

Senator Vanstone—Perhaps we could put at the bottom of all these questions that the cost of not having offshore processing is incalculable. That is just to keep a bit of perspective. I quite agree that the questions you are asking should all be answered; I have no problem with that, no problem at all. But, from the government's point of view, we look at the costs of offshore processing but also the cost of not doing so.

Senator NETTLE—In follow-up to the other questions that you were taking about the costs of transfer, when the West Timorese were transferred, was that also a Defence Force flight or was that a charter flight?

Mr Correll—I would need to check.

Mr Metcalfe—My recollection was that it was a charter.

Senator NETTLE—Do you make a decision at the time on the basis of costs whether you do a charter or whether you do a Defence Force flight? I am just trying to understand the circumstances under which the West Timorese were transferred by charter flight and the West Papuans were transferred by the Air Force.

Mr Correll—It is influenced by the availability of charter flights. In the case of the Indonesians from West Papua, they were in a relatively remote location and it was a question of attempting to organise transportation as quickly as possible.

Senator NETTLE—When I visited the West Timorese in the detention facility at Christmas Island, they explained to me that, prior to the arrival of the West Papuans, they had had the opportunity to go on excursions that GSL were operating. When I met with them, they said that those excursions had stopped when the West Papuans came. I am wondering whether there is any update. Their understanding—I think it was last week—was that they might have the opportunity to be involved in those activities.

Mr Correll—With the arrival of the Indonesians from West Papua on Christmas Island, initially they were in separation detention, which meant that, for that first process of initial screening interviews, there was a GSL guard outside the duplex location for the families and the single adult males were not able to undertake activities outside the detention facilities. Since the conclusion of that, those activities would now have ramped up. My understanding is that they are participating in a range of community activities, including church attendance and other activities. That has occurred since separation detention concluded.

Senator NETTLE—Are you talking about the people in the detention facility or the residence determination people?

Mr Correll—It would apply for both. There are community activities possible as well for the single adult males in the detention centre. There is, for example, as you would have seen,

a very good recreation facility adjacent to the detention centre. The intention was certainly to include that in the provision of activities as soon as separation detention was finalised.

Senator NETTLE—So it is your understanding that those people who are in the duplex housing are also able to participate in the activities? For example, the guards take people fishing, and families are also able to participate in that—is that your understanding?

Mr Correll—There should be the opportunity for that to occur. Once the process of separation detention has been completed and residential determinations are available for the people located in the duplexes within the community then they have quite open access within the community, whereas the adult males in the detention facility would still be under the GSL supervision. So there is a difference in the circumstances of the two. I would need to check on the precise arrangements as to what activities would have been undertaken by each of the two groups, but there are opportunities for activities for both.

Senator NETTLE—If you could check, that would be helpful. Certainly there was some concern that, whilst activities were organised for the people in the detention facility, there may not be the opportunity for others to be involved with those. If you were able to answer that, that would be good. I had another question from the Christmas Islanders in relation to the new detention facility. In DIMA's discussion, planning and design of that, which I then understand was handed over to DOFA, was there any consultation with other government departments in relation to the design or location of the facility?

Mr Metcalfe—I know for sure that there would have been consultation with the Department of Transport and Regional Services, given their role in administering the territory of Christmas Island. Beyond that, we can check and take that on notice.

Senator NETTLE—If you could check in particular to see if there was any consultation with the Department of Defence, that would be great.

Mr Metcalfe—Certainly.

Senator NETTLE—Thanks. I have some questions relating to security checks, which I think fits into output 1.2.

CHAIR—What do you mean by security checks?

Senator NETTLE—It is something we have gone over in the past. I am talking about security checks being carried out on detainees in facilities.

Mr Metcalfe—Are you talking about visa applicants who happen to be in detention who are the subject of security checking?

Senator NETTLE—No, I am talking about detainees in immigration detention centres who have completed their refugee application process.

Mr Metcalfe—That is right, they are a visa applicant.

Senator NETTLE—Yes, and they are in the process of waiting to have a security check.

Mr Metcalfe—That comes under output 1.2, because I think we are talking about in those circumstances a person who is a refugee visa applicant.

Senator NETTLE—I thought I was in the right output. We have talked about the example of Mr Noori at Villawood. I think he waited four months, but there are other examples that I am aware of from Baxter of people who have waited nine months for that process. I understand and accept that is not your department that is doing those checks. Do you have any capacity to liaise with the department doing those checks? Do you have an understanding or acceptance of what an average period of time that that should take is? Do you have any arrangement with ASIO whereby after six months you are able to say, ‘What is going on here?’ Is there any arrangement like that in place?

Mr Metcalfe—Yes.

Senator NETTLE—At what point do you follow up with ASIO to see whether that process can come to an end point? How long do you leave it before you say, ‘What is going on?’

Mr Hughes—I would say that we do not leave it at all in the sense that we do liaise with ASIO over priorities, and anyone in detention is very high on the priority list at any particular time. The department works with ASIO across the range of its visa classes, both offshore and onshore, and we very regularly liaise with them about cases in which security assessments are outstanding. From our perspective, cases in detention are always at the top of the priority list. We are very active in working with them for their part. I guess there is an issue that, in some cases, they simply cannot make assessments quickly and may have to seek further information. That is something that they would have to answer for and be prepared to discuss in another committee. From our perspective, we actively liaise with them, particularly on cases in detention.

Senator NETTLE—Can you put any time frames to that process of active discussion with them?

Mr Hughes—It depends on the case. In other words, we would quite often be actively and regularly drawing their attention to individual cases that have gone beyond a certain period of time.

Mr Illingworth—There are regular reports which we exchange between the two agencies which look at the flow of workloads between the two agencies. As Mr Hughes said, we identify particular priorities for ASIO, so there is a clear setting out of which cases are more important and there is a continual dialogue between our agency and theirs over how things are progressing and whether there are impediments which either agency can address. This can mean daily or weekly contact, depending on what rate of change is happening in a case and what opportunities there are for agencies to provide information or to somehow assist in resolving whatever needs to be resolved.

Mr Metcalfe—In my view, ASIO have been very approachable and very concerned to provide the best possible service they can. I am conscious of the amount of work that they have in this area. If you look at the categories of persons required to be the subject of security checking these days—not only certain visa applicants but, for example, Commonwealth Games workers, people involved in the aviation and maritime industries, public servants—you will see that there are many categories of people who require this checking. Occasionally some of our clients can prove troublesome or difficult from the sense of identity, where there

are issues that have gone to ‘Who is this person? What is their background?’ and ASIO have shown enormous responsiveness and preparedness to put resources into trying to work with those cases. So our experience with the work they have done has been a positive one. I know that, in relation to some individuals, there are concerns that those checks take a long time to do. I can only believe that that is because ASIO has a very serious job to do and it does it as professionally as it can.

Senator NETTLE—I am aware of another circumstance, of a man who is being held in Villawood for whom there was an attempt to deport him back to a country in the Middle East. It is my understanding he has been waiting six months now for that security check process. Would I be correct in assuming that he may be towards the top of the priority list in your negotiations with ASIO? Is six months a reasonable time to wait? Does that get you to the top of the priority list or do you have to wait nine months?

CHAIR—I do not think that is a question the officer can answer. Asking the officer whether it is reasonable or not is seeking a view of his on a policy matter, which I am not sure he is in a position to answer, quite frankly. If you want to direct it to the minister, be my guest.

Mr Metcalfe—We have no interest in detaining a person for an instant longer than we have to, and we will do anything we can to work with other relevant authorities to ensure that their processes are completed as soon as possible.

Senator NETTLE—Do you know if you have ever looked at having alternative detention arrangements in place while people wait for what can be several months for a security check? Is that something you have ever done or looked at?

Mr Metcalfe—That is an option that is available.

Senator NETTLE—So you can do it, but you do not.

Mr Metcalfe—It is an option that is available. Individual cases are looked at individually. Ultimately it is an issue for the minister as to whether she might believe a residence determination or some alternative detention is appropriate in particular circumstances.

Senator NETTLE—Do you know if that option has ever been used?

Mr Correll—Not to my knowledge. I would need to check whether there have been any instances.

Senator NETTLE—If you could take that on notice, that would be good.

Mr Correll—We can do that.

Senator NETTLE—The last thing I have got for 1.2 is about ministerial interventions. I understand there is a review of the guidelines used for preparing ministerial intervention briefs. Is that accurate? Are these changes occurring?

Senator Vanstone—I may ask for one at some point, but I have not at this point.

Mr Metcalfe—Did we tell you that, Senator?

Senator NETTLE—The minister has answered the question, so that is fine.

Senator BARTLETT—There was an agreement that was announced in December with IOM and Papua New Guinea to assist PNG with voluntary return of irregular immigrants. I

want to ascertain what is new in relation to that. Is this a bit similar to what we have been doing in Indonesia for some time with funding through IOM and UNHCR there to deal with—

Mr Hughes—There are some similarities but it is not exactly the same. It provides a basis of cooperation with the Papua New Guinea government. If they have irregular migrants in Papua New Guinea that are Australia bound and there is no way of funding their subsistence until their cases are looked into, this arrangement allows their subsistence to be funded through IOM by the Australian government. If it is a protection issue, they may be referred to UNHCR or the PNG authorities because, of course, PNG is a signatory to the refugees convention and has a refugee determination process. We would pay for the upkeep of any such people while they were in such a process. Alternatively, if they are people not interested in claiming protection under the refugees convention but do not have the funds to return to their home country and the PNG government does not have the funds to assist them either, then we would be able to pay for them to be helped in a voluntary return through IOM.

Senator BARTLETT—So is the UNHCR involved in this arrangement as well?

Mr Metcalfe—They are only involved to the extent that they are not a party to the arrangement. But I guess they would be a beneficiary in the sense that the arrangement would allow the subsistence of cases of interest to them to be paid for by us while they were being looked into. Indeed, where someone was waiting for a durable solution when they had been found to be a refugee in PNG and settlement was being looked for somewhere else, then we would pay for the subsistence in selected cases of that nature. So I would say there would be a beneficial spin-off for UNHCR.

Senator BARTLETT—PNG is a signatory to the refugee convention, as you said. Are there a couple of articles—I cannot remember what the technical term is—that they ‘disassociate’ themselves from, if that is the right word?

Mr Hughes—There are some articles, yes.

Senator BARTLETT—Are they ones of relevance to this?

Mr Hughes—I just do not have them in my head at the moment.

Senator BARTLETT—I cannot imagine why not! Are there any aspects of that, any assessments being done with regard to asylum claims and people potentially being knocked back because of these exemptions—

Mr Hughes—Reservations.

Senator BARTLETT—Yes. Are there any aspects of that that raise issues for us? What was it that led to us developing this arrangement? Has this become a growing problem? Are people potentially transiting through PNG into Australia?

Mr Hughes—I do not think there was a particular stimulus or incident that gave rise to it. In terms of our general cooperation and capacity building in the region, it is just making sure we have an arrangement for a country where we did not have anything specific. Papua New Guinea does not have a lot of resources in this area for dealing with these issues. The benefit of this memorandum of understanding provides a basis for us to help them.

Senator BARTLETT—Is this irregular immigrant phenomenon mainly through air entry into Port Moresby or is it land border crossing from Indonesia?

Mr Hughes—The understanding is related to people who might be Australia bound, and I think air entry through Port Moresby would be the most likely source.

Senator BARTLETT—Is Manus Island likely to be used in any way with this sort of arrangement?

Mr Hughes—Not that I am aware of.

Senator LUDWIG—I think the cases that have been referred to the Ombudsman will probably come in at 1.2 as well.

Mr Metcalfe—They will probably be in 1.3.

Senator LUDWIG—This also might be 1.3. There was a headline in the *Age* that reads ‘Vanstone confesses to “another Rau”’.

Mr Metcalfe—That will be 1.3.

Senator LUDWIG—Is the airport detention centre plan in 1.2 or 1.3?

Mr Metcalfe—That is 1.3.

Senator NETTLE—I would like to check whether outsourcing of settlement services to ACL comes in 1.2.

Mr Metcalfe—That would be 2.1.

Mr Metcalfe—I have a response to an earlier question. Senator Nettle asked me before about the involvement of other departments in the Christmas Island detention centre that is currently under construction. Apart from policy considerations that would have involved central agency and Finance of course being the key construction agency, I am advised that, as I suspected, the Department of Transport and Regional Services was involved, particularly because of the need to resume the site of the mining lease. The administrator obviously would have had a key role. Also, the Australian Greenhouse Office was involved in the assessment of the design competition entries, I assume, again, in terms of the overall emissions or whatever that may have come from the construction and the operation of the centre. I am specifically advised that the Department of Defence was not involved in the design of the Christmas Island centre.

CHAIR—Is that sorted out, Senator Nettle?

Senator NETTLE—Yes.

Senator CROSSIN—Mr Rizvi, I have a question in relation to GMH. I know this is under output 1.1, but I did not get a chance to ask about it before. Senator Lundy asked about the payment of wages in regard to the situation she raised. In the situation with regard to GMH and 456 visas, do federal award wages have to be complied with as well?

Mr Rizvi—Any person working in Australia must be paid according to Australian awards and conditions.

Senator CROSSIN—No matter what the visa?

Mr Rizvi—The visa is irrelevant because it is not related to the Migration Act. They are simply required to comply with Australian law.

Senator CROSSIN—I thought that was the case. Thanks very much.

Senator Vanstone—As a matter of interest, if you are talking about the Holden thing at Elizabeth, the advice I have is that those workers were brought here as part of a subcontract for the installation of a paint plant. They come from the factory that produces the paint. It is not a long-term arrangement. It is one specifically for the installation of this equipment which is seen as integral to Holden's success.

[12.52 pm]

CHAIR—Thank you. That will conclude questions in output 1.2. We will now go to output 1.3.

Senator LUDWIG—How many people have been held in detention, or are currently being detained in Queensland, for the last 12 months?

Mr Metcalfe—We do not have a detention centre in Queensland.

Senator LUDWIG—I understand that. I am referring to those held under some arrangement. Also, where are they held and what type of facility are they being held in?

Mr Metcalfe—I will see if we have that information available, otherwise we may have it for you after lunch.

Senator LUDWIG—What is the maximum number held at any one time? Could we have that provided in a tabulated form that indicates the number of detainees and the length of their detention over the last 12 months?

Mr Metcalfe—In presenting that information, we need to be mindful of the fact that some people may be detained for a short period of time in Queensland.

Senator LUDWIG—Overnight or something.

Mr Metcalfe—Because we have no detention facilities, they are then either transferred to another centre—Villawood, Baxter or wherever it might happen to be—or some other arrangements are made in relation to reporting conditions or whatever.

Senator LUDWIG—How would you be able to advise us about that?

Mr Metcalfe—We have a great deal of information.

Senator Vanstone—That would of course take longer. I think Mr Metcalfe is saying that if you want the period of detention for anyone now in detention who was first detained in Queensland but may no longer be there, and is probably not because of the fact that we do not have a detention facility there, that would take longer.

Senator LUDWIG—No, I understand that—because it might also be those that are then returned or are turned around relatively quickly. But in this instance you have explained they then may be transferred to Villawood, so that they then leave Queensland but are effectively housed in Villawood when they may have otherwise been housed in Queensland for a short period. Perhaps you could tabulate that by indicating those that are in that position and indicate for how long.

Senator Vanstone—Do you mean you want a part of the table that says ‘left detention in Queensland for detention elsewhere’?

Senator LUDWIG—Yes, and then the duration because they may have been a short—

Senator Vanstone—Of their time in Queensland or elsewhere?

Senator LUDWIG—Elsewhere.

Senator Vanstone—That is what might take a bit longer because there might be people in Villawood and there might be people in Baxter, and it would require accessing the details in a number of files. But we will do what we can.

Mr Metcalfe—You are also after, I think, those who might remain in Queensland—that very small proportion who might be in some correctional facility or whatever. Because there may possibly be some folks in Queensland in a correctional facility who are in immigration detention as well.

Senator LUDWIG—Yes. Do you still have an agreement with the correctional facilities in Queensland? Are they still on foot?

Mr Correll—Yes, we do. Although I can say that there is nobody currently in a correctional facility in Queensland in detention.

Senator LUDWIG—There is no-one?

Mr Metcalfe—In immigration terms. There are many people in correctional centres in Queensland.

Senator LUDWIG—The detention facilities in the Torres Strait—where are they up to?

Mr Metcalfe—We have no plans in the Torres Strait. We have no facilities and we have no plans for a facility.

Senator LUDWIG—In terms of the Queensland facility—is that a recent announcement, Minister Vanstone? The *Australian* of Thursday, 9 February at page 8 indicates that a detention centre on Commonwealth land near Brisbane airport may go ahead this year. Is that a decision that you have announced or are about to announce?

Senator Vanstone—No, it is not. I am trying to think back to the context of that. But putting aside the context of that report, you would be aware that we tried to have an immigration transit centre at Shaftesbury in Queensland. The Premier and the local council were unhappy about that and the application from the operator of the centre was subsequently withdrawn. I think someone else could best describe what had been happening there in the past but, as I understand it, it was a sort of halfway house for young men and it could have been used as a transit facility. Undoubtedly that is where the report in the *Australian* comes from. But I have said on other occasions that sooner or later we have to have a facility in Queensland, and the Queensland government might do well to remember that we do have Commonwealth land and it could, at some stage, be used.

Senator LUDWIG—There are no plans at the moment, however. Is that correct?

Senator Vanstone—There is nothing settled at this point. I would rather come to an amicable arrangement with the Queensland government about what needs to be done. They

want to be a source of tourism, they want people to be coming in, they want more people coming in and out of their airports and they presumably want immigration there to make sure that the right people come in. There is going to have to be a place in Queensland for when we find people at airports and/or overstayers—unless Mr Beattie wants to have a policy of ‘come to Queensland and live the life of Riley and never be picked up as an overstayer or a visa breacher’.

Senator LUDWIG—I think that is an extravagant claim.

Senator Vanstone—We will have to have a facility there somewhere. I would rather come to it by agreement, but if that is not possible—and certainly Mr Beattie has indicated an unwillingness to have it, an unwillingness to cooperate—well, fine.

Mr Metcalfe—Indeed, one of the quite specific points of criticism in Mr Comrie’s report on Vivian Alvarez was the circumstances of her detention in a motel Brisbane pending her removal. She, of course, should never have been removed in the first place but it highlighted the unavailability of proper institutional arrangements for persons awaiting removal. The report was critical of the privacy issues, the medical supervision issues and whatever and, in fact, it basically called for appropriate institutional admission where those checks and balances come into play. Not only is Queensland a dynamic, developing state with the third largest airport in Australia but there are also issues relating to persons being refused entry. The fact is that there is not a significant immigration overstayer population there but, from the duty of care aspect, it would seem that it is necessary for the department to have some facilities to properly accommodate people in our care.

Proceedings suspended from 1.00 pm to 2.02 pm

CHAIR—We will resume. Mr Metcalfe, I understand that you have some information you wish to place on the record pertaining to this morning’s proceedings.

Mr Metcalfe—Senator Bartlett asked this morning about the powers of parliamentary secretaries in relation to Mr Robb’s future role. I have had the opportunity to check with officials from the Prime Minister’s department over the lunch break. I understand that the case in question related to Senator Kay Patterson when she was parliamentary secretary in this portfolio. The High Court decision essentially confirmed that a parliamentary secretary has the same powers as a minister. I am advised though that, subsequent to that, parliamentary secretaries are now also appointed under section 64 of the Constitution and so essentially are appointed as ministers. From both the decision of the High Court as well as the practice of the way that the commission is provided to the parliamentary secretary, there can be no doubt that parliamentary secretaries exercise the same powers and have the same responsibilities as ministers.

CHAIR—Thank you. Senator Ludwig is going to continue in the matters he was pursuing this morning in output 1.3.

Senator LUDWIG—I note there was a release by the then minister, Senator Ian Macdonald, on 31 January 2005. I asked about whether there was a detention centre in the Torres Strait. In that release, it says:

AFMA will establish and operate transit detention accommodation on Department of Defence land at Horn Island to house the growing number of fishers apprehended in the Torres Strait and adjacent waters before their transfer to Darwin.

Will you have an interest in that facility at all?

Mr Metcalfe—My understanding is that that proposed facility would be operated by the Australian Fisheries Management Authority, not the department of immigration. I will stand to be corrected, but I think that the formal arrangement is that fishermen who are detained come into immigration detention about seven days after the time of their initial detention. The role of the proposed facility at Horn Island would be for that initial reception while they are in fisheries management custody pending their transfer to immigration custody.

Senator LUDWIG—I might also get you to confirm when arrangements are handed over to immigration from either Customs or AFMA, depending on the nature of the apprehension—be it a Customs apprehension or a fisheries apprehension.

Ms O'Connell—The outline the secretary gave is correct, in that we have no interest in the Horn Island facility. It is an AFMA based facility. There is a time limit for fisheries detention, but transfer from fisheries detention to immigration detention can happen at any stage within that time limit, based on people having been brought into an immigration detention facility.

Senator LUDWIG—Is the seven days in legislation, or is that a memorandum of understanding between Customs, AFMA and the immigration department?

Ms O'Connell—It is my understanding that it is in either act or regulations in terms of fisheries management, but I can check on that.

Senator LUDWIG—That would be helpful. Is it also applicable to Customs? Do they have the same arrangement with the immigration department?

Mr Metcalfe—It is a special relationship in relation to fishermen, so are you talking about Customs more generally or—

Senator LUDWIG—Yes. If Customs apprehend a fisheries vessel or take charge of a vessel that might be an unlawful arrival—

Mr Metcalfe—It depends which hat they are wearing. If they are wearing a fisheries hat, then they are acting as agents of the Australian Fisheries Management Authority. If the action being taken is as an immigration officer, which Customs officers are also, then a different set of circumstances would apply. The normal operating procedure is that it usually is Customs or naval personnel who apprehend illegal fishermen. They are taken into custody under the fisheries legislation and are in due course transferred to immigration control, pending their departure from Australia. We essentially provide for the period of detention pending their return home.

If a Customs officer took someone into detention other than a fisher, then the Migration Act would apply and they would be acting as our agent through the entire process. We have arrangements with Customs as to how we instruct and manage that particular arrangement.

Senator LUDWIG—Could you take that on notice—the instructions and how you manage it. I had heard various reports that someone, like Customs, has charge of them for the initial three days or 24 hours.

Mr Metcalfe—We will provide advice. I think it would essentially be some advice which goes to the operational roles of the Navy, Customs, the Fisheries Management Authority and ourselves as to how illegal fishers are cared for, in terms of which custody. Essentially, immigration custody is at the end of that process, pending a return home.

Senator LUDWIG—And then also where it is other than illegal fishers.

Mr Metcalfe—We will take that on notice.

Senator LUDWIG—Going back to the issue I raised briefly before lunch, in terms of the Queensland detention centre, is any money being set aside for the building of a detention centre in Queensland?

Mr Metcalfe—My understanding is that some has been identified as part of the money arising from the government's response to Palmer.

Ms O'Connell—Some money was set aside as an interim immigration detention centre, as part of the money that the secretary spoke about in his opening statement.

Senator LUDWIG—How much money has been set aside?

Mr Metcalfe—We will quickly check and let you know. Some millions, I think.

Ms O'Connell—Yes.

Senator CROSSIN—Are we talking about a different detention centre from the one that was announced some budgets ago, at the same time as the Darwin processing centre was announced?

Mr Metcalfe—The centre that we are talking about here is essentially the immigration transit centre that the minister was speaking about earlier, in Queensland. As I think I indicated, one of the key criticisms of the Comrie report was the lack of proper institutional care of an immigration removee in Queensland, and this particular facility would be available, amongst other things, to provide for that proper institutional care.

Senator CROSSIN—So we are talking about a different facility to that which was mentioned some years ago in the budget process?

Mr Metcalfe—Sorry, Senator, I am having trouble hearing.

Senator Vanstone—What the senator is asking is if it was one that was identified some years ago. I think, Senator, that is too general; we will have to have the specifics you are looking for. All we can tell you is—

Senator Bartlett interjecting—

Senator LUDWIG—The original one I think was by Mr Ruddock, who was then the immigration minister, and I think indicated there was a 550-bed immigration detention facility that was going ahead, whereas the one you are referring to is a transit centre at Shaftesbury. Is that right?

Mr Metcalfe—From my recollection, there was an announcement some years ago about the need for a Queensland detention centre. This money here—I see that about \$11.7 million had been identified—was specifically for Shaftesbury. Given the fact that that does not appear

to be a goer, the issue of a Queensland immigration transit centre is something that the government will need to consider.

Senator LUDWIG—And how many beds will that facility be?

Senator Vanstone—Can I do two things. First of all, can I ask you to speak up?

Senator LUDWIG—I am actually speaking into the microphone—

Senator Vanstone—I am not trying to be difficult, Senator Ludwig, but unless you want to speak up, your natural speaking voice is not a loud one and you have a tendency to look down at your papers, which makes it a bit harder. I am not trying to be difficult here.

Senator LUDWIG—No, and I am not taking it as a criticism—it was meant constructively—but I think the volume in the microphone needs to be turned up as well, because I am talking very close to it and I cannot hear it reflect back to me from the back of the room.

Senator Vanstone—I agree. Yours does not sound as if it is working as clearly as everyone else's. The second thing I wanted to say is that, while the decisions on these things are not resolved, we are looking at our long-term detention needs. There has been that a tendency in the past, because it has been forced upon the department by virtue of things that have happened, to have a basis for planning that is—I would not say ad hoc but reactive. I have asked the department and they are in the process of—in a time when very few boats are coming—looking calmly at our long-term needs. It is clear that we do not necessarily need big centres everywhere, but we might need to have transit centres in places and just keep a couple of larger facilities going. I do not know that it is clear at all that we need a 500-bed facility in Queensland. But we clearly do need a facility.

Senator LUDWIG—That is the purpose of the questioning. I am trying to establish what type of facility you are looking at—if it is a transit centre, if the Shaftesbury one has not—

Senator Vanstone—At this point we are looking at a transit facility—

Senator LUDWIG—And how many beds will that facility be?

Senator Vanstone—but the long-term decisions have not been made at this point. That is all. If you are asking me for an off-the-cuff view on whether I think we will end up proposing a long-term facility in Queensland, I would say: probably not. But that needs to be properly looked at in the cold light of day with a longer term view for the department around Australia: what is the best way for us to manage a case load that is now largely overstayers and visa breachers—people who just want to stay in Australia—with the understanding that at any one time, without much notice at all, the population could change dramatically back to towards what it was in 1999, 2000, 2001, and that is largely unlawful arrivals coming in big clumps from overseas?

I think the success of our border control policies has given us this window of opportunity. I hope it is very long-lasting window—that is, that the boats do not restart coming in that volume—but anyway we will take the opportunity now to do some cool and calm long-term planning. But you can be sure of this: it will include a facility in Queensland. It is just crazy for the Queensland government to imagine that we can have all the tourism through Queensland, have it growing economically, and have no capacity for Immigration to on even

a, relatively speaking, temporary basis accommodate people who have no lawful right to be here and ought to go.

Senator LUDWIG—Thank you, Minister. What I wanted to establish, though, is how much money has been set aside, what plans have been put in train for the establishment of a transit facility and—if your planning has advanced that far—how many beds it is envisaged there will be. Have you had negotiations or discussions with the relevant state government department or the Premier about where the facility might be located and the other preliminary discussions that might precede that?

Senator Vanstone—He has had discussions through the media with us. We have been told through the media what his opinion is.

Senator LUDWIG—I am not, Minister. I am asking you and the public servants what planning has been done.

Senator Vanstone—I am not suggesting you are. I am making a point.

Senator LUDWIG—That is not the question.

Mr Metcalfe—We are in the process of providing advice to the minister and the government on the very issues that you currently seek to have answered, so I cannot provide advice on that issue at the moment. As the minister has indicated, there would appear to be a very strong need for a facility in Queensland near Brisbane Airport to provide not large capacity but some capacity. The details of whether the government will wish to proceed with that, the size and all of those issues have not yet been settled.

Senator LUDWIG—Where are you at? If it is a possibility, what stage are your negotiations at?

Mr Metcalfe—There have been no negotiations at this stage. The department is currently working with other departments through usual government processes to provide advice to government.

Senator LUDWIG—So it is only at the stage of advice to government but you have \$11 million with which to provide that advice, then build the facility.

Mr Metcalfe—The \$11 million provided was part of the \$231 million provided to the department over five years in response to the Palmer report. That was predicated on the availability of the Shaftesbury campus. Now that the Shaftesbury campus is unavailable we have had to go back to the drawing board, which is precisely where we are.

Senator LUDWIG—So are you now going to recommence discussions with the Queensland government?

Senator Vanstone—We will think about that. I will just say that it is on Commonwealth land. The Commonwealth is entitled to do as it chooses on Commonwealth land.

Senator LUDWIG—There are always parameters.

Senator Vanstone—Yes, sure. I hoped that we could come to a sensible arrangement about the transit accommodation, which seemed ideal, that we were looking at. There was an acknowledgment that, if the Queensland government did not like the idea of Pinkenba, we

could do something different and more user-friendly to the whole community. But that was not warmly received, so we will have to look elsewhere.

Senator LUDWIG—How many beds is the transit centre envisaged to have?

Mr Metcalfe—As I have said, those matters have not been the subject of any decision at this stage, so it would be inappropriate for me to speculate, because we are simply not that far through the process of determination on those issues.

Senator LUDWIG—So you have not identified any Queensland sites?

Mr Metcalfe—There is land owned by the Commonwealth at Pinkenba, as you are aware. Beyond that, I am aware from work done some years ago that there are other sites and shires. What is important, I think, in this context is that we are at this stage talking about a transit facility largely designed for people who may be entering or soon leaving from Brisbane Airport. The most significant costs in operating any facility are not the costs of building it but the costs of running it—transport costs, staff costs and whatever. All of those issues would be germane to any government decision as to (1) whether there should be a facility, (2) where it might be located and (3) what size it would be.

Senator LUDWIG—When will the advice to government be completed? Do you have a timetable for completion?

Mr Metcalfe—As you know, all of these issues which involve expenditure are subject to the budget process.

Senator LUDWIG—Turning to another issue, I think I mentioned earlier an article by Michael Gordon in the *Age* on Thursday, 9 February. The introduction—and I am happy to give you the clipping if you are not familiar with it—says:

Immigration Minister Amanda Vanstone has revealed that another “very tragic case” of wrongful detention will become public in coming weeks.

Is that one of the cases that have gone to the Ombudsman, an additional one or a new one?

Senator Vanstone—That is one of them. I do not know whether it is Michael or the subeditors, but ‘reveal’ is a word that implies that something has been secret in the past—

Senator LUDWIG—I am not implying that. It is the information—

Senator Vanstone—You might not be. I am just answering your question in the fashion I choose, if I may. I thought ‘reveal’ was colouring it up a bit. It is one of the 200 or so cases, and that has been covered quite extensively in various Senate committees.

Senator LUDWIG—On that, then, there was originally said to be 222 matters that have been referred to the Ombudsman, but I think that has been corrected to 221. Is that still the case, or have more been referred?

Mr Mann—In working with the Ombudsman’s office, we have agreed that case numbers are 220 in that set. There was one duplicate record in that number, but 220 cases.

Senator LUDWIG—How many has the Ombudsman reported on to date? I think there was one report last week from the Ombudsman, but in total where do we stand?

Senator Vanstone—No, I think there was some confusion in the Senate when Senator Kirk or you were asking about 17 reports. It is a semantic issue about reports on 17 people, but they might come to me in one batch or a number of batches, so it is a question of whether you are talking about a batch or individual cases. Those 17, and officials can correct me if I have this wrong, are the ones required as a consequence of the changes we made in June whereby longer term detainees need to have their cases referred to the Ombudsman for reporting on. They are not the same batch, because the 200-and-something cases are the released later found lawful, whereas those 17 are the ones who have been in detention for two years or more and the Ombudsman is reporting on them, so they are quite separate.

Senator LUDWIG—Of those 17, how many have been reported to parliament?

Senator Vanstone—I think the total is now 14. As I understand it, and this can be corrected, reports on 17 have arrived. They technically come to me but they go straight down to the department to see whether or not we would like to respond. Fourteen of those have been responded to. They are required to be tabled within 15 sitting days of receipt, so in a sense I do not control the tabling time. There is a bit of flexibility in there, but other than that it is set by legislation at 15 sitting days after they have been received. I think 14 have been done; there are three more to go.

Senator LUDWIG—And those 14 were tabled last week?

Senator Vanstone—No, I think that was made up of two that were done before Christmas in one report—what I call one report and you might call two reports, but you know what I mean—and 12 done last week in another batch. Call it a batch rather than a report.

Senator LUDWIG—And there are three to come, then?

Senator Vanstone—Yes.

Senator LUDWIG—Has the department received a report from the Ombudsman as to when the 220 are likely to be finalised, or is that what you are talking about when you say it is a tragic case?

Senator Vanstone—Yes, it is one of those. I have covered it in the Senate before, and I have not had any fresh advice from the Ombudsman, although the department might. As I understand it, he has divided them into categories—

Senator LUDWIG—There are eight categories.

Senator Vanstone—and intends reporting on them in groups in that fashion, although there might be some that are separately selected because of individual characteristics and reported on separately. I do not have advice on when he expects to complete the job, but the department might have some more advice.

Mr Correll—We have not seen any of those reports to date.

Senator LUDWIG—Was it the Ombudsman's decision to group them into eight categories, or did he liaise with the department as to how he would categorise them? One of the categories is 'other', and there is one in that category. It begs the question: what does 'other' mean?

Mr Mann—The Ombudsman’s office itself has decided how it wishes to investigate those cases, and the groupings are those of the Ombudsman.

Senator LUDWIG—Minister, have you seen a number of those cases already, then?

Senator Vanstone—No, not in the sense of what the Ombudsman is saying about it but obviously, as I have indicated plenty of times in the Senate, I asked the department to very quickly pick up the rug and see where else something like this could possibly have happened. The only indicator available to us is one that we implemented, apparently in the year 2000, called ‘Released, later found lawful’, because that is what happened to Cornelia Rau. They went back and picked out all the cases that fitted into that category and I said that all of them should be looked at.

In order to get that category, they had to obviously have more than just a rough look—more than just select a name on the computer. They had to get the files out to send them over to the Ombudsman. Obviously in getting the files out I wanted some idea of what was there. I got what I would call a very rough indication of groupings. If I recall properly, it was something like three or four: some mental health cases, some cases where systems had not been up to date or were not effective enough and cases of people later getting visas, like children becoming citizens or the courts awarding someone a visa. That is just a rough overview. I thought it appropriate that the department not do those investigations themselves and they go to the Ombudsman.

Mr Metcalfe—Just to expand on a point made by Mr Correll, you asked whether we had seen any of the 220. We have not seen a final report on any of the 220 but, in relation to one of the 220, we received not long ago a draft report from the Ombudsman, which I am obliged to formally respond to by the end of this week. So we are currently in the course of preparing a response to the Ombudsman. I imagine that following that he would finalise that report. We expect to see more cases coming through over coming weeks and months.

Senator LUDWIG—Of those 220, there has been no additional ones referred to the Ombudsman in that category since?

Mr Mann—Yes, there have been an additional 27 cases from a certain date. So since that date we have been continuing to identify cases that have been subject to the same indicator. We certainly have not formally referred them to the Ombudsman but we have identified them and are discussing with the Ombudsman how he might wish to look at those cases—either to bring them into his investigation or allow the department to investigate them and provide information to him about any issues that we see. We are still discussing how those 27 cases might be dealt with.

Senator LUDWIG—Are they 27 cases that have emerged from you checking your records post that date or subsequent to the date? You might be able to identify the date as well. It might be helpful.

Mr Mann—They are people who have been released from detention and have been recorded using the same indicator as those earlier cases. The more recent cases have been coded that way, so we will review each and every one of those.

Senator LUDWIG—Now you have confused me. I am sorry; I am easily confused.

Mr Metcalfe—What Mr Mann is saying is that those 27 cases have arisen subsequent to the 220.

Senator LUDWIG—I understood that part. I do not want to interrupt you but that is where I think we got to. But what I was trying to identify was: are they cases which should have formed part of the 220—that is, up to the date that they were transferred to the Ombudsman but related to earlier events and time—or are they—

Mr Metcalfe—They are not related to earlier events. They are subsequent to those cases. I think it is important at this stage to state that simply because they have been identified under that ‘released, not unlawful’ descriptor should not lead to any assumption that the decisions to take those persons into custody were themselves unlawful—because we have had discussion in the past about the operation of section 189 and the aspect of reasonable belief, and of course the impact of—

Senator LUDWIG—I did not want to go over that again.

Mr Metcalfe—That is right. But I think it should not be assumed until there is a proper investigation that all, or indeed any, of those 27 have in fact been people who were unlawfully detained. They were released, having been found to be lawful. But that does not necessarily mean the decision to detain them was unlawful. That is one of the points of confusion that I think has entered this particular discussion. People are looking for simple descriptors where in fact it is quite a complex set of circumstances.

Senator LUDWIG—What concerns me is that what you are telling me is that, subsequent to the cases of the 220 coming to light, when the department under your leadership changed its direction, in your words, you had another 27 cases during that period.

Mr Metcalfe—That is where I do not want you to jump to conclusions.

Senator LUDWIG—I do not think I am jumping to conclusions. I have to say it is concerning.

Mr Metcalfe—That is precisely why I am making the point I am making that the descriptor of ‘released, not unlawful’ should not be regarded as implying necessarily that the decision to detain that person was of itself unlawful. I have made it clear before this committee and I have made it clear on numerous occasions in the department how careful we have to be in decisions to detain people, to review those decisions and indeed to only detain a person if there is no other reasonable way of managing the situation and if there is a positive identification that the person is in fact unlawful—as opposed to a default point that, if we do not know who you are, you must be unlawful. I think that we should reserve judgment on those cases until we know more about them. None of this weakens the fact that the department is absolutely committed to exercising the powers very carefully and very cautiously.

Senator Vanstone—Senator, I appreciate you are sick of hearing it and I can assure you that I am sick of saying it but I am going to have to keep saying it because only last week or the week before there was an op ed piece by Peter Hartcher from the *Sydney Morning Herald*—quite a senior journalist, who you would think would not make this mistake—that concluded with a line to the effect that the Australian government had turned a blind eye to

'scores' of its citizens being deported. When Mr Hartcher was spoken to about this he said, 'Oh, sorry,' and that that was sort of what he thought had happened, or words to that effect, as have been conveyed to me. There is no possible excuse for the most junior journalist, let alone a senior one, not understanding that, given the number of occasions both in estimates—when you have had to listen to it and I have had to say it—and in the normal proceedings of the Senate where the point has been made. But it is because of that type of reporting where people do not know, do not care or cannot be bothered finding out or, worse, out of malice write that sort of thing thinking they can get away with giving the Howard government a slap with no-one noticing, that I have to keep repeating it. I am not repeating it because I think you are slow—a couple of cards short of a deck—

Senator LUDWIG—You may well think that in any event!

Senator Vanstone—As a matter of fact, I do not. But I am not repeating it because I think you are stupid or slow or do not get the point; I am repeating it because it is a public forum where I can put it on the *Hansard* record so that yet again people who do not understand, do not want to understand or are of bad faith can be judged by their peers.

Senator LUDWIG—The difficulty that we now find ourselves in is that we have 247 cases that have been referred. The last case has actually not been referred at this point but it has been entered into discussions with the Ombudsman about.

Senator Vanstone—I am pretty sure that you will find in the *Hansard* a question that you asked me about this where the suggestion may have been put by the opposition that we had set it at 220 cases and that was it. Didn't we care about any future cases? I indicated at the time words to the effect, and I have made it very clear, that we were talking to the Ombudsman about a better way to categorise this. It clearly has an element of ambiguity in it that has allowed people with fewer cards in the deck and/or bad faith to misrepresent the situation. I hope we can get a better categorisation that spells it out more clearly so that this kind of misunderstanding cannot happen. But I have also said on repeated occasions that we will continue to do this. It is not a case of 'Oh well, let's draw a line and say that we will look at anything bad or potentially bad that happened in the past but we're not looking ourselves now in our day-to-day operations'. You can be sure that in our day-to-day operations we are looking very carefully at ourselves and, where there is potential for something to go wrong, talking to the Ombudsman about whether there should be a report on it. You can be sure of that.

Senator LUDWIG—So where are we at with the 27, then? Are we talking to the Ombudsman about whether their cases should be referred or whether they should be internally investigated by—have they been through the managers?

Mr Mann—I think at the last estimates the minister said there were 16 such cases; there were 27 at 6 February. We are currently preparing case summaries for each of those cases to discuss with the Ombudsman and he can make a decision as to whether or not he believes they deserve further investigation.

Senator LUDWIG—Is there a way that you can advise the committee—I am happy for you to take this on notice—as to which category, if there is such a thing, they fit under in

terms of the Ombudsman's categorisation, as well as the length of their detention and their nationality?

Mr Mann—I am not sure that we would take on, on behalf of the Ombudsman, saying which category he would put them in, but there are certainly a range of issues as a consequence of court decisions.

Senator LUDWIG—Maybe you could use his framework to indicate—

Mr Mann—Data issues and identity issues would be the sorts of categories.

Senator LUDWIG—Perhaps you could take that on notice and provide that information to the committee—the nationality, the length of detention, when the decision was made to review that case or determine that it was one of those that should be looked at, and whether the person has been released or is still in detention, as the case may be.

Mr Metcalfe—By definition, they would have been released from detention already.

Senator LUDWIG—Yes, I assumed that, but I thought I would ask in any event.

Mr Correll—Senator, we have also had discussions with the Ombudsman about the fact that the 'released not unlawful' descriptor is extremely misleading. As a result of that, we are making changes to the computer system—in conjunction with the Ombudsman's office and, certainly, with their support—so it has a range of different codes to make it much clearer what the situation is, because the use of that coding has caused great confusion and misunderstanding.

Senator Vanstone—At the risk of appearing not to support my department, I have to add to that. I am not sure I am prepared to support Mr Correll's use of the word 'caused', because I am not actually convinced that the indicator itself caused it. I have a personal view that people have been quite consciously misusing what they saw as a possibility for ambiguity and their entitlement to consistently get it wrong—for instance, if I go back over the press reports from people who are paid well enough by News Ltd and Fairfax to get it right and to inform the public. I have in fact considered getting these together in chronological order, interleaved with the times at which the facts of this matter were made public, and leave it to the public to draw their own inferences as to whether the indicator itself has caused this misunderstanding or whether people have taken the opportunity. Having said that, Mr Correll is exactly right, and that is what I was saying before: we think it has allowed this ambiguity and misunderstanding to be perpetrated, and we are fixing it.

Senator LUDWIG—In what sense, Minister, are you fixing it?

Senator Vanstone—Just as Mr Correll just said.

Mr Correll—One of the reasons—

Senator LUDWIG—By changing the nomenclature for the computer so it spits out something different?

Mr Correll—No, Senator—

Senator Vanstone—No, I do not think that is a fair appraisal of it at all. But if you attribute good faith—let's just for a minute put our 'nice' hats on and say that everybody who has got this wrong is as intelligent as you can be, a candidate for MENSA, and has nonetheless been

confused by the simple language ‘released, later found lawful’ and has found a way to jump from that to: ‘Oh, it must’ve always been lawful.’ We will find a way of identifying the category or categories of people that are released so that there cannot be any such misunderstanding.

Senator LUDWIG—I guess that is where we may differ, Minister. I did not want to have that discussion here, but I am not sure I agree with the fact that, if you detain someone, at the point of detention you have formed a reasonable view that you should detain them. The question is: how do you then differentiate between that and where a reasonable view was not formed? In other words, they may be detained as ‘not unlawful’ and then released, or they may be detained unlawfully from the start and subsequently released.

Senator Vanstone—I know you can understand, for example, the category under which someone becomes a citizen by virtue of—

Senator LUDWIG—After 10 years.

Senator Vanstone—Yes.

Senator LUDWIG—You can understand that. You can also understand that by operation of case, of law. But it would then also have a retrospective effect which might mean they were detained unlawfully from the start, although the case would subsequently have been later.

Senator Vanstone—Not if they were later given a visa.

Senator LUDWIG—Yes, and that would intervene.

Senator Vanstone—If they were released because they were given a visa, that means that there is no inference there. In fact, they would not need a visa if they were lawful, would they?

Senator LUDWIG—That is right.

Senator Vanstone—If they are released because they are later given a visa, they later become lawful.

Senator LUDWIG—Yes, there is a range of circumstances that may fit within that categorisation. There is also a range of circumstances where they may have been detained unlawfully.

Senator Vanstone—Yes. I have never denied that. What I say is, just as I cannot say and would not be silly enough to say, ‘I have sent all these cases off to the Ombudsman. I am 100 per cent sure that 100 per cent of them have not the slightest error in them,’ equally, it is quite wrong for an editorial writer for the *Sydney Morning Herald* to jump from 200 cases being looked at because of the potential for an error to the Australian government condoning the deportation of scores of its citizens. To the best of my knowledge, that has only happened once.

Senator LUDWIG—They would probably be removed rather than deported.

Senator Vanstone—I am not sure. I will check. Once they get part of it wrong, they often get the whole lot wrong. I often read that people have been deported when they have simply been removed. In a sense, it is a semantic point. It is a technical point, but I do not think that,

if you were discussing immigration policy in the front bar of a pub—which I am not prone to do, but it is a good test—the technical difference means much to normal citizens.

Senator LUDWIG—It seems to mean a lot to the department, however.

Mr Metcalfe—I again restate the fact that the department is absolutely committed to exercising powers in this area cautiously and professionally. If there are any circumstances in which a departmental officer improperly or recklessly detains a person and that amounts to being an unlawful act, I would regard that most seriously. What we have seen from the evidence today and in earlier hearings is that there are a whole range of circumstances whereby this particular descriptor has given rise to a concern that something has not happened properly. That is the very reason that the minister has referred these matters to the Ombudsman. It is the very reason that \$231 million worth of additional support is being provided to the department to ensure its staff are well trained and well supported as they go about these particular matters. We take it very seriously. The fact that a subsequent court decision may discover something or other which could not reasonably have been understood—for example, the fact that a child turns 10—are all issues which are explainable in these circumstances. That is why I started out with my initial comment saying that no-one should jump to a conclusion that, because 27 cases have been identified, 27 cases have been improperly handled.

At the same time, it is very clear to us, on the knowledge of some of the cases—Cornelia Rau, Vivian Alvarez and this more recent case about which I have a draft report—that the powers have not been used in a sober, cautious or professional way. That is something we are absolutely committed to changing. I think the proof is in the pudding. The actual numbers of locations and detentions have dropped significantly this year. That is not because we are not still doing our job; it is because we are doing our job very carefully. It is because we are investing in training. It is because people are thinking very carefully as to whether a decision to detain is appropriate. While there will no doubt be proper discussion about these cases into the future, none of that detracts from the fact that we are absolutely committed to exercising these powers properly and carefully and that there are hundreds of Australian public servants who are committed to working very carefully in this area.

Senator LUDWIG—Those 27 cases are not ones that you failed to identify from a previous period; they are the ones that have come up as—

Mr Metcalfe—No. I thought we had made that clear. Essentially, there are 220 cases which had been identified from a review of cases from the period 1 July 2000 to 30 June 2005.

Senator LUDWIG—That is the date I was after, thank you.

Mr Metcalfe—Following that, the minister indicated in November at estimates that a further 16 cases in the period 1 July to 1 November had been recorded with that descriptor. Subsequent to that, another 11 cases have been so recorded. The reasons for the use of that descriptor are not identified. That is the subject of where we would need to work through with the Ombudsman as to whether there is an issue here which requires investigation or not. Mr Correll has indicated that, because that descriptor can be highly misleading, we are looking at further refining it or providing some better categorisation, not to hide the fact that these things

have happened but to ensure that there is an understanding of the circumstances as to why the person was released.

Senator LUDWIG—The Ombudsman, in the fourth paragraph of his letter of 26 September 2005, said:

Although the report reflects the work of Mr Comrie and his team, it is adopted and published as a report of the Ombudsman in accordance with the requirements of the Ombudsman Act.

He then went on to say:

I take this opportunity to note that many of the concerns expressed in the report accord with matters raised by my office in recent years, especially in relation to compliance activity, the welfare of immigration detainees, and the culture of the Department of Immigration and Multicultural and Indigenous Affairs.

In effect, the Ombudsman is saying that not only he but also the previous Ombudsman, it appears, had these concerns over many years.

Mr Metcalfe—Are you going to read the next sentence, Senator?

Senator LUDWIG—Yes, I am happy to read that as well:

The department's response to a draft of this report expresses a commitment to embark ...

I am happy for you to fill in the gaps. There is no argument about what they are now saying. The letter continues:

The Government shares that commitment. I welcome the response. I also look forward—in a new role as Immigration Ombudsman—to developing within my office strengthened capacity to play a broader role in monitoring immigration decisions and services.

What I am concerned about is that it seems that these concerns were raised with the department of immigration over a range of years. Is that correct?

Mr Metcalfe—I would have to check, Senator. I accept what the Ombudsman said, absolutely. So I would accept that he said that these issues had been raised over a period of time. My predecessor and other senior colleagues have made it clear that the department has never sought to be cavalier in relation to these issues. Mr Palmer spent a lot of time talking about these issues—issues of attitudes, assumption based cultures and poor decision-making tools. So there are some very significant issues to be addressed. No-one is backing away from the fact that there have been some major problems. But I restate the fact that we are committed to working through these issues and to acting as professionally as we possibly can. There is a very significant agenda of reform currently under way.

Senator LUDWIG—I have been asking questions of the department for many years—in fact, for more years than I have really wanted to. It seems that it really only came to a head with Cornelia Rau and Vivian Alvarez—the fact that this culture existed, in terms of the committee knowing about it and understanding the problems that were manifest within your department. Yet it seems that the Ombudsman is effectively saying that he had been expressing these concerns to your department for some time and they had either gone unanswered or were unheeded. Is that the case?

Mr Metcalfe—His letter says what it says, Senator. The Ombudsman publishes annual reports and provides own-motion inquiries on a range of issues. So with respect to the

circumstances of whether this was news to the committee or to anyone else, I am just not sure. Clearly, Cornelia Rau's case excited, very properly, great public concern and attention, as did the case of Vivian Alvarez. But in terms of whether warnings were heeded and whether advice was provided, I think the Ombudsman can speak in relation to what he may have said in the past. As I said, I would be very surprised if anyone could ever suggest that there was an attitude that went to cavalier issues.

When I looked through the responses to questions on notice to this committee, I saw that the key MSI that we frequently refer to—MSI 234—was issued in 1999 and spoke at great length about the care that needed to be taken in relation to powers to detain. Notwithstanding that, some things have happened which clearly should not have happened. We are focused on working through all of the possible issues. There are issues such as record keeping, information systems and their reliability, multiple data entries and the problems associated with that, complexities with legal cases, the training of staff, a clear understanding as to the legal powers that they exercise, and the fact that there are now alternative situations available rather than detention.

There is a whole spectrum of issues that we can consider as to whether it is appropriate, necessary or required to detain someone as opposed to looking at their visa situation or putting them on some sort of reporting requirement. All of those issues are being thoroughly addressed, and I am very confident that we will operate in a far more careful way into the future.

Senator LUDWIG—Of those 27, have any been removed overseas?

Mr Correll—We do not have that information to hand. We can check that.

Senator LUDWIG—In regard to the matter I spoke to Minister Vanstone about, I take it that the one identified by Michael Gordon was not one of the 27. Was that person one of the 220?

Mr Correll—That is correct.

Senator Vanstone—That is the proposition you put to me and that is what I confirmed at the time.

Senator LUDWIG—I am going over it to make sure that we are on track and talking about the same thing.

Senator Vanstone—We do not mind if you finish before 11. We will agree to give you as much information as we can, if you will agree to stop asking the same question twice.

Senator LUDWIG—I was simply identifying whether we were on the right case. Was that person removed?

Mr Metcalfe—No.

Senator LUDWIG—What details can you provide in respect of that case?

Mr Metcalfe—I would be guided by the minister. It is a matter on which I have a draft report which is not final. The Ombudsman is in the process of finalising his views on that matter. It is a case which does raise significant concerns. It is an issue which goes to significant concerns as to establishing identity and I think, as the minister has indicated, it has

important lessons both for us as well as for the police. There are mental health issues associated with the individual. I see that there has been some speculation in ABC reporting as to the gender of that individual. I would not comment on that at this stage. It is a troubling case. It clearly throws up that for large organisations such as ourselves and the police, in confronting people with a history of mental illness and in recognising those issues, particularly people who may come from other cultures, there are some very serious issues. We have heard at length this morning about the work the department is doing in relation to mental health reform and trying to introduce screening right at the beginning of processes to ensure that we do in fact identify people who may be of concern. We are doing a great deal of work in terms of trying to identify people where we do not know who they are and where they will not or are unable to tell us who they are. For all of those reasons, it reprises some of the same issues that we have seen with Cornelia Rau and clearly is one where all of the strategies that we are now embarked upon are pertinent in responding to those sorts of situations.

Senator LUDWIG—Others at the table want to ask some questions, so I might put on hold as to whether we will pursue further questions in respect of that issue, perhaps on notice, or whether you want to take the opportunity to clarify it all and provide an overview at some stage.

Senator Vanstone—I do not think it will be long before the Ombudsman releases his report. I do not want to get into a game with the Ombudsman where we say quite a bit about a case before he puts out his report, even though I have said as much as I had to in response to a direct question and as little as I could.

Senator LUDWIG—The difficulty is that it is now out there.

Senator Vanstone—It is not that it is out there now; it has been out there for a long time that there were 200-and-something cases. It has been out there for a long time, I think either through estimates or the other Senate inquiry, the proportion of people within the group—

Senator LUDWIG—I am specifically talking about this particular case.

Senator Vanstone—who could have been detained for various periods of time. It has been classified that way. I think the Ombudsman's appearance before the Senate committee or joint committee canvassed a lot of the detail. The only thing that is new is that I have said with respect to one of the cases that I think it is tragic.

Senator LUDWIG—Many of them would be tragic, I suspect.

Senator Vanstone—I equally agree. I suspect there will be others. I am not prepared to say there will be many but there will be others. I think it is tragic whenever it happens, but this particular case, from the limited amount of information I have about it, is a very tragic case in a personal sense.

Senator LUDWIG—I might come back to that one, Chair. I can share the questions around at this point in time, and I might come back as to whether we want to explore that a little further.

CHAIR—Thank you, Senator Ludwig. We are in 1.3. I have questions identified from Senator Bartlett and Senator Nettle, and I think you, Senator Crossin.

Senator CROSSIN—I am happy to put mine on notice.

CHAIR—In relation to 1.4 and 1.5—Safe haven and Offshore asylum seeker management—there are usually more in 1.5 than 1.4.

Senator NETTLE—I do not have any for 1.4.

CHAIR—Indeed. What about for 1.5?

Senator BARTLETT—I have questions for 1.5.

CHAIR—As you always do consistently, Senator Bartlett. So there is not a great deal there. It depends on both you and Senator Ludwig.

Senator LUDWIG—I will put the rest of mine on notice.

CHAIR—In 1.5?

Senator LUDWIG—Right through.

CHAIR—That would indicate to me that if we continue in 1.3 now we probably have at least another hour in this outcome, I would have thought. I am sorry to be thinking about loud, for those officers who are indulging us in this, but at least we will have some idea of where we are going.

Senator CROSSIN—We will see how we go. I might ask my questions, if I could have some time.

CHAIR—We will start with Senator Nettle. Then we will see what Senator Crossin wants to do and come back to Senator Bartlett.

Senator NETTLE—Just while we are still on the 220 cases, were any of those additional 27 that have been referred Australian citizens? Do any of them have issues related to mental health?

Mr Correll—While Mr Mann is going to the information, I can report back on some information from earlier this morning that was requested by Senator Nettle. In relation to the discussion about the passport scanning project—

Senator NETTLE—That was Senator Ludwig.

Mr Correll—there was a question raised about the cost of the pilot project. The cost was \$143,000 for the pilot. It was concluded on 15 December and it is now being examined in terms of longer term implementation issues.

Mr Mann—The question was: of the additional 27 cases, were any Australian citizens and did they have mental health issues? I just want to preface my answer by saying that the department has started its own review of the 220 cases. We think we need to understand what is in those cases and also be in a position to remedy any particular case. We started with those cases. We have had an initial look at these 27. I just wish to qualify any comments, given that we have not done an exhaustive analysis of the 27. The group does contain, from a quick look, at least one citizen, who was detained for two days because of confusion over identity. As to mental health issues, we have not undertaken a sufficient review of each case to answer that question. Once we have completed the case summaries, we would be in a position to perhaps give that information.

Senator NETTLE—I have some follow-up questions from the Senate inquiry. In answer to a question on notice that I asked about internet use by detainees, the department indicated that they had recently decided to make internet access available in immigration detention facilities, are preparing to install the appropriate hardware and are in the process of developing relevant policies. Is there an update on that?

Ms O’Connell—We are about to conduct a pilot of that internet use in one of the centres where the facility is being made available. As of last week, that access was not yet available but it will shortly be available.

Senator NETTLE—Which facility is the pilot to be conducted in?

Ms O’Connell—My understanding is that it is Maribyrnong, but I will have that clarified.

Senator NETTLE—What is the time frame for the start of it?

Ms O’Connell—I will come back to you on that as well.

Senator NETTLE—Okay. Could you could come back to me on that for both the pilot and the rollout to other facilities, because presumably there will be two different dates for those.

In your answers to questions on notice that were lodged at the last estimates, there were figures about the amount of time spent in isolation units, or management units. It was indicated on the table provided that there was one detainee who had spent a total of 76 days—that is, over 10 weeks—in the isolation unit at Villawood detention centre. Do you have anyone here who might be able to explain that? It stood out because it was a particularly long time. Can somebody explain how that came to be the case, or the circumstances in which somebody would find themselves spending nearly three months in an isolation unit?

Ms O’Connell—My understanding of that case is that it was not continuous days. There were a couple of different periods in which that person was in the management unit facility. Largely they were there as part of observation in terms of medical advice for them to be in that facility. We acknowledge that, in providing a facility for detainees who are under medical observation, there ought to be better facilities than use of the management unit. Subsequent to that, we have reissued our advice on the use of the management units and said that they are not to be used for medical observation and that other facilities are more appropriate for doing that. I think at the last hearings I provided the updated and new operating procedures for use of those management units that make that clear.

Senator NETTLE—Is it correct that that person whilst in that unit—and I understand that you are saying it was for medical reasons—was not able to see their regular psychiatrist?

Ms O’Connell—No. My understanding is that they were able to see certainly a psychiatrist, yes. Mental health services were provided to them.

Senator NETTLE—Did they receive their visits in the management unit?

Ms O’Connell—I would have to take that on notice and get back to you.

Senator NETTLE—I go now to the most recent Ombudsman’s report in relation to section 501 cases, in particular to recommendation 7 of that report. That is the recommendation that was not accepted by the government. In response to a question that I put on notice at the end

of last year about the issue of using section 201 or section 501, the answer provided by the department said:

The deportation provisions of section 200 are not used now as the department's view is that they were effectively superseded in 1999 by the strengthened character provisions in section 501.

I want to check if that is still the case, because when I look at the DIMA response to that particular recommendation in the report, it refers back to the earlier review. When I go back and look at the terms of reference of the review, I see that they all specifically relate to section 501. That does not read to me—and I could be wrong—that you are also looking at the issue of section 200 as opposed to section 501.

Mr Metcalfe—Could I clarify when the earlier departmental advice was?

Senator NETTLE—The date on it is 11 October 2005.

Mr Metcalfe—Our response to recommendation 7 of the Ombudsman's report does not seek to go to where you have possibly gone. We simply point out that that is a policy issue for government. My response was that the minister has asked us to review section 501. That work is under way. The issue of the recommendation from the Ombudsman, which goes to the interaction of sections 501 and 200-01, is an issue for government, and therefore it is not appropriate for me to respond to that matter.

Senator NETTLE—I am just not clear. You say this is a matter for government, but the sentence under that says it is part of the review. Is that incorrect? When I read the terms of reference of the review, it is all about 501. There is nothing about section 201.

Mr Metcalfe—That is correct. The second sentence says it is a matter for government as to whether it wishes to undertake a full review of this issue. I think that is harking back to the issue raised by the Ombudsman—that is, the interaction between sections 501 and 201.

Senator NETTLE—So there is no review being done of that interaction; there is simply a review of 501?

Mr Metcalfe—There is a review under way of section 501 within the department. It is a matter for government as to whether it would want to look at the use of sections 201 and 501, and so we did not respond, because it was not appropriate for us to respond on that matter.

Senator NETTLE—Is it correct that the current department position is as indicated in this answer to a question on notice, which says that they no longer use section 200, because it was superseded by section 501? Is that an accurate reflection?

Mr Metcalfe—I was interested in that, because I am sure that answer was fully and carefully researched. 'Superseded' can imply a number of things. Without wanting to chance my arm too much on a legal opinion, I think the fact that both sections still sit in the legislation means that there is a potential role for both sections. The word 'superseded' thus means superseded in an administrative sense. Section 501 is now the section that provides full powers in this area and therefore is used, and it would be a matter for government as to whether it wished to vary that situation.

Senator NETTLE—In case you were trying to find the date, it was asked at the Senate inquiry into migration, so it will not be in the estimates.

Mr Metcalfe—I think ‘superseded’ would have been used in a non-legal sense and in terms of administrative practice. Ultimately, the powers sit in the legislation and it is a matter for the government as to whether ministers wish to exercise powers under section 201 or section 501 or, indeed, to delegate those powers to others.

Senator NETTLE—I was looking for the comment by the Federal Court that says that section 501 should not be used to circumvent the limitations of section 201. Perhaps that fits with your answer that you are not sure whether it is for legal reasons that that remains unclear.

Last estimates I was asking about the Nystrom cases. In response to one of the questions you took on notice, you replied that the department was seeking legal advice about the situation. It was question on notice No. 57. I was asking about people who might be affected by the Nystrom case and which cases were being looked at. I wonder whether there is any update on that. In the answer, you say that assessments are only being done where it is necessary to determine the immigration status of the person. I wonder whether somebody can explain that to me. In the last paragraph, you say you are seeking legal advice.

Mr Mann—We received legal advice pending the outcome of the Nystrom appeal. The department was not obliged to take any steps to identify and try and redress any of the clients who may have been affected by the Nystrom decision who had moved offshore. We thought it was prudent to release any from detention. We sought this legal advice referred to here. The legal advice was that we are not under any obligation to take steps to identify those clients, bring them back or allow them to return.

However, we are undertaking a review—which sits well with the recommendation of the Ombudsman—of whether or not there are people whose visas have been cancelled under section 501 who would be absorbed person visa holders, and that review will go back not just three years but right to the commencement of section 501. Meanwhile, we are considering on a case-by-case basis any person who approaches the department, onshore or offshore, who believes they may have been affected by that decision. We will look at each case on its merits.

Senator NETTLE—So was the legal advice that you were seeking in relation to—

Mr Mann—The offshore group.

Senator NETTLE—Although it is a difficult question, do you know the time frame for the appeal?

Mr Mann—We are hopeful that it may be heard in the first half of this year by the High Court.

Senator NETTLE—Okay. Can you tell us when the review that you talked about is going to be completed?

Mr Mann—It could take some time to complete a review of all of the cases. We are putting together a team to undertake that work now. There is quite a workload involved, so it will take some months.

Senator NETTLE—You said you were looking at other cases when required—and I am presuming that it is as a result of legal action that you are required to look at them. They have all been looked at. The cases of Robert Jovicic and Ali Tastan have clearly been looked at, and

they relate to people who are currently offshore. It is my understanding that that is because the department was approached or because there was legal action initiated. Is that right?

Mr Mann—Yes. In two of those matters, there is legal action—in addition, the minister is considering one of those cases—because they were brought to our attention. That is correct.

Senator NETTLE—But you will not look at any other offshore cases unless there is legal action taken. Is that right?

Mr Mann—No. If anyone were to approach the department, we would look at their cases on their merits to see whether or not we believed they might be an absorbed person visa holder and subject to the Nystrom decision. If we did come to that conclusion then we would look to facilitate their return or allow them to return pending the Nystrom appeal.

Senator NETTLE—Can you give us any updates on those two cases—Robert Jovicic and Ali Tastan?

Mr Mann—Given the fact that they are the subject of court proceedings, I would prefer not to get into any detail in those cases.

Senator NETTLE—I do not want to touch on the court cases; I am interested in what the department is doing. I am not sure if that is separate or related.

Mr Mann—In relation to Mr Tastan, we are certainly working with the family to facilitate his return. In the meantime, we are providing his father with accommodation and support. There are issues around how the return of Mr Tastan may be arranged, given his current condition, and we are working with his family to cooperate with them as they go through that process. In relation to Mr Jovicic, he is receiving some compassionate assistance through the post in Belgrade, and the minister is currently considering his case as well as his pursuit of the matter before the Federal Court.

Senator NETTLE—Could you take on notice, unless you know the answer now, the amount of money that has been spent on each of those cases to date, particularly the compassionate care for Mr Jovicic.

Senator Vanstone—Perhaps the officers might be able to advise me. I have not sought a recent update on Mr Jovicic. Has he applied for citizenship yet—since we have established that we do not believe he is stateless and that he could apply for citizenship?

Mr Mann—No, not to my knowledge, Minister.

Mr Correll—Not to my knowledge, no.

Mr Mann—The breakdown of costs for Mr Tastan to date, as at 8 February, was \$2,786. The breakdown of costs for Mr Jovicic, as at the same date, was \$9,790.

Senator NETTLE—Thanks. There was just one other thing in the answer to that question on notice that we were talking about before. Towards the end of that second paragraph, you say, ‘In a small number of cases, action is being commenced to consider whether to cancel the visa under section 501.’ Can you explain that to me?

Mr Mann—Yes. The effect of the Nystrom decision was to put in doubt the cancellation decision. However, if it is the case that they still hold a visa, there is nothing preventing a new cancellation decision being taken. Where cases emerge that involve serious criminal conduct,

it is open to the department or the minister to initiate a cancellation of that absorbed person visa.

Senator NETTLE—How would that cancellation be done in such a way as to not again fall into the category of the Nystrom decision?

Mr Mann—My understanding is that the issue was that the absorbed person visa was not consciously considered as part of the cancellation decision. So that can be remedied by ensuring that we ascertain all visas held by the person, consider each one and ensure that they are individually decided to be cancelled.

Senator NETTLE—I understand there is a case of a German man who arrived here when he was 12 years old. He has recently had both his permanent residency and his absorbed person visa cancelled. Is it the department's intention to deal with both the ones you just mentioned and the one that I am aware of in that way? Because the Nystrom decision said that you did not do it properly that time, now the intention is to cancel both the absorbed and any other permanent residency visa that they have?

Mr Mann—I think it would be fair to say that we are taking a cautious approach pending the outcome of the Nystrom appeal, but in individual cases where we believe serious criminal conduct is involved, that is the process that we will consider meanwhile.

Senator NETTLE—By taking a cautious approach do you mean cancelling both just in case the court sticks to Nystrom?

Mr Mann—No, we are not routinely recancelling every person we believe to be Nystrom affected pending the outcome of Nystrom.

Senator NETTLE—My understanding is that this individual is not somebody who was Nystrom affected; their case is a subsequent one which has come up, and it appears that there is a different approach now to dealing with people who—

Mr Metcalfe—I think the answer, Senator, is belt and braces. That is what Mr Mann is saying. It may well be that in the High Court the government are successful, but to avoid any doubt, action has been taken to cancel both visas rather than simply the one.

Mr Mann—So with new cases we will ascertain whether we believe that person may be affected by the Nystrom decision or whether it is an absorbed person visa and make sure that the decision making now takes that into account.

Senator NETTLE—Clearly, you have received some legal advice to suggest that that fits with the spirit of it. To me, that sounds like it would go against the spirit of what was in the ruling of the Federal Court. These people have been in Australia all their lives; they are aliens by only the barest of threads—I think that was the language that the judge used. Presumably you have received legal advice that says this is all right?

Mr Mann—There were comments made through the course of the judgment. However, the decision itself was on the basis that we had not considered whether or not the person was an absorbed person visa case.

Mr Metcalfe—These balancing issues are obviously a balance between the individual and their family and the issue of whether they should be able to remain in Australia and the safety

of the Australian community. We are usually talking about serial, major criminals. Those matters are properly the subject of decisions by ministers, senior officials or the Administrative Appeals Tribunal. Ultimately, there is an issue of balance between the convenience of the community in relation to being relieved of a criminal as opposed to the rights or expectations that a person may obtain, having lived in Australia from a very early age. These, of course, are difficult issues to balance.

Senator NETTLE—In the Ombudsman's report, there is a case referred to on pages 26 and 27, at 3.42, as Mr SVT, somebody who came to Australia at age 11 as a refugee and has subsequently had a visa cancelled on character grounds. Is everyone that is looked at in this report potentially affected by the Nystrom decision, or only some of them? I do not know the details of the case but he came here at age 11 as a refugee and now has had a visa cancelled. Is that a Nystrom affected case or not? Maybe they all are.

Mr Metcalfe—The absorbed person visa is quite a specific provision in relation to a person's migration or alien status prior to a certain period of time. This report, of course, is about section 501 generally and so it may be applicable to a person who arrived here quite recently and has committed a serious offence. But equally it could apply to someone who has been here since they were a child. Young people, of course, may have arrived here subsequent to the concept of the absorbed person visa and been absorbed into the Australian community. That concept, which came in, from memory, in the Migration Reform Act of 1994, reflected old constitutional principles relating to the aliens power and the migration power. But the short answer is that this report is about section 501 and its administration. A subset of those people will be subject to the absorbed person provisions in Nystrom.

Senator NETTLE—Do you know whether that case is?

Mr Mann—I do not have the reference to that case before me. We have reviewed all of the cases that were reviewed by the Ombudsman.

Mr Metcalfe—Could we perhaps spend a little time this evening and locate that and come back to that one?

Senator NETTLE—Do you know which one I am referring to in the Ombudsman's report?

Mr Mann—No.

Senator NETTLE—It is on page 26 of the Ombudsman's report.

Mr Metcalfe—Mr SVT in paragraph 3.42?

Senator NETTLE—That is right.

Mr Metcalfe—We will check on that.

Senator NETTLE—It was my understanding that it was somebody who is still in detention, which is why I am wondering if Nystrom comes into effect there. Following on from the Vivian Solon report, is there any update on the investigation of the DIMIA officers in relation to the Public Service Act?

Mr Metcalfe—The action is currently on foot. I do not think I can provide any further detail in relation to when it might be complete.

Senator NETTLE—What is on foot?

Mr Metcalfe—The inquiry is on foot. You would be aware, I think, that one of the three persons identified retired from the department in the week before the report, thus there is no issue as far as Public Service employment is concerned. In relation to the other issues, my delegate has referred the matter to an external inquiry officer, who is in the process of undertaking the review and will make recommendations in due course.

Senator NETTLE—When was that referred? I am just trying to get an idea of the time frame. It seems to me like a long time ago but perhaps—

Mr Metcalfe—Yes, it was. These processes do take time and I know that can be frustrating to all concerned. But I need to be careful, given the potential for me to ultimately have to make decisions in relation to the matter, and certainly senior officers here are delegates of mine in relation to this matter and therefore it is not appropriate for them to talk about it. We are certainly keen for the inquiries to be completed as soon as possible. It is really an issue for the external inquiry officer to determine how the investigation should be managed and to ensure that there is fairness to all concerned, but these are serious issues and we are determined that they will be dealt with properly.

Mr Mann—I have located that case study that you were describing and, from the information available to me, know that that person is not Nystrom affected. The person is currently in detention. We have put ‘but is currently under consideration to see whether or not that should continue’.

Senator NETTLE—Can you explain to me why they are not affected by the Nystrom decision?

Mr Mann—Without the full facts of that case before me, I cannot. However, basically a person would have needed to be in Australia pre 1994 and not have left the country in the intervening period. There are a number of technical reasons why that person may no longer hold an absorbed person visa.

Senator NETTLE—My understanding of this case is that the person arrived in 1982. I do not know if they had been overseas. I accept that they may well have been. They came to the attention of DIMIA when they walked into a DIMIA office to ask for a resident return visa, which they were granted. At the same time, they were also issued with a notice of intention to cancel their permanent visa. It just strikes me that the way that DIMIA found out about this guy was that he walked into the office to do the right process, and that was granted to him but, at the same time, something else was issued against him. If you can come back to me with more information, that would be good.

Mr Correll—To answer your question with 100 per cent confidence, we have to have the full details of the case in front of us. We are happy to see if we can do that offline and be able to respond later to your question.

Senator NETTLE—No worries. I have a couple more questions which relate to residence determinations. If these need to go on notice, that is fine. How many people are currently on residence determination?

Ms O'Connell—The stats are as at 3 February. At that time, there were 101 people on residence determination.

Senator NETTLE—Have there been any instances of people absconding on a residence determination?

Ms O'Connell—No.

Senator NETTLE—Do you know the difference in cost between holding someone in an immigration detention facility and a residence determination?

Ms O'Connell—I do not have those figures with me. I am happy to provide them on notice.

Senator NETTLE—That would be good. Can you provide a figure for how much DIMA has paid to agencies assisting with residence determinations?

Ms O'Connell—Okay. We will provide that on notice as well.

Senator NETTLE—On the AusTender website, a contract was reported by DIMA with Glenside at Baxter. It is a contract for \$1.8 million. The date for the contract is 25 November 2005 through to 30 June of this year. Can anyone explain to me what that is, because we have had these conversations before about how you pay for people at Glenside. I thought it was based on the individuals and who was there, so when I saw a contract into the future, I wondered what that was.

Ms O'Connell—Certainly. I will seek assistance from our health expert on that. Glenside is a health facility in Adelaide.

Mr Metcalfe—You said it was at Baxter, but it is in Adelaide, not Port Augusta.

Senator NETTLE—Sorry, I know that.

Mr Casey—The procurement that is advertised is that we have agreed to make provision for the Glenside Hospital to have a purpose-specific unit which we pay the costs of running.

Senator NETTLE—Okay. I know I have asked questions before about Brentwood. At previous estimates there were a number of people in that facility. I asked whether you were paying for that wing. The answer was no, but am I right in assuming that you have now moved to a situation where you have decided to buy a wing of the psychiatric hospital?

Mr Casey—This special unit that was established last year is paid for as a fixed cost. For detainees who are accommodated elsewhere in wards in Glenside Hospital, that is charged on a bed-day cost. This is a specific unit. On occasions, people will not be in that unit. Their clinical needs may require them to be transferred from that unit to another unit on the campus.

Senator NETTLE—How many beds are in the unit that you are paying for?

Mr Casey—I think that the unit accommodates between eight and 10.

Senator NETTLE—Do you know how many are in there now?

Mr Casey—I think we have 11 in care at Glenside. I am not sure if all of them are in that special-stay unit.

Senator NETTLE—I suppose it is hard to compare. Is there a difference between how you have been doing it to date whereby you are paying per detainee per bed and buying the unit? Is it cheaper to buy a unit than pay per detainee, or is that not a comparison you are able to make?

Mr Casey—I do not think it is a consideration of cost. It is really a consideration of what is the most appropriate setting for a group of people who have something in common. I think it was on that basis that a decision was made last year in conjunction with Queensland Health to establish this unit. There is also as part of that unit structure a two-bed flat—or apartment, if you could call it that—which is on the campus and also has been used for some of the residents who are not in the ward unit but have gone into this two-bedded, more self-contained flat and are looking after themselves more.

Senator NETTLE—Having spent \$1.8 million on your unit, is there an expectation that there will be ongoing serious mental health needs faced by detainees at Baxter?

Mr Casey—There is a commitment to review this unit. In our recent discussions with the medical director at Glenside in late December it was agreed that we will review whether maintaining that unit in the longer term is the most appropriate activity.

Senator NETTLE—When is that review to take place?

Mr Casey—The initial agreement said that it would be reviewed within six months of commencement. I think that the unit commenced formally in September, so we will be due for reviewing that in the next month or two.

Senator NETTLE—In the past, it is my understanding that the cost of some transfers to health services outside the detention centre has been covered by GSL—I do not know if you dock payments or how it works—or by you. How does that work with this new facility?

Mr Casey—Fundamentally, the agreement with GSL is that any hospital in-patient care that goes beyond one day will be out of the scope of their contracted obligations to provide health services. So the costs for anybody who goes into a hospital facility for more than one day are outside of the scope.

Senator NETTLE—Those were my questions in that area.

CHAIR—In 1.3?

Senator NETTLE—I have two other ones that I need to check. Do operating costs for Nauru come under this output or output 1.5?

Mr Correll—That would be in 1.5, I think.

CHAIR—1.5, offshore.

Senator NETTLE—There was one other border control question. I also have one about the immigration training college. Are those officers here?

Mr Metcalfe—We are here.

Senator NETTLE—You said in your opening statement we are looking at mid next year for that. It may be too early, but I am thinking about how we are going with curriculum, the number of staff, the number of trainers or teachers and those sorts of questions.

Ms McGregor—The mid-year commencement is correct. We are at the moment on track for our delivery schedule. The framework has been developed and we are at the moment undertaking a tender process to engage a partner who would assist with the course material design and delivery. We are hoping that provider will be selected around mid-May. We have appointed the national training manager, which the secretary described earlier. That is the process to date.

Senator NETTLE—In one of the opening statements you, Mr Metcalfe, I think it was, indicated that some of the training had begun—perhaps it was in the Ombudsman’s report—in compliance and detention—

Mr Metcalfe—That is correct.

Senator NETTLE—and that that would become one of the training things. Can you tell me what training has been done so far for compliance and detention and perhaps also how that training differs from what they might have received prior to Palmer or Comrie?

Mr Mann—We had some priority areas that we wanted all compliance officers to be retrained in, if you like—have a refresher in. They included the reasonable suspicion requirements for detention; identity investigations; and the impact of emerging court cases or legal issues on case management. We also wanted to make sure that we refreshed our search warrant training for people who issue search warrants. We have so far trained 339 people. So 252 compliance officers out of 255 have had that refresher training and we have also had, I think, 33 delegates trained, which are all of the delegates issuing search warrants. There is one other area for which we are just waiting for some systems to be improved, which is around the access, use and interrogation of DIMA systems. This was to improve our searching capacity. We are just awaiting the deployment of those systems; then we will be rolling that training out in the very near future.

In addition to that, we have made it mandatory that all compliance people have compliance training before they enter into field operations. Since we last spoke at Senate estimates, 54 people have gone through that module 1 training, which forms part of an accreditation framework of training. So all of the people on that one-week course have gone through written tests. Their team leaders and supervisors have looked at those tests and a very small number of people have been identified who needed to be coached and retrained. So that process is not just one of going off and doing the course and going on with the job; it involves an assessment process and a confirmation by managers that they believe that person is up to the task, given their results. So 339 staff in those three tiers of training have been progressed so far. That training also encapsulates the new migration series instructions that we have been reviewing around some of those key areas as well to make sure that that training addresses the issues—

Senator NETTLE—Reasonable suspicion.

Mr Mann—Correct, and investigations into identity techniques and those sorts of things to make sure that we have addressed the issues raised in the Palmer and Comrie reports. So the people who have been preparing that work are now working with, if you like, a curriculum board for the college to look at how we will build these components into the college framework for an early start in the next financial year.

Ms O'Connell—Senator, you asked about the detention side as well, if I could update that. Significantly on the detention side, the Palmer recommendations included the identification of mental health issues as a training issue. We have done a pilot of that. You asked earlier, I think, for the training material, which we will provide to you on that. In addition to that, Palmer identified the need for cultural awareness training, and a pilot has been developed for that cultural awareness training, which will take place on 16 and 17 February for DIMA detention staff and compliance staff, and GSL staff.

Senator NETTLE—Was that at all detention centres? My recollection was that that was just for Villawood for the mental health—

Ms O'Connell—The identification of mental health issues was piloted at Villawood but it will be rolled out, subject to the success of that pilot, at all detention centres. The pilot did take place at Villawood. So, yes, that was the pilot.

Senator NETTLE—You just mentioned a date in mid-February.

Ms O'Connell—That is for the cultural awareness training pilot. The identifying mental health issues pilot was done in December at Villawood. So the cultural awareness training pilot will be on in mid-February. The other activity in terms of detention training has been to review the detention managers training package and also to look at a new modular framework, which is the sort of framework that would be developed and delivered through the training college.

Senator NETTLE—For whom was the cultural awareness training?

Ms O'Connell—A mixture of DIMA detention and compliance staff, and GSL staff. It was part of the Palmer recommendations.

Senator NETTLE—That was all I had on the training college. Just on border control more generally—on notice or now—how many vessels have been detected, stopped and turned around in the last year or so? What is the latest update on that?

Mr McMahan—In 2005-06, about 1,600 people were stopped and turned around at the border.

Senator NETTLE—How many officers are currently on duty for that project?

Mr McMahan—How many staff?

Senator NETTLE—Yes.

Mr McMahan—About 160 airport staff.

Senator NETTLE—That is for turnarounds at airports?

Mr Metcalfe—Those staff are not specifically for turnarounds at airports. Those staff are our immigration inspectors, working with the Australian Customs Service to manage our operations, some of which—a very small proportion of which—relate to refusal of entry. I would not want you to go away thinking that we have 160 staff whose job it is to turn people around at airports. They do a whole range of immigration functions.

Senator NETTLE—I thought Mr McMahan said the 160 were airport staff, but was it 160 in total, of which some—

Mr Metcalfe—No, there are 160 immigration staff at airports. But you said they are there to turn people around; I am saying yes, plus a lot of other things as well. I would not want you to have the impression that that is all they do. They are there to work with customs officers to facilitate entry, sort out issues and, in a small number of cases, where people are not arriving with a visa or have obtained a visa by deception, part of the response might be to refuse entry.

Senator NETTLE—If they are the airport ones, how many staff are involved with customs, border patrol—or is that not done?

Mr Metcalfe—The Australian Customs Service has around 5,000 employees. Many of those would relate to activities at the border. At Sydney airport they would have many hundreds of people, for example. Again, they are undertaking a whole range of border security, customs security and immigration functions.

Senator NETTLE—I am thinking about unauthorised boat arrivals as well. Maybe you cannot give me a figure because DIMA people are not involved.

Mr Metcalfe—We essentially have a flexible response. At the moment, and hopefully into the future, we have only seen one or two unauthorised boat arrivals. We therefore divert staff from other activity to manage those arrivals. For example, the arrival of the vessel near Weipa involved some excellent work by our Thursday Island office staff and our Cairns office staff, working cooperatively with the Queensland Police, Customs and others. They are not waiting full time for something to happen. They are tasked, trained and ready to go if something does happen.

Senator NETTLE—The figure that you gave, Mr McMahon, of 1,600 people: was that for the last financial year?

Mr McMahon—I have the table in front of me now. It was 1,632 for 2004-05 and 1,241 for 2003-04.

Senator NETTLE—Do you have a figure so far for 2005-06?

Mr McMahon—Yes, the figure is 771 to the end of December.

Senator NETTLE—They are both airport and boat arrivals? I am trying to get a sense of how many boats are involved.

Mr McMahon—They are actually air arrivals. I think there are about 50 refusals at seaports as well. I have also found the airport staffing levels as at 31 December 2005. There were 159 people on shift and another 40 who were non-shift, so 199 people in total.

Senator NETTLE—Is there a cost for that program or is it not calculated?

Mr McMahon—We don't have it divisible in that way, no.

Senator BARTLETT—Senator Crossin asked some questions a while back about the Shaftesbury and Pinkenba detention centres. Does that mean the Pinkenba option is basically still on hold? There is no movement there?

Senator Vanstone—It means we have land there and we could put a facility there. What I indicated was that we are looking at a long-term plan that we can make in the calm light of day without lots of people arriving in an unauthorised way. One of the things we need to take into account is that we need some sort of facility in Queensland. My guess is that it would be

a transit facility rather than a large facility, but that needs to be fully looked at. We are mid-way through doing that. We have had some work done independently of the department. I think it is always quite helpful to make your own views with the experience you have of the past and then say to someone from the outside with a fresh approach, ‘What does it look like to you?’ and then to do some work going back and second-guessing your own initial assessments and then to make a decision about the long-term need. I am being perfectly open with you about what I think at this point, but I am not locked into that.

Senator BARTLETT—I am just trying to get a sense of what is happening because the possibility of Pinkenba has been floating around in the background for quite a while. I am trying to understand its current status, which is basically that it is on hold.

Senator Vanstone—I think there was a point years ago when so many people were coming—thousands and thousands over a period of four and five months—that, if that were to continue, you would obviously think, ‘What we’ve got is not enough.’ There were people saying, ‘How could you put people in tents at Curtin Air Force base?’ They had to go somewhere when they were coming unannounced and unauthorised. I might say that the people in the department who were under tremendous pressure did an excellent job in housing those people at that time. Around that time, you would look and say, ‘We’re going to need more permanent facilities.’ We can see now the benefit of offshore processing and the good work we have done in cooperation with our neighbours. The number of boats has very significantly reduced and certainly the number of unlawful boat arrivals has reduced to something that is almost negligible. That means you can now reconsider whether plans that you made at an earlier time are still valid. That is really where we are: just acknowledging that the Queensland government, by way of press release, appears to be not very interested in having any facility in Queensland. I just make the point: we do have Commonwealth land there and we can deal with what is considered appropriate.

Senator BARTLETT—I appreciate all that. Are there any plans at the moment to go ahead with tendering or anything like that?

Senator Vanstone—No.

Senator BARTLETT—Thank you. I do not think my next question has been asked before, but I may have been briefly distracted. An answer to a question on notice from last estimates advised that 30 removal pending visas had been issued as at 24 November last year. How many of those people have subsequently been removed and how many more, if any, of those visas have been issued since then?

Mr Mann—I think since the new removal pending bridging visa came into effect there have been 31 grants and one of those people has been removed. There are currently 27 people still on removal pending bridging visas.

Senator BARTLETT—If there have been 31 grants, one removed and 27 people still on them, where are the other three?

Mr Mann—They may have been resolved with another visa.

Senator Vanstone—Senator, I do not think you were here earlier when we were talking about the ambiguity of language and how it can allow people of bad faith to mislead. This

might be another example, though I do not think it is ambiguous actually. A removal pending bridging visa is pretty clear to me, yet recently I was having a quick lunch at a small Asian facility in my own state when I was introduced to someone who was on a RPBV. When I asked him how his arrangements to depart were going, he seemed somewhat shocked. I am a bit worried that some people look at the word 'visa' and put everything on that and do not bother translating the earlier words 'removal pending bridging'.

Senator BARTLETT—If it was a RPBV, they might have thought it was return pending.

Senator Vanstone—Sorry, return and removal are the same thing, in a sense—are they not? The wording of that visa should not allow you to think that you were home and hosed to stay in Australia permanently—quite the opposite. But I think some people think that the word 'visa' means everything.

Senator BARTLETT—Yes, language is always an interesting challenge. Could you, on notice if necessary, let us know, of the one who had been removed, what country that was to.

Mr Mann—Yes, I will see if I can give you that answer.

Senator BARTLETT—And also what happened to the other three—if they went on some sort of visa or back into detention or something.

I want to ask a question, which I am pretty sure comes under this section, about your war crimes screening unit. There has been a fair bit of coverage in the preceding months about the case of Mr Noori in Villawood, who I understand has now been given a permanent visa. I appreciate that a fair bit of the delay there was due to agencies outside your department, but I noted on his release that there was a comment reported from the department saying that, notwithstanding his release, allegations against him remain the subject of consideration by the department's war crime task force, which I presume is the same as the screening unit. Subject to privacy issues, I want to get a sense of what type of activities those are. Obviously those sorts of allegations were part and parcel of what was scrutinised about him for quite a long period of time. Are there outstanding allegations that need to be clarified, or does it just mean that you will always have a standing brief on anyone with those sorts of background allegations in case extra information comes to light?

Mr Mann—The war crimes screening unit was an existing area within the department that particularly focused on cases that might be of interest to the ICT, the former Yugoslavia and Rwanda. The department, in December, established a war crimes and crimes against humanity task force, which is a new team. It is particularly tasked with reviewing all of the cases of people seeking asylum where they have been excluded under 1F of the refugees convention. This is with an intention to see whether or not there is sufficient information in relation to those persons, to see whether there is any jurisdiction in Australian law or appropriateness to refer to an ICT and, if so, whether there is sufficient evidence to warrant a referral to the Australian Federal Police for possible investigation. There are 81 cases currently being screened by that unit. One case is currently being viewed with legal advice to see whether or not there are sufficient grounds to warrant a referral to the AFP. Another 10 cases have been screened and are in the process of making their way to legal advice if we believe that is required. The process has been a stocktake of all of the cases we have been able to identify of exclusions under 1F, going right back to do a case review to see whether or not there is

material that warrants referral for possible investigation. Even if we conclude that there is not sufficient information to warrant an investigation with prosecution, we will certainly make sure that the information that we have is shared with the relevant authorities.

Senator BARTLETT—To clarify that, that is a new screening unit set up in December?

Mr Mann—It is a war crimes and crimes against humanity task force, which is in addition to the current war crimes screening unit. That task force reports to an interdepartmental committee chaired by the department of immigration but with membership from the Department of the Prime Minister and Cabinet, the Department of Foreign Affairs and Trade, the Attorney-General's Department, ASIO and the Australian Federal Police.

Senator BARTLETT—And it is going back over 81 cases of people who have already got visas to double-check allegations and that sort of thing?

Mr Mann—If there is sufficient information to warrant an investigation for prosecution, then that matter will be certainly referred to the AFP. It is also tasked with developing a process for the future to ensure the timely identification of such cases and referral as well.

Senator BARTLETT—So is this going to be an ongoing task force or is it set up to do a job and then it will dissipate again?

Mr Mann—We would see that there is probably three months initial work to review the current case load. One of the things we will be looking at is to put in place that ongoing process that we have been talking about and to take the opportunity to also review the war crimes screening process that we use in countries where there may be some risk of that. It is probably important to point out that we do not believe that all of those 81 cases are likely to lead to significant issues, but we believe we should review each and every one to make sure there are no doubts left.

Senator BARTLETT—So it is partly a housekeeping type of arrangement, a double-check.

Mr Mann—I think it is important that we can demonstrate that all the allegations that have been raised through that 1F exclusion process have been carefully considered for potential referral—so it is more than housekeeping in that sense.

Senator BARTLETT—But they are cases where people have already had visas, including in some cases people who have had 1F issues raised and felt not to be substantive.

Mr Mann—Others might wish to comment, but certainly there would be cases in there where they perhaps were refused a visa and did not enter the country as well.

Mr Illingworth—The individuals that are being examined have received a range of visa outcomes. It should not be assumed that they were all granted visas. Of the 81 individuals, 79 were refused visas by the department on the basis of article 1F exclusion, and they have received since then a number of different outcomes, depending on whether the original refusal decision was upheld at merits review or in judicial review. Then there are two other individuals. One received a refusal on a similar part of the refugees convention—article 33.2, which relates to serious criminal activity or national security issues. The other person has had a visa cancelled under domestic legislation. So they have a range of different subsequent visa outcomes but the starting criteria are for primary visa refusal or cancellation.

Senator BARTLETT—I am just trying to nail it down, because, quite understandably, anytime anyone mentions war crimes people's ears prick up and it makes for a good headline. I do not want to inadvertently generate a perception that there is a huge chunk of war criminals here that we have supposedly or allegedly let slip through the net. I know there were a couple of media reports, I think in the Fairfax press, towards the end of last year around this sort of allegation. Was this task force set up specifically in response to that or was it on its way to being set up anyway?

Mr Mann—I think it would be fair to say that the minister asked for details as to what we had in operation in this area and that a review of departmental approaches suggested that it was timely for us to put in place such a task force.

Senator BARTLETT—So it is in part to review those cases and in part to just reassess procedures for the future. Is that about right?

Mr Mann—Yes.

Senator BARTLETT—I should point out I made a couple of speeches to the Senate firmly defending your procedures in this area, in the sense that I think those articles were suggesting there was some major flaw, when the fact was that people had got visas on the basis of going to the AAT, which showed the process working as it should, with an independent assessment. That is the context I am raising this from. Getting back to the original case I mentioned: given that in his case he had just been given a visa after quite a long period of time, with two AAT hearings and various court hearings as well clearing him of allegations, why is this still before the task force? Is it just because it is one of the 81 and you have not finalised procedures yet?

Mr White—What I can say is that, because 81 cases are being reviewed, with the possibility that they may end up being referred to the Australian Federal Police for investigation, we consider that to be an operational issue and we would not want to declare in the public arena what the Australian Federal Police may or may not wish to do. What I can say is that, in relation to the process we are going through with the 81 cases, it is a clear example of the quality assurance processes that are being introduced within the department. In relation to a number of the cases, we have identified as we have gone through departmental records that some of those matters are the subject of up to 30 different files. We want to ensure that the information that we will pass to other agencies, including the Australian Federal Police, is quite detailed and adequately articulates the information holdings the department has. So we are going through an extensive quality assurance process making sure that all information held by the department is collated into one product and then referred through to the relevant agencies.

Senator BARTLETT—Do the 81 people get informed of this along the way? Or would they only need to be informed if it went across to the AFP and there was some actual legal action being considered?

Mr White—Because there is a possibility that the people subject to this process will be investigated for matters that are contrary to Australian legislation—that is, the extra-territorial application of laws—it is not appropriate to advise people that they may be the subject of a criminal investigation by an Australian law enforcement agency; hence the reason we would

not want to go into the operational details of individual people who are the subject of the task force.

Senator BARTLETT—Was this task force announced in any way?

Mr White—I do not believe it was announced.

Senator BARTLETT—Going back to your previous comment, the reason I was asking about it was a comment that was reported in the media in relation to this individual. I suppose the question that comes to mind there is how appropriate it is for a person's name to be put out in the public arena as being investigated for these sorts of things, not least just after they have finally got out of the other end of a less than ideal process, whoever's fault that may have been. How does that gel with what you have just said?

Mr White—I will go back to the records and confirm that there was not a public announcement. Certainly the process of the task force has been not to mention individual names that are subject to this process. We have gone into great detail with the Australian Federal Police about the process the department will follow with the referral. Certainly it is the Australian Federal Police's view as well that they would prefer no mention now that a matter is being reviewed by the task force.

Senator BARTLETT—I can send you the quote that I have in front of me from AAP from 1 February mentioning his name.

Mr Mann—To the extent that there had been a 1F exclusion in the migration history of that person then they would be at least part of the case review of this union, but we would not want to comment beyond that.

Senator Vanstone—Is there a journalist's by-line on that story?

Senator BARTLETT—It is from AAP; it is the usual jumble of initials at the bottom but it is a direct quote from an unnamed immigration department spokesman.

Senator Vanstone—Could you give us the paper you got it from?

Senator BARTLETT—It was on the AAP wire.

Senator Vanstone—From what date?

Senator BARTLETT—The first of February, 5.36. But it specifically has his name and says he remains the subject of consideration by the task force. It does raise that concern about him being flagged in that way. I might leave it there otherwise I will flag it even further. One more area: the migration agents integrity measures. I think that area is in 1.3 as well—is that right?

Mr Rizvi—Yes.

Senator BARTLETT—I want to get a progress report on how that is going. I have heard you talk a few times about positive progress in identifying a microscopic number of undesirable, misbehaving migration agents. Your annual report mentioned six agents showing the prescribed level of vexatious activity, with one issued a show cause notice. Could you tell us what the outcome was with the show cause person, and also whether there have been any more vexatious alarms going off and any more show cause notices given?

Mr Rizvi—I might have to take on notice the details of the numbers currently falling within the thresholds of the new act. As you will recall, prior to the act change being introduced there was something in the order of 90 agents falling within that threshold and, in particular, the bulk of them had an almost 100 per cent failure rate with the protection visa applications that they were lodging. Since that time the MARA has, I think, acted against almost all of the top 10 of those agents which has led to either them leaving the industry, being suspended or not having their registration renewed. The number of agents that fall within that area now is, as you mentioned, a very small number. I cannot recall precisely what happened with the case where the show cause letter was issued. If I could take that on notice I can get you more details on where that range of cases is up to.

Senator BARTLETT—Right. So the general picture you are painting is that, both leading up to and now with the implementation of integrity measures in a legislative framework, the areas of concern—or the behaviours of concern—have been pretty much honed down to a very small number.

Mr Rizvi—It is certainly true that the number of agents lodging such applications has declined quite dramatically. It is also true that, as I mentioned, a significant number of those agents have been sanctioned. At the same time there has been a significant decline in the number of community based protection visa applications. What we are starting to see, however, is perhaps a few agents now lodging—or apparently being associated with—protection visa applications and who are not declaring their involvement in order to avoid the sanctions associated with the integrity measures bill. We are monitoring that very closely to see what actions we might be able to take where agents appear to be involved but are not declaring their involvement directly to us.

Senator BARTLETT—How does that work? Are they getting someone else to be the front person, agent or whatever for them?

Mr Rizvi—Someone else lodges the application with us or they could simply mail it to us. An agent is not specifically declared but we can see from the characteristics of the application, or indeed perhaps from the justices of the peace that might be involved in certifying some of the documents, that there are some very familiar names in those applications.

Senator BARTLETT—Do they tend to focus around community based protection act applications?

Mr Rizvi—That is correct.

Senator BARTLETT—Is there ongoing work examining that particular thread of activity?

Mr Rizvi—There have been some positive outcomes in that many of the agents have stopped the previous behaviour, but there are other agents in that group who are now looking to continue their business in some other way.

Senator BARTLETT—We will follow that up at a later date and see how you go.

CHAIR—I think that completes 1.3 because Senator Crossin and Senator Ludwig indicated they would put some questions on notice to the department.

Senator NETTLE—Chair, I have a few more questions.

CHAIR—Could I prevail upon you to put them on notice?

Senator NETTLE—Yes.

[4.10 pm]

CHAIR—We now turn to output group 1.4—Safe haven.

Senator BARTLETT—I would like a progress report—confirmation that there have not been any new safe haven visas issued since last time. Could I have confirmation of the current status—whether there are any remaining.

Mr Hughes—Currently there are no subclass 449 safe haven visas but there are a small number of subclass 786 temporary humanitarian visa holders. The most significant addition to that group were 12 of the nonrefugees who were brought from Nauru late last year, who received the subclass 786 visas for two years. So the addition of those 12 brings the number of subclass 786 visa holders to 33.

Senator BARTLETT—Do they come under this output?

Mr Hughes—Yes, because the subclass 786 was created as a visa that could be given after a 449 safe haven visa. The major move out of safe haven visas last year, as you would be aware, involved the Ambonese group, who had been on them for many years, and who subsequently applied for and received protection visas.

Senator BARTLETT—They all went onto that as a group. They were permanent protection visas?

Mr Hughes—Yes.

Senator BARTLETT—It was not as a group; each of them—

Mr Hughes—Yes, there were 14 of them individually.

[4.12 pm]

CHAIR—We now turn to output group 1.5—Offshore asylum seeker management.

Senator NETTLE—I have some update questions. How much is it currently costing to keep the Nauru facility? Last time we got a per month figure but give it however you want to.

Mr McMahan—It is a bit difficult talking about the costs in the sense that they are changing. We are transitioning from something to something else. In the first six months of the year, we spent \$15.7 million. We would expect it to be less than that for the second half of the year. Some of the costs are a bit uneven. We are certainly figuring that the costs will be substantially less by the end of this financial year.

Senator NETTLE—During the first six months, with the \$15.7 million figure, how many detainees were left at that point?

Mr McMahan—It varied. There are two people in the offshore centres there at the moment.

Mr Okely—At 1 July 2005 there would have been 27.

Senator NETTLE—But you do not have a figure yet for the second half of last year; is that right?

Mr McMahan—No, the figure I gave you was for the first six months of this financial year.

Senator NETTLE—Oh right; sorry.

Mr McMahan—But, quite clearly—I think we have made this point before—it is a contingency centre. The costs do not vary a great deal, whether you do not have anyone in there or you have a couple of people in there.

Senator NETTLE—So the figure of \$15.7 million was for the second half of last year?

Mr McMahan—Correct, the first six months of this financial year.

Senator NETTLE—Yes, during which there were two detainees. So it was \$7½ million per detainee.

Mr Metcalfe—That is quite incorrect, Senator.

Senator NETTLE—I am just trying to get it right. I am working out what it is.

Mr Metcalfe—There were more people there until late during that period, so it is not correct to take the number and divide it by two.

Senator NETTLE—But I thought the comment was, ‘At 1 July there were two.’

Mr McMahan—Twenty-five. There were 25.

Senator NETTLE—Sorry.

Mr McMahan—Sorry, 27.

Senator NETTLE—There were 27 at 1 July. At what point were there just two? Do you know the date for that?

Mr Okely—Twenty-five of the 27 arrived in Australia on 2 November.

Senator NETTLE—Okay.

Mr McMahan—But the fundamental difficulty in doing that sort of sum is that, if there is no-one in the centre and it is still costing, how are you going to get a per unit cost?

Senator NETTLE—Yes, I accept that. You said you were expecting the cost to be less for this half of the financial year; do you have that projected or not?

Mr McMahan—No, we have not projected in detail. There are a few things that we have got to work through, and there are also some decisions that we would need to take about the level of support we would supply in contingency mode. You can vary the cost quite a bit in contingency mode, depending on how you want to handle it—for example, how much security do you have and those sorts of issues.

Senator NETTLE—So what level of security do you have at the moment at Nauru?

Mr McMahan—We are spending probably about \$500,000 a month on IOM security—sorry, it is the AFP security which is costing us about that amount of money.

Senator NETTLE—And that is on staff, is it, or staff and other things?

Mr McMahan—That is the cost of providing the security, from the perimeter outwards.

Senator NETTLE—But is that the amount for wages or is it for wages and equipment?

Mr Okely—Senator, that is what it costs AFPPS to provide the level of security we are asking for, so it would include salaries, it would include allowances, it would include travel for those people.

Senator NETTLE—Right. But it is not for fences or anything like that?

Mr Okely—No, this is a people cost—and the cost of running vehicles, the cost of providing for other services relating to those people in Nauru.

Senator NETTLE—Okay.

Mr Metcalfe—Senator, this might be an opportune time to reflect on what the minister said earlier about the costs that we would be facing if in fact the flow of arrivals that we saw in late 1999-2000 had continued. The department was the subject of significant criticism—and continues to be—about the conditions of detention when that very large number of people arrived without notice and over time. The department had to accommodate those people by sourcing demountable buildings or indeed tents and those sorts of things. So a worthwhile investment in contingency accommodation is something that I for one will always argue for. We hope it is never used, but if it is needed at least it is there and it is ready to go, rather than having to return to very unsatisfactory ways of accommodating people. I think that in any public comment on these issues that particular factor deserves to be recognised.

Senator NETTLE—Mr McMahon mentioned that there was a transfer in the way in which you saw that facility being used. What is its status now, or what is it moving towards? How would you characterise that?

Mr McMahon—We have two people who are within the confines of the centre and we are trying to essentially put them into alternative accommodation. We essentially regard the centre as in contingency mode now. What we have to do is get it into serious contingency—bring it to its absolute minimum level of cost and maintenance in such a way that it can be reactivated.

Senator NETTLE—Do you mean that you are looking for alternative accommodation for them in Nauru or in Australia?

Mr McMahon—There is some accommodation that has been looked at on Nauru itself. The government has said it would not bring them to Australia because of concerns about their security, so they will remain on Nauru until an alternative settlement option can be found for them.

Senator NETTLE—What are the alternative settlement options?

Mr McMahon—There have been some discussions with UNHCR, but there are continuing discussions with other countries about the possibility that they may be resettled there.

Mr Metcalfe—We will obviously continue to try and find durable long-term solutions, to the extent that that might be possible. But I think that it should not be forgotten that it is not a question of their security; it is a question of the security assessment in relation to these two gentlemen.

Senator NETTLE—In relation to the security assessments, are you aware of whether the detainees or their lawyers have been provided with any reasons for their adverse security assessments?

Mr Metcalfe—We can check, but that is probably a matter you would need to address to the assessing authority.

Senator NETTLE—I do not know if it is normally you or them. I am just wondering. Clearly they have been told, ‘No, you can’t come to Australia because we think you’re a security risk.’ What extra information other than that have they been provided?

Mr Metcalfe—We will check to see what material we know they may have been provided, but we may not know everything.

Senator NETTLE—Back to the ongoing negotiations for options with other countries, can you say what other countries you are looking at?

Mr Metcalfe—I do not think it would be appropriate to speculate upon the other countries. I think it is fair to say that there are no active discussions at the moment. It is a matter that we have raised with UNHCR. We would certainly be very pleased if some sort of durable solution was able to be found, but I do not think it is appropriate to mention which countries it might be.

Senator NETTLE—Sorry, I misinterpreted. You are not talking about returning them to the country they came from; you are talking about settlement elsewhere.

Mr Metcalfe—They have been found to have refugee status.

Senator NETTLE—By the UNHCR or by Australia?

Mr Metcalfe—By Australia. So it is a question of whether there is some place other than their home where they may be able to go.

Senator NETTLE—So they have been found to be refugees.

Mr Metcalfe—That is correct.

Senator NETTLE—But they will not be allowed to come to Australia.

Mr Metcalfe—They were refused a visa on the grounds that they did not pass the security assessment.

Senator NETTLE—I am just making sure I have this clear. Australia found they were refugees but Australia is refusing to have them come to Australia and is now looking for another country that will accept them as refugees even though Australia has assessed that they are refugees.

Mr Metcalfe—Australia has assessed that they are refugees. Australian authorities have indicated that a visa is not appropriate because of the security issues that the gentlemen raise. Therefore, UNHCR’s good offices have been enlisted to see whether there is some other location that may be suitable for them. But, as I have said, I would not want to overemphasise the potential for that to be successful.

Senator NETTLE—And we do not know whether they have been given any information about why they got an adverse security assessment at this stage.

Mr Metcalfe—We are checking on that.

Senator NETTLE—Does Australia provide the information on which it based them having an adverse security assessment to other countries? I am wondering—if you are in a process now of trying to find another country that will take them but you are saying they are not secure, do you do that without telling them you found they were not secure or do you tell them why you found they were not secure?

Mr Metcalfe—We would not go around saying to some other country, ‘Gee, we’ve got a couple of people who might like to come and live in your country,’ without being open in relation to the circumstances as to why they were not granted an Australian visa. What precise information might be provided would be a matter that would be the subject of a conversation between us and ASIO and that foreign government authority. It is not in our interests to, and nor would we as a matter of practice, go around not being frank and fulsome in relation to that sort of information.

Senator NETTLE—Is this a circumstance that you have had in the past? I am wondering whether you have had these circumstances before where you have found someone to be a refugee but did not take them for security reasons. Were you able to find another country that would take them? Is it something you have experienced before, or is it not something that you have experienced before?

Mr Hughes—No, the answer is no.

Senator NETTLE—It is a new phenomenon.

CHAIR—As I noted earlier, there have been questions put on notice in relation to outcome 1.

Mr Metcalfe—Would it be safe for me to suggest that offices involved in outcome 1 might be able to return to the department?

CHAIR—Definitely. Any senator who is not here now and has not asked their questions will have missed that bus.

Mr Metcalfe—We appreciate that.

[4.26 pm]

CHAIR—We will now move on to outcome 2, which is our citizenship area, broadly speaking. In relation to output group 2.1, we will start with Senator Hurley, and I am aware that Senator Bartlett also has questions in this area.

Senator HURLEY—I want to talk firstly about the national tender that was conducted in 2004-05 under the Integrated Humanitarian Settlement Strategy, for the five years following 1 October 2005. In the northern and southern metropolitan regions of Sydney, it was successfully secured by ACL Pty Ltd. As I understand it, ACL was a Sydney based consortium comprised of ACL, which was formerly known as the Australian Centre for Languages, Resolve FM and Mission Australia, with no involvement by any of the local organisations that had previously done the work. Up until that stage, ACL’s core business had been teaching English to migrants and it had no operational experience with refugee resettlement in the area.

Just three days after the announcement of the successful acquisition of the tender by ACL Pty Ltd in those Sydney areas, there was an announcement that IBT Education Ltd had acquired ACL Pty Ltd. IBT Education, obviously from its title, was also involved in education but to my knowledge had not been involved in refugee resettlement services. IBT paid a consideration of around \$55 million to acquire ACL—a fairly substantial sum. Was there any understanding by the minister or the department that ACL was about to be acquired by IBT?

Mr Vardos—The contract with ACL was signed in August and IBT's takeover of ACL occurred sometime in October. During the due diligence process that IBT conducted, the CEO of IBT and the head of ACL called on me to make me aware of the fact that they were going through a due diligence process to consider the buy-out of ACL.

Senator HURLEY—The press release at the time of the takeover said:

IBT believes that at the end of the current term of the contracts—
meaning the IHSS contracts—

ACL will be well placed to extend its reach in the 2008-2013 contract round.

Did the department give them any reason to believe that? On what grounds would they have made that assumption?

Mr Vardos—The preferred tenderers were advised on 1 June, so ACL would have known on 1 June or thereabouts that they were the preferred tenderers for the two contract regions in question. The unsuccessful tenderers were advised shortly after that, and we commenced negotiations with ACL on or about 15 June.

Senator HURLEY—So you are saying to me that it was not just the five-year contract—the five years from 2005—that ACL were notified of; it was a longer period that they were advised that they were the preferred tenderers for.

Mr Vardos—No, they were advised that they were the preferred tenderers for the tender process that we had just been through, which was the IHSS tender for five years commencing from whenever the contract was signed. That is all we were authorised to discuss with them. There was no further discussion or advice. I have just been advised that the date you are referring to relates to the AMEP contracts, which go from 2008 to 2013 and which have yet to be tendered for.

Senator HURLEY—That is exactly my point. What grounds did they have for believing that they would be successful in that contract? Was there anything from the department?

Mr Vardos—No. Whatever statements they made, they made in their own right, off their own bat. There was no indication. We have not even drawn up the requests for tender for that AMEP tender round.

Senator HURLEY—You mentioned that you had discussions with the chief executive officer. The non-executive chairman of IBT is our friend from AWB, Mr Trevor Flugge. Were there any discussions with the chairman?

Mr Vardos—No. Mr Rod Jones is the CEO of IBT. He reports to the IBT board of directors, which is headed by Mr Flugge. We deal with Helen Zimmerman, who is the head of ACL. She reports to Mr Jones, and Mr Jones then reports to the board. ACL's company

structure did not change subsequent to IBT taking over ACL, which was the indication I was given during the due diligence discussion.

Senator HURLEY—So that was discussions with the department. Did Trevor Flugge have any discussions with the then minister, Mr John Cobb?

Mr Vardos—Not that I was advised of, and I would have expected the minister to raise it with me if that had happened.

Senator HURLEY—Thank you. How much was the tender for the ACL over that five-year period in which they had been contracted? The acquisition price of \$55 million seems to suggest that there would be a reasonable rate of return for that investment in ACL. I am interested to see what made ACL so attractive to IBT.

Mr Vardos—I am able to give you the final contract price that we agreed on with ACL. It is going to be gazetted, so it is not a commercial-in-confidence figure. It came to \$27.5 million for IHSS for the five years starting October last year. What I need to clarify is for which contract region that was. I think that is for the Newcastle-Hunter area.

Senator HURLEY—They won two tenders. One was the northern metro, which includes the Newcastle-Hunter area, and the other was the southern area.

Mr Vardos—Sydney. I think that price that I mentioned—and I will clarify it—refers to the northern contract.

Senator HURLEY—So you would assume that a similar amount would apply to the southern area as well.

Mr Vardos—I should have that figure with me. I am sorry I do not, but it would be of that order.

Senator HURLEY—How many other groups tendered for that contract?

Mr Vardos—For which contract region?

Senator HURLEY—For the northern metropolitan.

Mr Vardos—I am not sure how many in total tendered, but there were four tenderers that made it past the first cut and had their tenders evaluated.

Senator HURLEY—I am interested in why very experienced not-for-profit service providers were unsuccessful in their bids. Did they not meet the criteria?

Mr Vardos—If I can explain how that process was conducted, that will shed some light on the answer. There was an initial screening of all tenders. Some were discarded because they did not meet a certain baseline. Prices were then separated from those that were to be evaluated further. Price was put to one side. There was a technical evaluation of each of the tenderers that had crossed the basic threshold to come up with a technical-worth assessment. That produced a ranking. To produce a value-for-money rating, which is part of the process, price is then brought into the equation. I cannot go into the technical worth comparison in this public forum, because I think that is probably a breach of commercial-in-confidence requirements, but ACL's technical worth was substantially higher after the evaluation than the consortium from the Newcastle area.

Senator HURLEY—Perhaps you could explain technical worth a bit more. It is my understanding that ACL had no prior experience in providing refugee settlement services; their only experience was in education and English language services. Is experience and on-the-ground expertise in that area of refugee settlement services included in technical worth?

Mr Vardos—Prior experience was one of several elements. It was important but not exclusive. The tenders were evaluated on the basis of how they presented their case for implementing IHSS from 2005 onwards under the new model that we had specified in the request for tender that was issued in September 2004. On the basis of how ACL constructed the way they would conduct their business, they turned out, after evaluation, to be at the head of the pack. The fact that they had had several years of experience of dealing with that clientele—perhaps not delivering the array of settlement services that an IHSS contractor would but definitely engaging with that cohort, that client base—put them in a very good position to understand what the needs of that clientele were. That was borne out in the way they constructed their tender.

Senator HURLEY—Was part of this evaluation of the tender an understanding of what staffing they had available and/or how they would go about filling the gaps in those staffing needs and their resources?

Mr Vardos—The request for tender had a number of requirements in it. Each criterion was evaluated by a technical evaluation panel, and the same panel evaluated each criterion across all the tenders to get consistency. It included such things as the approach that they were going to take, the relationship and management structure between the prime contractor and the consortium members, a clear delineation of the responsibilities across all of the subcontractors, the resources that they were going to put into dealing with the clientele and a number of other factors which do not instantly come to mind.

Senator HURLEY—It may not be possible to tell me exactly, but can you tell me the amount of staffing that ACL now has? Let us confine ourselves to the northern region of New South Wales. Is the staffing that ACL now has equivalent to that of the previous service provider?

Mr Vardos—We will have to take on notice to give you a comparative assessment between before and after.

Senator HURLEY—I want to deal specifically with the Newcastle area, where there have been a number of complaints. My information is that there were three full-time staff in that area in the Newcastle, Lake Macquarie and Hunter region, three full-time staff, eight bilingual casuals and more than 50 community volunteers working the equivalent of 12 full-time positions and that, subsequent to the tender being implemented and ACL taking over, there was one caseworker who works a maximum of 20 hours face to face and two part-timers who work a maximum of two hours face to face. Is that correct?

Mr Vardos—I think to give you a proper picture we will need to do the analysis that I referred to and give you a comparison assessment in terms of staffing resources. I can say on the volunteer side that there was a slow start-up. There was a resistance from the volunteers in the Newcastle area to sign up with what they considered to be a for-profit organisation.

However, my most recent advice is that 80 volunteers showed up for ACL's training day, expressing a willingness to sign up with ACL.

Senator HURLEY—Leaving aside the fact that it is nearly six months later, what about the professional staff?

Mr Vardos—The advice I have is that as at 26 January ACL had nine full-time staff in Sydney, 28 part-time casual staff in Sydney, one part-time staff member in Wollongong, three full-time staff in Newcastle, and eight part-time casual staff in Newcastle. The subcontractors that are part of the consortium each had their own staffing complements. That gives you the overview—not just of Newcastle; it covers both contract regions.

Senator HURLEY—So Newcastle now has three full-time staff and eight casuals?

Mr Vardos—That is the advice I have, Senator, as at January.

Senator HURLEY—Are those full-time hours out in the field, so to speak, or are there office hours when they are unavailable to refugees?

Mr Vardos—I cannot answer that question directly without doing some investigating. I would hazard a guess and say that it includes out-of-hours work, because people would arrive outside what you would consider to be a nine to five business period. They have to be available whenever the clients are available and have a need that they require to be addressed.

Senator HURLEY—Can you give me a list of the criteria that were used for assessing the tender? I am happy for you to take it on notice.

Mr Vardos—We can give you all of the selection criteria against which every tenderer was assessed.

Senator HURLEY—Thank you. Subsequent to that tender and the various new operators starting, what mechanism did the department have to ensure that these service providers were complying with their contractual obligations?

Mr Vardos—In early December—actually it was earlier than that—I chaired a meeting with principals from almost all of the prime contractors. Those that could not attend in person attended over the telephone. We set out our basic understanding of our expectations of them. There is a monitoring responsibility that DIMA staff have in all of our state and territory offices. So the point of liaison between this organisation and the contractors occurs at the state and territory office level. There are staff dedicated to the oversight of the IHSS contracts.

Senator HURLEY—How did they do that?

Mr Vardos—For example, they might have unannounced visits to a location to observe and make inquiries about how a contractor is performing. That happened in the case of Newcastle, when the first rumblings of discontent emerged last year. There are more formal engagements. Ms Pope can give you a fuller explanation as to the range of liaison.

Ms Pope—All service providers are required to provide regular reports to the department—at least every six months—which address their performance against output specifications and key performance indicators, along with annual audited financial statements. The provider performance is formally evaluated once a year—so we have not yet undertaken the formal evaluation of the providers thus far—subsequent to their annual report. If any

issues are evident in the annual report or the evaluation, those are taken up at that time with the service provider. In addition, service providers are also required to participate in contract management meetings with the department—these are conducted by our state office staff—routinely on a quarterly basis and more often if required. ACL attended its first contract management meeting with us in November in Sydney. A number of other meetings and conferences are provided for in the contract. I can give you those on notice if you would like details of those.

Senator HURLEY—Yes, thank you.

Ms Pope—Beyond these formal mechanisms, DIMA is in regular contact with service providers to discuss any issues that arise and to resolve them. We have had several meetings with ACL—four at senior levels and four at more operational levels since the commencement of the contract, including a meeting which Peter attended by phone while he was on leave and which I attended, along with a number of other Sydney staff and somebody from Mr Cobb's office—the minister at the time—to discuss the allegations being made in Newcastle and to set out some steps that we would take, either separately or jointly, to resolve the issues being raised.

Senator HURLEY—You keep talking about complaints in Newcastle as if that is the only region there were complaints. Is that so?

Ms Pope—Primarily, yes. There have been some issues raised around individual cases in Sydney as well, but primarily the complaints have come around Newcastle.

Senator HURLEY—So the department considers that the only issue with ACL is in Newcastle and not in Sydney?

Ms Pope—No, I would not say that. There are cases that we are working with them on in Sydney as well.

Senator HURLEY—Has the department ever sought any feedback from clients of the IHSS service providers as to the progress during that changeover period?

Mr Vardos—Not in a formal way, but our colleagues in Sydney who went to Newcastle after the initial complaints were made did, if my memory serves me correctly, engage with members of the refugee community up there. The main engagement that we are going to be having is, I think, either this weekend or the following weekend, with the Burundian community in Sydney, to be followed a week or so later by a meeting with the Burundian community in Newcastle to discuss a range of issues that they have yet to advise us of. But they indicated they include service delivery under IHSS and other related matters.

Senator HURLEY—So it is only the Burundian community that you are seeking feedback from?

Mr Vardos—In the first instance it is, because a lot of the issues are focused around the Burundian community. We did try to have a meeting on 25 January with two of the—I guess you would call them this—disaffected volunteers based in the Newcastle area, but I received notice from our Sydney colleagues the day before that meeting that they had pulled out. We have yet to reconvene that meeting.

Senator HURLEY—Was there a reason given why the volunteers pulled out of that meeting?

Mr Vardos—I understand that they wanted a legal representative to be part of the meeting, and the office of our minister at the time declined to agree to that. It was to be a discussion about the delivery of settlement services in the Newcastle area and, for it to be a free and flowing discussion, the minister's office saw no need for legal representatives to be present.

Senator HURLEY—There was no suggestion that it was because the refugees themselves were not meant to be present?

Mr Vardos—No, because when we approached the Burundian community, originally it was on the basis of—

Senator HURLEY—Let us not talk about just the Burundian community.

CHAIR—Perhaps, Senator Hurley, you might let Mr Vardos complete his answer and then you can ask another question.

Mr Vardos—Thank you. The focus was on the Burundian community because of the case of Richard Niyonsaba. We tried to organise a meeting to be inclusive of clients, the disaffected volunteers, the minister's office, me and Ms Pope and colleagues from the Sydney office, but it was the refugee community itself, the Burundian community, that did not want to participate in a meeting of that size. They said they wanted to have a separate meeting with DIMA, which is what we are in the process of organising.

Senator HURLEY—So you are saying you asked for a meeting with the disaffected Newcastle volunteers about the Richard Niyonsaba case in Sydney?

Mr Vardos—No. I guess that was the catalyst for it, but the issues to be discussed were far greater. It was to do primarily with the delivery of settlement services in the Newcastle area, because the Newcastle volunteers were using the Niyonsaba case as an indicator of what they claimed to be poor delivery of settlement services by ACL. So all of the issues merge.

Ms Pope—I just want to clarify: the volunteers approached us about this meeting; we did not directly approach them to set this meeting up. There was also involvement from a legal person who was representing a group of refugees he said were not prepared to come to the meeting in their own right. We requested details of those persons and what information might be provided to us which was not given to us, and, on the basis that that legal representative was not invited to the meeting, the volunteers decided not to pursue the meeting.

Senator HURLEY—Let us talk about some of the cases in Newcastle, then, since you seem to want to concentrate on them. I apologise, this is quite long, but it is a direct account of an event which took place in January 2005:

On 18 January 2005, the Kamanda family along with several other families were welcomed by me—this is Graham Burgess, one of the volunteers—

and other volunteers at Newcastle Airport on their arrival from Africa. A meal and welcoming function was organised at the Migrant Resource Centre and families all allocated to various volunteers, as was the general method of the first night case management and arrangements. The Kamanda family were taken to their refurbished and prepared house and given help to prepare their four children for bed. As is

the general method, my wife and I helped with the preparation of a meal and then left to allow the family privacy while settling in for the night.

At approximately 10 o'clock the same evening, we returned to ensure the family was okay and discovered the father, Nmiah Kamanda, on the street with his 15-month-old child, Maxwell, in his arms. Nmiah said his child was sick and did not know what to do. Seeing the child's condition, we immediately took them to the John Hunter Hospital for emergency medical assessment and learned Maxwell was suffering from advanced effect of malaria. Maxwell was omitted, and we volunteers remained at the hospital with the father until 5 am the following day. The doctors had advised the family that Maxwell was extremely ill and could have died that evening without immediate medical intervention.

As was the normal refugee assistance given to incoming families, the constant vigilance in this case averted a potential fatality. Maxwell is now a healthy child, and one day another valuable Australian citizen.

Given that this case was in January 2005, what involvement did ACL have in ensuring that that family received proper medical attention when they arrived?

Mr Vardos—I am not aware of the case, and neither is Ms Pope. If it was in 2005, it was under the previous contract.

Senator HURLEY—Yes. Does ACL provide the same standard of care for those who are ill when coming to Australia at the moment?

Mr Metcalfe—Can I clarify? Your original question was: 'What did ACL do in that circumstance?'

Senator HURLEY—Sorry, I was mistaken. That was in 2005.

Mr Metcalfe—The question now is: 'What would they do in similar circumstances?'

Mr Vardos—It is difficult to answer your question, surprisingly. It seems like a simple question. The services that we require of ACL are the same as the services that we require of all 20 contractors around the country. There are processes to be followed when people are ill, and the simple answer is that our expectation is that, with the volunteer network that each of the contractors has engaged, the services will be delivered. Whether ACL would have done it any differently or the same as the case that you are mentioning, I cannot answer that question. It depends on the circumstances that arise at the time. I would be speculating if I took it further than that.

Senator HURLEY—Let us go then to the case of Richard Niyonsaba, who, as I understand it, was identified as having medical problems before he arrived in Australia. I understand that an assessment was done in the refugee camp that they were living in before arrival in Australia, that there was a confirmed diagnosis when the family moved to Nairobi and that the medical information about the problems of Richard Niyonsaba was forwarded with the family when they came to Australia. Was ACL provided with that information?

Mr Vardos—ACL was provided with information about the health status of the family.

Senator HURLEY—Was the caseworker who was to meet the family on arrival, as is required under the contract, made aware of the medical problems of the family?

Ms Pope—I will answer the question, Senator. The caseworker was given a briefing before he went to the airport—around the family composition, age details and other background information—but he was not advised that he would be meeting a sick child at the airport. ACL have had a report prepared by a lawyer that they independently engaged to investigate this matter, and we have received a draft of that report which we are currently considering and which will inform our determination as to whether any further action needs to be taken on our part around that issue in relation to the management of the contract. We have also separately reported to the minister, broadly, on this case, and that report is still under consideration.

Notwithstanding the fact that the caseworker did not know that before he went to the airport, he asked the family at the airport whether anyone was sick or needed medical attention and was advised that that was not the case—that they were all tired but did not need any medical attention. The father discussed the fact that his son had been in hospital in Nairobi before they departed but that he was now well and was receiving medication, which he was taking on a routine and regular basis. He also volunteered the information that his other child had been unwell but was also fine. In addition, at the airport the caseworker took the family to eat at McDonald's and, during the family meal, he observed that Richard was interacting with his family—he had an argument with one of his brothers over the milk that they were drinking—and that basically he appeared lively and engaged in interactions with his family.

I should add that the caseworker informed Richard's father that the whole family could have an appointment with the refugee health clinic, and the father responded that the family were all well and they did not need to go to a medical centre at that time, that they were tired and they needed to sleep.

Later at the residence, when the family had settled in, the father asked the caseworker if he could identify some of their friends from Nairobi, and the caseworker said he would go and see if he could locate them, because he was familiar with some of their names. When he came back later with the four visitors, the visitors asked about the children and how their health was, because they did the pre-departure screening together in Nairobi and they knew that that family had been held back because of the screening. The parents answered that two of the children had been sick and had been in hospital and that one had had a blood transfusion but that they were all okay now. That was another discussion about medical services.

So, just to reiterate, the caseworker was not aware that the child was sick when he went to the airport, but he did ask repeatedly whether anybody needed medical treatment.

Senator HURLEY—As I understand it, part of the requirements of the contract, under the heading 'Provision of emergency medical attention and/or clothing, footwear'—and I will read it out in full—are: 'The service provider must confirm with refugees whether they have any need for immediate medical attention or emergency clothing or footwear. Any urgent medical attention is to be provided as soon as possible and within 24 hours of arrival. Requirements for clothing and footwear suitable to the climate and to the refugees' needs are also to be addressed as soon as possible and within 24 hours of arrival.' That was not followed in this case, was it? What you have said to me is that the caseworker, who was not aware of the gravity of the medical condition, sought medical advice from this child's father as to

whether he was sick, yet the requirements of the contract state that there should be urgent medical care delivered within 24 hours.

Mr Vardos—There was advice that came from Nairobi that follow-up was required, but there was not what I would call a red alert or a red flag to say that it was emergency treatment. Different action would have been taken if that had been the case. Indeed, if the child had been identified as being that sick before departure, they probably would not have been allowed to travel, again. So the instruction was ‘follow up post-arrival, within 24 hours’. I would not categorise it as emergency or urgent treatment.

Senator HURLEY—That seems to me a contradiction. You are saying that, if the child had needed follow-up care within 24 hours of arrival, he would not have been allowed to travel, yet your contract talks about urgent medical care within 24 hours of arrival.

Mr Vardos—I would characterise that as a safety net. Circumstances can change on board a flight. We have to be prepared to deal with that. But the advice that came from Nairobi, I think it would be fair to say, did not emphasise the gravity of the child’s condition. In fact, all of the initial signs post arrival were that the child was fine.

Senator HURLEY—So you are saying any urgent medical attention is to be provided as soon as possible within 24 hours of arrival only if you somehow get the message from the plane that there has been a problem on the plane.

Mr Vardos—There are two circumstances. If you know that someone is arriving who has a requirement for urgent medical treatment then you deploy action accordingly. But I repeat the earlier comment I made: if someone was that critically ill, in all likelihood they would not pass muster to fly out of Nairobi for Australia.

Senator HURLEY—What is the expected lead time? If it is not the 24 hours that is quoted in the contract conditions, what is it? When are people meant to get sick after arrival?

Mr Vardos—When are people meant to get treatment?

Senator HURLEY—Given that you were just saying they are not allowed to come to Australia if they need urgent medical attention when they arrive, what is the time that they are meant to get sick? Is it a week after they arrive?

Mr Metcalfe—I think that Mr Vardos is saying that the clause is in the contract to deal with situations where it may be needed but ordinarily we would not seek to have those circumstances occur. This particular family, as we have heard, was held back from travel in Nairobi for some weeks because of the illness of Richard, which I think evidences the fact that there was not agreement that he should travel until he was in a safe condition to do so. But you could not rule out circumstances where a person in transit became ill or particular circumstances where it was ultimately assessed that treatment in Australia would be more efficacious than treatment overseas. I would not necessarily link that clause in the contract with this particular set of circumstances but rather say it is there for whatever circumstances may apply. What we have heard here is of a family whose original departure was delayed for some weeks so that medical treatment could be provided, no indications that emergency medical treatment would be required upon arrival and, indeed, from anecdotal evidence, a young child who was presenting as quite normal upon arrival.

Senator HURLEY—Let us talk about this anecdotal evidence. I understand that the minister said before that the caseworker involved was in fact not Burundian, as had been said previously several times, and there is some question as to the ability of this caseworker to communicate with the family. On whose advice did the department initially rely when they made the statement that the caseworker was Burundian?

Mr Vardos—The caseworker's nationality as Burundian was put to us by our Sydney colleagues. My understanding is that he was referred to in discussions with the Burundian community as being of Burundian origin. No-one ever disabused our colleagues with the fact that he was not, and it became accepted that he was Burundian. As soon as the possibility that he was not Burundian came to our attention, we made further investigations. As you are aware, he is in fact from the Democratic Republic of the Congo. That goes to the issue of nationality. Such things as ethnicity and common languages are a separate set of issues. Both Richard's father and the caseworker spoke two languages, in which they communicated: Swahili and—

Ms Pope—Kirundi.

Senator HURLEY—My information is different—that Richard Niyonsaba's family spoke Kirundi fluently but were not fluent in Swahili. What are you now relying on for your information—your colleagues in New South Wales or ACL's report?

Mr Vardos—In relation to the language skills of the father, we are relying on the relevant form that was completed and sent to us by UNHCR as to the languages that the father spoke. Both Swahili and Kirundi appear on that form. In some cases it is referred to as Kiswahili rather than Swahili, but it means the same thing.

Senator HURLEY—So you are choosing not to believe the family in this case.

Mr Vardos—It was the family itself, in the completion of the registration forms, that identified the language or languages the family members spoke.

Ms Pope—If I can quote from the form, it lists languages and in brackets asks you to list mother tongue first. In relation to Richard's father, his first language is listed as Kirundi, which he understands, speaks, reads and writes easily. In relation to Kiswahili, he understands, speaks and reads it easily but does not write it easily. That is the information that we were provided. In addition to that, there are two other caseworkers working with the family at the moment. One originates from Rwanda and the other from the Democratic Republic of Congo, both of whom speak Swahili. Their view is that Richard's father speaks Swahili quite well. The caseworker—

Senator HURLEY—Have you asked Richard's father if he speaks Swahili quite well?

Ms Pope—I have not asked him, no.

Senator HURLEY—Has anyone in the department asked him?

CHAIR—Ms Pope, may I seek clarification on a matter—

Senator Vanstone—Let me clarify one thing. I thought the answer given—and we will clarify this, because it will help you, too, and it will help me—was that the information

provided by the UNHCR is a form of application that is presumably filled out by the parents. Is that wrong?

Mr Vardos—The information is provided by—

Senator Vanstone—So it is not a case of not believing the father; it is the case of believing the form the father filled out—is that right?

CHAIR—That is what I wanted to clarify as well. Is that the document from which you were reading, Ms Pope—the UNHCR document?

Ms Pope—Yes, it is: the resettlement registration form.

CHAIR—Completed by the relevant individuals, the parents?

Ms Pope—I am advised that it is a self-assessment by the individuals themselves.

CHAIR—Thank you for clarifying that.

Mr Metcalfe—On this point, Senator Hurley, it is probably an opportune time for me to say again what I said this morning when you were not here. The department accepts absolutely that it incorrectly briefed the minister, which led to her inadvertent misleading of the Senate when this issue was raised. I understand a briefing occurred with you subsequent to that and you were given similar incorrect advice. On behalf of the department, I would like to apologise for that. It was certainly not intended. We have heard some explanation as to how it came about, but it is certainly something we would have preferred not to have happened.

Senator HURLEY—This is exactly what I find frustrating in a refusal by the minister and the department to conduct an inquiry. If one thing can be got wrong, why can't other aspects of this case be got wrong?

Senator Vanstone—I did say to you at the time that an internal report was going to come to me about this matter but that the coroner had decided not to have a coronial inquiry, which I take to be a pretty clear indication from someone who is charged with investigating deaths where there are suspicious circumstances. It is not for me to put words in his or her mouth, but there is not prima facie evidence that that is the case. That does not mean that, where someone has unfortunately passed away in explicable circumstances, there will not be in any file that you pick up—whether it relates to immigration or processing by law enforcement or a variety of areas—lesser facts that you can select on which there will at some point have been a disagreement. But they do not go to the question the coroner presumably looked at.

Senator HURLEY—I won't argue about the basis on which the coroner made his or her decision about the medical circumstances—whether there was any question about the medical condition of the child and why that child died. Another question is whether the coroner saying he won't conduct an inquiry exonerates the caseworkers and other people with respect to inadequate procedures. I am surprised that the minister and the department do not want to get to the bottom of whether there have been some inadequacies in the process.

Senator Vanstone—Senator Hurley, I can't allow you, on the basis of the answer I gave you the other day, to say that the department or I don't want to get to the bottom of this. What you want is some big, full-blown public inquiry which, by its establishment, will of itself say that there is a prima facie case that something went badly wrong as a consequence of what

Immigration did. I am not prepared to say that that is the case. I can understand why some people in the opposition almost hope that is the case. But I don't, and I think it is fair enough to say that this is someone quite independent of this government, not appointed by this government, appointed by the New South Wales government. I don't know whether the coroner—I don't even know who he or she is—was appointed by the previous Liberal government or by the current Labor government in New South Wales. Frankly, I care little.

I have heard no complaint from parties involved as to the means by which the coroner came to the decision that he or she did. We all understand what the purpose of a coronial inquiry is. The coroner has decided not to hold one. I think that says something quite important. I don't say that it says that at no point has someone referred to someone in the wrong way or thought that someone's citizenship was different from what it is. But that does not go to the cause of death. And that is, with respect, what it appears that you are seeking to link to the department. That is the purpose of the coronial inquiry if you need one, and the coroner has decided that there is not to be one.

Senator HURLEY—In the first place no-one wants a problem to happen to any of these refugees that come to Australia who have already been through traumatic circumstances.

Senator Vanstone—That is agreed.

Senator HURLEY—Given the track record of this department and the fact that the Auditor-General has already criticised contracts with Group 4 made by this department, and the fact that the department does have a history of defensiveness and, I might say, cover-up in a number of instances, I think it is incumbent on the opposition to explore this case and call for it to be investigated. I don't like the fact that you are imputing improper political motives to us in this instance.

Senator Vanstone—I am not sure that 'improper' and 'political' sit together that well in that context. You may not like the fact that I impute that but I don't like what you are seeking to link with respect to the tragic death of a young boy. As I indicated in the Senate, his family were very much hoping that a new world would open for them, and I think everyone was hoping, and always does, that that will happen to every refugee. It must have been particularly hoping that with respect to a little boy who had some medical problems. But when there has been the opportunity for a coronial inquiry and that has not been taken up by the coroner, that, in itself, says something.

What we are faced with now is an opposition that does not want to take any notice of the coroner not having an inquiry and wants to say, 'We think you must have done something wrong.' 'Why do you think that?' 'Well, because a boy has died. It must be your fault, the immigration department's fault, and you should have a full-blown public inquiry so that we can all pretend that that is the case.' I take offence at that on behalf of every hard-working person in the department who would never on any occasion have done anything if they thought there was the slightest chance that harm would be done to anyone, let alone death to a young boy. So I take very strong offence at that. I am sorry that you took offence at what I said. I suppose you're sorry that I take offence at your remarks, so we can both be sorry together.

Senator HURLEY—I think you are putting far too much weight on the coroner's decision—a decision that may well have been made on technical grounds under the Coroners Act. But let us talk about other cases then. Let us go on to other cases involving—

Senator Vanstone—Before we do—

CHAIR—Your reflection on the New South Wales Coroner will need to be followed up in the appropriate manner by the Clerk.

Senator Vanstone—let us make one point that needs to be referred to, and that is what I said to you in my answer in the Senate. Despite the coroner having decided that there would not be an inquiry, there will nonetheless be an inquiry in the department. I will get a formal report on that, and I will have a look at it and make up my own mind as to whether there are further things in the department that need to be looked at in this context. I don't assume a clean bill of health for the department on every issue that comes before me, but I will tell you what I also don't do: assume an unclean one, which is, with respect, what I think you are doing.

Senator HURLEY—Let us talk about some other instances in the delivery of settlement services to refugees. That is one reason I am concerned about the Niyonsaba case, but there are a list of other cases.

Senator Vanstone—Senator, I am happy for you to do that; that is your job. It is the purpose of the estimates committee to review government expenditure. But let me make it abundantly clear: in saying that I do not think that the sort of inquiry you want is warranted in this particular case and in imputing the motives that I very clearly impute to the opposition in this matter, I do not say that everything the department does everywhere is perfect. I bet if we followed you around for a day, you would not be perfect either. I can guarantee that if you follow me around, I will not be. We look forward not with joy in our hearts to criticism, but we treat criticism in areas where we have not done as well as we should have as opportunities to improve. This department is now one which is engaged in a culture of continuous improvement. If there are areas where you think we have not done the right thing, we welcome you pointing them out.

Senator HURLEY—Thank you, Minister, but I heard you talk earlier about how conscientious you were in the cases of detention in referring cases to the Ombudsman. You say that there is an internal departmental inquiry and I would like to see that report made public, as would be an Ombudsman's report. I think a number of people are very concerned about the quality of services being provided to refugees and I think a number of other people—not just me—would like to see some resolution to this.

Senator Vanstone—I am not sure what you mean by resolution. What do you mean by resolution?

Senator HURLEY—I think there are some unanswered questions.

Senator Vanstone—Give us a list of questions, and we will answer them.

Senator HURLEY—That is what I am about to do.

Senator Vanstone—I am very happy with that.

Senator HURLEY—Okay. There was an article in today's *Sydney Morning Herald* about Ahmed Ahmed, a Sudanese refugee who is a double amputee. Unfortunately, after he had been cleared for settlement in Australia, a train cut off both of his legs below his knees. The story in today's *Sydney Morning Herald* by Greg Ray goes on to say that he expected good care in Australia. He had been told by the Australian embassy staff in Cairo that he would get very good medical attention. He found on his arrival in Australia that he was located with his mother, who was already in Australia, in a first-floor flat with no lift. He had a very shaky wheelchair, which I understand was given to him in Cairo. My understanding is that, rather than getting assistance with medical care, he had to go about himself trying to get some help with prosthetics or a proper wheelchair. ACL had told him to go to its office in Auburn. He had to make his own way by train to Auburn, negotiating his way up stairs on the way there on hands and stumps, according to this article. So he had a long, long journey to be able to get any assistance. Are they the kind of services that were expected under the contract with ACL to provide settlement services?

Senator Vanstone—I can answer that for you—no. If what you say is correct, the answer is clearly 'no'. Some of the answers I have been given today were not full enough or adequate enough for me to say that I do not have concerns about this case as well. What I am told, and officers can add to this, is that there was a question as to whether he wanted to live with his mother, and the answer was 'yes'. She does happen to have a first-floor apartment. But that begs the question as to why ground-floor accommodation was not made available if he wanted to live with his mother. The officers can correct me if I have got this wrong, but I am further advised that at some point he moved out from living with his mother and subsequently moved back. I do not have the details of why that happened. Whether he was required to move back or whether he chose to move back, I do not know. But a first-floor apartment without a lift for someone who needs a wheelchair, to me, seems to be inexplicably unsatisfactory. Is that clear enough?

Senator HURLEY—Thank you, Minister. Yes, it is clear.

Senator Vanstone—It should be for ACL too, if they are listening, or whosoever is responsible.

Senator HURLEY—Let us move to some Newcastle cases, which were mentioned before.

Senator Vanstone—Sorry, just before you do, the officers might have a different view or something else they would like to add.

Ms Pope—I have some further information provided by ACL about that case. I should say that we have also referred this case to our New South Wales office and asked them to speak to ACL about the handling of this matter. We understand that prior to Mr Ahmed's arrival discussions were had with his mother about accommodation and she indicated that her son would not require accommodation as he would be living with her. Notwithstanding that, ACL had discussions with him when he arrived about his accommodation. He did not take up their offer of his own separate accommodation and indicated that he wished to live with his mother. We are advised that on Friday, 10 February he advised ACL that he does want to live separately from his mother now that they are having difficulty living together. He wishes to have his own accommodation, and ACL will be working to arrange that. There is a report of

him having moved out of the accommodation and then back in again. Like the minister, I do not know the reasons why he moved out and why he returned.

In relation to his wheelchair, we were advised by ACL that they obtained a wheelchair for him before his arrival and that that was made available to him when he arrived in Australia. They also took him to visit a GP on 16 January. He arrived on 10 January. He saw a GP in Auburn on 16 January, and medication was prescribed by the doctor and purchased for him. An appointment was arranged for him with the Westmead prosthetic clinic. That appointment is to take place, I think, on 28 February. I am not 100 per cent sure of that date, but I believe that is it.

ACL are now having discussions with Mr Ahmed and his mother about how to resolve the accommodation issue. I understand part of the problem was that his mother's accommodation is provided by the housing authority, that the accommodation that would be made available to him would be temporary accommodation pending arrangements for long-term accommodation, as is often the case under the IHSS contract, and that she had some concerns about giving up her housing authority accommodation. One of the points that we will be pursuing with ACL is why they did not immediately begin to discuss with the housing authority alternative arrangements where mother and son could reside together in a more appropriate apartment.

Mr Metcalfe—I might make one further point in relation to the views of the department on this issue. I do not have to say it, but I completely agree with what the minister has just said. The department is very proud of the fact that we are involved in the administration of a program which allows 13,000 people a year come to Australia as refugees or humanitarian entrants. Australia's record compares with that of the United States and Canada as the only three countries which make such a huge investment in people who have nowhere else to live. As I said, we are very proud of that. We spend significant resources and do a very positive thing in selecting people and bringing them to Australia.

Regarding the circumstances we have just heard about, the fact that Australia is prepared to bring in as a refugee a man who is a double amputee and presumably will have significant burdens upon the health system into the future is a measure of the generosity of Australia in this area. So I think it is very unfair to suggest that the department is either uninterested, does not care or wants to cover up these issues. If the contractor is not performing, that is an issue that will be dealt with according to the terms of the contract.

Our record as a country is second to none. Other countries that have a lot to say about the rights of refugees produce very few resettlement places. The United Kingdom has made provisions for 500 places a year and last year filled 100 places. By comparison, we filled 13,000 places. Any suggestion that the department is not interested in the welfare of refugees should be rebutted. If a contractor who is meant to be undertaking work on behalf of the government is not performing, that is an issue that we would regard very seriously, and we will obviously be following these matters up.

Senator Vanstone—I might add to that. It is not just that we are the third-largest taker of people in need of resettlement, who the secretary probably describes as having nowhere else to go and, in some cases, are coming from camps with no running water and no power. Being

third in the world is something all Australians can be proud of. Equally, I think our resettlement services are regarded as second to none in the world. We do not simply stand out from other countries in that we make a place for people in our migration program; we go further than that and say, 'When you come, we will provide these services.'

I think there has been international comment—certainly, at the last humanitarian consultations made up of people involved in the humanitarian sector who work with refugees and advocate on their behalf. I am sure you will understand that they are not largely made up of former members of Liberal Party branches. You would not regard that group as being one that would say anything unnecessarily positive about the government. They are to a person very positive and encouraging about the dramatic improvements that have been made in resettlement services in the last five or six years. That is not to say that they say everything is perfect. We hear about particular cases where it has not gone well, and everybody always thinks there is more than can be done. I am pleased with the acknowledgment that we get from the humanitarian sector about what we are trying to do there.

Over and above that, coming back to what the secretary said, we have done a costing—not in a formal sense, but we have spoken to Finance about what we could reasonably say is the whole-of-government cost of the refugee and humanitarian program. The whole-of-government cost about 18 months ago—I do not know what it would be now; probably higher—was about \$500 million a year. That is half a billion a year. That is \$2 billion in a forward estimates period. I can assure you that we are not about spending \$2 billion and not getting value. That is not just value for the government; it is value for the people on whose behalf we expect to spend the money. There is no point in a government spending \$2 billion and having people not get the appropriate treatment for it. Two billion dollars is a very expensive program.

I am sure that, if I came to you or other members of your party and asked, 'We've got two billion bucks spare in the next forward estimates: what would you like done with it?' you could think of a lot of genuinely fairly competing interests for that money. It is not only that we allocate the money and it therefore has to be spent properly. I am acutely aware that there are other groups who heart-and-soul believe that if they had the money their world would change—whether it is wanting more money in Indigenous education, whether it is wanting more money in pure research. There is a long list. You could go from health to education to research. Just about every portfolio could give you good things that they could do with \$2 billion. On behalf of the people who are not getting the money that we are spending—not just in our portfolio; that is taking into account the Centrelink costs and health costs and other things—we have to make sure we spend that money well. And you can count on it. If someone has not done their job properly, we will be attending to it.

Senator HURLEY—Thank you. Is the department aware of a newly arrived Sudanese family of eight who arrived in Newcastle and were taken by their ACL caseworker to a house and given one loaf of bread, one dozen eggs, a tub of butter and a food voucher for \$50, with no translated instructions or a demonstration of how to use the food voucher, how to catch the bus or which shops to visit and where they were located? The family then had no contact with the ACL caseworker for 10 days. Are you aware that the same family spent three hours unsuccessfully attempting to locate a shop at which to use the food voucher before returning

to their house in despair? Is the department aware that this family stated they would rather go back to their country of origin than stay in Australia after experiencing the service delivery that they did?

Mr Vardos—I am not aware of the case in question. If you have a family name we can follow it up. It has not been drawn to our attention.

Ms Pope—At least not from the description you have given, Senator. I cannot match it with a case that I am aware of.

Senator HURLEY—It is Fouad Ahmid Babikir Dafalla and family. And are you aware of the cases of Yeayea and Princess Gbeadeh—that within the first 10 days of their arrival two female members of that family were taken to a house just outside of Newcastle? They were women classed as 204 refugees, they were frightened and traumatised after being left at their new house alone and they were not able to use the phone card that they were provided with because there was no telephone in the house. They were out well away from shops and other people, and they were given insufficient food. They allege that, because they did not immediately sign a 12-month lease for that house, they were not given any more services or food vouchers. These women left the home after five days because they were hungry and frightened, and they eventually sought the help of a stranger in a passing car to ask about contact with the one person they knew in Newcastle.

Mr Vardos—I am personally not aware of the extent of the details that you refer to. Again, I will pursue it. One of the challenges that we have in this area is that there is an appropriate channel for expressing discontent with the services that have been provided. If they are not being fed back to us then we cannot do anything about it. If this happened some time ago—

Senator HURLEY—Can you describe this appropriate channel for complaints? How does it work?

Mr Vardos—Our staff visited Newcastle when the complaints about ACL started to emerge—I mentioned that earlier on.

Senator HURLEY—What complaints were they?

CHAIR—Senator Hurley, Mr Vardos was trying to answer that first question of yours. If you would allow him to complete his answer you can ask another question.

Mr Vardos—Our staff—maybe one staff member, I will not say plural—went up unannounced to investigate and see if there was any substance to the issues that seemed to be emerging from the Newcastle area. The cases are emerging in the press in the first instance and then we are asked, ‘Do you know about this and can you fix it up?’ It becomes rather difficult to sort out fact from fiction when it becomes a ‘he said, she said’ exercise and the water gets muddied. But if there are legitimate complaints, as I said earlier on, we will follow up the specific cases that you mentioned with ACL. If you have more, we will take them all up.

Senator HURLEY—Again, can you tell me if a refugee has this kind of problem what is their avenue for complaint—how do they go about it?

Mr Vardos—In the first instance they complain to the service provider. That is the first point of contact. Beyond that—and I stand to be corrected on this—there is opportunity to

contact DIMA staff. Whether the phone numbers are provided on a comprehensive basis every time a refugee family settles, I cannot answer that question—there are a variety of practices all over the country. But it is not as if they are dumped there and then that is the end of it.

Ms Pope—Under the contract, where a complaint cannot be resolved between ACL and the party involved they are required to escalate it to the DIMA office—the state office level in the first instance—and those staff become involved in resolving the complaint between the individual and the provider. We would expect to be notified at national office level if there was an issue that had been raised with our state office. In some instances if it required further escalation then we would personally become involved in resolving those complaints. I want to mention that I believe that the unannounced visit to Newcastle by one of the staff was in relation, I think, to the second case that you were mentioning—of Yeayea Gbeadeh—but we can provide further information for you on notice.

Senator HURLEY—Let me read part of a complaint to an ACL manager about that case:

I draw your attention to the circumstances surrounding the arrival and assistance to the abovementioned girls and request your appraisal and reply to allegations.

No reply has been received, as I understand it, from ACL regarding that complaint. That was from Graham Burgess, one of the volunteers that you keep describing as disgruntled—I think that was the word you used. I also want to read an email that went from Graham Burgess to Jim O’Callaghan at the department of immigration:

Dear sir

I refer to recent correspondence regarding improper treatment of refugees arriving in the Newcastle region.

This was dated 23 November 2005. It continues:

I have been advised by your NSW business manager that previously reported incidents will be investigated but no results of those investigations will be made available.

Another incident has arisen today with a recently arrived refugee family being unable to access food for themselves and have been directed to me for assistance.

The Kamara family arrived on 17th November and were given food vouchers totalling \$250 together with \$30 cash. The family consists of ten people including 7 adults. This food was consumed within five days.

The family have been advised NO MORE FOOD VOUCHERS will be available to them and they must find other sources of food.

The Centrelink appointments for this family have been arranged for 29th November, 12 days after arrival. Therefore no financial assistance will be forthcoming until approximately fourteen days after that date.

This arrangement is not acceptable and must be corrected immediately.

Failure to address this shortcoming in the treatment of refugees is outside the accepted practice considered to be minimum standards by all who work within the volunteer agencies.

I am today making these details available to other support groups to help derive some public assistance for these families and to expose the shortcomings in the current method of refugee settlement in the Newcastle region.

I expect your immediate intervention in these matters to avoid further incidents that may cast unwarranted aspersions on the credibility of your department.

On the previous day, 22 November, he had sent this email to David Macleod at the department of immigration:

I refer to the attached letters to DIMIA and ACL to which I have not been shown the courtesy of a reply. The circumstances surrounding the treatment received by these refugees demands immediate action by your department and less than a formal investigation is unacceptable. I have learned that this is not an isolated case and that other refugees recently arriving in Australia have received similar or worse treatment by the organisation approved by your department to have supplied the services. Failure to adhere to the principles of their contract shows complete disregard for the needs of these new arrivals, together with an unfavourable reflection on your department and its administration of the contract. Please give your urgent attention to the complaints as laid out in the original letter. I shall await your reply.

What you are saying to me is that—I believe I understood you correctly—complaints went to the New South Wales agency and were dealt with, and the complaints were not sufficient to warrant being sent in to the national office. Is that right?

Ms Pope—Not in this instance that you are discussing, Senator. I believe that Jim O’Callaghan met with Mr Burgess after receiving his email and had quite a lengthy discussion with him. I would have to check the records about that to give you details of the discussion. I think Mr Macleod also participated in that discussion, so that they could hear first-hand from Mr Burgess his concerns, and those concerns were followed up by our staff in the New South Wales office and with ACL in Newcastle. I am sorry; I do not have the details of their discussion and where they took it from there, but I can certainly provide those to you on notice.

Senator Vanstone—And if what the officer has just said is the case, it appears that whoever has offered you advice has simply told you the complaint has been made and no reply has been received. If that is what they have told you, they have not really been very fair to you in not conveying that the complaint has been listened to and there has been a reply in the sense of discussions, not a written reply. In other words, they might have given you the truth but not the whole truth in terms of the matter being dealt with.

I do not say that I am happy with the issues that you have raised and I am not saying that they have all been adequately followed up, but that is one example of where somebody could tell you the truth—that a complaint has been made and that no formal reply has been received—but not the whole truth. That brings me back to the point that Mr Vardos makes. That is, if you have any concerns about particular cases, please come to us straightaway. It is not a bar on you going public, but I always think that you catch people out more efficiently if they do not know you are coming for them. That is a personal view that I have. If you actually want to catch the service provider out as opposed to trying to make an issue of the government, come to us and we will have a look at it from the national office point of view and, either at that time or later, if you are not happy, you still have the avenue of pursuing the department publicly.

Senator HURLEY—Minister, when I was asked who I wanted to have at these estimates to answer my questions, I asked for officers from the New South Wales department of

immigration office who handled these kinds of complaints. I was told that I could not, that they were not a sufficient level to be at this inquiry, that I obviously could not have ACL here because they are not a government agency and that I would have people here who would be able to answer my queries. I have just had responses here that they do not with the details, they do not know the complaints and they do not know what has happened. I have signalled very clearly—I have not hidden it—what I wanted to ask about. I advised the department that I had a series of questions about complaints regarding settlement services and ACL in particular and yet they are not sure what has happened and have had to take it on notice.

Senator Vanstone—You have undoubtedly done what you have said you have done, and that is advised that you want to ask questions about this government services. But estimates are there for the perusal or cross-examination of government expenditure under the additional estimates and are not, I would submit, the proper forum for the first going over of particular cases. You raised one the other day and we sent someone around. We will do it again in relation to any of the cases you want raised. But to imagine that senators can come here and just pluck cases out of the thousands of arrivals—I think we have about 13,000 arrivals a year, being 6,000 refugees and 7,000 humanitarian arrivals—or let us know, ‘I have some cases I want to raise in this region,’ and be able to get officers here who could answer questions on each case in detail without having advance notice of the particular cases is fanciful. We will be very happy to be open with you. This is now, as we say, an open and accountable organisation, and we will be. But to imagine that we can wheel up a number of officers who could answer the details of any case in the Newcastle region is not on. It is just not on. It is not logistically practical.

Senator HURLEY—The correspondence I was reading out went through those cases. Two or three times they were mentioned. Many of them have been in the media. It beggars belief that the department has not taken any notice of them.

Senator Vanstone—I am sure they have taken notice of them.

Senator HURLEY—Why can't they answer questions about them?

Senator Vanstone—As I indicated, you cannot necessarily answer every question about every case. In fact, what I have heard so far is a further recitation of the complaints. Mr Vardos, is there anything you want to add? Or Ms Pope?

Mr Vardos—Ms Pope had something she wanted to add.

Ms Pope—It was actually just a footnote to my previous answer, which is that we understand ACL has sought to meet with Mr Burgess and Sister Betty Brown on a number of occasions and have not yet been able to secure an appointment with them. When we met at senior levels with ACL in Sydney in early January about this matter, the following day the CEO and the manager of government programs that looks after IHSS went to Newcastle themselves to try to meet with various people involved in the range of cases that you mentioned and again had some difficulty getting people to meet with them to discuss the matters they wanted to raise. In a couple of instances people were away, but in other instances they were unavailable. Despite ACL's efforts to meet with them since then, they have still been unable to secure appointments to go through the details of the cases and work through the issues that have been raised.

Senator Vanstone—Perhaps if you give me the details of the cases, I will see if I can get appointments from them to come and go through the details of the cases with you and me together.

Senator HURLEY—I think one of the issues with the Newcastle situation is that the disgruntled volunteers wanted to actually have the people with them—the refugees who made these complaints—and that has not been acceptable to either the department or ACL.

Mr Vardos—Senator, can I please correct that?

Senator Vanstone—Let Senator Hurley finish. She was asked to let you finish, and we had better let her finish.

Senator HURLEY—My understanding is that the volunteers do not want to become spokespeople for the refugees as such. Obviously, they have been instrumental in bringing to public attention these cases after a large number of cases, but they want the refugees to be able to speak in their own voice. This has been prevented and this is one of the reasons that meetings have not been organised.

Ms Pope—I think that we are talking about two different meetings. The meeting that we earlier referred to which did not take place, from which the volunteers withdrew because we would not allow a legal representative to attend, was one instance. The meetings I am referring to involved ACL visiting Newcastle themselves and wanting to speak to the people who had made allegations in the media about their handling of cases and, as you reported to us, they wanted to meet to discuss those issues. It is those meetings to which I am referring that they were unable to make arrangements to speak to the people involved in those cases.

Senator HURLEY—No, I do not think we are talking about two different meetings. My understanding is that in those meetings ACL tried to have it would not accept having the refugees there, and they just wanted to meet with the volunteers. The volunteers would not accept that because they did not want to be spokespeople.

Ms Pope—I am not aware of that detail, but I can certainly pursue that.

Senator HURLEY—Thank you. Is it possible that, in the previous meeting you described with the department, the volunteers wanted to have legal representation with them partly because a lot of what they said might be regarded as defamatory perhaps or slanderous?

Ms Pope—No, my understanding is that the person who wanted to attend was purporting to represent another group of refugees—though I do not have the details of what was going to be raised—and that the other two people were attending in their own right. I was not under the impression that the legal representative attending was representing them as such. This was a meeting with the department and a representative from the minister's office. It was not a meeting at which ACL would have been present.

Senator HURLEY—Yes, I understand that. I think the various people—refugees and volunteers—are nervous about retaliation by ACL and about reprisals and are extremely worried about their legal situation.

Senator Vanstone—They do not need to worry at all about their legal situation. Their legal situation is that they have been accepted here as refugees or humanitarian entrants and the Australian people through the Australian government want to offer them a range of services.

If people are not performing the services that we are intending to offer, then those people would in fact be doing the government a service if they let us know about that.

Senator HURLEY—It seems to me they have been attempting to let the department know and they have not had much success.

CHAIR—I think there has been an indication, Senator Hurley, unless I am mistaken, to take this issue up and provide you with an answer, and the minister has in fact undertaken to meet with them herself in your company.

Senator HURLEY—Good. Let us talk about—

CHAIR—Can we just ask questions, please. I am trying to keep things moving as much as I can.

Senator HURLEY—Okay. Let me ask a question, then. The department in New South Wales has had complaints about settlement services for refugees in the northern Sydney area in particular. Has it had any complaints from other regions?

Ms Pope—Senator, are you asking whether we have had complaints more broadly than in New South Wales or whether our New South Wales offices had complaints more widely—

Senator HURLEY—You were saying that the New South Wales office has had complaints, particularly from the Newcastle area but generally from the northern Sydney region, in which ACL is delivering settlement services. However, ACL has the southern region of Sydney as well. Are there any complaints from that region? Are there any complaints from New South Wales in general? Have there been any complaints lodged in other states where not-for-profit organisations run the settlement services?

Ms Pope—In response to the first part of your question in relation to ACL's contract for the southern region, there may have been, but none that have been escalated to the national office and none that I am aware of in the southern region, which includes Wollongong.

Senator HURLEY—I want specifically to know whether there have been any complaints registered with your New South Wales office.

Ms Pope—Not to my knowledge but I will have to take it on notice as to whether they have received any complaints.

Senator HURLEY—What about in other states?

Ms Pope—I am sure that there will have been issues raised state by state in the nature of transitional issues to be resolved, but no complaints that have been elevated to central office that I am aware of.

Senator HURLEY—In this transition period with the new tender, it surprises me that the department has not been a little more vigilant in assessing whether the changeover period is working well and has not monitored what complaints there might be in the various states and regions.

Ms Pope—I would not suggest that we have not monitored at all, Senator. Meetings will have been held under the contract with service providers around the country, and as we outlined earlier, the process for complaints is to the provider in the first instance. Then, if the provider is not able to resolve that with the individual, there is an escalation to our state based

offices. It is only in the circumstance where that is not able to be resolved or where there is an issue of some significance that I would expect personally to be advised of a complaint of that nature.

Senator HURLEY—So given the public controversy and the media surrounding this, you have not asked your state branches what complaints there have been?

Ms Pope—No, I have not asked that question, Senator.

Senator HURLEY—You said meetings will have been held with service providers. Who would have been present at those meetings?

Ms Pope—It would be the state based contract managers in each state. I should point out that we also held a meeting in our national office on 7 December where we brought in all the IHSS service providers, the CEOs of those companies where they were available, and had the others on phone hook-up, partly in response to the issues that were being raised in Newcastle and wishing to ascertain whether there were problems more broadly, and to signal our concerns about those kinds of issues and the sort of action that we expected to be taken. That was attended by about 14 or 15 of the 20 contract holders and the remainder from Darwin and northern Queensland attended by phone hook-up.

Senator HURLEY—So this was a meeting of contract holders?

Ms Pope—Our service providers in all states. It was also attended by our state directors.

Senator HURLEY—So state directors who would already have been aware of any complaints?

Ms Pope—I would assume so, Senator, and in many cases they were accompanied by the IHSS contract managers for each of those state offices.

Senator HURLEY—Those IHSS state contract managers that I asked to have here and was told would not be made available?

Ms Pope—Yes, Senator.

Senator Vanstone—To be fair, Senator, I understand your difficulty and it is not clear to me that we have responded appropriately to some advance notice from you about what you are interested in. That is not clear to either the secretary or myself, and I will be following that up. But what is clear to me is that it is not open to senators to simply ask for whomsoever they like from around Australia to be wheeled up here when there are opportunities, and we again express a willingness to follow matters up first up if we can. As I said to you, I am happy to see if we can get answers out of—I cannot recall the name—those about whom Ms Pope was saying, ‘We could not get answers out of them,’ at one point. They could not take time for meetings. I said, ‘We will see if they will make the time.’ I hope it does not come to that; I hope we can get the answers. But there is a sort of tiered arrangement for getting answers. We cannot just treat estimates as ‘bring whoever you like at whatever level from all around Australia at vast expense’ because you might like to ask a couple of questions of which we do not have advance notice of the detail, so we are not sure we would even be getting the right person.

If you really want to get to the bottom of things, you have to give us the detail of what you want to have checked up on and we will get it checked up on. But we are not going to bring people from all around Australia on the off-chance that it is the person who was on on the day that the substance of a particular complaint relates to. These exercises are terribly, terribly expensive. Look around here; none of these people are cheap. They are costing us quite a bit of money. There is a lot of money put into estimates and we need to, on both sides, refine what we do. I repeat again: it is not clear to either the secretary or me that we have today responded appropriately to advance notice that you gave. I will be asking what that advance notice was and what preparation we made to give you the appropriate answers. So I am perhaps saying ‘*Mea culpa*’ that we have not done as well as we could have for you today. But I am also saying, ‘Don’t imagine that that means you have *carte blanche* to waltz in and say, “I would like to see this person, that person and that person”.’ And I am not sure that we can even know in advance who exactly the right person is, when we have thousands of people and you do not tell us which one you want, what you want to ask about and the day that it happened, so that we know to get the person who was there on the day or there when the complaint was received. If you really want to get to the bottom of it, the nitty-gritty, that is who we will go away and go to. Ms Pope is very good at this sort of stuff. She will go away and get to the bottom of it, but you have to give her the details to start with so she knows exactly where to go.

Senator HURLEY—This meeting was held on 7 December and, therefore, after the death of Richard Niyonsaba, yet still the Canberra office of DIMIA did not think to get involved in this meeting with the state directors and the service providers.

Ms Pope—I am sorry, which meeting are you referring to?

Senator HURLEY—The phone hookup on 7 December that you mentioned.

Ms Pope—Yes, but did you refer to us being unwilling to be involved in an earlier meeting or another meeting?

Senator HURLEY—No. I am surprised, given that the death of Richard Niyonsaba had already occurred, that by then the national office of DIMIA was not taking much more of an active interest in settlement services and what was happening. I am asking why the national office was not involved in this phone hookup on the 7 December with the service providers and the state directors.

Ms Pope—We were. We convened that meeting. Mr Vardos chaired the meeting and I also attended it. We invited, as I said, our state directors, their contract managers and the heads of all of the—

Senator Vanstone—Senator, I thought that was what Ms Pope had said: that ‘We’—meaning national office—‘had convened that meeting.’

CHAIR—That was my understanding also.

Senator HURLEY—People who convene meetings are not necessarily present at them.

Mr Metcalfe—I think it was in the evidence when you were asking, given what has happened in the Newcastle area, whether we were worried about what might be happening elsewhere. I think the answer is that two months ago we physically brought in 14 heads of

service provider agencies to Canberra and had two others on the telephone to discuss these very issues.

Senator HURLEY—In answer to my question about complaints in New South Wales and around other states, the answer was that Ms Pope was not sure, yet she was present at this—

Ms Pope—You asked me, I believe, whether I was aware of other complaints being made to our state offices. You asked me if I had directly asked them the question, and to that I replied ‘no’. But in the context of that meeting we were giving clear messages about our expectations under the contract, and we had discussions around the issues that had arisen in New South Wales.

Senator HURLEY—Although you did not ask a direct question, did it come up in the discussion whether there had been complaints in other states about the other service providers—along similar lines to the ones you were concerned about?

Mr Vardos—The purpose of the meeting was for Ms Pope and I—who were the two senior managers responsible for settlement services nationally—to meet with the principals of each of the prime contractors to convey messages about our expectations in terms of delivering against the service standards set out in the contract, the resources that we expected to be put into these contracts, the fact that there was media monitoring of their performance, and that they were on notice that there was an expectation that they would perform. ACL was there. There was no discussion specifically from our state colleagues—who were also present, as Ms Pope has said—at that meeting to canvass what complaints had been made jurisdiction by jurisdiction or contract region by contract region. The principal reason for the meeting was to convey some strong messages to the principals of the prime contractors, to the extent that we were able to get them, about our expectations.

Senator HURLEY—All right. I still find it difficult that, given that you had these concerns, you did not find out about the nature of complaints.

Mr Vardos—That was not the appropriate forum to do it. Ms Pope has answered that question. Yes, we could have canvassed every state office to do a stocktake of every complaint that has been drawn to the attention of DIMA offices around the country, but we have not done that.

Ms Pope—In the forum of a meeting where all the CEOs of those organisations were present, it would not be conducive to them talking to us about complaints that had been made about their service provision. That is something that we would expect to be handled at the state office level bilaterally rather than discussed in an open forum such as we convened that day.

Senator Vanstone—Senator, the advance notice you indicated you gave: was that through the committee or direct to the department?

Senator HURLEY—Through the committee.

Senator Vanstone—Perhaps you could ask the committee, Madam Chair, to give me advice of what detail was passed on, because we could have a communication problem here. The senator may well have asked for everything she indicated she asked, but the package of

that may not have got as clearly to the department as it should have, and I would like to get to the bottom of why a senator is unhappy—

CHAIR—That is not my understanding, Minister—

Senator Vanstone—I just want to get to the bottom of it, that is all.

CHAIR—I am happy to convey the appropriate information. My understanding is that there were certainly communications between the secretariat and the department on this matter, and I will go back and clarify with staff in the secretariat.

Senator Vanstone—In good faith, with pleasantness on all sides, could we try to find out what went wrong so that we do not have this sort of circumstance arising. It is not good for us, it is not good for the Senate, and it is not good for the committee.

CHAIR—Indeed, Senator.

Senator HURLEY—There are formal review processes as part of the contract, I understand, with the various settlement service providers. Can you advise what those formal review requirements are?

Ms Pope—I think I outlined those earlier, in response to an earlier question, but all service providers are required to provide regular reports to the department, at least every six months—and we can request reports on a more frequent basis if we believe it is warranted—which address performance against the output specifications and their key performance indicators, in addition to their annual audited financial statements and their annual reports.

In addition to their annual audited financial statements and their annual reports, a formal evaluation of their performance is undertaken each year subsequent to the submission of their annual report. Service providers are also required to routinely participate in contract management meetings with the department, on a quarterly basis and more often if required. As I noted earlier, ACL attended its first contract management meeting with the department in November. I said that there were a number of other meetings and conferences provided for under the contract and that I would provide those details to you. Beyond those formal mechanisms, we are in regular contact with our service providers to discuss issues that arise and resolve them. By ‘we’, I mean in this case our state office contract managers, who have the daily responsibility for managing the contracts with the service providers.

Senator HURLEY—So there is an annual audit of service providers?

Ms Pope—A formal evaluation subsequent to them providing their annual report to us.

Senator HURLEY—Who will conduct that evaluation?

Ms Pope—That would be conducted by our staff in our national office in cooperation with our state officers. It is an internal review of their performance.

Senator HURLEY—Is there any independent review? In the lead-up to the putting out of this tender, I understand there was quite a large consultation process whereby a number of groups were consulted about what kind of settlement services they wanted to have. There was a report by Urbis Keys Young on the evaluation of integrated humanitarian settlement strategy in May 2003. So, in the lead-up, there have been quite a lot of independent evaluations and consultations with stakeholders about what was required. Following the changeover and the

letting of the tenders, is there going to be a similar process of consultation with stakeholders and refugees?

Mr Vardos—The consultation you are referring to was the circulation of the discussion paper in which we canvassed various models and options for structuring the new IHSS contracts and what we were seeking to do in the IHSS mark II. That engagement was national. We received 75 written submissions and over 250 people attended consultations in a range of cities around the country. We are not envisaging something of that magnitude. However, there is opportunity for us to commission independent review as and when necessary. I cannot recall that we have done such a thing in the case of IHSS contracts, but certainly in the case of grants under the CSSS, there was cause on at least a couple of occasions that I can recall where we engaged the department's external auditor, Ernst and Young, to conduct a review of certain issues that had arisen. That is open to us. The short answer to your question is, no, it is not envisaged that we will conduct a community consultation of that magnitude this early in the contract period. However, I should add that part of my brief is to engage at a community level in every state capital around the country on an annual basis, not just with IHSS clients or whatever but with the community sector that is involved in refugee services, with service providers and with state governments. Although I have not started that program, it is on my agenda for 2006. When I visit Newcastle, I will extend my discussions beyond the Burundian community to anybody in the sector who wishes to meet with me.

Senator HURLEY—So it will be as departmental officials going around talking to stakeholders involved or whomever wants to talk to them?

Mr Vardos—There is an ongoing dialogue. That is part of the requirement. We need to engage at a personal level with stakeholders. I use the expression 'stakeholders' because it goes beyond the clients themselves. It involves state government and local government. But, as I said, if issues arise that require an external review of something, we would engage. The example that comes to mind was the allegation of misuse of grant funds to a community organisation. A lot of the allegations were anecdotal and unsubstantiated, so we engaged Ernst and Young in that case to go in and do a specific review in relation to that matter. We have that discretion.

Senator HURLEY—The service providers are meant to be the first port of call: the first complaint is meant to be to the service providers. Do they have a formal reporting mechanism for dealing with those complaints? Is that meant to be part of their annual report? How does that work?

Ms Pope—Yes. Under the contract, all of the service providers are required to develop grievance-handling procedures. While we have not yet fully designed the approach we will take in the evaluation, I would expect certainly that the complaints they have received and how they have handled them will be part of that evaluation.

Senator HURLEY—So currently they log the complaints they have received and then they are part of their annual report. Is that right?

Ms Pope—I would expect that to be the case, although I cannot speak for all 20 regions in detail. The contract requires that they have grievance-handling procedures, and those would

include logging those complaints, and that reporting would be part of what we would look at in their annual reporting.

Senator HURLEY—If the complaint has been made to the service provider, is there any guideline for the service provider as to when the department should be notified of that complaint, or is it at the discretion of the service provider whether they do so or not?

Ms Pope—We would expect that, when they have reached a point where they feel they are not able to resolve the matter with the individual involved, they would advise the department. They may choose to do it earlier than that, but it would be my expectation that, if they felt they were reaching an impasse in resolving the matter, they would involve state office colleagues to assist with the resolution of the complaint.

Senator HURLEY—You were describing the meeting you had in which DIMA impressed on service providers that they must adhere to conditions of the contract. The conditions of the contract are very specific and, I might say, very good. They actually run through in quite a lot of detail what must be done to assist arrivals in Australia. For example, the contract even runs through what kind of equipment families should be given:

Furnishings which are appropriate to the need of entrants, fully functional fittings and equipment, including adequate beds, bedding and towels for all family members, a wardrobe and/or set of drawers for each bedroom, a dining table and adequate chairs for all occupants, lounge chairs, adequate glassware, crockery, cutlery, pots and pans and other necessities, a television, radio and clock, a refrigerator, a heater and fan, window coverings, iron and ironing board, cleaning equipment and access to a washing machine.

That kind of detail is within the contract and very clear. That is just the equipment, but the services that should be provided to new arrivals are also very clearly spelt out and gone through. In what way are the department able to audit that that is occurring? Do they wait for complaints that it has not occurred or are there any kinds of spot checks? What is the process?

Mr Vardos—Complaints are the most obvious way that these things come to attention, but the principal relationship interface between this department and the service providers is through our state and territory office network. There are dedicated staff who work on the IHSS program and their responsibility is contract management and monitoring. I cannot assure you that they visit every refugee household with a checklist to make sure that every single item that you just read out has been provided.

Senator Vanstone—That would defeat the purpose of subcontracting the job.

Mr Vardos—But the monitoring occurs at the state and territory office level. I will leave it at that.

Senator HURLEY—So, if there are complaints at the state and territory office level, when you are reassessing the tender, evaluating the success of your tender and whether tenderers meet the KPIs—and I assume that that is important to you, and you have just said it is, in relation to that meeting of 7 December—how do you know where there have been failures if the state office does not communicate with you?

Mr Vardos—I am checking to see when our next DIMA contract managers meeting is. We hold those a couple of times a year when all of our state and territory based managers come to Canberra for a conference to address the sorts of issues that you have been canvassing today. I

guess you do build a dossier or a profile over the life of a contract on the performance of a contractor, and that forms part of your assessment process. We are talking about a five-year contract period. Many things will change over the next five years. Performance needs to be recorded, for the very purposes that you are talking about. The purpose of bringing contract managers here is to make sure that there is no ambiguity or misunderstanding about what their role is in this process because, as I said earlier on, the principal point of interface between this portfolio, the service providers and the clients is at the state and territory office level. So they are our eyes and ears in this process.

Could I add that, when we did the tender evaluation process, I seconded staff from all the state and territory offices to come to Canberra—people who had had experience with the previous IHSS contract period—to sit on the technical evaluation panels that assessed the bids against each of the criteria. So again the expertise is in the state and territory offices, so that is what we drew on. I would expect that is exactly what will happen next time as well.

Senator HURLEY—When those state contract managers come for their conference in Canberra—twice a year, you said?—

Mr Vardos—I think it is twice a year.

Senator HURLEY—do they sit with people from the national office when they are talking about their performance evaluation?

Mr Vardos—Ms Pope would chair the meeting, but I would certainly be present for various aspects of it. The IHSS section, which effectively forms the policy and secretariat function for this program, which sits under Ms Pope, would almost wholesale be at those meetings.

Ms Pope—Among those staff are several contract managers who have assigned to them the contracts for the various areas of Australia, so one individual might have two, three or four across out of the 20 across the country, and they liaise very closely with the state office people who are doing this work on the ground. Further to your previous question, the state office people do go out to the premises of the IHSS service providers, they do visit the accommodation and they do meet with the clients and so on—not to the extent of visiting every single house but they certainly undertake the sorts of visits and discussions that you would expect them to in order to be satisfied with the level of service that is being delivered and to work through any issues that are being raised. My understanding would be that they would ask the provider, ‘Have there been any complaints? Have there been any issues that need to be discussed?’ and that in the course of their work they would be visiting the premises where the services are provided, talking to the caseworkers and so on and also visiting individuals on occasion—but not, as we have said, every single person and every single household.

Senator HURLEY—When is the next conference of the state contract managers?

Ms Pope—I believe it is in March.

Senator HURLEY—So that is when you will get some sort of evaluation of whether the service providers have been adhering to the contract requirements.

Ms Pope—That is a formal opportunity for us to do that but we certainly would have already heard if there were significant issues that needed to be resolved.

Senator HURLEY—And you have not heard that.

Ms Pope—As I said before, not any additional issues of the level of complaints around the Newcastle contract.

Mr Vardos—Could I add that a forum like that is also an opportunity for sharing experiences. What is happening in Perth might be relevant to considerations in Brisbane. It is a very important aspect of that meeting where we bring the collective experience from across the country to be discussed in the one venue.

Senator HURLEY—I have questions about employment by the service providers. They employ caseworkers to deal with the on-the-ground issues: meeting refugees and assisting them to get adequate housing and so on. Is there any method of monitoring the employment practices of the service providers? I will refer to an example. I do not know whether ACL thought that the caseworker for Richard Niyonsaba's family was Burundian or not, whether they assumed that was the case or whether they just went on language requirements. What monitoring is there that appropriate caseworkers, as described in the contract, go to appropriate families and that there are no cultural sensitivities or no issues with language?

Ms Pope—Similarly to the way the other aspects would be monitored—that is, on the basis of meetings with service providers and visits to their premises. I visited ACL's premises in Auburn early on in the contract period and was introduced to the group of caseworkers that were in the office on the day. Several of them were out visiting families and dealing with issues. Quite a number of those caseworkers had worked with the previous service provider and had come on board with ACL when the contracts changed over. All our service providers endeavour to employ the widest range of bilingual and beyond bilingual caseworkers suitable for the composition of the program as it currently stands and the sorts of arrivals that we would be expecting to have into the future.

Because there are new caseloads emerging, efforts are made to try to recruit appropriate people in advance but, in some cases, that can be quite difficult. In our settlement planning context, we are looking at ways we might be able to identify some key people in camp populations or refugee groups in various places around the world and work out ways they could be recruited and come early in the settlement of a new group—people that might bring linguistic skills or have leadership roles in the camps and so on. As I am sure you are aware, a lot of the African languages are quite new to Australia, and the availability of people who can communicate in the range of African languages and in English and other languages is growing as we bring more people in, but it is sometimes difficult to source the full range of caseworkers in the full range of countries of origin and language abilities. Certainly all of our service providers make the effort to recruit appropriate bilingual caseworkers, or beyond bilingual, as many of them are.

Senator HURLEY—It is an issue because, as you were saying, some of the languages of refugees coming from African countries in particular and other countries are not very well known. There are certainly not established groups and networks of African communities in

Australia. It is possible that a refugee can arrive in Australia and the only person that family can communicate with in the initial stages is their caseworker.

Ms Pope—That is certainly their first point of contact.

Senator HURLEY—If they have a problem with their caseworker and they have this language difficulty, is anything set up to allow them to make complaints?

Ms Pope—In the case of ACL, I am advised that they are also given a back-up caseworker who speaks a language that we understand and that the arriving family also speaks. This is partly one of the actions that ACL has taken as a consequence of the little boy's death. There are mobile phones now provided to all entrant families that are pre-programmed with the first caseworker's mobile phone number, a back-up caseworker, TIS and the 000 number. TIS would also be an option for people who are arriving who have difficulty communicating, but my expectation would be that, if the caseworker was of the view that he or she was not communicating effectively with the arriving family, he or she would go directly back to ACL and draw this to their attention. If ACL was not able to resolve that by providing the appropriate caseworker from their employees, I would expect them to raise that with the department to see if we were able to source somebody who was able to assist them if it was a language that was not available amongst the service provider's caseworkers.

CHAIR—Senator Hurley, could I seek some guidance from you and other senators in relation to the program? What I intend to do when the committee resumes at half-past seven is to call the MRT to enable the MRT to be dealt with and return to Sydney, which I think would be of assistance to them. We are still in 2.1. I understand there are other senators with questions in 2.1. If my plan is acceptable, that gives at least the officers from the MRT some guidance of what I intend to do with them. At the conclusion of that examination, which I do not expect to take an extensive amount of time with the MRT, we will return to 2.1 and continue through the rest of the evening, to give the department and officers some idea. I call on Senator Hurley again.

Senator HURLEY—Ms Pope, I was not referring so much to communication problems. I refer to some reports, although they are not substantiated as far as I am aware. This is an instance where some people from southern Sudan, whom I understand are mostly of the Christian faith, have been upset that caseworkers and managers have been from north Sudan and the Muslim faith. This is Australia and I guess we expect people to set aside their differences once they come here, but you can understand that it is a matter of some sensitivity for new arrivals. If they have that kind of difficulty and think that perhaps their caseworker is discriminating against them because they are of a different tribe or faith, I am concerned about where they can then go.

Ms Pope—Sorry, Senator; I misunderstood your question. My answer would be similar in the sense that I would expect them to advise the caseworker that they are uncomfortable with the situation and for the caseworker to immediately raise that with the service provider and explore the possibility of providing an alternative caseworker if the reasons were genuine and found to be valid and of concern.

Senator HURLEY—I understand there was a situation where there were complaints made. The manager in this case would not accept them, being from the same group as the caseworker.

Ms Pope—I am not aware of that case, but I am happy to investigate it.

Senator Vanstone—But, as Ms Pope said, the instructions are that, if it cannot be resolved—that is, if the manager did not accept it, I take that not to be resolved; it is not resolved if people just say, ‘We think nothing of your complaint’—it is meant to be referred. If you give Ms Pope the names, she can check up on whether that happened or whether the manager sat on it.

Senator HURLEY—Do the service providers, as part of their package of information to refugees, give them information about where to go within DIMA if they have a problem with the caseworker and the service provider?

Ms Pope—I am not aware of exactly what they provide in all contract regions. I can look into that and provide some examples of the way they deal with that issue. There would be the question of what you can provide in writing. It is an issue that we are working on at the moment because many of the people we deal with are not literate in their own language, nor are they literate in English. The provision of translations into some of the languages we are dealing with is a difficult issue as well. I would expect that they would provide verbal advice but possibly not something in writing, partly because of this issue of literacy in their own languages and also because of the issue with translation. For example, the New South Wales office has advised me that they are having quite a bit of difficulty locating someone who can translate into and from the Kirundi language that we were mentioning earlier.

CHAIR—I think that brings us to the end of the questioning.

Senator HURLEY—Can I ask one more question on this?

CHAIR—Yes, then Senator Parry has a matter that he wishes to raise, so we will go over time.

Senator HURLEY—You were saying that ACL will now provide a mobile phone with keyed-in numbers. Do other service providers have that service?

Ms Pope—I am not sure. It was provided in this instance because ACL became aware in investigating and looking at the issues raised that people who have lived in refugee camps are more familiar with mobile phone technology than they are with handset technology. Part of the reason we have these meetings is the spread of best practice. If this is found to be an issue elsewhere, we will certainly suggest to our service providers that they take up some of the initiatives that ACL has put in place.

CHAIR—Senator Parry?

Senator PARRY—I just wish to raise the issue of the New South Wales Coroner. We seem to have left it up in the air a little bit. I think it is quite important to have on the record that the New South Wales Coroner—in fact every coroner in every state and territory—has supreme jurisdiction in relation to the investigation of deaths. In this particular case, my understanding is the young boy’s body was subjected to an autopsy at the written direction of the New South Wales Coroner. It was based upon that evidence that it was determined that the inquest would

not proceed any further, which is standard practice in a lot of deaths in Australia. I think it is important to understand, firstly, that the jurisdiction of the New South Wales Coroner is quite supreme and, secondly, that an autopsy examination was, to the best of my knowledge, conducted.

Proceedings suspended from 6.31 pm to 7.35 pm

Migration Review Tribunal

CHAIR—I welcome Mr Karas and the officers from the Migration Review Tribunal. We will begin with the MRT and then, as I indicated before the dinner break, we will return to output group 2.1.

Senator BARTLETT—I appreciate the overlap between MRT and RRT staff and decision makers as a result of the requirement in the second half of last year to prioritise refugee reviews in line with the announcement in July. I understand there was some realigning of MRT members' priorities to help cover the more immediate priorities of RRT decision making. I wondered if that situation had pretty much resolved itself now and we were back to normal. Also, how did that affect MRT time lines?

Mr Karas—It is resolving itself. Things are moving back to normal on the basis of the fact that—as you are aware, no doubt—the members of the tribunal are now all cross-appointed. Those who came from an RRT background are now starting to be trained on the MRT case load as well. As a result, the reporting which is required by the legislation in relation to the 90-day limit was made to the minister in December, as we were required to do. At the same time, the member resources of the tribunal are such that we are meeting the 90-day limit in the majority of cases now. I am not too sure of the exact statistics, but the Registrar, who attends the interdepartmental meetings that are arranged in relation to the 90-day limit, has been producing progressively favourable statistics, indicating that the tribunal is meeting the 90-day limit in the majority of cases. As for the target times, as at 13 February or thereabouts, about 51 per cent of the cases finalised had been finalised within the new 90-day time limit. And, as I have indicated, the resources of the tribunal are being moved between the members to ensure not only that that target is met but also that the MRT cases do not continue to just sit there, so to speak.

Mr Lynch—If I could add to that, Senator, I will just give you some detail. The average time taken during December for RRT reviews was 81 days, well within the 90 days. That is the average across the entire case load. Seventy-four per cent only were finalised within 90 days. That is a percentile that is growing. As the Principal Member indicated, over the months since the introduction of the 90-day time limit we have improved our performance. At 31 July 2005 we had 357 cases outside the 90-day time limit, which as you may recall was introduced on 17 June. Prior to that, the RRT operated on a 118-day time line for its community cases and a 70-day time line for its detention cases. We have improved from that figure of 357, through to, as at 24 January this year, 142 cases older than 90 days, out of a total of 646 cases on hand.

Senator BARTLETT—I understand that there have been some concerns raised about balance of cases between Sydney and Melbourne registries and some matters being transferred from Melbourne to Sydney, requiring video hearings. I presume that is not just

your usual Sydney-Melbourne rivalry but is based on practicality. Is that impression correct? Are you aware of that and do you have a response to it?

Mr Karas—It is a national tribunal. As a result, the resources of the tribunal are utilised in the best possible way to ensure that we meet the legislative requirements. It is true that we do move cases between the registries, and those that have been moved to Sydney to a large extent—but not entirely—do involve cases that are lodged from outside of Victoria to the Melbourne registry and, yes, a number of those are dealt with by videoconferencing. That practice had been mentioned and raised by me at liaison meetings that we do have with people who do business with the tribunal, including a number of the NGOs or so, and it has been established practice for some time now that the cases do move between the tribunals so as to best utilise the membership that we do have. It is common knowledge that there are more members in the principal registry in Sydney than there are in Melbourne. Depending on the caseload, cases do get moved between the registries.

Senator BARTLETT—Is any consideration given to the difference between having a face-to-face hearing and a video link?

Mr Karas—Consideration has been given to that. I must say that the video link facilities have improved remarkably over the last few years. I recall that, when I was first doing videoconferencing hearings, they were usually fuzzy. Often you could not focus too clearly unless you had someone there who utilised the camera to focus and draw back. One of the last hearings I did involved a person who was in Baxter when I was in Sydney with his representative and with the interpreter as well. I must say that the videoconferencing was so sharp and focused that I could see the beads of perspiration on the person's forehead. Personally, I do not think that there is any advantage in face-to-face hearings as to videoconferencing hearings, given the fact that the equipment has improved so far over the last few years. However, in situations where the facilities are not there for videoconferencing, like on Christmas Island, we do still make members available to travel there to deal with the caseload as it arises.

Mr Lynch—It might be worth adding that, where a special request is made by an adviser or an applicant for reason of speech impediment or something of that nature and they feel there is better rapport face to face, we attempt to accommodate that type of request, but it is an inevitable outcome of the national operation, as the principal member said, whereby we cannot avoid conducting videoconferencing not only with regional Victoria but also with other states and territories, including the Sydney regional responsibility areas of Queensland and the Northern Territory.

Senator BARTLETT—Thanks for that. There have been a few court cases—I am not sure if they related to the RRT or the MRT, but I guess the principles are the same—related to natural justice and informing people of various documents and those sorts of things. I appreciate that natural justice is always a finely tuned concept. One case was *WALM v Minister for Immigration* [2005] FMCA 959 from the Magistrates Court, and there are a couple of other ones here. Are there any specific extra things you can do in terms of training to address that issue, or is it just an inevitable consequence of the nature of the natural justice concept?

Mr Karas—In its ongoing training with members, the tribunal does focus on the requirements of natural justice from time to time. You may be aware that there has been comment to the effect that the legislation and the way that it has been interpreted by the courts does provide for more natural justice than perhaps what the common law has done.

The principal member directions issued and the training given to members reinforce the fact that we have to be fair and just in our dealings with the applicants and at the same time follow the legislation. Unfortunately, from time to time members do run into difficulties. As you have highlighted, Senator, that is picked up by the courts. We also use the court decisions for guidance in relation to the training of members. Overall, I would say that, generally speaking, most members abide by the fair and just provisions and the natural justice provisions of the legislation. I think that if you look at the number of cases that are determined by the courts in relation to the number of cases that are finalised by the tribunal, you will find that the proportion is not that high. That is not to say that natural justice is not important and the requirements of the act, which require us to be fair and just in our decision making in relation to the merits of the case and substantial justice, are taken very seriously. It is an important part of the training that we give to the members on an ongoing basis.

Senator BARTLETT—Another issue of a similar type which is raised reasonably regularly is the adequacy of the guidelines and training on use of expert evidence, credibility and those sorts of things. Are you doing anything specific in assessing or reviewing that at the moment, or is that just part of your continual oversight?

Mr Karas—It is part of the continual oversight but, specifically in relation to credibility and gender guidelines, we are moving within the tribunal now to produce a set of credibility guidelines which we anticipate will be made widely available. It is expected that those credibility guidelines will be adopted, hopefully with enthusiasm, by the members in relation to them assessing credibility, which is an important component of the work that the tribunals do. There has been criticism, but there has also been praise by the courts in relation to the way that the tribunals carry out their functions. However, I am the first to acknowledge that it is a difficult area, and we hope that the production of these guidelines, which, as I said, will hopefully be made available quite widely, will assist people in understanding the way that the tribunal works in relation to the credibility area.

Senator BARTLETT—Is the fairly significant overhaul and restructuring that is happening in the department having any direct impact on the tribunals in a structural or operational sense or any other way apart from, hopefully down the track, meaning fewer appeals to you or higher quality decision making? Is there any direct role that you are playing?

Mr Karas—The tribunal has come through a year of changes which I hope and expect will be for the betterment of outcomes by the tribunals and will lead to consistent and high-quality decisions and a number of them. In relation to specific changes in the way things are being done, in the MRT there was the introduction of the principal member directions, which changed the way that cases were initially constituted and passed on to members after the staff had looked at them initially and prepared what in those days was called a ‘first examination’. Now, as soon as the department file is received in cases or applications, the move is for them to be allocated to members as quickly as possible for the member to be able to look at the file,

quickly sum up, see what is required and then, if it does need staff support from legal, country information, for a short report to be made or for information to given, then that is how that would occur. We hope that change, which was introduced on 1 July, will lead to more effective and efficient decision making on the part of the tribunals.

Mr Lynch—Could I add as well that there is an ongoing refinement of work processes vis-a-vis DIMA operations and the tribunal's operations. We have recently had the secretary and the principal member execute a memorandum of understanding, just before the end of the last calendar year. That provides for a streamlined exchange of information, case management, improved IT connectivity and a range of other measures. It is a valuable document which we propose to make public and we would welcome making it available to you. It goes to the spirit of the tribunal's operations as well as the statutory and operational relationship the tribunals have with the department. We think it is a bit of milestone in terms of establishing protocols that have previously existed. IT connectivity is a major feature of our development. We are managing the implementation of a joint case management system. One of the features of that system will be a high degree of interconnectivity with DIMA's systems as they are being reviewed and developed.

Senator BARTLETT—I am always happy to look at milestones and put them in a frame on the wall and stuff. I would be happy to have a look at a copy of that.

CHAIR—You need very big walls, Senator, don't you?

Senator BARTLETT—I'll just sell it again for a massive profit on eBay 10 years down the track as public demand skyrockets! On the issue of potentially unsatisfactory conduct by migration agents or lawyers and the like, I know you are able to refer to instances of or suspicions of that to the MARA. Have there been any instances of that in the last six to 12 months that you could document? If you feel like editorialising about any perceptions or anything more solid of trends, positive or negative, in that direction as well, I would be happy to hear them.

Mr Karas—The tribunal, as you are aware, does make referrals to the MARA in relation to the conduct of registered agents. To date, for this financial year, there have been no referrals to MARA in relation to the Migration Review Tribunal for the conduct of registered agents there. However, from the Refugee Review Tribunal there have been four referrals in relation to the conduct of registered migration agents. The principal member directions indicate and refer to the ability, if I can use that expression, of tribunal members to draw to the attention of the principal members for it to be sent on to the MARA conduct unbecoming of a registered migration agent, particularly where the migration agent has acted in breach or what appears to be in breach of their code of conduct. However, as I have indicated, there have not been any referrals on the MRT but there have been about four on the RRT so far this financial year.

Senator BARTLETT—Is that a positive trend?

Mr Karas—I think, statistically speaking, that it may show that there have not been as many referrals as might have been the case in the past. As tribunals we have a close relationship with the MARA and with the Migration Institute of Australia. We do meet from time to time, exchange information and have the MIA, on occasions, put into its publications

changes that the tribunal is undergoing. I think it would be true to say that we have indicated to them that the tribunal will be taking a more robust approach in relation to the activities of registered migration agents, particularly where we can see a pattern emerging relating to the code of conduct. That is more so in the RRT because of the strict time limits. There has been a lot of anecdotal evidence in the past that some migration agents would wait for the last minute in accordance with the legislation before they would make submissions. The handing down period of about 14 days is often utilised by agents as well to submit material to the tribunal and, as a result, the handing down of the decision has to be withdrawn for that material to be considered and that usually leads to a delay again.

However, as indicated, because of the legislation and the 90-day limit, we have indicated to the MIA that the tribunal will be more robust in ‘policing’ the requirements that registered migration agents deal as quickly as they possibly can in relation to the submission and generally in relation to the conduct of matters before the tribunal.

Senator BARTLETT—An issue that is raised from time to time, and it usually gets raised with me in the context of RRT decisions—I am not sure what the MRT situation is—is the current practice that has been in place for a few years now of just publishing a selection of decisions rather than all of them. I think it is 10 per cent of RRT decisions. Is that being reviewed at the moment? It still gets raised with me now and then and I suspect it gets raised with you in some of your consultations.

Mr Karas—It is still the case. We did, when it was being introduced, indicate that we would introduce it for a trial period of six months. During that period we have not had any complaints, if I could use that expression. In fact, some people who have been in contact with the tribunal have said words to the effect, ‘Oh, thank God, we now don’t have to trawl through all of the decisions in relation to the particular points that we are after.’ Up until today we have not had a large number of complaints, if any, in relation to the publication of 10 per cent of the decisions, which we are continuing to put out through Austlii.

Mr Lynch—At the MIA national conference a couple of years ago the MRT migration agent interested grouping was very concerned to hear what percentage the drop would be and how relevant the cases would be. Some agents did indicate, as the principal member has indicated, that they would advise clients simply by drawing analogies with similar case facts of decided cases on Austlii—they would be comparing the outcomes and suggesting to the clients what a particular outcome might be based on similar facts. That was the utility that these agents were relying on—the database where we had a 100 per cent publication rate. In 1999 that approach was probably well intentioned and appropriate with the new tribunal et cetera but over the years it has become unnecessary, we believe. In any event, the requirement is only to publish cases of particular interest.

Senator BARTLETT—My final question is about the latest situation with your averages for finalisation. I know from the last estimates that in the last annual report, as I think I mentioned, you were trending in a good direction in pretty much all categories. I thought I would see if that fine performance was still keeping up.

Mr Karas—In relation to the MRT, for the financial year 1 July 2005 to 31 January 2006, 3,949 cases have been finalised, which is in fact a decrease of some nine per cent compared to

the 4,347 cases lodged in the same period that year. However, in relation to the target times, 76 per cent of the time limited cases were finalised within the seven working days. Generally speaking, the average time taken for all cases was about 38 weeks or 263 days. We are concentrating on that and trying to reduce those time lines. I am very conscious, Senator, of your comment and observation in relation to the 601 days it was taking us at one stage in relation to the skilled occupation visa class. I am pleased to say that that has come down quite dramatically, almost by half. It is now down to 393 days.

So overall I can say that we are working to try to reduce the time lines and, at the same time, to maintain the quality of decisions and the finalisation output that we have been happy to report to you in our appearances before you at Senate estimates. In relation to the RRT, that has finalised 2,251 cases for the same period, which is an increase of 20 per cent, compared to the 1,870 cases lodged in the same period last year. As I indicated, for the time being 51 per cent of those cases have been finalised within the new 90-day time limit.

Senator BARTLETT—This being additional estimates, we might leave it there and have another slightly more detailed look at some of the stats come May or June or whenever it is. Thank you for that.

CHAIR—We will resume where we left off before the dinner break with output group 2.1 on settlement services. Senator Hurley will continue in that area and then we also have some questions in 2.1 from Senator Bartlett.

Senator HURLEY—I want to pay a bit more attention to the use of volunteers, particularly by ACL in Newcastle. I have a letter from Sharon Grierson, the federal member for Newcastle, to John Cobb on 30 August. This was just before the changeover to the new service. She was indicating concerns about the type of process. In her letter, she says:

I am advised that ACL intends to operate a centralised model of service delivery that will see local IHSS services, which currently engage three full-time staff, a pool of eight bilingual casuals and more than 50 community volunteers working the equivalent of another 12 full-time positions, reduced to a single part-time worker. It is impossible to imagine how this new model will be able to maintain, let alone improve, on the quality of existing IHSS services in the Newcastle and Hunter region. Curiously, the ACL consortium does not appear to be interested in making use of existing local organisations and networks despite their lack of experience in the delivery of IHSS services or previous work in this region. It remains doubtful that ACL consortium will be able to deliver a client focused and seamless service without the support of long-established local networks, resources and community based organisations.

She goes on to say later:

With less than four weeks to go before the new IHSS tender begins, I seek your assurance that current and future refugees and humanitarian entrants will not experience any reduction in the range or quality of IHSS services in the Newcastle and Hunter Region and that the new contract will be performed in such a way to achieve the stated goals of the IHSS program.

The member for Newcastle flagged that she had concerns about the build-up to the beginning of the contract again on 8 September in parliament, in an adjournment debate. Ms Grierson expressed her concern about services to Newcastle in the new contract. She put out a media release on 8 December, 'Migrants to Newcastle let down by government'. She made another speech, in the adjournment debate on 10 November, talking about the number of refugees

settling in Newcastle and commenting that, previous to the changeover of the contract, there had been successful settlements and she had had very few complaints in her office.

Sharon Grierson wrote again on 13 January, with a specific issue arising out of this—and I understand that Kelly Hoare, the member for Charlton, wrote on 24 November—to the then minister, John Cobb. So I think concerns were flagged to the minister and to the department very early about the types of services. I think you mentioned in answer to an earlier question, Mr Vardos or Ms Pope, that there was a meeting held by ACL in Newcastle with prospective volunteers. I think it was last month.

Ms Pope—They held a training session in mid to late January that attracted 80 registrations of volunteers that wanted to continue working with ACL in Newcastle.

Senator HURLEY—Was there any previous attempt? According to the member for Newcastle, Sharon Grierson, prior to the contract she was not aware of any attempt to engage with the existing volunteers or community services.

Ms Pope—I can answer that question. I can also respond to the correspondence and issues you have raised that Ms Grierson provided. I will start with information from ACL about its engagement with volunteers. The part of its consortium that deals with volunteer coordination is Mission Australia, which has a very strong record in volunteer work. In October 2005 Mission Australia set up its office in Newcastle and developed policy and procedure documentation around a whole range of issues, including roles and responsibilities of volunteers, home visits, volunteer code of conduct and others.

On 8 October ACL and Mission Australia met with the Community Support for Refugees, CSR, groups in Sydney about the new model, the structure of ACL and so on. I have more details on Sydney but I will just focus on the Newcastle engagement. On 12 October 2005 Mission Australia's volunteer coordinator contacted the coordinator of Newcastle's CSR volunteer group. They discussed how to put together a plan of how Mission Australia and the Newcastle CSR group would work together under the new model.

Mission Australia in consultation with ACL and other consortium members developed a plan for training which addressed new IHSS models of delivery, the STARTTS people working in the torture and trauma area, and ACL in delivering case coordination information, referrals, on-arrival assistance and so on. On 21 November the Mission Australia coordinator organised a further meeting in Newcastle with volunteers. It is recorded that the meeting went for six hours and there were detailed discussions about ideas on how to go about incorporating volunteers into the new service arrangements. Many questions were raised and answered and Mission Australia distributed documents and forms and information about the way it would be approaching the volunteer arrangements.

Both Mission Australia and ACL expressed their willingness to work with Newcastle volunteers within the new model and said that Mission Australia would recruit and train those volunteers who wished to join in the near future. On 22 December Mission Australia staff joined ACL in a Newcastle family picnic for refugee entrants, and volunteers were also invited to that. On 12 January Mission Australia manager Ronald Davis, who is the representative of the CSR volunteer groups, met in Newcastle to finalise their discussions and

to invite the CSR group to participate in the Mission Australia volunteer training on 21 January and 4 February.

That 21 January training was attended by about 80 participants who registered as being interested in working with ACL. I understand that around 30 of those were of African origin, which was very encouraging. Other agencies were also invited to attend that training, including the Red Cross and specific individual volunteers that we have referred to earlier, such as the STARTTS representatives and leaders of African communities in Newcastle. On 4 February, they conducted their second training session, which was attended by about 40 participants. Would you like me to move on to the correspondence and discussions with Ms Grierson?

Senator HURLEY—Yes.

Ms Pope—As you pointed out, on Thursday, 10 November, Ms Grierson presented a complaint to parliament in relation to IHSS services in the Newcastle-Hunter region. This is quite long. I am happy to provide it now or give it to you in writing, whichever you would prefer.

Senator HURLEY—I am quite happy for you to give it to me in writing.

Ms Pope—In addition to that, you made reference to an email of 13 January, which raised a number of issues. I can respond to some of what was raised there. This was a particular case that Ms Grierson raised with ACL to do with a lady accommodated in Newcastle. Again, that is quite a detailed and complicated case. I can either read out the response to that now if you prefer or, again, give that to you in writing.

Senator HURLEY—I am happy to have that in writing.

Ms Pope—It is a particularly complex case. Some of the issues are confidential to the individual, so I would prefer to do it that way.

Senator HURLEY—Yes, I understand that.

Mr Metcalfe—If we are providing a written response to the committee, it has to be on the basis that it be a publicly available document, so there may be some issues with—

CHAIR—Anything provided to the committee in the estimates process must be provided as a public document.

Senator Vanstone—If there are things that cannot be put on the public record, as in being read out, then they ought not to be given to the committee. We can look at that. I have a separate concern: if allegations have been raised publicly, the department should give consideration to how it can now put what it wants to say on the record either today or at a later time.

Ms Pope—I am happy to go through it in detail. With regard to that case, I can summarise the information that I think the individual would want kept private.

CHAIR—Do you mean now?

Ms Pope—Yes.

CHAIR—As chair of the committee, I am not particularly comfortable with doing that on the run with regard to an individual's personal details. I seek Senator Hurley's indulgence in that regard so that matters of this nature can be provided on notice in a written response with the appropriate information.

Senator Vanstone—That does give us time to make sure that we do not, in a desire to give the committee as much as we can, inadvertently and unnecessarily trespass on someone's privacy.

CHAIR—That is right. Senator Hurley, could I seek your agreement to that process?

Senator HURLEY—Yes, I am happy with that.

Ms Pope—Lastly, I do have a chronology of interaction between Ms Grierson's office, our department and ACL, which I will draw from. On 8 September, ACL received a request from DIMIA New South Wales to respond to questions raised about IHSS service delivery in Newcastle, which is the one that I can provide to you separately. On 22 September, they received a request that Ms Grierson had requested a copy of their contract, which they provided minus the pricing schedule, which is commercial-in-confidence. On 13 December, the IHSS manager sent an email to Ms Grierson inviting her to the picnic that was being held and to meet and discuss ACL's and IHSS's service delivery in Newcastle. On 14 December, ACL requested a meeting between Ms Grierson, the CEO of ACL, Helen Zimmerman, and Jenny Whitmarsh, Ms Grierson made an appointment for a meeting, but that is not until 20 February. That was the earliest date she was able to give ACL for a meeting to discuss the issues that she wished to raise. The other responses relate to the case that we will sort out a written response to.

Senator HURLEY—Why did it take so long for ACL to begin the process of bringing in volunteers?

Mr Vardos—The final contract was not signed until 17 October, so there was a limitation to what they could have done before 17 October when the contracts were signed. They got up and running as quickly as possible. The advice I have is that the final contract was signed on 17 October, although preliminary contact was made on 30 August. Because of the ambiguity of the information I have here, I will need to clarify precisely when the final signing on the dotted line occurred, but they would not have been able to start the contract rolling until all those issues had been resolved.

Ms Pope—I have something to add to that, if I may. My view is that ACL were a little slow off the ground in Newcastle in engaging with volunteers. I would liked to have seen them do that more quickly and to have engaged better with the volunteer community in Newcastle. To be fair, I think there was some resistance to the new provider by the volunteer sector in Newcastle but my sense at this stage is that that has been well overcome, the evidence being 80 people showing up for their training. I think that demonstrates the degree to which they have now engaged strongly with the volunteer community in Newcastle.

Senator HURLEY—Indeed. I think it also demonstrates the strength of the volunteer community in Newcastle and their willingness to help.

Ms Pope—Yes, absolutely.

Senator HURLEY—I am interested in getting that clarification, Mr Vardos, of when the contract was actually signed. These are volunteers—they are not paid staff—and I would not have thought you would need the final signing of the contract to begin discussions and meetings with volunteers. You mentioned the role of Mission Australia, one of the consortium that won the tender along with Resolve FM.

Ms Pope—Yes, that is right.

Senator HURLEY—Was Mission Australia's role to coordinate the volunteers, or was it to do with its Job Network capabilities?

Ms Pope—My belief is that part of their role, certainly a key role, was to engage with the volunteer community. They had the responsibility to handle volunteer coordination services for ACL, drawing on, I understand, quite a long 100-year history of working with volunteers.

Senator HURLEY—I see. So Mission Australia's Job Network activities were not involved in this IHSS contract?

Ms Pope—Not that I am aware of, because we do not provide Job Network services through the IHSS contract. We provide linkages to Job Network services but we do not provide those directly ourselves. They might have had good contacts that would have been useful but we would not have been drawing on them to deliver those services directly.

Mr Vardos—It is not a service funded by IHSS.

Senator HURLEY—No, I understand that.

Senator Vanstone—Senator, since you took the opportunity to mention how prolific volunteers are in Australia—and they are—I might mention to you a program with which you may not yet be familiar in the family and community services department called small equipment grants. It is a program that I introduced, which is exceedingly popular amongst lower house members, because it largely goes through there.

CHAIR—And senators, Minister.

Senator Vanstone—And senators. It provides a grant of up to \$5,000 for small equipment for volunteer organisations that will either make the volunteering safer or more pleasurable. It is of particular note that in country or regional areas, which we are now talking about, while there are some groups that have cottoned on what the maximum is and designed their applications accordingly—in fact, I think there are probably packages being advertised somewhere amongst these groups as to what you can ask for—I recall getting letters from people in country New South Wales, one of which sent us back a cheque for \$5 because the fan that they had been able to buy at the electrical store was on sale. Such is the nature of the volunteer community that they are not predisposed to just take everything they can get but, rather, what they need. That is another example of how volunteers work all around Australia in all fields. I just thought I would help you with that.

Senator HURLEY—Thank you, Minister. That was very helpful.

Senator Vanstone—You might know of a volunteer group that does not know about it, and you can tell them.

Senator HURLEY—I probably do. With respect to Resolve FM, which is the other arm of the ACL consortium, my understanding is that they are a fairly large group that normally provide facilities management services for large office buildings and so on. But in this case they have taken on the role of being the agency that provides housing for refugees. Is that right?

Ms Pope—That is right, Senator. They have responsibility under their current contract for accommodation and also for the household package of goods. They were the provider in the previous contract period as well for similar services—accommodation and the package of goods to be provided in each house.

Senator HURLEY—Could you run through the steps that are taken in providing accommodation for new arrivals. My understanding is that the housing provider—in the case of ACL, Resolve—hold all the leases for that initial period of settlement. Is that right?

Ms Pope—Yes, Senator. The way the contract was envisaged is that ideally people would be placed in their long-term accommodation upon arrival in Australia, but it has been found that that is not usually very practical. Quite often, arrivals discover that they have friends in another location or relatives that they did not know were in Australia, and they wish to locate their permanent accommodation in a different place from where they are first accommodated. Also, they may make contact with a church or community organisation and they wish to be closer. So usually in the first instance they are accommodated for up to about six weeks in accommodation for which the leases are held by Resolve FM on behalf of the consortium. A tenancy agreement is signed with the people as they go into their accommodation. Once the people have found their feet, they are assisted to find long-term accommodation and they take out that lease for the new accommodation in their own right.

Senator HURLEY—So what about these reports of people being asked to sign long-term leases as soon as they arrive, within days of arrival?

Ms Pope—I am aware of that allegation. My understanding is that it has proved not to be correct that people were pressured at the airport to sign long-term leases. I know of one particular case where this was raised. My understanding is that the family quite quickly did locate long-term accommodation and they wanted to sign a long-term lease and they did not spend very long in the short-term accommodation. But allegations were made that they were asked to sign a long-term lease at the airport. My understanding is that that was not the case.

Senator HURLEY—That does not occur under any circumstances?

Ms Pope—No, it certainly shouldn't.

Senator Vanstone—It's not meant to.

Ms Pope—No, it certainly shouldn't occur. As I said, I was aware of one allegation that that had happened and that was looked into and it was not the case that that had happened.

Senator HURLEY—That was looked into by the state office?

Ms Pope—Yes.

Senator HURLEY—And your state office in New South Wales is not aware of any other cases where people have been pressured to—

Ms Pope—Not to sign long-term leases, but there was another issue that was covered in the press, in relation to an allegation that because the prospective tenants would not sign a temporary tenancy agreement for the short-term accommodation, food vouchers were withheld. That was urgently investigated, found to be factual and instructions were issued immediately from ACL to their subcontractor, Resolve, that that practice was to cease immediately. We are advised that the practice has ceased, and I have seen copies of the advice from ACL to Resolve and from Resolve to their staff members to cease that practice immediately. It was totally unacceptable and we were, frankly, shocked that they would have such practices.

Senator HURLEY—In what month was that?

Ms Pope—The allegation and the clarification around it?

Senator HURLEY—Yes.

Ms Pope—We met with ACL in early January and that was when we underlined that matter and also requested the written evidence that that had happened, and it was provided to me within a couple of days of that meeting.

Senator HURLEY—Just to again go through accommodation in those early weeks, my understanding is that in the first week the new arrivals are not required to pay for their accommodation. Then the subsequent two weeks, three weeks—

Ms Pope—It is subsidised for the following three weeks, yes.

Senator HURLEY—With regard to the subsidised accommodation, is the refugee person or family involved required to pay back that subsidy at any point?

Ms Pope—No. The subsidisation is made in recognition of the time it takes for Centrelink payments to come online. That subsidy is not sought, reimbursed, recovered or what have you. Ordinarily, we encourage the entrant families to make arrangements for direct debits from their Centrelink payments for their rent so that that is not something that they have to constantly be concerned about and so that the rental payments are made on time. Not all entrants choose to do that but that is an approach that Centrelink encourages.

Senator HURLEY—Are you aware of any allegation that a refugee filled in that direct debit and then had an extra amount debited for that period of subsidy?

Ms Pope—No. I am not aware of that but I am happy to follow it up if you want to provide the detail.

Senator HURLEY—I have one last question about another part of New South Wales and about particular concerns which I have raised previously for rural and regional areas—that is, funding for the Multicultural Women's Centre in Broken Hill. Again I raise the issue of the problem for those more remote locations. I understand that the one in Broken Hill, the Multicultural Women's Centre, has now been able to get some funding from the state government. Given that some refugees are being placed in regional areas away from these major areas of settlement, is there any intention to review what is occurring in terms of funding for these smaller groups?

Ms Pope—In relation to the humanitarian resettlement in regional areas and the process of placing those small proportion of arrivals under the humanitarian program who are unlinked—because it is only those who do not have family or friends elsewhere that they would want to be located with who we would seek to place in regional areas—those sites are selected on the basis of extensive consultation with the state government, the local community, the councils and all interested parties. There are some instances where, while the community might be very willing and so might be the state government, in our view the services that would be available are not sufficient for that community to be selected as a pilot for this process.

To date, the only place where we have settled families running a pilot is Shepparton in Victoria. The first families arrived there in, I think, November and we will progressively be settling. I think there have been some arrivals in January to Shepparton as well. It is the only place at the moment where we are outplacing people ourselves. Obviously the special humanitarian program people who are sponsored by their relatives in general go where their relatives are and we do not place those people deliberately. It is about 1,400 people out of the 13,000 that are unlinked that we seek to place in certain locations, taking account of family composition, the sorts of services they are likely to need and so on. So it is only both selected locations and selected families that we would place in rural and regional areas.

Senator HURLEY—And you rely on state services and other existing Commonwealth services in those areas?

Ms Pope—Yes, and we look at places, for example, where we already provide grants under the settlement grants program in that area that would also support them. So we look at the full range of services that the Commonwealth, state and local level provide in an area to make a full assessment of whether it is a suitable location for placement. For example, in Victoria, negotiations were undertaken with Warrnambool, who had expressed a strong interest in settling refugees. In the end they decided not to go ahead with it, even though it is an ideal location, because they had attracted a number of refugees from Melbourne who had independently chosen to resettle in Warrnambool and they decided to focus their efforts there.

Negotiations have also taken place with Mildura, and at the moment that is not proceeding because the state government is looking at whether they feel they can provide health services appropriately in a location as far from Melbourne as Mildura is. A couple of other locations have been explored in New South Wales as well, and there are others in South Australia that we are currently looking at but formal negotiations with the state government have not commenced there yet.

Senator PARRY—One question following up on the question from Senator Hurley to Ms Pope. The direct debit situation—what volume of direct debits would the department, or whoever is handling the direct debits, be looking at? Are we talking hundreds?

Ms Pope—The number of clients we would deal with under the refugee program in a year, who get the full suite of services provided by our IHSS providers around the country, is about 6,000. That would be people, so the number of families—

Senator PARRY—Say we divided that by four, to be generous—there would be a minimum of a couple of thousand direct debits?

Ms Pope—I would guess so, yes.

Senator PARRY—And there is an allegation of one potential irregularity with a direct debit, which would be quite minimal.

Ms Pope—Certainly but, as I said, it is not one that I am aware of—but we are happy to look at it. I know it is something new for our entrants: the idea, first of all, of the Centrelink payments and then the fact that you can arrange a debit where the bank sort of moves your money for you is unfamiliar, and it takes some effort and explanation for them to become comfortable with that. But it is an arrangement that, in most cases, guarantees that they do not have problems securing their rental payments.

Senator PARRY—I know private sector enterprises that would like a record that good. It is good to get it into perspective—that there is a high volume and an allegation of one irregularity, which is not proven.

Senator BARTLETT—If it is not out of order, can I ask a question relating to the additional estimates statements?

CHAIR—We may need medical attendance here to assist our officers to deal with the shock that that will cause, so I would be very cautious, Senator Bartlett—use your usual care.

Senator Vanstone—I am probably the only one in this room that served in the Senate at a time when people like Senator Colston would require you to show the page and the line about which you were asking a question and, if you could not, ministers—Senator Bolkus et al—would simply not answer.

CHAIR—I worked here then. I had to write the questions for Senator Hill. That shows how old I am.

Senator Vanstone—It is amazing how a government that is labelled by the opposition as being so arrogant is so open in estimates.

Senator BARTLETT—The dark old days of closed government. The question—it may just mean that I cannot read these things properly, mind you, before you get too excited—relates to page 25 and I think it is page 38 of the book. It mentions a reduction in spending for the Adult Migrant English Program of \$10.8 million—savings due to a reduction in spending. Could that be explained as to what those savings are based on and if it is being put to good use somewhere else?

Ms Ellis—The reduction is an adjustment to the estimates based on demand for English language tuition in the AMEP. It is just that—an adjustment to the estimates based on the numbers, the demand for tuition in the year to date.

Senator BARTLETT—It seems like a reasonably sizeable proportion of the total thing. It is not half or anything but it is still not totally insignificant. Is that based just on fewer people than you expected taking it up, or just less cost?

Ms Ellis—It is not less cost, because the current contracts that were entered into commenced on 1 July 2003, but part of the adjustment is following the experience of the new contract and how the costings were going. So, in terms of demand, the demand this financial year to date is not significantly different to previous years.

Senator BARTLETT—So the demand is not lower, or not significantly lower, than you expected it to be?

Ms Ellis—It is not significantly lower than expected. It really is just an adjustment following on from having some experience of how the new pricing structure and the new contracts were working.

Senator BARTLETT—Can you outline for me who qualifies for help under that program?

Ms Ellis—Under the Immigration (Education) Act those who qualify are those who do not have functional English and come in under the humanitarian program and the family program and dependants of those who come in under the skilled program.

Senator BARTLETT—So basically most permanent residents other than skilled migrants, who would need functional English to qualify, I would imagine, in most cases. Is that right?

Ms Ellis—Yes.

Senator BARTLETT—I have a wider question in regard to settlement services. I assume the range of services provided under this area is only provided to people coming on permanent visas. Is that right?

Mr Vardos—People eligible for the full suite of or partial access to settlement services are those that come under the refugee humanitarian program.

Senator BARTLETT—But there are other selective settlement assistance services, such as this program, for people coming under other programs as well, family programs and the like.

Ms Pope—Yes. The IHSS program is focused firstly on the refugee intake and then more broadly on the SHP intake. Last financial year we serviced something like 14,000 people, which was actually in excess of the intake. A small number of TPV holders and other visa holders were also provided with at least part services under the IHSS service suite. Usually the key service there is torture and trauma counselling. The settlement grants program, which will be a \$31 million program this coming financial year, provides services to people coming under the humanitarian program but also family members of skilled migrants in regional areas who have limited English and other people who have arrived in the past five years in the family stream who have limited English. The restrictions on that are really based on how much help you can give for \$31 million. But that is the way that target group is defined.

Senator BARTLETT—Is there any type of settlement assistance, in the broader sense of the term, for other business and skilled migrants? Presumably their English is fine, but people can always need assistance settling.

Ms Pope—The view is, and probably Mr Rizvi can better answer this than me, that basically the people selected in those categories are assessed as being able to function in Australia from day one and they are brought to Australia for the contribution they can make—balancing, in effect, the assistance that we provide for the part of the caseload that needs the assistance on arrival—so they are not eligible for the settlement grants program or for IHSS.

Mr Rizvi—There will be certain settlement services which will be available to the families of those skilled migrants. For example, a business migrant might have a spouse who does not speak functional English. If that spouse requires access to the AMEP, that person will get

provided that assistance with some degree of cost recovery. That also applies to other skilled categories as well.

Senator Vanstone—We have been, and still are, engaging in consultations about the skilled migrant intake next year. I have done a number of the capital cities, and my officers are doing a number of the regional areas. At the consultations in South Australia last week, the South Australian government representative indicated that they do have some sort of welcoming arrangement—at least, if not settlement services—and, I think, some sort of ongoing contact with people who come as state sponsored migrants. They announced that they think they are the only state doing it. That would not surprise me; South Australia is very keen to take on more migrants, although other states are too.

I think that is going to be a competitive edge between the states—not so much providing someone to welcome you at the airport. That is probably the last thing you would really need after a long trip from wherever. All you would want to do is to go and get a shower or have a bath. But the degree to which people in different states feel more welcome in their workplace and in their community—whether it is in the capital city or in the regions of the capital city—will be a big competitive edge when it comes to who gets the migrants. As we know, people come here and then later their nieces and nephews or their kids might come. The mother of a potential migrant says, ‘You’d better go where Uncle Harry is, because he can keep an eye on you.’ Having migrants in one spot attract others from the same region, so it is very important to the states to recognise that and not to be among the states—that I won’t name; I am sure you can guess which they are—that say, ‘Yes, but what can you do to keep migrants here?’ as if it is somehow Immigration’s job to be the movement police within Australia. We do not have that. It is a free country. Once you qualify for permanent residence, it is up to you where you move. The degree to which you are welcoming is a critical role for the states.

Senator BARTLETT—If you listen to people in Sydney, they say, ‘What can you do to make them go away and go somewhere else?’

Senator Vanstone—That is only because Sydney has not provided the appropriate infrastructure.

CHAIR—Some people in Sydney, I might say, Senator Bartlett.

Senator BARTLETT—A former premier is probably springing to mind.

Senator Vanstone—I think the new one might have a slightly different attitude. It was not long-term tenable for Premier Carr to say that Sydney was the nation’s financial and tourist capital, the multicultural capital of Australia, and then say, ‘By the way, we cannot have another person come in here.’ The reason was that they did not have, and still do not have, road transport, train transport and facilities available for the people to come. You cannot want to be New York and then say, ‘But we only want to be San Diego.’

Senator BARTLETT—We should probably pause there. Many other things spring to mind: like all those miserable people in the heart of Grayndler that I have been reading about today. I appreciate you have got only a certain budget and what you have said about prioritising to greatest need; but, given some of the wider debates about community harmony and people connecting with Australian values and those sorts of things, is there any consideration being given to not just resources but to ensuring that assistance is provided to

some categories of people on temporary visas? There is quite a large number of people now coming in on temporary residency each year—450,000 or so—and many of those end up becoming permanent residents down the track. In some categories that is the intent. Again I appreciate the limited budgetary sense, but is there any thought being given to what one would call settlement assistance, even though technically they are not settlers yet?

Mr Rizvi—Some state governments and some local governments have raised with us that we should be looking to provide settlement assistance—for example, subclass 457 visa holders, which are skilled temporary business entrants. The visa is up to four years. The way that visa is designed, it is clear that the expectation is that the employer will provide whatever assistance the individual needs. In some instances, employers have been bringing in workers from countries where the level of English of those individuals is not very great. Those employers have—off their own bat and because they want their businesses to survive—made arrangements to provide those workers with English language classes and various forms of assistance to enable them to settle successfully. I think if we move down the path of providing settlement assistance to some employers in some states in those circumstances, we would then have to look at it much more broadly. And, given the volume of temporary residents in Australia, the potential cost of going down that path would be quite substantial.

CHAIR—We will officially move to 2.2, translating and interpreting services.

Senator HURLEY—Are we going back to 2.1?

CHAIR—We have finished 2.1, have we not?

Senator HURLEY—That is fine. I will put those on notice.

CHAIR—I am sorry; I did not realise you had more in 2.1.

Senator HURLEY—That is fine.

CHAIR—Do you want to go to those now?

Senator HURLEY—No, I will put those on notice. I will move to 2.2. At the last supplementary estimates there was some discussion about problems with child-care support for some of the AMEP agencies. Can I get an update on that and whether the problem been remedied?

Mr Rizvi—Are we still on 2.1, then?

CHAIR—I understood that you said to me at the end of that discussion that you would put the questions you had left in 2.1, which I had not realised, on notice.

Senator HURLEY—I will put the remainder of my questions for 2.1 on notice. We were discussing AMEP and some issues with child care.

Mr Vardos—Senator, if I can just clarify: AMEP falls under 2.1.

Mr Metcalfe—We are happy to talk about it.

Mr Vardos—We are happy to answer the questions.

CHAIR—Let us just deal with them now, Senator Hurley.

Mr Metcalfe—Ms Ellis will give you an update on the child-care situation.

Ms Ellis—When we last spoke about this, there were a number of contract breaches that had been identified. I can confirm that all those contract breaches have been addressed. In the 2005-06 year to date, only one service provider has been in breach of the obligations regarding child care. This particular service provider has experienced continuing difficulties in finding child-care places for AMEP clients in a regional centre. The service provider is currently organising the lease of a combined teaching and child-care facility, which is due to begin operation in early March 2006. It is expected that that lease will address the difficulties that they have experienced in finding the child-care places in that regional centre.

Senator HURLEY—In relation to the standard accreditation mechanism for AMEP and quarterly reporting on key performance indicators, have there been any grievances or complaints reported?

Ms Ellis—I don't have any record of any complaints but I will take it on notice and check that.

Senator HURLEY—Thank you. What strategies have been used by contract managers and service providers to rectify areas of deficiencies such as the home tutor scheme enhancement not meeting the requested target?

Ms Ellis—I am not aware of there being any concerns in that area. I will happily follow up any details that you have.

Senator HURLEY—Thank you. In monitoring the performance of the AMEP administration, the department would maintain certain records. For example, can you tell me how many migrants were enrolled in 2004-05 in the AMEP program?

Ms Ellis—I have some figures here.

Senator Vanstone—It is probably somewhere in the annual report.

Ms Ellis—We tend to keep the statistics by calendar year because that is the way the program runs. It runs for the school year, if you like. In 2005, my statistics indicate that there were 36,405 participants. That was an increase on the previous year, in which there were 34,147.

Senator HURLEY—How many of those obtained their certificate?

Ms Ellis—Of those who exited, who finished either their 510 hours or left the program earlier than that in 2005, 11 per cent exited with functional English as measured by the completion of the certificates in spoken and written English level 3; approximately 53 per cent completed the maximum number of hours of tuition they were entitled to receive—that is 510 hours—although some of those may well have completed a number of hours under the special preparatory program as well. Approximately 36 per cent exited for some other reason, whether it be family, health or work related.

Senator HURLEY—So 11 per cent completed their certificate?

Ms Ellis—Eleven per cent exited with level 3. Some exit the program before they have completed the hours to which they are entitled; some get to level 3 close to the 510 hours; some get to level 3 well before the 510 hours. So once they have reached level 3, and if they

are still below the 510 hours, they are no longer eligible for the program because they have reached the functional English level.

Senator HURLEY—Are there any particular targets for the number of people completing level 3—the functional English level? Is there an ongoing target for this?

Ms Ellis—No, Senator, because the achievement that is possible by the individual depends very much on their circumstances. Their level of literacy in their first language, for example, is an important indicator of how quickly someone can develop another language. So it depends very much on their personal circumstances as to how successful they are likely to be and the extent to which they use the full range of services that are available under the AMEP. We do not set targets as such but we do report on the outcomes that are achieved.

Senator HURLEY—I perfectly understand the circumstances in which you are working. The indications are that, with refugees from Africa in particular, their level of literacy in their own language, given that many of them have spent their formative years in refugee camps in war-torn countries, is not the best. Are there any strategies to cope with this increased level of demand and need?

Ms Ellis—It is variable. It is true that some people who have spent years in refugee camps have low levels of literacy but equally there are others who may have spent similar periods of time in such places who have reasonable levels of literacy. In the budget last year funding was provided for additional hours in the special preparatory program, particularly for the under-25s, and there was some supplementary funding for the hours for those over 25.

The special preparatory program is a special program designed to create a more informal learning environment than the formal AMEP—the five or 10 hours—in which people who have very low levels of literacy in their first language, and people who have experienced torture and trauma, can adjust to the learning process before they then go on to the more formal learning environment of the mainstream AMEP. The special preparatory program can be delivered with bilingual assistance and it has a slower learning pace.

Senator HURLEY—The annual report states that the administrative expenses of the AMEP are around \$118.3 million. Does that cover all aspects of AMEP funding and activities and not just the funding to the 18 groups which have the tuition contract?

Ms Ellis—It covers the funding to pay for the entitlement that eligible participants have under the Immigration (Education) Act. There are also some departmental funds that cover the costs of administrative arrangements in support of the AMEP—for example, the AMEP Research Centre and staff who manage the contracts. I can provide that figure for you if you would like.

Senator HURLEY—Thank you. That would be good. You were talking about different levels of preparedness and literacy. Is there a standard curriculum for AMEP students?

Ms Ellis—Yes, there is.

Senator HURLEY—Could you provide, on notice, a report for me on what that curriculum covers?

Ms Ellis—It is a very sizeable curriculum, as you could imagine, to cover the different levels of the certificates of spoken and written English. The curriculum for the special

preparatory program is different, and there is some work that is being done on that at the moment to ensure that it addresses the needs of the younger people for whom funding was given last year for increased hours. I can provide a report on what the curriculum covers, yes. It is aimed at basic functional English for settlement purposes. So, for example, it is not aimed at job seekers, who would be covered by the Language, Literacy and Numeracy Program, which DEST funds.

Senator HURLEY—We were talking earlier about rural and regional services and migrants who are going to those areas. We have heard that there are at this stage very few, but how is it proposed that AMEP services are delivered to those areas?

Ms Ellis—I can provide members of the committee with a booklet that shows the range of locations where the AMEP is delivered. It is a very wide network of deliveries, principally based around TAFE colleges.

Senator HURLEY—Thank you. Chair, can I move to 2.2.3 now, under Translation and interpreting services?

[8.58 pm]

CHAIR—We can go to 2.2, Translating and interpreting services, which is actually the initial question.

Senator HURLEY—I am again quite happy to put those on notice.

CHAIR—And you want to go to 2.2.3, which is specifically on-site interpreting, I think.

Mr Metcalfe—Mr Greatorex is the national manager of TIS, based in Melbourne, and he has come up especially for these estimates.

Senator Vanstone—He usually goes home without a question, so we are waiting for you!

Mr Metcalfe—He will be very pleased to hear from you.

CHAIR—Usually I am happy to help officers in that regard, but some of them tell me it scares them witless, so I stopped doing that after one quivered particularly noticeably!

Senator Vanstone—If I may help the chair: no-one ever asks this guy a question—why don't we let him go home? That would be a real help!

CHAIR—I would not like to—

Senator Vanstone—We used to do that with the Office of Parliamentary Counsel—keep them waiting for at the back, estimates after estimates, and then finally we realised we had better let them go early.

CHAIR—No, we did not, because we always had Barney Cooney and Barney always had a question, as you recall. Why don't you start, Senator Hurley?

Senator HURLEY—Does the department have a system to monitor whether currently there is customer satisfaction under the fee-free translating and interpreting services?

Ms Ellis—I will give an introduction and then Mr Greatorex can cover it off. While I have the funding for fee-free services, the services are delivered by TIS National, for which Mr Greatorex is responsible. So to the extent that there is a need to identify client satisfaction with the services of TIS National, that will need to be addressed by Mr Greatorex.

Mr Greatorex—In terms of measuring client satisfaction with the services, we conduct a program of promotional liaison visits. We also use those visits to talk with clients about their satisfaction with our services. We have a complaints handling mechanism that operates throughout the year for people who wish to make comment or provide feedback or complaints about our services. It is intended that in the first half of this calendar year we will complete a client satisfaction survey covering all of the services that TIS National provides.

Senator HURLEY—How many complaints have been received through that service in the financial or calendar year?

Mr Greatorex—For January, I can advise that there were 22 complaints from a provision of more than 40,000 services. If you like, I can provide figures for the previous months of this financial year.

Senator HURLEY—Is the figure for the January period a reasonable—

Mr Greatorex—I think it is reasonably indicative, yes.

Senator HURLEY—That should be sufficient. When we are talking about the African communities, there was some discussion earlier about the difficulty in dealing with some of the African languages that are beginning to be spoken in Australia. Can you tell me how many African languages are being interpreted in the TIS at the moment?

Mr Greatorex—I would have to take that on notice.

Senator HURLEY—Thank you. What is the estimated cost of training interpreters in the new and emerging community languages? Can you take that on notice as well?

Mr Greatorex—We don't train interpreters, Senator. We tend to recruit interpreters. For instance, in the month of January we recruited half-a-dozen interpreters in new and emerging languages. They go through a process whereby we make an assessment as to whether they are able to operate as interpreters according to the standards set by our contract managers.

Senator HURLEY—That is just part of the normal departmental activities; it is not an extra expense?

Mr Greatorex—Correct.

Mr Vardos—Senator, the usual way to achieve accreditation is to be tested by the National Authority for Accreditation of Translators and Interpreters. So anybody who wants to be accredited as an interpreter sits the appropriate tests that NAATI puts on to get their interpreting certificates.

Mr Greatorex—Unfortunately it takes a while for that accreditation process to gather momentum when a new community arrives in Australia. So it may be a number of years before accreditation or recognition would be available for some of the African languages.

Senator HURLEY—In respect of that, is there a formal or informal agreement between DIMA and NAATI about the standard of interpretation and translation required for proper service delivery or is that left entirely to NAATI?

Mr Greatorex—NAATI, as part of their bailiwick, provide the standards required for accreditation and recognition.

Senator HURLEY—In the annual report there is a note that 85 per cent of requests for an onsite interpreter will result in a confirmed appointment within three days. Is this usually satisfactory for the client?

Mr Greateorex—In my time with TIS National I have not had any client talk ill of that particular quality standard.

Senator HURLEY—Is the appointment time usually in three days or quicker?

Mr Greateorex—It can be quicker. For instance, if somebody rings up and provides short notice, we can turn that around quite quickly as well. That is why we say within three days.

Senator HURLEY—According to page 223 of the annual report, agreement requirements are fulfilled. Page 223 refers to NAATI activities. How are NAATI activities monitored to ensure the quality of translation and interpreting services?

Ms Ellis—As indicated in the annual report, NAATI is a company limited by guarantee. The Commonwealth, together with the state and territory governments, contributes towards NAATI's operational costs. In doing so, the Commonwealth, state and territory governments have an agreement with NAATI under which they are required to deliver certain outcomes. NAATI provide an annual report each year, which is analysed, and their performance is assessed against the agreement with those governments.

Senator HURLEY—Payment to NAATI, according to the annual report, is:

... based on a funding agreement that specifies NAATI outputs that contribute to the achievement of the Australian Government and state and territory governments' objectives in relation to the provision of translating and interpreting services.

Ms Ellis—Yes.

Senator HURLEY—Are those outputs publicly available?

Ms Ellis—I would need to take some advice on that but I am sure if it is possible to provide it to the committee, we will.

Senator HURLEY—Is the payment by the government to NAATI put out to open tender at any stage, or is it a rolling payment if NAATI meets requirements?

Ms Ellis—It is a payment that is provided each year based on the agreement that the state, territory and Commonwealth governments have with NAATI. NAATI is the only accreditation body in Australia, so it is not something that would be put out to a tender.

Senator HURLEY—Okay. Perhaps 'put out to tender' was the wrong expression. But there is no suggestion that there might be competition provided for NAATI services?

Ms Ellis—No.

Mr Vardos—All of the governments are effectively shareholders of NAATI. So every government in the country contributes, on a pro rata basis, a fee each year.

[9.09 pm]

CHAIR—That concludes our consideration of output 2.2. We will progress to output 2.3.

Senator BARTLETT—Firstly, are there any statistics available on the use of the discretion available under the existing Australian Citizenship Act to waive the residency period and how regularly that has been used?

Ms Ellis—I would need to take on notice whether it is possible to report on that. I suspect it is not possible. There are a number of parts to that discretion; there are a number of different discretions. But I will check.

Mr Metcalfe—It is quite precise; it is section 13(4)(b)(i)—

Ms Ellis—13(4)(b)(i) and (ii) and (iii) and (iv) and—

Mr Metcalfe—We will do what we can, Senator.

Senator BARTLETT—There are lots of ways you can break it down for everybody.

Ms Ellis—Whether that data is kept on the systems is another matter, and whether it is possible to report on it, but we will have a look at it.

Senator BARTLETT—Thank you. This probably sounds a bit pre-emptive but, assuming the Senate in its wisdom decides to adopt the new citizenship act, which I suspect it probably will, are there—and we covered this a little bit in the legislative committee hearing into the bill the other day—any broader promotional activities planned? I do not mean so much providing information to people who might be affected but broader promotional activities about the change.

Mr Vardos—If I could kick off. We do not actually have a dedicated budget to run a promotional program to explain or to proclaim the changes, but, since this issue was raised in the hearing, clearly it is an issue that we will need to consider. But I can tell you that at this time there is no dedicated budget or plan to run a specific promotional campaign associated with the new act.

Senator BARTLETT—This may be more of a policy question, in which case the minister can answer it, but how much of a specific goal or intent is it to try and convert, if you like, permanent residents to citizens? Is there an actual goal to get a certain number of people each year? I notice that the number of people granted citizenship is increasing reasonably steadily. Is there a target in relation to that?

Mr Vardos—We do not actually have a figure that we set as our target each year. Our benchmark is to have a higher take-up each financial year compared to the previous one and, as you have indicated, the graph has been growing. And that is really a consequence of the intensity of the promotional campaign that has been under way since 2001. With the reporting in the program budget statements, we are in effect indicating an ability or a capacity to meet that level of demand should it eventuate, but it is not actually a target that we are seeking to achieve, because, as you would appreciate, it is entirely in the hands of the individuals whether or not they choose to listen to the invitation to apply for citizenship.

Senator BARTLETT—And it is probably not something you can keep growing forever, I guess; you've got to hit a limit eventually—you are going to get everybody eventually!

Mr Metcalfe—Yes. Obviously, the increase in the overall migration program and the humanitarian program will continue to increase the potential feeder group. The promotional

activity that Mr Vardos has mentioned has obviously raised awareness of citizenship as being the final step in becoming a complete member of the Australian community. There remain a very large number of potentially eligible applicants who may have migrated here many years ago and have seen no particular reason to take out citizenship, and that is a group that we will always continue to try and focus on. So there are a series of dynamics here, but citizenship is a very important aspect of membership of the community and something we would like to see continue as something that many people continue to take out.

Mr Vardos—Senator, could I add that a lot of the data that we are using is based on the 2001 census. That is why, for us, the data that will emerge from this year's census is quite critical—so that we know what has been happening and what the trends are overall and what we need to do to perhaps redouble our efforts, if necessary.

Ms Ellis—If I could just add to that, we do know that there are people who have been in Australia for many years who are coming forward, making applications and becoming citizens. Within the last 12 to 18 months there was a ceremony involving a woman who was turning 100 plus her niece and a few nephews, who were in their seventies. They had been in the country for many years so the promotion campaign is working. It is encouraging. That group of people who had been around for many years is getting smaller. But, as Mr Metcalfe said, the pool is being contributed to by new arrivals.

Senator Vanstone—As a fourth contribution to your answer, I started three years ago, out of bravery and complete stupidity, probably, doing a citizenship ceremony in the tea break at the one-day cricket match on Australia Day in Adelaide. It is something of a challenge, let me tell you, by the time you get to the tea break at the one-day cricket match in Adelaide. The first day I wondered if people even realised there were other people on the oval—what those funny people were doing walking around with the flags. The second year I thought there was more interest, and this year there was a real turnaround. A couple of people from the South Australian Cricket Association pointed out that they think the crowd has finally got it, that that is what happens on Australian Day, now: there will be a citizenship ceremony at the tea break. When the recipients walked off the oval together to go around to the back to be given mini bats, flowers and stuff—and their certificates—the kids were just ecstatic because the crowd was giving them such a cheer. And this was after it was over, after the MC had said: 'Thanks very much. Give them a round of applause,' and they were going off the oval and were over at the other end. People were clapping these kids—perhaps it was not quite like they were Ricky Ponting coming off the field, but they were pretty interested in what was happening and keen to be a part of it. I think there is a change; in just three years I have seen it. You would have to say that during the tea break the people at the Adelaide Oval for the one-day cricket match are a pretty disparate bunch. That is the front bar of the pub test.

Senator BARTLETT—It sounds good. Maybe you could get them to read out the Australian cricket team's team song or whatever they chant after they do the anthem.

Senator Vanstone—I am not sure what that is. Perhaps you might tell me later, by the look on your face.

CHAIR—Possibly secret men's business. Who knows.

Senator BARTLETT—It is open to everybody. Finally, with the same sort of thread, I realise the new citizenship act is predominantly a rewriting and updating to make it more readable et cetera; nonetheless it is still a brand new citizenship act. It would be a good opportunity to perhaps give a revamp to the broader promotional campaign. If people think there is a new citizenship act, they might think that there are some major changes. In some respects they are not massive ones, but it could be an opportunity to give another boost to the broader promotional opportunities that you have all been describing in various ways—without having a budget, of course. That is a minor detail. That will do as just an editorial comment.

CHAIR—I might have to examine the *Hansard*, I think. I was not quite following. Is there anything else in 2.3?

Senator HURLEY—I apologise if the minister discussed this earlier on when I was out of the room. There was formerly a minister for citizenship and multicultural affairs. I understand that now that has all been rolled into the super portfolio of Department of Immigration and Multicultural Affairs.

Senator Vanstone—That is right—with a super minister, of course.

Senator HURLEY—Yes. I think I said that. But there has been a parliamentary secretary appointed to the minister. Can the minister at this stage advise what the responsibilities are going to be of that parliamentary secretary?

Senator Vanstone—I would expect they would be very similar to the responsibilities of the previous minister. They are not entirely settled and that is not entirely in my province, but I think that will be settled pretty soon—hopefully by the end of the week.

CHAIR—And there is also some formal information on the record, from earlier in the day, from Mr Metcalfe about the constitutional arrangements for the appointment of parliamentary secretaries.

Senator HURLEY—Will there be any staffing changes in the department as a result of those changes?

Senator Vanstone—I would not think so. The same jobs keep going on. It is just a question of what the split-up of Executive Council members is for being responsible for that work.

Senator HURLEY—I want to talk about security issues. Part of the changes that are proposed to be introduced under the new Citizenship Bill will be increasing security checks for people who want to be citizens. Currently, as I understand it, application for permanent residency requires quite stringent character checks and police tests. New arrivals are supposed to pass both health and security tests. On pages 196 and 197 of the annual report it says:

The citizenship quality assurance program for Australian citizenship processing continued. Work undertaken in conjunction with other areas of the department to counter the risk of identity fraud and to support prosecutions for citizenship-related fraud has reinforced the integrity of the citizenship program.

Part of the new bill is also to introduce new personal identifier checks. Have there been problems with the programs identified that have required these new measures?

Ms Ellis—Are you talking about the reference in the annual report or the changes in the legislation?

Senator HURLEY—Both. I suppose my implication is that the annual report says there have been no problems with identity fraud and yet the bill introduces further measures to deal with it and also further security checks.

Ms Ellis—I do not believe the annual report says there are no problems with identity fraud—just that there is work ongoing to counter the risk of identity fraud. Where there are cases identified, they are referred to the investigations area, and there are occasions when there are prosecutions. In terms of the legislation, the need for security checking is, as I think I indicated in evidence to the legislation committee last week, to cover off the possibility that there could be security issues which would not give rise to a decision that a person was not of good character. So, to ensure that there is that legislative support for refusing an application where a person is a risk to security, those changes are being made to the legislation.

Senator HURLEY—With regard to the possibility of fraud, you mentioned that cases went to the investigations area and then to prosecutions if necessary. Can you tell me how many prosecutions were undertaken in the last year?

Ms Ellis—That is not undertaken within this program. I would need to take that on notice and refer it. That is under outcome 1.

Senator HURLEY—Thank you. On page 195 of the annual report, ‘Decisions on citizenship status’, under ‘Measures’ and ‘Results’, it says that less than one per cent of negative decisions were overturned at review and that 0.2 per cent of negative decisions were overturned at the review tribunal. How many applications did that represent?

Ms Ellis—I would need to take that on notice. I do not have that figure with me.

Senator HURLEY—Okay. Would you also be able to give me the reasons for overturning that decision?

Ms Ellis—The Administrative Appeals Tribunal does merits review of the decisions, so generally where a decision by a departmental officer is overturned by the tribunal it is because the tribunal member has come to a different view as to whether or not the person, for example, was of good character. One of the discretions involves a judgment as to whether the person’s activities overseas were beneficial to the interests of Australia. It is merits review, and it may be that the tribunal has come to a different view on the facts or that further information has been provided by the person concerned which has enabled the tribunal to come to a different view.

Senator HURLEY—I see. If you could, just provide the number. Thank you.

Senator Vanstone—On that point, there was a case, the name of which escapes me at this point—I can remember where I was when I heard about this; I was not then the immigration minister—where, on the concept of the courts or a tribunal holding a different view, I think the Federal Court held a different view to Minister Ruddock. Minister Ruddock’s view was that someone who had been convicted of rape was of bad character. The court thought that was an extraordinary proposition for him to entertain as a starting point. Presumably you have some sympathy for Mr Ruddock’s position in that area. I certainly do. It is amazing how

people could come to wildly different views on what many people would think is such a clear-cut proposition.

Senator HURLEY—Yes, I am sure. That is why we have a couple of levels of review, I guess, usually.

Senator Vanstone—That is right. And, in the end, parliament can change the legislation if they do not get the message.

Senator HURLEY—That is right. Turning over to page 196, I want to note that 463 people are registered as having lost their Australian citizenship. Of those, how many were renounced or stripped of their citizenship?

Ms Ellis—I do not have those figures. I will get them for you. The vast majority of those would have been people who came to notice as having lost their citizenship under section 17, which was repealed in 2002.

Senator HURLEY—So presumably once the new bill passes most of those people would be able to—

Ms Ellis—A number of those people may already have resumed. Often they come to notice because they have applied for a new passport or to register their children as citizens by descent and, in coming to our notice, they have discovered that they have lost their citizenship and they have immediately sought to resume it. The vast majority I expect will be in that category.

Senator HURLEY—And the vast majority who have renounced their citizenship would have done so because they are becoming a citizen of another country.

Ms Ellis—Perhaps because they are becoming a citizen of another country and the laws of that country require them to renounce Australian citizenship. It may be that in some cases it is not necessarily because they are becoming a citizen of the other country but because of the form of employment that they are seeking in that other country. For example, if a dual citizen of the US and Australia is seeking employment in an area like the defence services then generally they are required to renounce any other citizenship. That may be the reason for some of the cases.

Senator Vanstone—As I recall, that may well be the section that Mr Skase fell foul of, unfortunately—

Senator HURLEY—Unfortunately!

Senator Vanstone—costing him thousands of dollars in legal expenses. It was such a sad thing to see happen, of course.

Senator HURLEY—That is all the questions I have in that area.

CHAIR—Senator Bartlett, do you have any questions in 2.3?

Senator BARTLETT—I have asked mine—don't you remember that?

[9.29 pm]

CHAIR—I wanted to know if you had any more. I was so keen to hear more I could hardly contain myself. We will move to output 2.4, Cultural diversity matters.

Senator HURLEY—I think this is a section that is gaining more importance, given some of the incidents we have had recently—particularly the riots in Cronulla that prompted questions about cultural diversity and cultural harmony. I am interested in Harmony Day and the Living in Harmony initiative. I believe that in his last press release—unfortunately I do not have it here—the former minister John Cobb, in announcing the Living in Harmony grants, said that whether they would be continued would be under review. That may just have been a standard statement, but I wonder if there is any formal review of that process or whether there is an expectation that the Living in Harmony grants will continue in 2006.

Mr Vardos—The Living in Harmony initiative is a lapsing program in the 2005-06 financial year. Living in Harmony was caught up in the evaluation of multicultural policy and programs, and we are going forward with a proposition for an extension of the Living in Harmony initiative. If that is successful, what it will look like is entirely up to government. It may be a duplicate of the Living in Harmony initiative that has gone in the past or it may have adjustments. That is a matter for government.

Senator HURLEY—That is part of what is called in the annual report ‘an extensive evaluation of multicultural policy and programs’.

Mr Vardos—Yes.

Senator HURLEY—So you have the results of that evaluation?

Mr Vardos—Yes. It has not been made publicly available. It is an internal government document and it is a matter for government to decide whether they release the evaluation in part or in full at some point. But I can say that the response to our consultation process about Living in Harmony was quite enthusiastic from around the country, fairly consistently.

Senator HURLEY—What kind of groups were consulted—groups that had been given the grant or just a fair range of people?

Mr Vardos—Dr Nguyen-Hoan can give you more detail but, as an opening comment, I can say that I led the consultations in every state capital around the country. It was by invitation. What we tried to achieve was a spread—not just what people would perceive to be the usual suspects but organisations or individuals from a broad spectrum of interests to discuss multicultural policy and programs, including Living in Harmony.

Dr Nguyen-Hoan—We organised a series of eight roundtables for consultation around the country in the capital cities, and we invited about 340 individuals and community organisations. About 250 people attended. Certainly the aim was to invite not just people who were involved in the Living in Harmony grants but also people who might be able to give us some views. We also invited a lot of so-called mainstream organisations—sporting groups, local councils and people like that. In addition to that, we also sent out questionnaires to about 700 local governments and local government associations and 70 Australian government departments and agencies in order to get their views on the evaluation.

Senator HURLEY—You are saying that the general view was that the Living in Harmony grants were achieving a useful purpose.

Mr Vardos—That was the feedback from the consultation. I guess the negative comment was that there were too few. We get about 600 applications or expressions of interest per annum and we are able to fund between 40 and 45 per annum.

Senator HURLEY—With respect to the Living in Harmony grants that have been awarded, have most of the recipients of those grants completed their projects?

Dr Nguyen-Hoan—Overall we have given out 304 grants since 1998. From memory, at the moment we have only about 60 ongoing grants, mainly because the former minister announced 45 grants in about October. There were maybe 20 or 30 previous grants still continuing. Sometimes they take longer than 12 months.

Senator HURLEY—I understand also that for Harmony Day there is private sector sponsorship?

Mr Vardos—The Living in Harmony initiative has three elements: the grants program, the celebrations on Harmony Day, and also partnerships with sporting and business Australia. Those organisations do not put money in; they lend their badge, their corporate identity; they also run functions for us on their premises. For example, two or three years ago Ford ran a citizenship ceremony on their production line at the Broadmeadows plant for their workers, and promoted it. So that is the type of thing they do. Woolworths will promote it for us, as will Cricket Australia and the Australian Football League. So they do lend their name and their reputation to support what we do under Living in Harmony.

Senator Vanstone—I forgot to mention that—the cricket matches. When we do the citizenship ceremony we always try to have people from cricketing nations that are leaving their nation and coming to the great Australian cricket nation.

Senator HURLEY—Quite right—as long as they're good cricketers!

Senator Vanstone—It's a vicious blow to the team on the day to realise that somebody intends leaving them and coming to us!

Senator HURLEY—Do any of the Commonwealth agencies or departments participate in the same way as private companies do in the Harmony Day initiative?

Dr Nguyen-Hoan—We have mobilised support from departments and agencies and we have left it to them to do their own. Certainly they are aware of the importance of getting staff and clients involved in Harmony Day. Harmony Day is really a focal point to show that we should get together and show unity in diversity. We have seen over the years a number of departments participating in some major way. Defence, the Australian Bureau of Statistics and other departments have been involved. So there has been some general and strong support from Commonwealth departments.

Senator HURLEY—The Living in Harmony grants usually have a focus. Perhaps I am asking an impossible question if the review has not concluded yet. I presume a focus of the Living in Harmony grants would be to address some of the contemporary issues arising out of problems that have mostly surfaced in Sydney, but we see problems in some other areas—Queensland and around the country.

Mr Vardos—That is correct, Senator. The catchcry for the grants program is 'local solutions to local problems'. So it is a grassroots program where the communities themselves

identify issues of intra or intercommunal disharmony and where a small amount of seed money can promote dialogue—in some cases between Indigenous communities and other communities, and across multicultural communities as well. So, yes, they do address in general the sorts of issues that you just touched on.

Dr Nguyen-Hoan—I just want to add that every year, before we embark on the annual grants, we look at what happened previously, what achievements we have got and what some of the emerging issues are. Each year, although the generic theme of workplace or young people or educational institutions seem to be the common themes, we do from time to time vary them. For example, a number of years ago we had older Australians as a theme because we thought that there had to be a focus on bringing older people of different backgrounds together. So we do focus on emerging issues.

Senator HURLEY—There was a great deal of criticism at the time of the Cronulla riots in Sydney of the media's role in that. Is there any intention to address issues around media? There was also a lot of debate on whether the term 'multiculturalism' was understood, what constituted racism and so on. Is there any intention to address these kinds of issues?

Mr Vardos—I will make a couple of opening comments. As part of the community consultations for the evaluation, we made a point of inviting the editor or his or her representative of every major newspaper in the country in each of the locations that we were visiting. All bar the editor of the *Canberra Times* agreed to show up and participate in the discussion, because that is what it was—it was a discussion to elicit views and opinions about the sorts of issues you have just touched on. That is an indicator of the level of interest in finding solutions. I will ask Dr Nguyen-Hoan to comment on specific initiatives in relation to the media.

Dr Nguyen-Hoan—Certainly. This is one of the most difficult issues we have that we try to address and that we have tried to address over the years because the portrayal of intercultural diversity is not widely understood by the media. Sometimes they stir up quite a lot of difficulties. Part of the national action plan which COAG has asked us to develop has been to bring the media and, for example, the Muslim community together. The former Minister for Citizenship and Multicultural Affairs conducted a number of roundtable meetings in all capital cities between August and November last year. At each meeting he brought the media and Muslim leaders together to see how they could work better together to have a better understanding of both sides. I thought that the meetings went really well. The media tried to get to know the Muslim community better, and vice versa.

We also have a Living in Harmony partnership with the journalist association together with university in Western Australia. We are trying to understand, during the time of training for journalists or after they graduate and work, what some of the factors are that affecting their understanding of cultural diversity. So we recognise that media continues to be an issue and a challenge for us.

I think you asked earlier about the term 'multiculturalism'. Over a number of years, we have struggled with this term. Between 1997 and 1999, the government appointed the National Multicultural Advisory Council to have a comprehensive review of multicultural policy. Part of that brief was to look at the term 'multiculturalism' and to see whether it has

outlived its usefulness and whether we should continue to use the term. The conclusion, after debate and a comprehensive examination of the term and community consultation, was that people continue to misunderstand it and people could not overcome the first hurdle of what the term means and the difficult definition of multiculturalism. On balance they concluded that the term was still the best term that could describe Australia's cultural diversity and what it means. I think that we looked at that again during the evaluation and I think this is now for us to really look at what you just said: is it the best term to describe what we are doing or is there a better term to express it?

Senator HURLEY—Thank you. That is very helpful, because a lot of the debate has centred on 'multiculturalism' as a term and a large number of people have questioned the value of the term, and I think it is timely to have some discussion of whether the debate needs to move forward in terms of the community's understanding of what Australian values are and what multiculturalism is. So we have had a look at the term 'multiculturalism', but there has also been a lot of talk about people accepting Australian values. Has there been any discussion about what is meant exactly by 'Australian values' that can be disseminated to communities?

Dr Nguyen-Hoan—If you look at the current multicultural policy, the first principle is responsibility. It used to be 'civic duty' and it meant the same thing—that all Australians, regardless of where we came from, whether we were born here or came here last year or whatever, had to put Australia first and respect our parliamentary democracy and all of those things. So, while we focus on celebrating cultural diversity and promoting the benefits of cultural diversity, there has always been an emphasis on putting Australia first and on our shared values, our common values. One of the fundamental elements about the Living in Harmony initiative is the partnership program. We felt very strongly at the beginning that the government could not promote social cohesion or community harmony on its own, so we mobilised support with corporations like Woolworths, AMP and, at the beginning, the Rural Fire Service, for example—the reason being that Australians always try to help one another in a crisis. And the reason for getting the New South Wales Rural Fire Service to be part of that process and be our first partner in the Living in Harmony initiative was to promote Australian values: a fair go, helping one another and standing side by side in crisis. So I think, through our work, the promotion of cultural diversity and Australian-ness go hand in hand.

Mr Vardos—Senator, it also addresses issues such as commitment by all to those things and institutions that underpin this country—the Constitution, the rule of law; equality, particularly gender equality; freedom of speech, freedom of religion. So those elements do feature in the PR work that we do, and Australian citizenship, and why so much emphasis is put on its promotion, is the thing that really binds everybody together under the set of values that are enshrined in the pledge. All of these elements come together in pursuit of the issues that you have identified.

Mr Metcalfe—Senator, you were referring earlier to the annual report and I just noticed that at pages 198 and 199 we took the opportunity to showcase the fact that last year the Senior Australian of the Year, the Young Australian of the Year and the Australian of the Year were all overseas born. In the annual report there is a quote from each of them where they talk about what it means to be an Australian, and some of those issues, those values, that you have just been asking us about are highlighted there through three very prominent Australians, all

of whom were born overseas. I note that again this year the Australian of the Year was born overseas as well, so we will have to talk to him about whether he is prepared to allow us to showcase him. But it is a very practical example of the contribution that is made—the fact that such exceptional people are able to freely talk about what it means to be an Australian.

Senator HURLEY—That leads into a question I wanted to ask. It is very good that we have these positive role models and these examples of success amongst the migrant community, but I was talking to the Lebanese community council recently and many of them expressed disappointment that, in the media, when anything bad happened it was a person of Middle Eastern appearance, whereas they would not describe the Australian of the year as being a person of Middle Eastern appearance. This goes back to what I was saying about media stereotypes. What is being called profiling of people is one of the issues that is getting to some of these communities. It is only in a negative context that their ethnicity or appearance is mentioned. They all struggle with this. I have already had the media program outlined for me, but I think it is one thing that does annoy people because it continues to reinforce it for them. I think they feel it more for their children, particularly their children at school who might then be teased. This is a big issue.

Senator Vanstone—Getting closer to home, that happened with politicians. I think there was at least one politician on each side who was not doing what they should do with their travel allowance and every politician got blamed and teased about it as if everyone was rorting their travel allowance. Similarly, from the immigration department's view, yes, there were some mistakes last year, but I will tell you this: just as seeing the negative stereotypes in the paper gets to communities, which I understand, so it can get to people in the immigration department that the media do not write up all the good things that happen in the department and all the tremendous work that is done. The media have their task of selling papers. I understand that. We all buy things for the sensational stories. I am not complaining about them focusing on the negative things, because they should; I am complaining about them focusing only on them.

Senator HURLEY—On that note of complete agreement, I am finished my questioning.

Senator BARTLETT—With regard to the consultation group the Prime Minister set up with some people in the Muslim community, the department has a representative role in that, doesn't it? Can you describe your role in that process?

Mr Vardos—We effectively provide the secretariat function for the Prime Minister's reference group. There are seven working groups that have flowed from that. Dr Nguyen-Hoan can identify each of the working groups. The staff in Dr Nguyen-Hoan's branch service the groups concerned.

Dr Nguyen-Hoan—The group has been appointed arising from the PM's summit with Muslim leaders. The minister appointed them for 12 months from September last year. As Mr Vardos said, the minister also thought that, in order to better understand the issues to do with extremism or the concerns or problems in the community, it is better for us to have more groups to look in detail at issues to do with women, young people, family, community, employment, schooling and so on. There are seven subgroups under the auspices of the reference group working with us and other departments and agencies to set out and assist in

the development and eventual implementation of the national action plan which I referred to earlier.

Senator BARTLETT—When you say that they are appointed for a 12-month period, what is anticipated at the end of the 12 months?

Mr Vardos—That is in the hands of government.

Senator BARTLETT—Is the group a permanent one, or is it set up for 12 months and then reviewed?

Dr Nguyen-Hoan—Certainly the current understanding is that they will go on for 12 months and we will review the situation at that time, towards the end of this year.

Senator BARTLETT—I realise this is predominantly an advisory group, but is it planning to produce any public reports?

Dr Nguyen-Hoan—There has been a discussion paper which the group has put out with our assistance to raise issues to do with, for example, Islamic schooling, training of imams and employment.

CHAIR—As there are no further questions, Minister and Mr Metcalfe, I thank you both and your officers for your assistance today. I thank my colleagues for making the proceedings go as smoothly as they have. I remind you, Mr Metcalfe, that the return date for answers to questions taken on notice is Friday, 31 March. Senator Ludwig's subtle and gentle admonitions today are ones which the committee does endorse in the broad and we would be grateful for the department's cooperation. The department is always helpful.

Committee adjourned at 9.56 pm