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SENATE

EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION
LEGISLATION COMMITTEE

ESTIMATES

(Budget Estimates)

MONDAY, 29 MAY 2006

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SENATE

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

Monday, 29 May 2006

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

Senators in attendance: Senators Barnett, George Campbell, Ferris, Marshall, McEwen, Siewert, Sterle, Troeth and Wong

Committee met at 9.08 am

EMPLOYMENT AND WORKPLACE RELATIONS PORTFOLIO

In Attendance

Senator Abetz, Minister for Fisheries, Forestry and Conservation

Department of Employment, Workplace Relations

Portfolio overview and major corporate issues

Dr Peter Boxall, Secretary

Mr Graham Carters, Deputy Secretary, Workforce Participation

Ms Malisa Golightly, Deputy Secretary, Employment

Mr Finn Pratt, Deputy Secretary, Workplace Relations

Mr Jeremy O'Sullivan, General Manager, Corporate Group

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

Ms Michelle Baxter, Senior Executive Lawyer, Social Security and Administrative Law Team

Mr Simon Gotzinger, Assistant Secretary, Legal Branch, Corporate

Mr Henry Carr, Principal Government Lawyer, Corporate

Mr Dudley Grounds, Senior Executive Lawyer, Corporate Legal Team 3

Dr Aloka Sinha, Assistant Secretary, Business Services Branch, Corporate

Ms Sue Sadauskas, General Manager, State Office Network

Ms Vanessa Graham, Chief Financial Officer, Financial Management Group

Ms Lyn Valentine, Assistant Secretary, Financial Management Group

Ms Christine Leary, Chief Internal Auditor

Mr John Burston, Chief Information Officer

Outcome 1 Employment

Mr Michael Manthorpe, Group Manager, Employment Business Services Group

Ms Robyn Kingston, Assistant Secretary, Employment Business Services Group

Ms Joan ten Brumelaar, Assistant Secretary, Centrelink and Stakeholder Management Branch

Ms Meredith Fairweather, Assistant Secretary, Employment Communications Branch

Mr Stephen Moore, Group Manager, Employment Systems Group
Ms Marsha Milliken, Group Manager, Income Support Initiatives Group
Ms Jo Caldwell, Group Manager, Intensive Support Group
Mr Anthony Parsons, Group Manager, Job Search Support Group
Ms Cathy Walters, Assistant Secretary, Employment Pathways Branch
Ms Lynne Curran, Group Manager, Specialist Services and Income Support Group
Mr Ray Jeffery, Acting Assistant Secretary, Income Support Programme Branch
Ms Jennifer Chadwick, Assistant Secretary, Vocational Rehabilitation Taskforce
Mr Ian McInnes, Assistant Secretary, Disability Employment Services
Mr Tony Waslin, Assistant Secretary, Transition and Participation Branch

Outcome 2 Workplace Relations

Ms Sandra Parker, Group Manager, Office of the Australian Safety and Compensation Council
Ms Amanda Grey, Assistant Secretary, Information Services Branch
Mr Drew Wagner, Assistant Secretary, Standards Branch
Mr Wayne Creaser, Assistant Secretary, Standards and Research Branch
Ms Flora Carapellucci, Assistant Secretary, National Strategy Branch
Mr Wayne Artuso, Acting Commissioner, Office of the Federal Safety Commissioner
Mr Michael Maynard, Group Manager, Workplace Relations Implementation Group
Mr James Smythe, Chief Counsel, Workplace Relations Legal Group
Mr Bob Bennett, Assistant Secretary, Legal Policy Branch (3)
Mr David De Silva, Assistant Secretary, Legal Policy Branch (1)
Ms Natalie James, Assistant Secretary, Legal Policy Branch (2)
Mr David Bohn, Assistant Secretary, Legal Policy Branch (1)
Mr Peter Cully, Assistant Secretary, Legal Policy Branch (4)
Mr John Kovacic, Group Manager, Workplace Relations Policy Group
Mr Ted Cole, Principal Advisor, Workplace Relations Policy Group
Mr Malcolm Greening, Assistant Secretary, Wages and Conditions Policy Branch
Mr Scott Evans, Director, International Relations Section
Ms Louise McSorley, Head of Award Review Taskforce Secretariat
Ms Dianne Merryfull, Assistant Secretary, Safety and Compensation Branch
Ms Miranda Pointon, Assistant Secretary, Strategic Policy Branch
Ms Jenet Connell, Group Manager, Workplace Relations Services Group
Mr George Brenan, Assistant Secretary, Workplace Advice and Education Branch
Mr Stewart Thomas, Assistant Secretary, Workplace Programmes Branch

Outcome 3 Workforce Participation

Mr Barry Sandison, Group Manager, Working Age Policy
Ms Sharon Rose, Assistant Secretary, Disability Policy Branch
Dr Alison Morehead, Assistant Secretary, Parent Policy Branch
Mr Bob Harvey, Group Manager, Indigenous Employment and Business Group
Ms Mary-Anne Sakkara, Assistant Secretary, CDEP Future Directions Branch
Mr Chris Foster, Acting Group Manager, Labour Market Strategies Group
Mr Bruce Whittingham, Group Manager, Research and Evaluation Group
Dr Paul Volker, Assistant Secretary, Evaluation and Programme Performance Branch

Mr Scott Matheson, Assistant Secretary, Research and Data Analysis Branch

Office of the Employment Advocate

Mr Peter McIlwain, Employment Advocate

Mr David Rushton, Senior Legal Manager

Ms Ann Skarratt, Corporate Director

Mr Geoffrey Casson, Deputy Employment Advocate, CSN

Australian Fair Pay Commission

Ms Jennifer Taylor, Director

Australian Building and Construction Commission

The Hon John Lloyd, Commissioner

Mr Nigel Hadgkiss, Deputy Commissioner

Ms Heather Hausler, Assistant Commissioner

Mr Ross Dalglish, Deputy Commissioner

Mr John Casey, Chief Financial Officer

COMCARE

Ms Barbara Bennett, Chief Executive Officer

Mr Martin Dolan, Deputy Chief Executive Officer and SRC Act Policy and Support Division

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

Ms Janean Richards, General Manager, Legal Services Division

Ms Jane Romeyn, General Manager, Research and Strategy Division

Ms Penny Weir, General Manager, Corporate Division

Mr Matt Goldrick, General Manager, Claims Support and Policy Division

Mr Stewart Ellis, General Manager, Injury Management Division

Australian Industrial Registry

Mr Terry Nassios, Acting Industrial Registrar

Mr Dennis Mihelyi, Director

Indigenous Business Australia

Mr Ron Moroney, General Manager

Mr Ian Myers, Deputy General Manager

Mr Anthony Lovell, Chief Financial Officer

Ms Kim McIlveen, Senior Manager

Mr Colin Clements, Assistant General Manager

Mr Dean Herpen, Assistant General Manager

Ms Kaely Woods, Assistant General Manager

Mr Peter O'Neill, Assistant General Manager

Equal Opportunity for Women in the Workplace Agency

Ms Anna McPhee, Director

Office of Workplace Services

Mr Nicholas Wilson, Director

Mr Alfred Bongi, Deputy Director

Ms Anya Moore, General Manager, Recruitment and Training

Ms Sherry Pullen, General Manager, Technical Support

Mr Steve Kibble, General Manager, Workplace Services

CHAIR (Senator Troeth)—Good morning, everyone. I declare open this meeting of the Senate Employment, Workplace Relations and Education Legislation Committee. The Senate has referred to the committee the particulars of the proposed expenditure for 2006-07 for the portfolios of Employment and Workplace Relations and Education, Science and Training. The committee is due to report to the Senate on 20 June 2006, and has fixed Friday, 28 July 2006 as the date for the return of answers to questions taken on notice.

The proceedings today will start with the examination of the Employment and Workplace Relations portfolio, starting with outcomes 1 and 3; moving to cross portfolio and the rest of the agenda tomorrow. Under standing order 26, the committee must take all evidence in public session. This includes answers to questions on notice. I remind senators and witnesses that the proceedings of this committee are governed by the privilege resolutions of the Senate agreed to in 1988. In particular, resolution 1(9) provides:

A chairman of a committee shall take care to ensure that all questions put to witnesses are relevant to the committee's inquiry and that the information sought by those questions is necessary for the purpose of that inquiry. Where a member of a committee requests discussion of a ruling of the chairman on this matter, the committee shall deliberate in private session and determine whether any question which is the subject of the ruling is to be permitted.

Resolution 1(10) provides:

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. Unless the committee determines immediately that the question should not be pressed, the committee shall then consider in private session whether it will insist upon an answer to the question, having regard to the relevance of the question to the committee's inquiry and the importance to the inquiry of the information sought by the question. If the committee determines that it requires an answer to the question, the witness shall be informed of that determination and the reasons for the determination, and shall be required to answer the question only in private session unless the committee determines that it is essential to the committee's inquiry that the question be answered in public session. Where a witness declines to answer a question to which a committee has required an answer, the committee shall report the facts to the Senate.

The Senate by resolution in 1999 endorsed the following test of relevance of questions at estimates committees:

Any questions going to the operations or financial positions of the departments and agencies which are seeking funds in the estimates are relevant questions for the purpose of estimates hearings.

I remind all witnesses that in giving evidence to the committee they are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee and such action may be treated by the Senate as a contempt. It is also a contempt to give false or misleading evidence to a committee. The Senate has resolved also that:

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.

This resolution prohibits only questions asking for opinions on matter of policy and does not preclude questions asking for explanation of policy or factual questions about when and how policies were adopted. If a witness objects to answering a question, the witness should state the ground upon which the objection is taken and the committee will determine whether it will insist on an answer having regard to the ground which is claimed. Any claim that it would be contrary to the public interest to answer a question must be made by the minister and should be accompanied by a statement setting out the basis for the claim. An officer called to answer a question for the first time should state their full name and the capacity in which they appear. Witnesses should speak clearly and into the microphones to assist Hansard to record proceedings. Mobile telephone should be switched off.

I welcome Senator Abetz, the Minister representing the Minister for Employment and Workplace Relations, Dr Peter Boxall, the secretary of the department and officers of the Department of Employment and Workplace Relations. Minister, do you wish to make an opening statement?

Senator Abetz—No, other than to say when the committee determines its attitude to whether or not it adjourns for the Beaconsfield function that I would be appreciative if the committee were agreeable to such an adjournment for however long the committee determines. As a Tasmanian senator, it would be great if I could get myself there as well. But, of course, I am in the hands of the committee in that regard.

CHAIR—We will be considering that matter in our private meeting. Do you wish to make an opening statement, Dr Boxall?

Dr Boxall—No.

CHAIR—In that case, we will lead to questions.

Senator WONG—Good morning, Dr Boxall. I will start by going through a couple of questions on notice for outcome 1, firstly, W670-06. The context of this question is identified in the proof *Hansard* at page 2021. In the final *Hansard* it is on page 30. The context was consultation with a Job Network about the implementation of the active participation model. I asked Ms Golightly about risk assessment in relation to the specific issue of Job Network members being able to reclassify persons under the JSCI. Ms Golightly said:

The department, as it does with any proposal, has done a risk assessment and has implemented controls as a result.

I asked:

When was that risk assessment done?

Ms Golightly said:

It would have been done as part of the whole implementation schedule and examination of the APM.

I asked:

That is a document?

Ms Golightly replied:

I am not sure if it is one document.

I asked:

Can you provide all documents relating to the risk assessment that you have just described, please?

I note, Dr Boxall, that there was no discussion or mention in any of that discussion about cabinet deliberations. In W670 I specifically asked:

Was any specific written advice received from DOFA, as part of the 2002 Budget deliberations, in relation to the appropriateness of Job Network members being able to review the JSCI?

You declined to answer on the basis that, 'Comments provided as part of the 2002 budget deliberations are cabinet in confidence.' I want to explore that a little bit. Is it asserted that the documents in question were actually considered by cabinet?

Dr Boxall—Yes.

Senator WONG—All of them?

Ms Golightly—The comments that I am aware of that were received from DOFA were considered by cabinet, yes.

Senator WONG—Were there any other documents in relation to risk assessment other than those received by DOFA? In your answer to W671-06 you have declined to answer that on the basis that it is not practical to identify all documentation. Have you actually identified, first, which were considered by cabinet? Dr Boxall does not want you to answer, Ms Golightly. You better keep quiet.

Dr Boxall—No, that is not the case, Senator Wong. Dr Boxall is reading the answer to the question that you have referred to.

Senator WONG—Has there been consideration of documents other than those provided to cabinet?

Dr Boxall—I do not think we have anything to add to the minister's answer. You have asked a question about 670. You also asked it in the last Senate estimates, about material received from the department of finance. The minister has answered that that was subject to cabinet in confidence. The minister's answer in 671 is:

It is not practical to identify all documentation dealing with assessment and management of risks over the course of developing the Active Participation Model; and to allocate staff to its collection would be an unreasonable diversion of resources.

Senator WONG—Let us deal firstly with W670. Your evidence to this committee is that the specific written advice from DOFA was subject to cabinet deliberation. Is that correct?

Dr Boxall—That is the minister's answer to 670.

Senator WONG—Are you distancing yourself from that, Dr Boxall? I am sorry; I thought the department provided answers.

Dr Boxall—No. The minister tables answers, not the department. The department advises and the minister tables—and that is the minister's answer.

Senator WONG—Are you aware that the Senate privileges committee and the advice in relation to cabinet in confidence indicate that a claim of cabinet in confidence can be made only in circumstances where the disclosure of the document will reveal cabinet deliberations? Is that what is being asserted here?

Dr Boxall—No. The minister is quite aware of that. He says that, ‘Comments provided as part of the 2002 budget deliberations are cabinet in confidence.’

Senator WONG—I am asking you because the Senate has made it clear the basis on which a cabinet-in-confidence claim is to be made.

Dr Boxall—As far as I know, Senator Wong—

Senator WONG—I had not finished, Dr Boxall. I am asking you because the Senate has made clear—and I assume that, despite the numbers in the chamber having altered, the government still does regard Senate privileges as governing these committees—the procedures of the Senate and the resolutions of the privileges committee and the advice of the Clerk indicate that a cabinet-in-confidence disclosure must be based on the belief that disclosure of the document would reveal cabinet considerations. I am simply asking you if that is the case.

Dr Boxall—And the answer is yes, and that is the minister’s answer.

Senator WONG—Okay. Are there any documents provided by DOFA in relation to the appropriateness of Job Network members being able to review the JSCI which were not part of cabinet deliberation?

Dr Boxall—Not that we are aware of.

Senator WONG—Can we go to W671-06. It is a very general answer, but the context of the question was quite specific. I am not interested in the entirety of your risk assessment process; I am interested in what risk assessment the department conducted in relation to a very specific issue, and that is the ability of Job Network members to reclassify job seekers post, I think, April 2003—or was it 2005?

Ms Golightly—I would have to check the date.

Senator WONG—Whatever the date was. I am not interested in the entirety of the risk assessment for the APM. It is a very specific issue.

Dr Boxall—The minister has given an answer, bearing in mind the context in which the question was asked. That is the minister’s answer and we are not going to critique the minister’s answer or second-guess it.

Senator WONG—I am not asking you to second-guess it; I am asking you to give truthful evidence, Dr Boxall. I am asking: are there any documents in relation to the department’s assessment of risk associated with Job Network members being permitted to reclassify job seekers under the JSCI?

Dr Boxall—We will take that on notice, because that is a different question.

Senator WONG—That was exactly the context of the discussion.

Dr Boxall—The question here is:

Can the department provide all risk assessment documents associated with the APM proposal?

That is a very general question, and the minister has answered accordingly.

Senator WONG—The context is page 30 of the *Hansard*. We were asking specifically about the discussion of the JSCI reclassification:

Senator WONG—When was that risk assessment done?

Ms Golightly—It would have been done as part of the whole implementation schedule and examination of the APM.

Senator WONG—That is a document?

Ms Golightly—I am not sure if it is one document.

I then go on to say:

Senator WONG—Did the risk assessment suggest any possibility of a conflict of interest in terms of this aspect of the APM?

So I was very specifically not asking about the entirety of your risk assessment process.

Dr Boxall—That is not the question that we got on notice. The question on notice is:

Can the department provide all risk assessment documents associated with the APM proposal?

It says:

Senator Wong asked at Hansard page 21 ...

Not page 30.

Senator WONG—That is because—as I said at the outset, if anybody had been listening—I understand the committee uses the pagination from the proof *Hansard* and I referred you to the final *Hansard*, where the interchange appears at page 30. If you wish to look at it, you can.

Dr Boxall—The minister can only answer the questions that he is asked, and the question that he was asked is written down here quite clearly. It says:

Can the department provide all risk assessment documents associated with the APM proposal?

That is the question he has answered. If you want to ask another question, I am sure we will take it on notice and find out.

Senator WONG—It was quite clear, Dr Boxall, the tenor of the questioning. I asked many questions on this and, frankly, the department obfuscated, and the minister, through this answer, is continuing to obfuscate. I understand why, because you have lost a number of million dollars as a result of this and had to have it paid back, but that is actually not my issue. I would have thought the public would be entitled to know whether or not you actually looked at the risk of providing providers with this discretion.

Senator Abetz—Chair, this is a commentary. I think Dr Boxall has quite clearly indicated the specifics of the question. It is one of those things in Senate estimates: if you do not frame your questions in an appropriate manner, then it is very difficult to try to get the person who is answering to read into the question what the questioner actually may have had in mind in the general context.

I think ministers from both sides of politics have always taken the approach of answering the specific question rather than trying to second guess what might lie behind the question. I think the question stands. If there are specific questions flowing on from that answer, of course Senator Wong has a right to ask them. If we can answer them, we will; if we can't, we will take them on notice.

CHAIR—I think there was also an assumption implied in Senator Wong's last question which may or may not be relevant to the question, but I ask her to ask specific questions as you have indicated, Minister.

Senator Abetz—Thank you.

Senator WONG—It would be nice if they provided specific answers.

CHAIR—Do you wish to rephrase the question?

Senator WONG—I will repeat what I was asking. I would like any risk assessment documentation associated with the decision to allow Job Network members the right to reclassify job seekers under the JSCI.

Dr Boxall—We will take that on notice.

Senator WONG—I would also like to know if any legal advice was sought by the department in relation to that issue at any time prior to the investigations which we were discussing in February.

Dr Boxall—We will also take that on notice.

Senator WONG—Why is that, Dr Boxall?

Dr Boxall—It is because we do not have the material with us.

Senator Abetz—Next question?

Senator WONG—In respect of question No. W673-06, I ask you to look at the *Hansard*. It is indicated to be at page 32. The discussion in relation to it is on pages 32 and 33. It was a question relating to the proportion of changes to the JSCI which were upgrades. You have declined to answer it on the basis that there is no historical data readily available with which to respond to the question. On 16 February 2006, shown at page 32 of the *Hansard*, I asked:

What I want to know is whether, post the July 2003 change, the department tracked how many job seekers were the subject of a change in classification as a result of the Job Network member updating or reviewing the JSCI.

Ms Caldwell answered 'yes'. I asked:

You do track that. On a monthly basis?

Ms Caldwell answered:

Yes, Senator, we could break them down in that way.

I then asked:

Or on an annual basis; I don't mind. How do you track the data?

Ms Caldwell answered:

We can slice and dice it any way—

Dr Boxall, you are then indicated as asking:

No, how do you track it?

I suspect that was actually me. Ms Caldwell went through that and I then asked:

What was your process for analysing that data?

In the context of Ms Caldwell indicating that the data could be sliced and diced in any way, and that it could be broken down, why is it that the minister has answered:

There is no historical data readily available to respond to this question, and to allocate staff to its collection would be an unreasonable diversion of resources.

Dr Boxall—The question asked of the minister was:

Prior to the introduction of the Active Participation Model, what proportion of changes to the JSCI were upgrades?

That is like asking: prior to 2003, what proportion of the changes to the JSCI were upgrades? The material that you just read out, Senator Wong, from the *Hansard* says:

Senator WONG—What I want to know is whether, post the July 2003 change, the department tracked ... So the context of the exchange which you just read out is post July 2003. The question which the minister has answered is about prior to the Active Participation Model, which was pre 2003. That is why the minister has answered the question so.

Senator WONG—So the slicing and dicing of data is only post 2003? You did not track it prior to that?

Dr Boxall—No, the minister has answered that there is no historical data readily available to respond to this question. Therefore, there is no historical data readily available to respond to the question of what happened prior to July 2003.

Senator WONG—And I am exploring that, Dr Boxall. What is the nature of the data you tracked prior to 2003? Did you track the number of changes to the JSCI?

Ms Golightly—Senator, the answer is as the answer is there.

Senator WONG—Yes. I saw Dr Boxall whisper to you, as always.

Senator Abetz—Chair, it is very early; I just hope it does not degenerate further. You might expect that sort of commentary at 10 o'clock at night but hopefully not before 10 o'clock in the morning.

CHAIR—We have a long way to go, Minister, so we will proceed.

Senator WONG—If Dr Boxall wants to behave like this, that is fine. But I am not going to sit here and allow it to happen.

Senator Abetz—Excuse me, Chair. This is a terrible reflection on Dr Boxall. Dr Boxall is the secretary of the department. He and his staff are entitled to consider answers and communicate with each other at the table. To try to make reflections on that is highly inappropriate.

Senator WONG—I have no difficulty with Dr Boxall communicating with his staff. But what is very clear from this side of the table is that directions are given to officers not to answer things or to answer in a certain way.

Senator Abetz—That is a presumption on your part.

Senator WONG—It is quite patent—

CHAIR—Order—

Senator WONG—and I have to say: it is unusual in terms of the other committees that we ask questions of.

Senator Abetz—That is the way Labor may have behaved in office but it is not the way we behave—

CHAIR—I think it would be better to concentrate on the content of the question and the content of the answer, and run the committee accordingly. Senator Wong, do you have a question?

Senator WONG—Yes, I do. I would like to know what sort of data was tracked prior to the introduction of the APM.

Ms Golightly—Senator, we have not looked at that. We do not have historical data. If anybody might, it might be Centrelink. But, because that was not the question asked, I have not made those inquiries. I cannot give you a definitive answer on that—further to the answer that has already been provided.

Senator WONG—You gave me at the last hearing, Ms Golightly, the proportion of the JSCI alterations post the APM? I was not sure if it was a question on notice or if you gave it orally.

Ms Golightly—I think in the end we did give you something orally, but I can check that.

Senator WONG—Senator McEwen has assisted us, Ms Golightly. It is on page 35 of *Hansard*. It says, ‘there have been 155,000 changes to the JSCI ... of which 24 per cent were upgrades.’

Senator Abetz—I hope you were not whispering to each other.

Senator WONG—I do not tell them not to answer questions—

Senator Abetz—She does not get to answer questions, does she?

Senator WONG—I do not tell her not to ask them, Minister, or how to ask them.

Senator Abetz—Clearly she is assisting you in how to ask your questions.

Senator WONG—I just want to clarify: have you got that, Ms Golightly?

Ms Golightly—Yes, I have.

Senator WONG—Is there any alteration to that number?

Ms Golightly—I do not think so, Senator.

Senator WONG—Presumably there might have been some since February 2006.

Ms Golightly—Yes. I think some of my people here have some more recent figures—

Senator WONG—Could you do that?

Ms Golightly—and I think the feeling is that they may have gone down, but we will check that for you.

Senator WONG—Okay. Do you want to come back to that?

Ms Golightly—Yes.

Senator WONG—Question on notice No. W680-06.

Ms Golightly—Actually, Senator, I think we have just found the figure that you are after. The figures I have in front of me are showing 22.5 per cent, and that is roughly 40,000.

Senator WONG—That is for which period?

Ms Golightly—That is from January 2004.

Senator WONG—Does that mean there were 115,000 changes between July 2003 and January 2004?

Ms Golightly—No, I think the date—

Senator WONG—Because you have given me the figure for July 2003—to date, I assume that figure was—which was 155,000.

Ms Caldwell—The figures are based on comparable numbers. When we were before the committee at the last estimates hearing, we referenced a number of approximately 155,000 updates to the JSCI by Job Network members of which around 24 per cent had resulted in a change to HD status. The further figures that we have now are updated from those figures. I believe the evidence last time ran up to January of this year. Since that time, the total number has grown—this is an inclusive number—to 178,000. So the 155,000 has become 178,000. The total percentage of upgrades over the total period has fallen to 22 per cent. The total number of upgrades to HD has increased to 40,197. They are all-inclusive and comparable figures, Senator.

Senator WONG—Okay. So 40,000 is actually the raw number of upgrades?

Ms Caldwell—Cumulative numbers, yes.

Senator WONG—Cumulative upgrades. Okay. So, if it was 24 per cent prior to February 2006, presumably there have been a very small number in order to get that reduction in average between February 2006 and now. Am I right?

Ms Caldwell—That is correct.

Senator WONG—When you gave me the figure in February, what was the end date on those figures? What period did they cover?

Ms Caldwell—I will just have to confirm that for you. It was either the end of December or the end of January.

Senator WONG—That is for the figure of 155,000.

Ms Golightly—Our tables are cumulative, so we will just check.

Ms Caldwell—We believe it was the end of January and we are just confirming that, Senator. It may take a minute or two to confirm which data set we were looking at when we were before you last.

Senator WONG—If it is only a minute. I would like to finish this before I start the next bit, if I could, thanks.

CHAIR—Yes.

Ms Golightly—The figure of 155,000 was as at the end of January, so the new figure we have just given you is till the end of April.

Senator WONG—Okay. So, of the 23,000 changes between January and April, what percentage or what raw number was upgrades?

Ms Golightly—There are less than 2,000 in total. I have not worked out the percentage.

Senator WONG—What is the actual number? Do you have the actual number?

Ms Golightly—1,942.

Senator WONG—Of 23,000 or thereabouts.

Ms Golightly—Yes, thereabouts.

Senator WONG—I have just taken 155,000 from 178,000. Chair, I know that Senator Siewert has to go to Community Affairs, so I am happy to flick to her.

Senator SIEWERT—I want to follow up on the family carers issue that I have been asking about with monotonous regularity. At the last estimates, I understood you were undertaking to follow up with the states about whether states have registers that include family carers. What progress have you made with that?

Dr Boxall—That is correct.

Mr Sandison—We do have discussions with the states. We have followed up in terms of how broad some of the rules might be made in terms of supporting those people. As it stands, the policy is still the same but it is the direct carers who have been picked up through the budget changes, and we are looking at other ways in which we can broaden the interpretation through the guide to the Social Security Act.

Senator SIEWERT—I have been doing some research myself. My research indicates that none of the states'—well, possibly one or two of the states'—definitions actually cover family carers.

Mr Sandison—That is right.

Senator SIEWERT—So, at the present time, what is happening with the people who are providing family care in exactly the same situation as foster carers but who are not getting exemptions?

Mr Sandison—At this stage, the exemptions are only as they stand. So it is with the descriptions that are in the legislation and as described at last Senate estimates.

Senator SIEWERT—Are you saying that there has been no progress whatsoever in terms of whether these people can actually get access to exemptions? Are they being sought out? Are you providing information so that people who are family carers can actually find out whether they can apply for exemptions?

Mr Sandison—No, the policy settings are as they stood at the last Senate estimates, as we answered then. In the areas that we have looked at—and, as you say, in the states, there would be very few covered by it—at this stage there has not been and there is not proposed to be a change to the policy positions.

Senator SIEWERT—So you are saying that the 40 per cent of kids that are in out-of-home care who are cared for by family carers and their carers are not covered by this legislation?

Mr Sandison—Not as it stands, no.

Senator SIEWERT—When I last asked, you were going back to the states and you just said that that has not changed; you are still looking at expanding the definition. Have you actually contacted all of the states?

Mr Sandison—I can get the full details for you but I do not have those with me.

Senator SIEWERT—I asked this last time, and I have been fairly clear about asking for the information. I think this time I am asking for the same information.

Mr Sandison—We would have responded to any questions that were on notice where there was additional information. The department responded to all questions.

Senator SIEWERT—I do not—

Mr Sandison—If there was one from the *Hansard* or the list that was given to us by the committee that we missed then—

Senator SIEWERT—It was in the *Hansard*. Let me make it clear what I want. I want to know which states you have been talking to, what the responses about their definitions of the care registers were, what those definitions are, whether people have actually applied for exemptions as family carers and have been turned down—

Mr Sandison—The settings are for 1 July this year.

Senator SIEWERT—You are right; I beg your pardon. I am just trying to make sure that I articulate these questions really carefully so that I get answers, because this is affecting 40 per cent of kids in out-of-home care, and their carers are potentially going to be in very difficult situations come 1 July, which is why I asked this last year.

Senator Abetz—Do you want to know what the outcome of the discussions were?

Senator SIEWERT—Yes, that is what I asked before.

Senator Abetz—No, I do not think you did from the question that I see. Without getting into an argument about what you did or did not ask last time, I think the answer given, which is in the W677-06 question and answer, does answer that question. I do not think you asked for the outcome of those discussions. The answer tells you that you asked, ‘Have discussions been held?’ The answer was that discussions had been held. You want to know the outcome of those discussions.

Senator SIEWERT—Which is what I asked just then.

Senator Abetz—Let us take that on notice.

Senator SIEWERT—I was fairly clear last time. In fact, I think my last statement on *Hansard* was that I could guarantee I would be back asking about this. That is why I am asking now what the outcome was.

Senator Abetz—That is fine. I just did not want any criticism attaching to the minister or to the department for not having specifically answered that matter because—

Senator SIEWERT—I knew you could not answer that last time.

Senator Abetz—you did not take it that far last time. That is all.

Senator SIEWERT—It was on the record that I wanted to know what the outcomes of those discussions were.

Mr Sandison—We will follow that up with the details that you just described, which will be in *Hansard*.

Senator SIEWERT—Okay. I do not want to have to be asking this in November because it is going to be after 1 July and we are going to have families suffering. What I want to know is not just what are the outcomes of the discussion but what are you going to do about the outcome of those discussions when you find out, like I have found out, that the registers do not cover family carers.

Mr Sandison—That is right.

Senator SIEWERT—What is going to happen?

Dr Boxall—In general what would happen is that the outcome of the discussions would be provided to the minister and, if the government were so inclined, they would make a change.

Senator Abetz—We do not want to see families suffer as you indicated in your question they would. We would hope that will not be the case.

Senator SIEWERT—The point is that you recognise that foster carers provide a very valuable role in the care of children living out of home and family carers do exactly the same thing but have not been recognised. Forty per cent of the kids in out of home care are with family carers. So there are a whole group of carers out there that are in exactly the same position as foster carers but, just because they are not called foster carers but are called family carers, have not been picked up, which is why I keep asking these questions.

Mr Carters—It has been demonstrated that the policy decision which was taken and which we are looking to implement relates specifically to foster carers. In consulting with the states we looked at what constituted registered and active foster carers under the legislation, because that is what we were using to implement the government's policy decision. There is a difference between what a family carer is versus what a foster carer is, and that is reflected in the fact that most of the states do not include that category. On that basis, as has been mentioned, we will take those findings back to government. But, as it stands, the decision was that it related to foster carers.

Senator SIEWERT—I understand that. I am saying there is a group of people out there that are now going to miss out and are going to be under increased pressure.

Dr Boxall—We can note this, as we did with your questioning last time. But the bottom line is the government have made a policy decision and, unless they decide to change that policy, we are directed to implement the policy as announced by government. If there are any issues that come up through the consultations, having noted your interest and questions, we might be in a position to advise the government one way or another. But at the end of the day it is their decision, and the decision thus far is, as Mr Carters just outlined, to make provision for foster carers as defined in the state jurisdiction.

Senator SIEWERT—I understand that. But when I was asking about this in committee when we were looking at this legislation your agency and FaCSIA had not considered family carers. That is the information that I got when I was asking about it. My understanding of the

answers I received was that they had not been taken into account when you were advising and working with the government on this particular bit of legislation. At the time I was told very few children and very few families would be involved. Information has subsequently come out, which I had a pretty good idea about, that 40 per cent of kids in out of home care are in family care, not foster care. That is why I am following it up. I know what the policy decision was, but a section of this community has been missed out.

Dr Boxall—We will note that and take that information on board in formulating advice to government.

Senator SIEWERT—You can guarantee I will be back asking about this again.

Dr Boxall—Certainly.

Senator WONG—I will now go to W680-06. The answer refers to the current processes for client information exchange. When were the current processes put in place?

Mr Manthorpe—They have been in place for some time. I would have to check the exact timing. Throughout the life of the current Job Network contract there have been a range of processes in place around disclosure of information.

Senator WONG—I am trying to work it out because you have used the phrase ‘currently in place’. Have the processes that you are referring to changed over the period of the Job Network? These are the processes for client information exchange.

Mr Manthorpe—There have been processes in place for some years. I would have to check how many years they go back.

Senator WONG—I understand that. I am asking: are the ones that are currently in place exactly the same ones that have been in place for the entirety of the Job Network or, which is more likely I assume, have there been various iterations of them?

Mr Manthorpe—There may have been adjustments to the contractual or other arrangements over that time in the light of adjustments to the privacy legislation and the like, but there have been information disclosure provisions in place in our Job Network contract for some years. Beyond that, I cannot be more specific in terms of going back.

Senator WONG—I would like to know—and can you get back to me in the course of the hearing—when the processes to which this answer refers were first put in place.

Mr Manthorpe—Certainly.

Senator WONG—I would also like to know: have there been any occasions on which the department has been advised that there were Privacy Act concerns with its client information exchange processes?

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

Senator WONG—I am interested because I know how carefully public servants choose their words—why you say the ones are currently in place not any others.

Ms Golightly—I think it was probably there to assure people that we have current processes that fully satisfy the current requirements of the Privacy Act as opposed to

processes that were there perhaps satisfying the act several years ago. I think that was all that was meant to mean.

Senator WONG—I would be interested in knowing if any concerns have been raised with you or advice provided to you which raise the issue of privacy in relation to current or previous client information exchange processes.

Ms Golightly—We will look at them.

Senator WONG—Thank you. I will now go to question W693-06. In terms of estimates for participation in full-time work for the dole, do you project for any demographic? Do you do any demographical analysis or income support payment analysis of the projected participants? You have indicated that it is not broken down by age, but is there any other basis on which you have predicated your estimates for participation?

Mr Carters—We will need to take that on notice.

Senator WONG—These are estimates of the numbers of participants which, presumably, are found at the basis of the additional funding for work for the dole. Surely someone has done some projections of numbers of participants.

Mr Carters—The numbers of places for full-time work for the dole were done as part of the Welfare to Work budget context. We can have a look at that to see whether it was done on the basis of different income support groups, but I do not have that information with me.

Senator WONG—It would be useful if you could get back to me not necessarily with the data but with how you have got the data so that I know how to phrase the question.

Mr Carters—Yes, will do.

Senator WONG—There is no point in me asking you about age if do not do it by age, but if you do it by income support payment there might be. I want to now turn to the issue of the investigations of the four agencies we were discussing on the last occasion. Have those investigations concluded?

Ms Golightly—No, they have not.

Senator WONG—Your minister has been on radio talking about the amount of moneys paid back, so I assume you are going to be able to tell me now exactly how much money has been paid back to the Commonwealth.

Ms Golightly—The investigations are ongoing. I might just check with my legal people.

Senator WONG—I will be really clear: I am only asking for moneys that have actually been paid back.

Ms Golightly—That is quite separate. It is possibly separate to the fraud investigations so I will just double-check that for you. I am advised that, to date, we have recovered \$14.5 million. That relates to a number of organisations. I am not exactly sure of the particular interview with or release by the minister that you are referring to, but I think she may have been talking about one organisation.

Senator WONG—So it is \$14.5 million to date?

Ms Golightly—Yes, to date.

Senator WONG—And that is in relation to how many providers? Are these the four that Dr Boxall mentioned on the last occasion?

Ms Golightly—There are currently three under formal investigation, with one more, possibly two, being considered at this stage.

Senator WONG—Additional investigations? There are the three and then there are two.

Ms Golightly—Yes, and the second two are not confirmed yet.

Senator WONG—I have forgotten what stage that is at; is that at the examination phase? Is that what we decided to call it?

Ms Golightly—Yes. There is a contract management phase, where we are reviewing Job Network members all the time; there is the phase where our fraud investigators evaluate the provider as to whether they think there is a likelihood of fraud; and then there is the formal fraud investigation stage. There are three formal fraud investigations, and there are two providers being evaluated for the likelihood of fraud.

Senator WONG—So you might call that the second stage?

Ms Golightly—That is right, yes.

Senator WONG—Have there been any referrals to the DPP?

Ms Golightly—Not as yet.

Senator WONG—But that is not an avenue that has been either closed or ruled out?

Ms Golightly—It has not been closed.

Senator WONG—Are there any other cases at the evaluation stage?

Ms Golightly—Just the two I mentioned.

Senator WONG—Presumably you do not want to identify those two.

Ms Golightly—No.

Senator WONG—Do all of the moneys paid back relate to the issue of allegedly incorrect JSCI classifications?

Ms Golightly—That figure I gave you, yes, is about the JSCI.

Senator WONG—Do the other investigations relate to that issue or are there other issues?

Ms Golightly—The figures I have been giving you are all related to JSCI.

Senator WONG—The three and the two?

Ms Golightly—Yes.

Senator WONG—Does the \$14.5 million relate to the three, the two or perhaps a mixture of those?

Ms Golightly—It is a mixture of those.

Senator WONG—Is there a time frame on these investigations?

Ms Golightly—No.

Senator WONG—You cannot anticipate when they might be concluded?

Ms Golightly—It is very difficult with fraud matters.

Senator WONG—I want to turn now to the announcement that was made by one of your ministers on 25 May in relation to setting a \$50 per fortnight threshold. Presumably, DEWR is the relevant department to model this announcement?

Dr Boxall—DEWR is the department that advised the minister on this announcement.

Senator WONG—Can I ask what led to \$50, not \$60 or \$40?

Dr Boxall—The amount of \$50 is what the government decided upon that people should be able to earn over and above the other items listed in the announcement for the definition of suitable work for parents.

Senator WONG—I just wondered why \$50—why not \$40, why not \$60.

Dr Boxall—The government decided on \$50.

Senator WONG—There must be a rationale, Dr Boxall. I am offering you the chance to provide us with the rationale.

Dr Boxall—The government decided that \$50 was a reasonable amount.

Senator WONG—So it was an arbitrary decision?

Dr Boxall—No, it was a well-considered decision.

Senator Abetz—There are always thresholds in all of these things. With a tax-free threshold of \$6,000 you can ask why it is not \$5,999 or \$6,001 and that, because it is \$6,000, it is an 'arbitrary decision'. No, governments of all persuasions, in deciding on thresholds, have to weigh up all the evidence and competing interests and then determine on a figure. Just as much as we decide that with tax thresholds, just as much as we decide it in other areas, on this occasion the figure of \$50 has been struck upon.

Senator WONG—Sure, and I am just asking for some of the rationale behind \$50. Surely, there is some reasoning behind why \$50 or \$25 a week was picked.

Senator Abetz—Balancing everything up, undoubtedly the government was of the view that social justice and other considerations would require that \$50 would be an appropriate figure.

Senator WONG—Did DEWR model what the effect of the \$25 per week threshold would be?

Mr Carters—The department gave some advice to the minister to assist him in determining whether \$50 would be the appropriate amount. Essentially, we looked at a couple of scenarios—fairly basic, \$40 or \$50—and the government took the decision.

Senator WONG—When was this decision made?

Senator Abetz—It was announced on 25 May. I dare say, as with all government announcements, until the announcement is made the decision can potentially be altered or changed. I dare say it would have been made somewhere around 25 May.

Senator WONG—You did not choose to announce it with the big Welfare to Work budget changes last year, Minister, so obviously it has been made subsequent to that. I am asking when the decision was made.

Senator Abetz—You can be confident that the decision would have been made on or before 25 May, when it was announced. There is nothing magical about this. Labor state governments do it; previous federal Labor governments did it as well. The decision often is that the actual, final nailing down of the decision is on the day of the announcement but quite often decisions are made earlier, prior to the announcement.

Senator WONG—Can you advise me when the advice you made reference to was provided to the minister's office, Mr Carters?

Mr Carters—Not specifically, but it was in recent times.

Senator WONG—This year, or last year?

Mr Carters—This year.

Senator WONG—Are you able to provide me the month in which that advice was first provided?

Mr O'Sullivan—Senator Wong—

Senator WONG—Mr O'Sullivan, we had a long discussion about legal professional privilege and various other things last time, I think.

Mr O'Sullivan—Yes, it was very instructive. I should alert you to section 13 of the Public Service Act, which puts an obligation on public servants to maintain appropriate confidentiality of advice given to ministers. In my view, what advice the department gives the minister and when it gives that advice is confidential.

Senator WONG—I am not asking what the advice was; I asked when it was provided.

Mr O'Sullivan—I would have to say that when such serious advice was provided is covered by the obligation of confidence.

Senator WONG—I think you are wrong. It has been a longstanding position at Senate estimates that we cannot ask the detail of the advice—I accept that; it is not appropriate—but the timing of when advice was provided, the timing of when things go to cabinet, unless it is going to indicate cabinet deliberations, is something which we have asked and which has been answered. If DEWR wish, on your advice, to depart from that, that is obviously your prerogative.

Mr O'Sullivan—I have provided my advice.

Senator WONG—Mr Carters, are you declining to answer the question about when the advice was provided?

Senator Abetz—What he has given is an answer based on, if I recall, section 13 of the Public Service Act. That is the answer. But one really does wonder where the question is going, because the actual advice that the department proffered may well be completely different from the decision that the government made and ultimately announced. So I would

imagine that, potentially, the departmental advice might have been that the threshold should have been \$5 and the government decided to make it \$50.

Senator WONG—I am not asking what the advice was.

CHAIR—I think Mr O’Sullivan has indicated the grounds on which he declines to answer the question. Whether or not you wish to pursue that is up to you.

Senator WONG—I will pursue that. In the interests of not taking up too much time of the committee, we might come back to that after we have had some advice from the Clerk. I think Mr Carters has at least answered that it was this year. I think that was the previous answer.

Mr Carters—Yes, Senator.

Senator WONG—Has DEWR looked at a similar issue—that is, modelling of some sort of threshold for people with a disability?

Mr Carters—We have provided advice to the minister’s office but, again, we cannot disclose the nature and the timing of that advice.

Senator WONG—I am not asking about the advice; I am asking you whether you have done similar modelling to the one you performed in relation to parents for people with a disability.

Mr Carters—As part of the process of developing the guidelines under which Welfare to Work would operate, including the guide to the social security legislation, the department was aware of a number of commitments made by government as to what would constitute a suitable job. It was in that context that we provided advice to the government. The government did not make specific reference to people with disabilities in that context.

Senator WONG—The Prime Minister and the minister made some comments, post the Welfare to Work announcement, about parents and restrictions on suitable work, which included not going backwards—for example, if your child-care costs were in excess of what you would have got paid.

Mr Sandison—‘Low or no financial gain’ was the statement. It was about taking costs into account and looking at the issue of taking up a job where the result would be low or no financial gain.

Senator WONG—That was the Prime Minister’s statement, wasn’t it?

Mr Sandison—Correct.

Senator WONG—And it only related to parents?

Mr Sandison—That is right. It was during a discussion or some debate that had been going on around the cost of child care.

Senator WONG—I think it was in the context of an amendment moved in the House. It only related to parents, so there is no guarantee against low or no financial gain for people with a disability?

Mr Sandison—No, that generic statement was only in relation to parents.

Senator WONG—Has the department modelled the financial gain effective marginal tax rates that a person with a disability on Newstart will face as opposed to someone on DSP?

Mr Parsons—We have modelled the Welfare to Work expectation that people will seek and obtain work of 15 hours a week and in that context have demonstrated that people who do obtain that 15 hours of work a week will be better off than those who stay on income support.

Senator WONG—That is true. On the occasion prior to the last that we met, we were discussing the NATSEM report. I think you indicated, Mr Carters, that, broadly, you accepted the NATSEM analysis?

Mr Carters—We said that we had no reason to doubt the rigour of the NATSEM modelling. We did have queries about what it was attempting to demonstrate in that it was not comparing the opportunity of somebody having 15 hours of work a week versus just staying on income support.

Senator WONG—Sure. It compared, for example, a person on DSP with 15 hours of work a week with a person on Newstart with 15 hours of work a week.

Mr Carters—Did NATSEM do that?

Senator WONG—Yes. You said that you had some concerns because they did not compare, on your evidence, somebody on income support without work against someone on income support with 15 hours of work a week. Is that correct? I thought that was your evidence?

Mr Carters—Yes, the evidence was that there was not that direct comparison by them.

Senator WONG—And I am saying that that may or may not be the case but they did compare a person on DSP with a person on Newstart working identical hours.

Dr Boxall—That is not a relevant comparison, because the government's policy is that people who can work more than 15 hours go on Newstart.

Senator WONG—Yes. That was not my question. I was just asking for confirmation that they did that comparison.

Dr Boxall—The question is not whether they did that comparison or not; it is not a relevant thing to compare.

Senator WONG—Mr Carters, are you aware that NATSEM indicated that the effective marginal tax rate faced by people with a disability under the Welfare to Work changes is substantially higher even than that faced by parents compared to the current arrangements?

Mr Carters—The changes which come into effect from 1 July will place people who are able to do 15 hours or more of work a week on to the Newstart payment. Again, there is not a directly comparable issue there.

Senator WONG—Let us look at it this way: do you agree with Mr Sandison that the low or no financial gain promise or guarantee only applies to parents?

Dr Boxall—That was the Prime Minister's statement. The Prime Minister's statement was in effect a discussion or a debate about parents and he made that statement. As far as we are aware, there have been no other statements made for other groups.

Senator WONG—So there is no guarantee for people with a disability under the Welfare to Work changes that they would not have to go to work if they had low or no financial gain?

Dr Boxall—People with a disability who can work and are evaluated as being able to work more than 15 hours a week are put on Newstart, and they have participation requirements just like anybody else on Newstart. If they get a job then they will be better off.

Mr Carters—There are another couple of factors which should be taken into account in assessing whether or not a suitable job applies for people with disabilities. The first is that they will not have the child-care issue. The second is that there has been an announcement that if the travel costs are more than 10 per cent of their earnings—

Senator WONG—Of their gross income.

Mr Carters—of their gross earnings, they do not need to undertake the job. The third is that there is a limit of 60 minutes of travel to the job. Those factors combined make it extremely unlikely that a person with a disability would not gain significantly from participating in 15 hours of work a week.

Senator WONG—Mr Carters, how do you make the assumption that a person with a disability does not have child-care costs?

Mr Sandison—I can answer that. If they have children, they get picked up under the rules around being a principal carer.

Senator WONG—But they may well be a person with a disability previously on the DSP, for example.

Mr Sandison—If they were previously on DSP and have exited or if they are currently on DSP. If they are currently on DSP, they are grandfathered.

Senator WONG—Yes; unless they exit and come back.

Mr Sandison—Correct.

Senator WONG—Are you saying, therefore, they will be assessed as a parent for the purposes of suitable work?

Mr Sandison—Yes. They would have the same issues as a parent around suitable job and reasonable excuse et cetera. In addition, if they were identified as having the mobility needs of a disabled person, they would get mobility allowance.

Senator WONG—To clarify: as a result of the Prime Minister's statement, there is a guarantee that parents will not go backwards from working; correct?

Mr Sandison—Correct.

Senator WONG—There is no such guarantee for a person with a disability?

Mr Sandison—No, that has been the evidence.

Senator WONG—So isn't what you are saying that a person with a disability could end up paying to work and having less money from work than from welfare?

Mr Carters—That guarantee has not been given by the government but, because of the circumstances under which people are expected to take the job, we would not see that happening in reality.

Senator WONG—Would you have seen that as potentially happening with parents?

Mr Carters—The government has already given a guarantee that that will not happen with parents and has offered an extra amount of \$50 a fortnight that they can earn while that guarantee applies.

Senator WONG—But your argument is that you would not see it happening with people with a disability. Would it have applied to parents before the guarantee was put in place?

Mr Carters—No, because the issue of child care was one that parents faced which people with disabilities did not face.

Senator WONG—Have you costed the additional costs of working that a person with a disability might face? Have you looked at that?

Mr Carters—We have looked at the costs of the reduction in income support which might apply, for example, due to the effective marginal tax rates.

Senator WONG—Have you considered any other costs?

Mr Carters—We have considered the fact that a number of those people would be eligible for mobility allowance at \$100 a fortnight.

Senator WONG—Not everyone.

Mr Carters—No; I did not say everybody.

Mr Sandison—Some of the other issues of a person being able to access employment if they have a disability have been raised with us in consultations. In the way that we are describing it in the draft guide to the act, we have been looking at issues where they may be able to have reasonable excuse to not take up a position based on some of the issues about care arrangements, personalised care in the morning and those sorts of issues regarding access to employment and/or looking for work. They were raised with us during consultations.

Senator WONG—But they are not taken into account in the same way that the costs that were iterated in the announcement on the 25th for parents are taken into account, are they?

Mr Sandison—No, not fully. A significant number of the costs are related to the person and their status, with or without work, in terms of getting up in the morning, personalised care and those sorts of things. It is not necessarily directly related to taking on employment.

Senator WONG—But if they require that to take on employment it will be a direct result of taking on employment, won't it?

Mr Sandison—There may be elements, but they—

Senator WONG—That is right, which potentially could cost far more than child care.

Mr Sandison—They might.

Senator WONG—Isn't what you are saying that the government will provide no guarantee that people with a disability will not, in fact, go backwards under your Welfare to Work policy?

Senator Abetz—No. The \$50 per fortnight takes into account child-care costs, earned income, taxation, public housing, rental and increased travel costs. Parents will not be forced to take up work deemed financially unsuitable. It is noteworthy that ACOSS did not even put out a media release on this. If ACOSS does not, it basically means consent, from my

understanding of the way ACOSS plays with this. \$50 per fortnight is \$1,300 per annum, and that is good for families. Parents cannot go backwards on this; they can only go forwards.

Senator WONG—Yes, but not people with a disability. You have provided no guarantee for people with a disability. Under your Welfare to Work program, people with a disability could actually go backwards financially.

Senator Abetz—No, because we are saying that people who have the capacity to do 15 hours per week should be considered as potentially capable of being resumed, if you like, into the mainstream society. We have had these discussions time and time again in the Senate during question time. We are concerned to get people from welfare into work, and that is why there are these benefits. That is why we are pursuing that policy, which has a financial benefit.

Senator WONG—No, your department has just given evidence that there is no guarantee that people with a disability won't go backwards. So you can give us a lecture about moving people from welfare to work, but if you have a situation where someone with a disability actually will end up earning less working than on welfare, I hardly think it is a good welfare to work policy. I am happy to move on. Minister, I assume that ACOSS will be advised of your inference about their consent or otherwise, in response to that—

Senator Abetz—I'm sure you will get them to issue a media release.

Senator WONG—I don't have the power to do that. ACOSS is independent of the opposition. It is the peak non-government social welfare agency. But I make this point: if you want to know why people did not respond, perhaps you could ask Minister Andrews why he dropped this press release late in the day on which troops were committed to East Timor.

Senator Abetz—Oh, right; let's get the conspiracies running!

Senator WONG—I was not the one who was talking about ACOSS and making assumptions about what they thought.

CHAIR—I think we will move on to another question.

Senator Abetz—I suppose we engineered East Timor just for this announcement. It is a very, very long bow to draw, Senator, and very unworthy as well.

Senator WONG—I think it's the other way around—when one chooses to make an announcement. Mr Sandison, the consultations with people with a disability, about which you were giving evidence, on things like personal care and other issues: have you modelled or looked at estimates of costs associated with that and the number of people that might experience such costs?

Mr Sandison—No, not specific costs, Senator. At our last consultation, the issues raised more specifically were around being able to get to and from meetings in terms of availability rather than cost. Cost had been raised, as had availability, and we took those into account in the disallowable instruments.

Senator WONG—Availability of transport or availability of personal care?

Mr Sandison—Transport, and of personal care.

Senator WONG—What about the application of mobility allowance? Have you looked at what the unmet demand might be?

Mr Sandison—In terms of additional people that will require mobility allowance?

Senator WONG—I am not clear—maybe you can explain it to me—precisely who will be entitled to mobility allowance.

Mr Sandison—Basically, people who are unable to use public transport without assistance, in general terms. There are strict guidelines, but the same rules will apply for the increased mobility allowance as apply for the mobility allowance now.

Senator WONG—That is \$100 a fortnight?

Mr Sandison—Correct.

Senator WONG—You are permitting in your guidelines up to 60 minutes travel either way?

Mr Sandison—That is correct.

Senator WONG—Have you looked at how much the mobility allowance might cover of two hours of taxi fares a day?

Mr Sandison—The government made a decision about what the higher rate of mobility allowance would be, as part of the Welfare to Work package. It varies state by state, city by city, in terms of what the costs might be for taxis.

Senator WONG—What you are telling me is this: a person with a disability who cannot use public transport without assistance is going to be given \$100 a fortnight but may be required to travel two hours a day?

Mr Sandison—That is correct. It is 60 minutes each way.

Senator WONG—And the 10 per cent of the gross wage on transport: that will apply to them?

Mr Sandison—That is after you take into account any payments like mobility allowance or support from the Job Network through job seeker accounts.

Senator WONG—So they can lose up to 10 per cent of their wage after you take out mobility allowance and whatever the Job Network provides them?

Mr Sandison—Correct.

Senator WONG—Ten per cent of their gross wage?

Mr Sandison—Yes.

Senator WONG—Have you modelled how many people with a disability might go backwards?

Mr Sandison—After taking into account mobility allowance, if they were somebody who needed to take taxis each way, then there would be an expectation, if they were working more than a couple of days a week, that they would probably not meet that and would therefore not be required to take the job.

Senator WONG—What would they not meet?

Mr Sandison—The 10 per cent rule that you just mentioned.

Senator WONG—But I am asking you: have you modelled how many people with a disability might be worse off working?

Mr Sandison—No, we have not.

Senator WONG—You have not looked at that?

Mr Sandison—No, we have set the policy rules in place according to the government decisions.

Senator Abetz—I am not sure that we accept people are going backwards.

Senator WONG—I am sorry; I thought the department indicated quite clearly that there was no guarantee that people would not, when it comes to people with a disability.

Senator Abetz—No.

Senator WONG—In terms of the \$50 a fortnight decision, was that the subject of consultation with any interest groups or community groups?

Mr Carters—That was a decision that was taken by government. There was not separate consultation on a \$50 a fortnight figure, no.

Senator WONG—So there was no discussion with any agencies, community groups, Job Network members, ACOSS or anyone else?

Dr Boxall—There was discussion with agencies, and it could well have been discussed at the welfare consultative forum.

Senator WONG—I am sorry?

Dr Boxall—You asked if there was discussion with other agencies. There was discussion with other agencies.

Senator WONG—Who was there discussion with?

Dr Boxall—Other agencies in government.

Senator WONG—No, sorry; I was not asking about internal. I was asking about external: community organisations, agencies in terms of Job Network, social welfare providers—

Mr Carters—No, there was not any specific consultation by the department with those agencies.

Senator WONG—Could I ask about the PSP places. Mr Carters, is that your area?

Ms Golightly—It depends exactly what the question is.

Senator WONG—The COAG mental health initiative—I think the budget contains \$40 million to assist people with mental illness to enter and remain in employment. It is described as an additional 2,500 places in PSP. I am not clear, because there was some announcement in the previous budget about additional PSP places, where this 2,500 fits in. I wonder if someone could take me through that.

Ms Golightly—In short, it is in addition to the previous announcement. It is on page 244 of Budget Paper No. 2.

Senator WONG—Isn't it in your portfolio as well?

Ms Golightly—Yes, but it is listed under the whole COAG group in Budget Paper No. 2.

Senator WONG—In 2005-06—which was the previous PSP announcement, I think—can you tell me where that is? How much was it then?

Ms Curran—I am sorry, Senator. I did not hear your question.

Senator WONG—I am just trying to work out the relationship between the PSP announcement for the previous budget and the COAG announcement. I just wonder if you can remind me how many PSP places were announced as part of the 2005-06 budget.

Ms Curran—For 2006-07, we have of the order of 6,000 Welfare to Work places. Then we have an additional 2½ thousand mental health places. So the Welfare to Work places are around 6,300.

Senator WONG—And then there are 2½ thousand on top of that for COAG.

Ms Curran—That is right. So, from 1 July 2006, we will be rolling out immediately about 5,000 of those welfare to work places.

Senator WONG—I asked somebody—was it you, Ms Curran?—about the waitlist. What is the current unmet demand or the current waitlist?

Ms Curran—The waitlist has fallen to around 7,600.

Senator WONG—It was around 11,000.

Ms Curran—It was around 11,000; that is correct. We rolled out 4½ thousand places this financial year.

Senator WONG—From memory, it was you who was telling me that it was not a one to one ratio; it is one to 1.3 or something.

Ms Curran—Yes.

Senator WONG—I do not quite understand how that works.

Ms Curran—Because it is a two-year program and we have people going through the program at any one point in time, we have generally more participants than places.

Senator WONG—But if you have more participants than places then people are not being funded to do what they have to do.

Ms Golightly—I think it is more to make sure that places do not go unused. It is a two-year program but not everyone necessarily completes the full two years.

Senator WONG—How many do complete the full two years?

Ms Curran—We have a number of outcomes. We have a social outcome, which means that they stay in the program for two years, and those outcomes have been increasing. Then we have economic outcomes as well. They can get an economic outcome at 13 to 26 weeks. The number of exits because of social outcomes in the year to the end of March 2006 is currently 7,140.

Senator WONG—And economic?

Ms Curran—Economic is 4,192.

Senator WONG—Thank you for that. I was responding, though, to Ms Golightly's evidence, which was that you count 1.3 because you assume people do not take the two years. I am asking what proportion of participants do not go to two years.

Ms Curran—I do not have that readily to hand, I am sorry. Could I take it on notice?

Senator WONG—Yes. When we were last here, I think the waitlist was at 11,800.

Ms Curran—At the end of December it was 11,000—10,975.

Senator WONG—As at December 2005?

Ms Curran—December 2005.

Senator WONG—And the 7,600 figure that you have just given me is at which date?

Ms Curran—That is at the end of April. Actually, I made a mistake there. It is 7,900—my apologies.

Senator WONG—That is April 2006.

Ms Curran—Yes.

Senator WONG—Is the wait list real people?

Ms Curran—Sorry, I did not hear you.

Senator WONG—It is not 1.3.

Ms Curran—No, it is real people.

Senator WONG—So the 4½ thousand places you have rolled out to bring down the waiting list related to the 2005-06 budget announcement?

Ms Curran—They were growth places that we rolled out this financial year. Then we have the Welfare to Work places from 1 July.

Senator WONG—So are the 6,300 to which you referred in your opening Welfare to Work or growth?

Ms Curran—They are Welfare to Work places.

Senator WONG—What were growth places?

Ms Curran—The 6,386 is the Welfare to Work places.

Senator WONG—I want to know what the growth figure was.

Ms Curran—That is the total figure for this financial year. That was announced in the last budget. Then, in this year's budget, it is 2½ thousand places—

Senator WONG—We are at cross-purposes here, Ms Curran. Maybe I am not making myself clear. You said to me, 'We rolled out 4½ thousand.' I am trying to work out if that 4½ thousand is from the 6,300 or it is from another allocation that we have not discussed.

Dr Boxall—It is from the year before. The 6,300 subsumes anything that might be growth.

Senator WONG—So the total allocation, as of budget 2005, is 6,300 plus the 2½ thousand COAG. Is that right?

Ms Curran—The Welfare to Work budget had places for three years, so we have got 6,386 places this financial year, and then we will be rolling out additional places in subsequent financial years.

Senator WONG—The 4½ thousand that you have rolled out since December 2005, to bring down the waitlist, relates to the 6,300?

Ms Curran—No. The places that we have rolled out this financial year are independent of those 6,000-odd places.

Senator WONG—Okay. What is that allocation?

Ms Golightly—I think that is just the normal growth in the estimates.

Senator WONG—How much was the growth allocation in the last budget round, then?

Ms Golightly—The 4,000 figure.

Senator WONG—So you fully implemented your growth allocation? Is that how it works?

Ms Golightly—Yes.

Senator WONG—Do you have any budgeted growth allocation on top of the 6,300?

Ms Golightly—No, because—

Senator WONG—It subsumes it.

Ms Golightly—that is subsumed.

Senator WONG—So 4½ thousand is your total growth allocation, independent of Welfare to Work, from, I presume, the 2004-05 budget for the 2005-06 year.

Ms Golightly—Yes.

Senator WONG—So in fact the Welfare to Work 6,300 was around 1,800 in addition to what the previous growth allocation was.

Ms Curran—Yes, but then we had additional places in subsequent financial years.

Ms Golightly—It is a three- or four-year program.

Senator WONG—In the out years?

Ms Golightly—In the out years, yes.

Senator WONG—Have you got projected demand for PSP post 1 July? Have you done that?

Ms Curran—We have done some analysis across the country on existing waitlists, but we do not have estimates of projected demand, no.

Senator WONG—You have got 7,900 today. You would expect, would you not—and I presume this is why the government allocated some additional funding—that you would get increased pressure or increased demand for PSP post 1 July?

Ms Curran—We do not know how that is going to pan out at this point in time, but the government has made additional places available to meet that demand if it is forthcoming.

Senator WONG—So you do not have a view that there might be more demand for PSP as a result of the Welfare to Work changes?

Dr Boxall—No, we do not have a view on that.

Senator WONG—You do not have a view as to whether this program might be under increased demand post Welfare to Work?

Dr Boxall—No. The government decided, as part of Welfare to Work, to allocate an extra 6,300 places—

Senator WONG—It is an additional 1,800 really.

Dr Boxall—No. The government decided to allocate an extra 6,300 places, effective 1 July 2006, and we do not have a view—and we are not entitled to give a view—on whether that will mean an increase or decrease in the waiting list.

Senator WONG—Perhaps ‘view’ was the wrong word, but surely you do demand projection. Isn’t that part of your job?

Dr Boxall—The government, as part of Welfare to Work, took advice from us and from various other agencies, and they came up with the decision that an allocation of an additional 6,300, effective 1 July, is appropriate.

Senator WONG—Can you just clarify, Ms Curran: is the 2½ thousand COAG on top of the 6,300?

Ms Curran—That is correct.

Senator WONG—Will they be maintained separately? Will the administration differ? If the 2½ thousand are primarily for people with a mental illness—and I understand a lot of participants in PSP may have that, but there are also a range of other issues, addiction or personal issues, in which mental illness may not be the primary issue—how is that going to—

Ms Curran—Around 45 per cent of current PSP participants have a mental health problem, and a further 32 per cent have drug and alcohol problems. Often, as you know, those two problems go hand in hand, so that accounts for around 75 per cent of our PSP participant population.

Senator WONG—What I am asking is with regard to the administration of the 2½ thousand COAG places. Will they be included in the 6,300 or are they separately administered and only given to the people who have identified mental illness issues?

Ms Curran—We anticipate that, because any one provider would only have a small number of places, for administrative purposes they would be administered in the same way. But we will obviously be tracking the proportion of the population that presents with mental health difficulties.

Senator WONG—So you are not quarantining the 2½ thousand places specifically for people with mental illness?

Ms Curran—As I have said, for administrative simplicity, we are going to wrap it all up together.

Ms Golightly—But we will be monitoring for those places.

Proceedings suspended from 10.45 am to 11.04 am

CHAIR—Tomorrow afternoon the committee will break for an hour because of a meeting I must attend, and committee members will have the option of continuing until 11.45 that evening.

Senator WONG—Still on PSP, to recap, the 2,500 COAG places will be combined with the 6,300 Welfare to Work places for administrative purposes, but you propose to track the usage of the 2,500. Is that a reasonable summation of your evidence?

Ms Golightly—Yes.

Senator WONG—How is the 2,500 broken down over the four years?

Ms Golightly—I have not got the breakdown in places, but page 244 has the breakdown in dollars.

Senator WONG—Yes, I have seen that. Have you worked out how many will be available each year?

Ms Golightly—We could. I just do not have it right here.

Senator WONG—If you could provide that measure on page 244 of Budget Paper No. 2, I would appreciate it.. Have you determined how many additional places either as a result of COAG or as a result of the Welfare to Work changes will be allocated across each ESA?

Ms Golightly—Is the question how they will be?

Senator WONG—No, how many of them for each ESA.

Ms Curran—We need to do the analysis on where the wait lists are and what the level of demand is in each ESA.

Senator WONG— I thought you were not doing projected demand.

Ms Curran—No. We certainly look at wait lists in each ESA. Where wait lists are high, we would be looking to allocate places in those ESAs. That analysis is currently under way.

Senator WONG—You are currently undertaking an analysis of the geographic distribution of the 7,900.

Ms Curran—I am sorry?

Senator WONG—Wasn't that the current wait list?

Ms Curran—We certainly have that analysis of wait list by ESA.

Senator WONG—Could you provide that?

Ms Curran—Yes, of course. We just need to copy it.

Senator WONG—That would be useful. Thank you. What additional analysis are you doing?

Ms Curran—I am sorry. I thought you were referring to the rollout of additional places.

Senator WONG—Yes. What is the additional analysis for that?

Ms Curran—We have allocated 5,000 places from 1 July 2006. Then we want to take a stocktake, if you like, in September and then look at what further measures we might need to take as a result of that.

Senator WONG—Hopefully, in the November estimates you can let me know how the stocktake went. Have you determined which providers will be offered these additional places? Are the 2,500 places, for example, going to tender?

Ms Curran—We will do a business allocation process.

Senator WONG—What does that mean?

Ms Curran—We will look at our existing providers and we will look at where the places are required.

Senator WONG—You will allocate this business—both the COAG and the Welfare to Work places—amongst your existing providers?

Ms Curran—We have tendered for the Welfare to Work places. The purchasing process has just been concluded. We had the ITT, or the invitation to treat, for a large part of our business. Then we tendered for additional places, and that included the Welfare to Work places.

Senator WONG—But not the 2,500.

Ms Curran—No, it did not.

Senator WONG—How will the 2,500 be allocated? Will that go to tender as well?

Ms Curran—No. There will be a business allocation process of 2,500 places nationally, and we will look at that geographically around the country.

Senator WONG—So you have gone to tender for the provision of PSP.

Ms Golightly—Yes, for the additional places.

Senator WONG—For the 6,300.

Ms Golightly—Yes.

Senator WONG—So you will not go to an additional tender for the 2,500—you will allocate them, presumably, on the basis of the previous tender and your assessment of need?

Ms Golightly—That is correct.

Ms Curran—Could I just clarify, Senator, that we tendered for a number of places nationally. We currently have a number of PSP providers. Some of those were given an invitation to treat and then we tendered for additional full PSP places nationally.

Senator WONG—Yes, I understood that. So I suppose you had some preferred providers who were asked to treat, and then you put some out to tender as well?

Ms Curran—They were not preferred providers—they were providers who met the performance benchmarks.

Senator WONG—I was not suggesting it was ad hoc but for whatever reason they were given an invitation to treat, and then others have to go through an open tender process—is that how it works?

Ms Curran—Yes.

Senator WONG—Okay, but to come back to my original question about the 2,500 places—how will you determine who gets those? When you say, ‘We will do a business allocation,’ what does that actually mean?

Ms Golightly—I think your summation before was correct, but in any case they are existing providers and, as a result of the invitation to treat and tender process, those providers will have contracts that begin 1 July this year. We will allocate the 2,500 places across those providers in accordance with the geographic analysis that Ms Curran referred to.

Senator WONG—Will any of the 2,500 places be offered to specialist providers?

Ms Curran—We do not know the answer to that yet, Senator.

Senator WONG—As I understand your evidence, the only people who are able to get the 2,500 are the ones who already have a business allocation for the 6,300—is that correct?

Ms Golightly—Yes, they will be those organisations that have an existing contract from 1 July for any PSP places.

Senator WONG—So you have not determined whether or not specialist providers will get the 2,500?

Ms Curran—For 2006-07 we will have in the order of 46,000 places for PSP, so the purchasing process that we have just concluded has allocated most of those places going forward. For the mental health places—because 75 per cent of our PSP participant population either has a mental health or a drug and alcohol addiction problem—we do not know at this point where those places will be allocated, but we do have mental health specialists in PSP.

Senator WONG—Yes, I am aware of that. I am asking a very simple question and if you cannot answer it because this is not the policy then that is fine, but will the 2,500 places be allocated to specialist mental health providers?

Ms Curran—It will depend on the analysis of geographic location et cetera.

Senator WONG—I think this has been answered: what criteria will be used to determine how people will access these additional places, as opposed to the current places in PSP? You are saying you are basically going to go through the same process and then, post facto, analyse whether or not people with a mental illness got them.

Ms Curran—I think the synopsis you have given is an accurate one.

Senator WONG—Is there any process whereby these PSP places are integrated with the other government initiatives in the COAG mental health package?

Ms Curran—I am not sure what your question is relating to.

Senator WONG—There are a range of COAG mental health initiatives in Budget Paper No. 2, and I am trying to work out if there is some integration between the PSP places and other strategies.

Ms Golightly—The additional PSP places are part of the overall package, so there are a number of streams that people can go into. Also, because it is a whole of government

package, we will be continually negotiating and discussing with the Department of Health and Ageing and other agencies that might be involved.

Senator WONG—Who is the lead agency for the implementation of the COAG mental health initiative?

Ms Golightly—The Department of Health and Ageing.

Senator WONG—Is there some interdepartmental working party, task group or implementation committee for the COAG mental health initiative that DEWR is part of?

Ms Golightly—I think that is really a question for the department of health.

Senator WONG—I asked if you were a part of it.

Ms Golightly—I do not know if we have one.

Mr Carters—There is such a group and yes, we do have a representative on that group.

Senator WONG—From which section?

Mr Sandison—From the policy side, Senator.

Senator WONG—From outcome 1 or 3?

Mr Sandison—From outcome 3.

Senator WONG—That is not you, Ms Curran?

Ms Curran—No, but I am invited to go.

Senator WONG—You are invited to go?

Ms Curran—Yes.

Senator WONG—The PSP waitlist which you have very kindly outlined to me, and about which you are going to provide me details on a geographic basis: does DEWR make that information publicly available other than through the estimates process?

Ms Curran—I would have to take that on notice but I don't believe that we do. Anecdotally, at a local level, people are aware of the general size of their waitlist.

Senator WONG—Given that, why does DEWR choose not to make the information public?

Ms Curran—I think it is only relatively recently that we have been able to get data that we are confident about.

Senator WONG—Do you track average times between referral to PSP and commencement in the program?

Ms Curran—That would vary from ESA to ESA.

Senator WONG—I asked whether you track a national average.

Ms Curran—I don't believe we do.

Senator WONG—Do you have average times within each ESA? Do you track that?

Ms Curran—I would have to check that. We don't have a figure to give to you, Senator.

Senator WONG—Do you track it?

Ms Curran—We monitor it, yes.

Senator WONG—How do you monitor it? What is the nature of the data?

Ms Curran—By each ESA, there is a waitlist for PSP. So we can extract that.

Senator WONG—I understood that. I was asking about the next bit, which was the time frame between referral and commencement in each ESA. Do you track that?

Ms Curran—In terms of what we actually track, I would have to take that question on notice.

Senator WONG—Can you find out, because I would like to ask a question about that, and it is easier for me to know how your data is set up so that we can have some sort of process where I don't ask something that you are not able to get. So if you are able to do so, please come back to me in the course of the hearing on this matter. I am interested in the time frame between referral and commencement across ESAs.

Ms Curran—Senator, if we can get it for you today, we will, but we do not have it right here.

Senator WONG—Thank you. Are you able to tell me whether referral to commencement time frames have been improving or worsening over the last year?

Ms Curran—We know that retention is improving. I will have to come back with some data for you on that.

Senator WONG—Have we got anything back on the Work for the Dole issue that was raised before morning tea or should I come back to that later?

Mr Carters—The only two income support categories which apply to full-time Work for the Dole are Newstart allowance and Youth Allowance. The people on some of the other payments only have part-time participation requirements and therefore they are not eligible for full-time Work for the Dole. We do not have a split between Newstart and Youth Allowance.

Senator WONG—So you do not project any demographic or other data in relation to Work for the Dole participants?

Mr Carters—No. Sorry, that was Youth Allowance other, not Youth Allowance for students, by the way.

Senator WONG—Yes.

Mr Carters—It is up to the Job Network members to determine which of their clients go into full-time Work for the Dole. The allocation of places can be explained to you if needed, but that is really the extent of how those places are allocated.

Senator WONG—Ms Curran, did you look in your folder?

Ms Curran—Yes, I did.

Senator WONG—And there is nothing in there?

Ms Curran—I do not have any numbers to help you, I am sorry.

Senator WONG—All right. We will come back to that, when you come back to me with your commencement time frame data on the ESA. I will go back to the JSCI issue we were discussing before morning tea. Could you remind me again, I think you said there were five. I think I put to you last time, Ms Golightly, that you had attended a meeting at which you indicated there were over 20 providers who were being examined at the department in relation to a range of other issues plus JSCI.

Ms Golightly—There are always a number of JNMs that we might be looking at through our contract management processes.

Senator WONG—Do you now recall indicating there were 27 Job Network members being examined for contract issues?

Ms Golightly—I do not recall that specific thing. Was it at Senate estimates?

Senator WONG—Yes. I put it to you and you said you had not attended such a meeting.

Dr Boxall—Maybe we will check the *Hansard*.

Ms Golightly—Yes. Sorry, Senator, it is not something I recall exactly. The meeting I recall we talked about was a NESA CEO forum, which was not about the JSCI.

Senator WONG—Yes, but I asked whether in that meeting you had indicated that the department was examining contract issues in relation to about 27 Job Network members, not solely on JSCI issues.

Ms Golightly—I do not recall saying a specific number, but I did respond to a question about whether we were looking at JNMs for various issues, which of course we do constantly. So the answer would have been ‘yes’.

Senator WONG—So you do not recall saying 27?

Ms Golightly—I do not, but I can check.

Dr Boxall—Do you have a *Hansard* reference, Senator?

Senator WONG—I am trying to find it. I think, to be fair to Ms Golightly, she indicated she did not recall making that statement. I asked at *Hansard* 104, ‘Is it the case that there are some 27 agencies being investigated in the broader sense by the department in relation those four areas?’

Dr Boxall—Ms Golightly’s answer was, ‘Not to my knowledge.’

Senator WONG—Is that still the case, Ms Golightly?

Ms Golightly—I will just check.

Senator WONG—You should read the preceding answer that you gave to give the answer some context.

Ms Golightly—I do not have anything further to add to those answers.

Senator WONG—So you do not recall?

Dr Boxall—No, she has nothing further to add to this answer.

Senator WONG—‘Not to my knowledge.’ What does that mean—that you do not remember or that you did not say that?

Ms Golightly—I certainly did not say it at that meeting, no.

Senator WONG—Ms Golightly, the four areas of concern which I put to you that you had stated DEWR was investigating were: firstly, services not being delivered; secondly, offering higher services than the job seeker warranted; thirdly, the use of the job seeker account; and, fourthly, the validity of job placement claims. Are they still issues the department is examining in relation to certain specified providers?

Ms Golightly—They would be the sorts of things that we would always be looking for under our contract. There could certainly be providers at any point in time around the country of whom our contract managers may indeed be asking questions about those sorts of issues.

Senator WONG—Remind me: the \$14½ million that you gave evidence about earlier that has been paid back related to what sort of time frame? It was pre April 2005, I assume.

Ms Golightly—I am advised it relates predominantly to the calendar year 2005.

Senator WONG—Subsequent to these issues coming to the department's attention, has the department implemented alterations to the protocols associated with Job Network members changing job seekers' JSCI status?

Ms Golightly—I do not think so. I will double-check, but my recollection is that the protocols were quite clear about what they were meant to do and not meant to do, but I will just check whether we made any further changes.

Ms Caldwell—We continuously refine and update our operational guidance, including to coincide with releases of improvements to screen design around our functions. Subsequent to these matters coming to notice, we continued our practice of periodically updating and refreshing our guidelines.

Senator WONG—Have you done that in writing?

Ms Caldwell—Yes.

Senator WONG—Can you provide that, or was it provided in the questions on notice?

Ms Caldwell—It was provided in response to a question on notice.

Senator WONG—I thought I had asked it before. Which question is it?

Ms Caldwell—It was question W669_06.

Senator WONG—Have you provided that answer?

Dr Boxall—We are just clarifying that with our parliamentary people.

Senator WONG—I am advised by our secretary that that is one of the ones we have not received yet.

Dr Boxall—That is correct. It is yet to be tabled.

Senator WONG—Are you able to table it?

Dr Boxall—No, because the minister tables questions on notice.

Senator WONG—These were asked some time ago and we are well beyond the date. Ms Caldwell was even of the view that you had answered it, so I am asking the same question again. Are we likely to have it in the course of the hearing?

Dr Boxall—We can relay to the minister that you have raised a question that the answer has not been tabled, but we cannot table it.

Senator WONG—Senator Abetz, I would appreciate it if you could do me the courtesy of seeing if that would be possible.

Senator Abetz—Yes, we will see.

Senator WONG—It is a bit difficult to ask you questions about, isn't it, Ms Caldwell? Were there any changes to the actual protocols or guidelines associated with revision of the JSCI status?

Ms Caldwell—There were a range of progressive updates issued.

Senator WONG—That is not what I asked. I know you have progressive updates and continuous monitoring; I am asking if there were any changes to the protocols or guidelines applying to an alteration of a job seeker's status under the JSCI by Job Network members subsequent to the 2005 incidents.

Ms Caldwell—I can advise you of the dates on which guidelines were updated. We do not use the terminology 'protocols' so I am unclear as to your question on protocols.

Senator WONG—Can't you provide them to us?

Ms Caldwell—I have a list of dates. The minister has not cleared the response.

Senator WONG—When did the answer go to the minister's office?

Dr Boxall—We cannot answer that, Senator Wong. As is answered on the question on notice previously, we provide the material as fast as we can to the minister and the minister then decides on the timing of the tabling.

Senator WONG—Mr O'Sullivan, we are not going to agree. I have sought advice from the Clerk about your legal advice, and I can tell you what the preliminary advice is at some point. I will certainly be providing it to the committee. I fail to see how the question as to when a question was provided discloses advice to government.

Mr O'Sullivan—I am happy to elaborate on that. It was section 13(6) of the APS Act that I was referring to, by the way.

Senator WONG—Mr Evans will obviously provide some advice. It is a new way that DEWR has found of getting around the question that has been asked and answered in a number of committees about when advice is provided. So somebody will get back to me about when the minister will do the committee the courtesy of responding to the question on notice that was asked at the last estimates hearing?

Senator Abetz—That has already been indicated.

Senator WONG—Ms Caldwell, you were going to give me dates.

Ms Caldwell—Yes. We updated the guidelines in August 2005 and in September 2005. There were advices also on 16 August 2005 via the Job Network members secure internet site.

Senator WONG—And these relate specifically to the issue of updating or altering the status of job seekers?

Ms Caldwell—They were updates to the body of materials that deal with updating job seeker information.

Senator WONG—What was the nature of those advices or guidelines? What was the nature of the change in August 2005?

Dr Boxall—That is another way of asking this question, Senator Wong, and the minister is still considering his response.

Senator WONG—Can we turn now to the issue of financial case management. Actually, before I get to that, Mr Carters, you will recall that in the inquiry into the welfare to work legislation you gave evidence about the proportion of various entitlements, rights and obligations that would be included in the social security guide that would not present in the legislation. There was a fairly lengthy discussion about that with me and other senators.

Mr Carters—Yes, Senator. Keep going.

Senator WONG—I think it was even commented on in the majority committee report as well as the minority one. Where is the department at in terms of the amendments to the social security guidelines arising from Welfare to Work?

Mr Carters—The amendments to the *Social Security Guide* are a very substantial project. It is a very substantial guide. Essentially we are still working through those. They obviously will be ready for the 1 July implementation, but they are still being worked on at the moment.

Senator WONG—I hope you are going to get them finished. People start in 4½ weeks.

Mr Carters—Yes, we will. They are being done on a gradual basis. Some have been finished and others have not.

Senator WONG—Are you able to provide the ones that have been finished to the committee?

Mr Carters—We will be able to provide them from 1 July.

Senator WONG—You are not going to provide them before then?

Mr Carters—When I say ‘finished’, I mean they are still in a final draft; there is no guarantee that we will not change them before 1 July.

Senator WONG—I appreciate that is the basis on which they are being worked on. Have you provided them to bodies external to government for consultation?

Mr Carters—We have consulted on particular components of the guide to obtain their views on issues. We have taken those into account in further developing the guide. We have not specifically provided the guide to other agencies.

Senator WONG—You have provided portions of it, though.

Mr Sandison—Yes. That is right.

Senator WONG—To which bodies?

Mr Sandison—They were sent out to a range of organisations in February after we had had the consultation on the disallowable instruments. We followed that with consultations with parenting groups, ACOSS, Welfare Rights, the disability advisory group that the minister

has and the minister's Welfare Reform Consultative Forum—those that wanted to appear. We had a meeting in Melbourne and a meeting in Sydney to discuss the activity testing and compliance areas of the guide.

Senator WONG—Has there been anything sent to these groups since February 2002?

Mr Sandison—There was some information that we provided to Welfare Rights as part of assisting them with the development of their handbook.

Senator WONG—Are you at least able to provide to the committee copies of the documents that have been sent out for consultation?

Mr Sandison—The ones back in February?

Senator WONG—Yes.

Mr Sandison—Yes. I think they are public documents that have been provided. I do not know whether we have got the version—

Senator WONG—I do not think they are on your website.

Mr Sandison—This was X versions ago, but we can get those ones from February.

Senator WONG—Are you able to provide the subsequent documentation that was provided to Welfare Rights?

Mr Sandison—We provided that to Welfare Rights as an under-embargo confidential document. It will become public on 1 July as part of the website that provides the whole guide.

Senator WONG—So you are going to provide it to Welfare Rights but not to the parliament before 1 July?

Dr Boxall—That is—

Senator WONG—I am sorry, Dr Boxall?

Dr Boxall—Mr Carters has answered this question. The guides will not be finalised till 1 July and we are not in a position to provide those guides to the committee at this point.

Senator WONG—You have already provided them to aspects of the community. This is Senate estimates—

Dr Boxall—We have provided—

Senator WONG—I had not finished, Dr Boxall. This is Senate estimates and I am asking for copies of the guidelines that were provided to external parties. I would have thought the government would not mind the parliament being extended the same courtesy as some other bodies external to government.

Dr Boxall—We have provided extracts of the guide for the purposes of consultation to a number of organisations, and Mr Sandison mentioned that. We are not in a position to provide the final guides as yet because they are not finalised as yet.

Senator WONG—Let us do that sequentially. I am asking first for copies of the documents that were provided for consultation.

Dr Boxall—We will take that on notice.

Senator WONG—Is there a difficulty in providing that?

Dr Boxall—No. We are going to take that on notice because that would be providing a copy of an extract upon which we have consulted, which could be much different than what will emerge at the end, and we need to take that on notice.

Senator WONG—Are you willing to provide copies of the current guidelines as at today to the committee?

Dr Boxall—The current drafts?

Senator WONG—Yes.

Dr Boxall—No, we are not in a position to do that.

Senator WONG—Why is that?

Dr Boxall—Because they are still working documents and we are still working to finalise them. In some cases, we have yet to receive final clearance from the minister.

Senator WONG—You have had sufficient clearance to send them out to members of the public. I do not criticise you for that, because I think it is a good process, but this is the Senate estimates. These are guidelines which contain a very substantial portion of measures which will be implemented in about five weeks time. I would have thought it is entirely appropriate for the Senate to be provided with copies of them, particularly given that the Senate committee in fact commented on the extensive requirements that will be put into the guidelines as opposed to being in the legislation. There is a very strong public interest here. I accept that they are draft and that is the basis on which they would be given.

Dr Boxall—We will note that and consult with our minister.

Senator WONG—Are the guidelines for financial case management separate to the social security guidelines? Will they be stand-alone?

Dr Boxall—No. They are not part of the guide to the social security legislation.

Senator WONG—Are you able to provide the guidelines for the financial case management?

Dr Boxall—No, because that is yet to be finalised.

Senator WONG—I asked Mr Whalan, the CEO of Centrelink, for this at the estimates hearing on Thursday, and he indicated that he would provide it the following day. He also indicated his advice was that DEWR had agreed to it. I understand DEWR then indicated to Centrelink that it had changed its mind and that he was not able to provide them. I am interested in why DEWR has decided to censor yet another department, not only themselves.

Dr Boxall—DEWR did not—

Senator WONG—I had not finished, Dr Boxall. I am interested why DEWR has told Centrelink not to provide a document that Centrelink was quite willing to provide.

Dr Boxall—We did not tell Centrelink not to provide a document and we did not censor them. Our department and our minister have responsibility for that guide. You, as I understand it, were asking Mr Whalan to provide the guide. He did not. He then took some advice from

some DEWR staff that he would be able to do it the next day. As it turned out, that advice was not quite correct because there was still further work to be done on the guide.

Senator WONG—When did you become aware of Mr Whalan agreeing to provide the document?

Dr Boxall—Just before lunch on Friday.

Senator WONG—What did you do as a result of that?

Dr Boxall—I said I would talk to Mr Carters. Having talked to Mr Sanderson, as it turned out, a decision was made not to provide the guide through Centrelink and to wait until we were at Senate estimates and that you or any other senator could ask us about it, which you are doing.

Senator WONG—And you would say no.

Dr Boxall—No, we did not decide that. We had to work out what the state of play was at the drafting. As it turns out, it is not ready to be tabled.

Senator WONG—Did you call Mr Whalan and tell him that the advice from DEWR changed or did you cause another official to do that?

Dr Boxall—I did not call Mr Whalan; he called me.

Senator WONG—And you told him that DEWR's advice had changed.

Dr Boxall—I told him that DEWR's advice had changed, correct.

Senator WONG—So, in between the Thursday evening when he undertook to provide the document to me and DEWR officials gave advice that that would be permissible and the Friday when you told him that you were not going to provide that, did you have any contact with the minister's office in relation to this issue?

Dr Boxall—No.

Senator WONG—So this is entirely your idea, is it, Dr Boxall?

Dr Boxall—It is not entirely my idea. It is entirely the department's decision.

Senator WONG—To overrule Centrelink's undertaking to a committee to provide some guidelines.

Dr Boxall—We did not overrule Centrelink's undertaking to the committee. Centrelink does not have prime carriage for this guide. This department and our minister have prime carriage for the guide. Centrelink agreed to table it after they had received an indication from staff in DEWR that it would be okay to do so. As it turned out, upon further investigation it was not okay to do so, so the decision was made to let Mr Whalan know that he would not be able to table it because the guide was not ready.

Senator WONG—Did you speak to the staff who gave the first set of advice?

Dr Boxall—No.

Senator WONG—Did anyone in your office speak to the staff who gave that advice?

Dr Boxall—No.

Senator WONG—Have you written to them or emailed them?

Dr Boxall—No.

Senator WONG—So you have had no contact with them.

Dr Boxall—No.

Senator WONG—So you do not know why they gave the advice.

Dr Boxall—No, I do not, but I understand they gave the advice in good faith because they thought the guide was ready and they thought they would help out. As it turned out, the guide was not ready.

Senator WONG—So you spoke to Mr Whalan and indicated to him that DEWR would not agree to release it.

Dr Boxall—No. Mr Whalan called me, and I told Mr Whalan that the guide was not ready and so he might like to advise his Senate estimates accordingly, which apparently he did.

Senator WONG—When will the guide be ready?

Dr Boxall—Clearly before 1 July.

Senator WONG—Is that a guarantee?

Dr Boxall—Clearly before 1 July the guide will be ready. If the minister is of a mind to table, it will be tabled.

Senator WONG—How are people going to know what their rights are?

Dr Boxall—They will be advised by Centrelink about what their rights are when they make applications under the financial case management.

Senator WONG—Do we have a time frame? Are we talking a week, two weeks or three weeks, or are we going to do it at 30 June?

Dr Boxall—No. We are going to do exactly what I said. It will be ready by 1 July and, in the event it is ready beforehand and the minister has an inclination to table it, it will be tabled.

Senator WONG—Is it possible the guidelines will not be made public?

Dr Boxall—It is up to the minister whether the guidelines are made public before 1 July.

Senator WONG—How can you have guidelines which affect people's rights and not want to make them public? How can they possibly not be made public?

Dr Boxall—They will be made public.

Senator WONG—Sorry; I thought you said that was an issue for the minister.

Dr Boxall—No, I said they will be made public as of 1 July, if not before.

Senator WONG—What is the budget estimate? Is it \$2.8 million for the financial case management within the DEWR portfolio?

Ms Golightly—Perhaps I can assist. It is on page 173 of Budget Paper No. 2.

Senator WONG—I really like looking at the PBS, and no-one wants to refer me to the PBS.

Ms Golightly—On page 44 of PBS is the reference to the figure.

Senator WONG—I thought there was some in the table 2.2.1 of the DEWR budget measures. Here we go—it is on page 28. It is \$4.1 million over the four years. Is that right?

Dr Boxall—In the measures it is \$17.1 million over five years.

Ms Golightly—That is additional. There was also money in the Welfare to Work package.

Senator WONG—That is what I am trying to clarify. The \$4.1 million announced in the budget is indicated in table 2.2.1 on page 28. How much was in the 2005-06?

Ms Golightly—It is in the measures table on page 22 of the 2005-06 PBS, which is last year's. It was part of a broader measure, so we have the total figure there. It is under a measure entitled 'an improved compliance regime', but I do not have with me the break-up of that total figure specifically related to financial case management.

Senator WONG—Page 22?

Ms Golightly—Yes.

Senator WONG—Yes. I have that.

Ms Golightly—On page 22 we have the start of the list of the measures and about fourth from the bottom there is one called 'an improved compliance regime'. In total, that was just over \$21 million, but part of that went to financial case management.

Senator WONG—How much of it was?

Ms Golightly—I will have to come back to you on that. I do not have the break-up of that measure here with me.

Senator WONG—The list of things that you have to come back to me with is getting longer. Please get back to me on the breakdown of the financial case management component of the 2005-06 compliance budget.

Ms Golightly—Yes.

Senator WONG—Can you tell me why an additional appropriation of \$4 million is being required?

Mr Carters—The additional appropriation is funding—

Senator WONG—Sorry. It is more than that, isn't it? It is \$3 million, \$4 million, \$4 million and \$4 million over the four years.

Mr Carters—Yes. It is about \$4.1 million a year. That additional funding is part of our appropriation, but it is for Centrelink to administer the financial case management.

Senator WONG—Was there none in the compliance regime funding to which Ms Golightly has referred me?

Mr Carters—There was funding in that for Centrelink but, as Ms Golightly has said, we do not have those figures, so I cannot let you know what the percentage was there or how much it was.

Senator WONG—Tell me then what this figure comprises and what this is going to be spent on. Is this the actual payment Centrelink will have to make to the NGOs who are contracted?

Mr Carters—Centrelink will certainly be contracting the NGOs, and the payments for the NGOs will be—

Senator WONG—I know that. They have told me that. I am asking what this money is for.

Mr Carters—I did say that that money is for that.

Senator WONG—Just for that?

Ms Golightly—On page 174, we have the description of the additional \$17.1 million—

Senator WONG—In this current one?

Ms Golightly—Yes. Budget Paper No. 2.

Senator WONG—For 2006-07? I have read this. I want to know how much of this is additional funding for Centrelink for their systems administration et cetera and how much of it is the actual contracted payment amount of X hundred dollars for each managed outcome.

Mr Carters—We will have to take that on notice.

Ms Golightly—We will get that as part of the breakdown we are looking for.

Senator WONG—I cannot remember her name, but you do have an officer who is very good at answering all these questions about numbers, and she is sitting behind you. If she is allowed to come to the table at some point, that would be useful.

Ms Golightly—It is that officer who is getting the breakdown right this second.

Senator WONG—Maybe someone can let me know and we will come back to that. Mr Carters, under the current guidelines out for consultation, isn't it the case that homelessness is not included as one of the criteria for being exceptionally vulnerable?

Mr Carters—Homelessness is not a criterion in itself. It may contribute to circumstances, but it is not a separate component for exceptionally vulnerable.

Senator WONG—Isn't that what is required in order to get financial case management in circumstances where you are subject to an eight-week non-payment period?

Mr Carters—To get financial case management, yes, you will need to be deemed to be exceptionally vulnerable. Homelessness of itself is not sufficient for that.

Senator WONG—Doesn't this mean that a homeless person will not be considered exceptionally vulnerable if their payments stop for eight weeks so that they can get food or clothing paid for?

Mr Carters—There are a lot of components which a homeless person would go through before they would be deemed to have an eight-week non-payment period. They would have a vulnerable flag placed on them in the system right from the start. Therefore, whether or not they would get to that third participation failure and therefore have the eight-week nonpayment applied to them would be very limited by virtue of the fact that they are

vulnerable. They would be looked at very carefully in terms of their participation reports and whether or not those participation reports were applied.

Senator WONG—I understand that, but what you are referring to there is Centrelink's consideration of whether to apply a penalty. There is no requirement that a person who is homeless not be the subject of a penalty, is there?

Mr Carters—There is no requirement, no.

Senator WONG—So it is possible that a homeless person could have their payment suspended for eight weeks.

Mr Carters—Theoretically, it is possible, yes.

Senator WONG—The current approach that you have indicated is that that homeless person would not be eligible for having food bought through financial case management if their payments were suspended.

Mr Carters—There are emergency relief payments which exist at the moment with welfare agencies which would continue to apply. They are the services which assist homeless people and will continue to assist homeless people.

Senator WONG—This is charity—food stamps et cetera from St Vinnies. Is that what you mean?

Mr Carters—There is significant funding by government to support emergency relief.

Senator WONG—I have to say that I do not understand them. Is the view that homeless people do not need this sort of assistance because they do not have anywhere to store the food?

Dr Boxall—No. That is not the view.

Senator WONG—The cupboard cannot be bare if you have no cupboard?

Dr Boxall—No. That is not the view at all.

Senator WONG—How on earth can a homeless person not be regarded as exceptionally vulnerable if their payments are suspended?

Dr Boxall—As Mr Carters outlined, homeless people and other people are eligible for emergency relief, much of which is government funded or at least a proportion of which is government funded. Mr Carters has also outlined that, in the theoretical event that a homeless person sustains three breaches and has the eight-week suspension period applied to them, they could be considered for financial case management.

Senator WONG—No. He has indicated the opposite: they are not exceptionally vulnerable, so they are not considered.

Dr Boxall—No, he did not indicate that. He said that being homeless in itself is not sufficient, which does not mean to say that people who are homeless would not receive financial case management.

Senator WONG—Are people on medication or with a drug dependency automatically exceptionally vulnerable?

Dr Boxall—In the guideline, which has yet to be finalised, there will be guides for Centrelink in assessing people for financial case management.

Senator WONG—Yes, and currently homelessness is not exceptionally vulnerable, so you are not eligible just because you are homeless to have your bills paid or to have food bought for you.

Dr Boxall—No. Mr Carters testified that the department's position is that, as of now, homelessness is not considered in itself a criterion.

Senator WONG—Mr Carters, you say quite blithely, if I may so, they can go for emergency relief at agencies. Do you have any understanding of the extent to which demand exceeds the capacity of agencies to help people, particularly in some of our major cities?

Mr Carters—Many homeless people have a disability, a medical condition or some sort of physical or mental impairment. They might need medication, as you mentioned. Those sorts of people who also happen to be homeless are the sorts of people who would certainly be considered for financial case management. There may well be some other category of homeless person that, under the current breaching regime, may also face an eight-week non-payment period and may also be able to access emergency relief. Those people would be able to continue doing that in the future.

Senator WONG—Is it the case that it is likely that a homeless person, for a range of reasons, might be at greater risk of participation failures?

Dr Boxall—That is one reason why they have a vulnerability flag—

Senator WONG—But not an exceptionally vulnerable flag?

Dr Boxall—As I was about to continue, that is one reason why they have a vulnerability flag, so that when a participation report is filed on them Centrelink can take account of that particular aspect of their situation.

Mr Carters—And the Job Network member can take account of that before they even file a participation report.

Senator WONG—You are making assumptions about what happens beforehand. I am suggesting, and you have acknowledged, that it is possible for a homeless person to have their payment suspended for eight weeks. I am simply putting it to you that most people would think that a person in that situation would be exceptionally vulnerable and should at least get their food bought.

Dr Boxall—We can note that position of yours, Senator Wong.

Senator WONG—Maybe you, Dr Boxall, or the minister can explain to me how someone is supposed to get a job if they have no home and no food?

Senator Abetz—That is a hypothetical situation—

Senator WONG—That is exactly what could occur under your policy.

Senator Abetz—I would like to think that in Australia, given these emergency provisions et cetera that are available, nobody need go without food.

Senator WONG—Then you would make them eligible for financial case management, so they could at least have their food bought if their payments were suspended. But you are choosing not to do that.

Mr Carters—There is also a program called the Personal Support Program, which we have been talking about recently. Homeless people are very likely to be eligible for participation in that. If they are participating in the Personal Support Program, they will not have the participation reports filed against them and they will not become ineligible for financial case management.

Senator WONG—You currently have 7,900 on the waiting list for PSP, so telling me that is not going to give people in this situation much comfort.

Mr Carters—There are also significantly more places available in PSP from 1 July 2006.

Senator WONG—That is true. There are currently less than the demand, but we will wait and see what Ms Curran comes back with. Maybe, Mr Carters, you can explain to me how the financial case management is going to work.

Mr Carters—Where would you like me to start, Senator?

Senator Abetz—Can you define it? It is a bit like asking: how long is a piece of string?

Senator WONG—No, you have appropriated \$4.1 million over a number of years in this current budget. I want to know how it is going to operate, what that money is going to be spent on and what the policies will be about how it is implemented.

Mr Carters—We could start from the situation where the decision has been taken that somebody will have an eight-week non-payment period. Is that where you want me to start from?

Senator WONG—Yes.

Mr Carters—Okay. That decision is made by a central coordinating body in Centrelink so that there is consistency in that decision. The decision to apply the eight-week non-payment period has an appeal process which is able to be considered. If the person does have the eight-week non-payment period then they will be advised of that. Centrelink will look at the circumstances of the individual. If that individual, in particular, has children and they are a primary carer parent, or if that individual has a particular disability or medical condition which means that they may be exceptionally vulnerable during the eight-week non-payment period, Centrelink will refer those people to a non-government organisation if there is an organisation contracted in the locality to undertake that, or Centrelink may undertake that themselves.

Senator WONG—Could I stop you there for a minute, because I want to ask something. The assessment as to whether or not the person gets a referral to an NGO or is eligible for financial case management by Centrelink in the event an NGO is not servicing that area—is that going to be made against these guidelines?

Mr Carters—Yes.

Senator WONG—And to access it you have to be deemed to be exceptionally vulnerable, which we know does not include homelessness and currently includes dependence on medication et cetera?

Mr Carters—Yes, who may well be homeless as well.

Senator WONG—It may be homeless as well?

Mr Carters—They may be homeless.

Senator WONG—Who may be homeless as well. Okay.

Mr Carters—So a referral is made to an NGO, and basically guidelines will be provided on what are deemed to be essential expenses. The NGO will determine what essential expenses are required by the individual and will put forward to Centrelink what essential expenses they should be paid in a particular fortnight and will do that on a fortnight-by-fortnight basis. Centrelink will make a decision as to whether or not that payment is made and will authorise that payment in situations where it is reasonable, and then that payment will be made. The form of that payment could vary. It could be a payment direct to a third party. It could be a voucher. It could be cash, in limited circumstances. Essentially the amount of that payment cannot be more than what their notional fortnightly entitlement would have been. The only proviso there is that, if there is a larger bill which occurs further down towards the end of the eight weeks and all the notional amount which may be allocated to the individual has not been allocated, then they could actually receive more in that fortnight than their notional entitlement may have been. Then basically that will continue until the end of the payment period.

Senator WONG—Non-payment period.

Mr Carters—Non-payment period. Centrelink will contract the NGOs directly.

Senator WONG—Remind me of the payments that the NGOs will receive for this.

Mr Carters—The NGOs will be paid as part of the contract under Centrelink. My understanding is that the amount is \$650 per person.

Senator WONG—Did DEWR have input into the terms of that contract?

Mr Carters—Not the terms of contract. We provide the policy advice on how it needs to be implemented, but not the actual contract, no.

Senator WONG—Did DEWR have any input into the costing of the \$650?

Mr Carters—No.

Senator WONG—And you are not able to tell me yet what proportion of that measure is the \$650 and what proportion is actually items like purchasing?

Dr Boxall—Not yet.

Senator WONG—Wouldn't this be an administrative appropriation? If you are actually purchasing goods or services for—

Ms Golightly—There are both components—an administered component and a departmental one for Centrelink.

Senator WONG—And we will deal with that later, will we?

Ms Golightly—Yes. That is part of the break-up.

Senator WONG—If somebody owes moneys—say they have been overpaid and they have got a debt—will that be deducted from their notional entitlement?

Mr Carters—If they have a debt, then they cannot seek to fund that debt through the financial case management.

Senator WONG—That was not what I meant. You know how if you currently have arrears Centrelink can agree to pay you a certain proportion less each fortnight until your arrears are cleared—correct?

Mr Carters—Yes.

Senator WONG—What I am asking is: at the time you go into financial case management, is your notional entitlement reduced if you have any arrears?

Mr Carters—That is still to be worked through.

Senator WONG—Does the notional entitlement include rent assistance?

Mr Carters—Yes, unless the individual is still receiving rent assistance through, for example, family tax benefit. You can get rent assistance as part of family tax benefit.

Senator WONG—Will anything else be included in the notional entitlement?

Mr Carters—The notional entitlement is determined on the basis of what their eligibility would otherwise have been for that fortnight—any earnings which they may have received and things that that.

Senator WONG—Is it earnings plus income support payment? Can I clarify. I thought you indicated the notional entitlement will only be equivalent to the income support payment plus rent assistance. Are you saying it is earnings as well?

Mr Carters—No. What I was suggesting was that, if the individual had earnings or some form of income during that fortnight, that would reduce their notional entitlement to income support and therefore the amount that they could receive through financial case management.

Senator WONG—I understand that. I am talking about the theoretical figure for, let us assume, no earnings at which the notional entitlement is set. What you are talking about is, I suppose, an offset. Your notional entitlement will be reduced because your income support entitlement will be reduced because you have earned. I want to know what is included in the notional entitlement. Is there anything other than income support payment and rent assistance?

Mr Carters—Yes, other allowances, such as pharmaceutical allowance, which may have been paid.

Senator WONG—Anything more?

Mr Carters—I will have to take the rest on notice. There may be other little allowances.

Senator WONG—Is there an expectation that the cheapest item possible will be purchased if an item is deemed to be essential? Is that going to be part of the requirement?

Mr Carters—That is for Centrelink and the NGOs to decide.

Senator WONG—I am sorry; I thought when we asked that to Centrelink they indicated that it was DEWR's area—that it is up to DEWR to identify the policy parameters for the guidelines and the operation of this.

Mr Carters—We would not see that as a policy parameter. That is an operational issue on the ground which I am sure Centrelink and the NGOs can deal with.

Senator WONG—So you are not making any policy indication as to what items can or cannot be purchased?

Mr Carters—Yes, we are, in terms of what items can or cannot be purchased. Your question related to whether the cheapest item versus the equal higher cost product would be purchased.

Senator WONG—So that is not going to be part of your policy direction to Centrelink.

Mr Carters—No.

Senator WONG—What about items? What sort of items can be purchased?

Mr Carters—We will certainly give guidance on what sorts of items may be purchased.

Senator WONG—What sorts of items will be able to be purchased?

Mr Carters—Essential items which are required to support the family or the individual, for example, food expenses, living expenses such as rent and mortgages, medical expenses, rates, electricity expenses, phone expenses, car costs et cetera.

Senator WONG—What about items associated with children's education—school excursions, trips, uniforms and books?

Mr Carters—Yes, where they are required to be paid for in that fortnight.

Senator WONG—What if they are late?

Mr Carters—If they were late then they would be reasonably deemed to be required to be paid for in that fortnight.

Senator WONG—Have you estimated the number of people who are likely to have their payments suspended for eight weeks who will not be eligible for financial case management?

Mr Carters—We have some rough numbers—which obviously are just that: rough estimates—and the reality will not occur until post 1 July when we look closely at how that is progressing.

Senator WONG—What are your estimates of the people who will go through financial case management?

Mr Carters—The estimate, and it is in the budget paper, is about 4,000 to 5,000.

Senator WONG—What is the estimate as to how many people will be the subject of an eight-week penalty?

Mr Carters—Again, the estimate that we have used is about 18,000.

Senator WONG—So about 14,000 people, on the budget estimates, might have their payments suspended but will not have access to case management. Is that right?

Mr Carters—Yes, on those estimates.

Senator WONG—Is there any limit? I think you said school excursions would be paid. Do you have a ceiling on that?

Mr Carters—There is a natural ceiling, which is the notional entitlement for that fortnight, and there are other costs which need to be considered as well.

Senator WONG—I understand that, but are you allocating a ceiling for any particular component?

Mr Carters—No.

Senator WONG—What do you do in a situation where a person's essential expenses exceed their notional entitlement?

Mr Carters—I mentioned that before, Senator—

Senator WONG—That is the smoothing, I suppose.

Mr Carters—That is the smoothing. Other than that, we are limited by that notional entitlement.

Senator WONG—So that is the only circumstance.

Mr Carters—The smoothing?

Senator WONG—Yes.

Mr Carters—Yes.

Senator WONG—What if your fridge blows up and your washing machine blows up in the same week? What do you do then?

Mr Carters—If those people were on income support and not in financial case management, the same situation would exist, and they also would need to deal with that scenario. What the financial case management does is that it allows the payment up to that level of the income support they would otherwise have received, but it does not go beyond that.

Senator WONG—Does that mean that either the fridge or the washing machine might have to stay broken for a period?

Dr Boxall—No, that is exactly what happens now if they are on income support and they have to pay a number of bills. They can only spend up to their income support. Under financial case management, apart from the smoothing that Mr Carters mentioned, they will be able to claim financial case management up to the notional income support. So it is the same situation.

Senator WONG—Is DEWR having any involvement in the selection of NGOs?

Mr Carters—No.

Senator WONG—Did you provide any guidelines, advice or any other direction to Centrelink about their selection?

Mr Carters—No.

Senator WONG—There is just under \$10 million allocated in the budget to extend eligibility for the with-child rate of Newstart allowance to non-resident parents. Will the definition of ‘vulnerable dependants’ have to be changed so that these parents are eligible to receive financial case management?

Mr Carters—No. That extends the with-child Newstart allowance to partners who are not the principal carer and the financial case management applies to the principal carer.

Senator WONG—So a non-resident parent who is breached and subject to an eight-week penalty, even if they are receiving a with-child rate—or a proportion of it, because of their period with the child—will not be eligible for case management?

Mr Carters—That is correct.

Senator WONG—Are you aware of the extent to which there are areas where there is no NGO servicing or willing-to-service financial case management in that region?

Mr Carters—Centrelink is looking into that, and Centrelink will provide services where there is not NGO coverage.

Senator WONG—So DEWR’s guidelines will enable Centrelink to provide those services where there is no NGO available?

Mr Carters—Yes.

Senator WONG—What about conflict of interest issues? There are NGOs who are registering—or potentially could register—who would also be Job Network members. Is that right?

Mr Carters—That is possible, yes.

Senator WONG—Has DEWR considered whether or not there is any conflict of interest arising from the same organisation that sought the breaching of the person—being the NGO which then financially case manages them and is paid to do so?

Mr Carters—There will be two contracts which apply to the organisation. One will be a contract with DEWR to provide employment services, and that includes the participation reporting. There will be a separate contract which Centrelink will have with the NGO which will set out the circumstances upon which they can make that payment. Our view is that the contractual obligations on both of those contracts will suffice and the contract management of those contracts will achieve that.

Senator WONG—So it is not DEWR’s view that there is any potential conflict of interest in a body that can say, ‘We want this person breached and we also want to be paid the money to financially case manage them.’

Dr Boxall—At the end of the day, it is Centrelink that decides whether or not they are breached.

Senator WONG—But it is your contract.

Dr Boxall—No. It is our contract to provide a service, and part of that might be a request that an individual be breached, but it is Centrelink that makes the decision to breach them, not the Job Network member.

Senator WONG—And if it were them that made the decision there might be a conflict of interest?

Dr Boxall—I did not say that.

Senator WONG—I am interested that that is the defence you go to—

Senator Abetz—It is not a defence.

Senator WONG—when, in relation to the JSCI issue, where there is the capacity for that decision to be made by the Job Network member, you assert there is no conflict of interest.

Dr Boxall—That was the testimony last time and the department stands by that testimony. We are advising you, as Ms Golightly just reminded me, that it is Centrelink that breaches people, not the Job Network member.

Senator WONG—My point was that JSCI upgrades can be done by Job Network members. That is why \$14.5 million worth of taxpayers' money had to be paid back. The decision is potentially not made by Centrelink there; it is made by Job Network members, and yet, on the last occasion, you argued that that was not a conflict of interest.

Dr Boxall—That is correct, and there is nothing inconsistent with the department's position on this.

Senator WONG—I suppose it is all in the eye of the beholder. Are there any restrictions or guidelines on items that can be purchased or not under financial case management?

Mr Carters—There will be a list of items which can be purchased. That list will basically be a guide for Centrelink in deciding what sorts of items can be purchased. It will not be an exclusive list at all.

Senator WONG—Has the department considered that there might be some items which a customer may not want to discuss with an NGO?

Mr Carters—That is really for Centrelink and the NGO. The department has not looked at that area. As I said, the guidance that we will provide will be of a general nature.

Senator WONG—So you are the policy department that is setting the parameters for this. Has the department considered whether there are items of a personal nature that a customer might find difficult to request for purchase from an NGO? I think the example I used in Centrelink estimates was contraception.

Mr Carters—That is, again, a decision that the NGO and Centrelink will make.

Senator WONG—That is not the question I asked.

Mr Carters—The department does not see the need to make a call on that.

Senator WONG—I did not ask whether or not people could buy condoms. Have you considered whether there are items of a personal nature that a customer may not want to have to go to an NGO, possibly a religious organisation, as a number of them are, to request purchase of?

Mr Carters—Again, the decision about and the consideration of specific items is an issue for Centrelink and the NGO.

Senator WONG—Maybe you misunderstand my question. I understand that the decision as to whether something is purchased is a decision for Centrelink and the NGO. I am asking, as a matter of policy, whether DEWR turned its mind, when looking at financial case management, to the possibility that people might not want to ask a charity organisation if they can have money to buy a condom.

Mr Carters—Again, I have answered that. The department does not see the need to consider that. That is something that gets worked through at the operational level by NGOs and Centrelink.

Senator WONG—Did you get any public health advice from the department of health?

Dr Boxall—No, because, as Mr Carters has testified, the department's position is that Centrelink is to work through this with the person who is subject to the financial case management.

Senator WONG—I think the issue is not that they may not be able to purchase it; the issue is a matter of policy, of putting people in a position where they have to go to an NGO in order to be able to purchase some items. People might have difficulty in communicating that.

Dr Boxall—Even if a person is assigned to an NGO for financial case management, they can still have regular contact with their Centrelink office. If there is an issue, they can always raise it with a Centrelink service officer.

Senator WONG—So you think that it is a sensible public health initiative, to tell people to go and talk to a Centrelink officer about what contraception they might want to buy?

Dr Boxall—No, I did not think that. What I am saying is that you have been asking the department, and Mr Carters has been answering, about the issue of items that will be purchased for financial case management, and Mr Carters indicated that the item-by-item decisions on this are for Centrelink.

Senator WONG—Which was not my question, but I understand that we are not going to get an answer on that. Mr Carters, are you going to track, if there is a dispute between the customer and the NGO, what constitutes an essential expense? Is that data going to be tracked in any way?

Mr Carters—No, Senator.

Senator WONG—So you are not going to check—and, to your knowledge, Centrelink has not been asked to check—to what extent an NGO might or might not be meeting someone's essential expenses?

Mr Carters—Again, that is something which the NGO would have discussions with Centrelink on. If there are particular items that Centrelink does not think are appropriate for the funding, then they will not approve that funding. If the NGO feels that that is not reasonable, then they can negotiate that with Centrelink. But the department is not planning policies in that area.

Senator WONG—I am probably not making myself clear. I understand if disputes occur there is a process there for NGOs and Centrelink to discuss. But I am asking if there is going to be any data tracked of discussions with customers about their experience with a particular NGO to determine whether the NGO is in fact fulfilling their end of the contract in terms of meeting essential expenses? Have you requested that that be done by Centrelink, for example?

Mr Carters—We have not requested that Centrelink do that. It is a contract management issue for Centrelink.

Senator WONG—Can you tell me what the government believes the 14,000-odd people who will not be eligible for financial case management but who are projected to be breached under this policy are going to be able to do to meet their essential expenses?

Mr Carters—There are currently about 100,000 people who have a rate reduction due to breaching—

Senator WONG—This is an eight-week penalty that you are talking about.

Senator Abetz—Let Mr Carters finish.

Mr Carters—They will have rate reductions ranging from 16 per cent through to 18 per cent, 24 per cent and eight weeks nonpayment. That is the situation now. Essentially, the situation in the future will be much more able to place the decision of individuals of whether or not they go to a third nonpayment in their hands because, if they choose to engage, then they will not get to that point. If they do not choose to engage and they do not satisfy the conditions for financial case management, then they will need to basically do as they do now and support themselves.

Senator WONG—Without any income. I understand that is the position now, but I am asking has DEWR, as the policy department, turned its mind to how people who are suspended for two months survive, given that the majority of them, on the figures projected, will not be eligible for financial case management?

Dr Boxall—As Mr Carters said, those people will cope as best they can as they do now. There is no change in that arrangement.

Senator WONG—There are changes to your penalties and your breaching regime.

Dr Boxall—No. What Mr Carters said was that there are 100,000 breached and they receive penalties of 16, 18, 24 and 100 per cent removal of benefits and they cope as best they can. Under the current situation we have the financial case management to protect those that are vulnerable and the others will remain in a similar situation as under the current arrangements.

Proceedings suspended from 12.30 pm to 1.40 pm

CHAIR—The committee will resume. I will ask the minister to make a brief statement regarding the question that was asked earlier of Mr O'Sullivan.

Senator Abetz—A technical point was raised before lunch in relation to the provision of certain information. Going through all the technical detail, it could be asserted that a question asked by an individual senator is not the asking of that question by the committee as a whole.

I am willing to have a look at the issue surrounding this question, and I suggest we take that on notice and we will give due consideration to the issues around the particular question.

Senator WONG—As indicated, I table the advice provided by the Clerk in relation to Mr O’Sullivan’s advice to the committee: two emails dated 29 May with an attachment. I want to emphasise the advice provided by the Deputy Clerk and confirmed by the Clerk. It states:

My understanding of what Mr O’Sullivan said is that he would not answer the question on timing because of the cabinet-in-confidence convention. He also referred to the Public Service Code of Conduct and, in particular, subsection 13(6) of the Public Service Act ... which requires an APS employee to maintain appropriate confidentiality in dealings with the minister.

With regard to the code of conduct, it is well established that a statutory provision of this nature does not limit a committee’s right to seek information. The law of parliamentary privilege prevents evidence given by an officer to a parliamentary committee being used for any disciplinary action against the officer.

Questions about timing of advice have frequently been asked and answered. If the officer has an apprehension ... this question may somehow disclose the deliberations of Cabinet—

And the Clerk then goes on to what process was in place. Of course, I do not think that was the basis on which the question was refused to be answered. I want to make it clear, from what the Clerk has advised, that the section of the Public Service Act to which Mr O’Sullivan is referring has not in the past prevented estimates committees from asking and having answered timing questions as a matter of principle.

Senator Abetz—In reading the document containing the Clerk’s advice, I think the words ‘have frequently’ would suggest not always. Erring on the side of caution, I think we should have a look at all this and see if we can come back with an answer. Saying that certain things have happened frequently does not mean that there is not necessarily an exception. If we want to have a look at the circumstances surrounding the timing et cetera, then I think it is appropriate to take that on notice and come back to the committee with a considered answer.

Senator WONG—I accept that, Minister. I want to make this point: what Mr O’Sullivan, the department and, presumably, therefore the government, are asserting is not an exception; they are asserting a blanket rule against the asking and answering of questions to do with timing, whether they are associated with advice to ministers or cabinet matters. That is quite patently wrong.

Senator Abetz—I am not sure that was done.

Mr O’Sullivan—I was not asserting a blanket rule. Section 13(6) clearly talks about appropriate obligations of confidentiality, and it depends on the nature of the question and the nature of the disclosure of the information. Certainly, information in relation to matters of advice given to ministers on serious policy matters are more likely to come into the provision of subsection 13(6) than trivial matters.

Senator WONG—Which, I will remind you, the Clerk has said does not provide a bar to such questions being asked and answered.

Mr O’Sullivan—It certainly does not provide a bar to such questions being asked—

Senator WONG—At least we agree on that.

Mr O’Sullivan—and in my view it does not provide a bar, like any law does not provide a bar, to such questions being answered. But for similar reasons, Senator, if you asked me a question that obliged me to disclose, say, personal information in contravention of the Privacy Act, I would bring that to your attention to see if you wanted to pursue the matter.

Senator WONG—I would hope I would not do that. Your personal details are hardly a matter for the estimates inquiries! Can I remind the department, though—

Senator Abetz—Is that a blanket statement?

Senator WONG—I certainly don’t want to ask you any personal questions, Minister Abetz! What I wanted to clarify, though, is that the answer in question relates to the nonprovision of an answer to a question on notice from the previous round of estimates. That is correct?

CHAIR—Yes, that point has been taken. We will proceed. Thank you, Minister. Senator Wong, do you have further questions?

Senator WONG—Yes. I wanted to take Mr Carters back to the financial case management issue. Can you remind me: if somebody refuses a suitable job offer and the automatic or immediate eight-week non-payment penalty applies, they do not have to do that three times, just the once? Is that right?

Mr Carters—That is correct, yes.

Senator WONG—And also if they are dismissed from a job due to misconduct at work?

Mr Carters—Yes, that is correct.

Senator WONG—Given the state of industrial law at the moment and the inability of a great many people to dispute their dismissal, how will it work if the employee, for example, does not have access to unfair dismissal processes to dispute their dismissal but in fact disputes that the dismissal was for misconduct?

Mr Carters—The information about the nature of the dismissal is provided to Centrelink, and Centrelink make the decision about whether in their view the dismissal was due to misconduct or whether there were other circumstances which meant that it was reasonable for the employee to leave the job.

Senator WONG—For example, there are occasions on which an employer may tick the dismissed-for-misconduct separation certificate or whatever the form is called. Certainly, in my previous life I was aware that filing an unfair dismissal claim in response to that was something Centrelink might take into account. Given that a great many employees will not have access to that, how do you deal with a situation where the employee is saying, ‘Look, I was not dismissed for misconduct—they’ve just ticked that; they dismissed me for these other reasons’?

Mr Carters—Again, it is not just a tick-box issue. It is something that the beneficiary can choose to dispute and lay their claims with Centrelink. It is also an appealable decision, so they have the right to go through the normal appeal process to question that if they feel that their view and the employer’s view are different.

Senator WONG—How long would that take?

Mr Carters—I cannot say. It varies, depending on different review processes, but we would certainly want to have that run as quickly as possible.

Senator WONG—Do you know how long a review of a Centrelink decision usually takes?

Mr Carters—It is variable.

Senator WONG—Between what and what?

Ms Golightly—I do not have the actual figures here, Senator, but it does vary from state to state and also between SSA Tribunals. But I can just check to see if we have any data—

Senator WONG—Are we talking about weeks, months, days?

Ms Golightly—I think it is weeks, but I will just check.

Senator WONG—Because what you are talking about, Mr Carters, is an employee whose employer dismisses them for misconduct immediately losing eight weeks of income support.

Dr Boxall—Senator Wong, it is the same as any other issue where someone disputes a Centrelink ruling. You can have somebody who applies for a disability support pension and Centrelink rejects them. They disagree, they appeal to Centrelink. It is reviewed by the review officer. It then goes to the SSAT. It is the same process.

Senator WONG—Isn't the issue that the government has chosen to remove unfair dismissal rights from a great many Australian employees, leaving them with very little other avenue to dispute a dismissal for misconduct, and that they would face two months without income support? For whatever reason, the dispute with the employer might have resulted in the employer ticking 'misconduct' on the separation certificate, even if that was not the correct reason.

Dr Boxall—That is not the issue, Senator. The issue is whether Centrelink makes the right decision when the person comes in to lay a claim. If Centrelink says that you were dismissed and the person says, 'No, I wasn't dismissed,' they can then pursue it through the social security appeal system, just like anybody else who applies for a Centrelink benefit who is unhappy with it. It has nothing to do with the government's Work Choices policy and unfair dismissals.

Senator WONG—But there is a difference between applying for a benefit and not having that accepted or having a lower level of entitlement and being unable to receive payments for two months because your former employer says, potentially untruthfully, that you were dismissed for misconduct, and you have no avenue through industrial law to dispute that. The only avenue is through the Social Security Appeals Tribunal, and that may be quite a lengthy process.

Dr Boxall—There is no difference, Senator, because if somebody comes in and applies for a disability support pension, claiming that they need the money, if Centrelink says, 'No,' they don't get the payment. And they can appeal it.

Senator WONG—Are you talking about two months when they can't get anything?

Dr Boxall—No, I am talking about the length of time it takes for the authorised review officer to review the case. In the event that the authorised review officer upholds the

Centrelink service officer's decision, they can then appeal to the Social Security Appeals Tribunal. Further than that, they can go to the AAT and up through the Federal Court system.

Senator WONG—And so many employees can afford that.

Dr Boxall—It is not a question of whether many employees can afford that; as you probably know, a number of people who apply for benefits at Centrelink and who are not happy with Centrelink's decision do move it up through the system. These people will have the same rights as anyone else applying for a social security benefit.

Senator WONG—Has there been any advice to Centrelink from DEWR as the policy department about how to handle, given the significant penalty for dismissal for misconduct, disputes as to the reasons for dismissal?

Mr Carters—The dispute resolution process through the Welfare to Work changes is the same as it was before, so it is a fairly well-understood pathway in terms of going through the different review processes. Certainly, what we will be attempting to do is to ensure that that process is undertaken as quickly as possible, but separate from that, no separate advice is to be provided.

Senator WONG—It is just a different context, of course. Previously, people could take unfair dismissal claims and that would be a piece of information to which Centrelink would have regard. Given that for a substantial proportion of the workforce it is no longer available—I don't want to have an argument about that now; that is a different issue—is there any policy advice to Centrelink about what other parameters or pieces of information it ought to have regard to in the context of somebody disputing that they were reasonably dismissed for misconduct?

Dr Boxall—There is no need for any other advice because it is just the same as for anybody else applying for a Centrelink benefit. Clearly, if Centrelink rules that the person was dismissed and the person says they were not dismissed for misconduct, the authorised review officer can consider the information available and the SSAT can get even more information and consider it. I am advised that the SSAT must hear it within 21 days.

Ms Golightly—That is their timing, I understand.

Senator WONG—Hear it?

Dr Boxall—Yes.

Senator WONG—Hear it, not determine it?

Dr Boxall—They determine it very quickly thereafter. I am not sure what the normal lag is.

Senator WONG—One of the other circumstances in which you can be penalised with an eight-week nonpayment penalty is for refusing a suitable job offer?

Mr Carters—That is correct.

Senator WONG—'Suitable' for parents will be anything that meets the five minimum Work Choices standards, plus the additional threshold which was announced on Thursday?

Mr Carters—There are many factors which determine the suitability of a job, and certainly the conditions which were announced on Thursday form a key part of that. There are

obviously also complexities around those conditions which need to be taken into account. For example, if the appropriate child care is not within a reasonable distance of the school those sorts of issues can be taken into account. But otherwise, yes, that is true.

Senator WONG—Just remind me: there is provision in the legislation which was passed last year and, I think, there has been consequential amendment legislation that went through the House this session—is that correct?

Mr Carters—Yes.

Senator WONG—Is there also going to be something in the guidelines?

Mr Sandison—The major change was through the disallowable instruments where there was discussion about suitable work along with four other major areas. The guide to the act also talks about suitable work and that is where issues—such as where the child care is located and the access to child care—get raised.

Senator WONG—In our discussion earlier today you confirmed that there is no guarantee, such as there is for parents, for people with a disability for a nominal amount that they have to actually gain from work on a net basis. For a person with a disability a suitable job offer could, in fact, be one in which the costs of working meant that the person was worse off than they were on their Newstart payment.

Mr Sandison—I think we went through that this morning, Senator. There are other areas of what is a suitable job for a person with a disability about appropriate servicing in the location of that employment but, as we said this morning, the government only made a guarantee to provide that commitment around parents.

Senator WONG—Yes, I understand that—but the point is that the person who refuses, in that situation, is potentially subject to an eight-week penalty.

Mr Sandison—That is correct, Senator.

Mr Carters—Can I clarify that answer. If, for example, a parent did not choose to take up an outside school hours child-care place—

Senator WONG—Sorry Mr Carters, what are you clarifying—Mr Sandison's answer?

Mr Carters—Yes.

Senator WONG—But I asked him about people with a disability, not parents.

Mr Carters—I was going to give an example of where it is not a hard and fast rule.

Senator WONG—Okay.

Mr Carters—So, for example, if a parent did not choose to take up outside school hours care, which was available and would have made them suitable for the job, by virtue of not taking that up that is not deemed to be not accepting a suitable job offer. In other words, that would not be an eight-week non-payment period—that would just be a first participation failure. Similar issues would occur with a person with a disability.

Senator WONG—I accept the difference that a suitable job could, in fact, be a job where they went backwards financially because you do not have a threshold like you do with parents.

Mr Carters—We have discussed that, Senator. Yes.

Senator WONG—But the context of it now is: what is a ‘suitable job’? There is no threshold for persons with a disability in assessing whether the work is suitable.

Mr Carters—There is no threshold as such, but there are lots of safeguards in the system which make it extremely unlikely that that would come up.

Senator WONG—You say ‘extremely unlikely’ but in the event it occurred, and they refused a job offer on that basis, they could still be breached for two months.

Mr Carters—I do not think that is clear-cut, Senator. I cannot give an answer to that.

Senator WONG—Why is that?

Mr Carters—Well again, I think it is something that the department would need to discuss and provide advice to the minister on.

Senator WONG—As a result of more extensive consideration, I hope, than as a result of estimates committee questions.

Mr Carters—Yes, just issues of a general nature about what does and does not constitute an eight-week non-payment period.

Senator WONG—Can you tell me what an ‘unapproved absence’ is in respect of a student? That is one of the eight-week non-payment penalty scenarios: a student who has unapproved absences.

Mr Carters—That is the responsibility of the DEST portfolio.

Senator WONG—So you do not provide any advice on student breaches?

Mr Carters—No.

Senator WONG—Will the DEWR guidelines or policy framework permit Centrelink to pay rent expenses even if the customer does not receive rent assistance? Let us say there is a cash payment arrangement.

Mr Carters—Yes.

Senator WONG—What if, if we are talking a cash economy, the landlord refuses to provide details of the payment or an account? Will Centrelink or the NGO be permitted to pay by cash?

Mr Carters—That is an issue that will need to be determined on a case-by-case basis. I would not answer it here and now.

Senator WONG—Can you tell me what the legal basis for Centrelink paying NGOs under the financial case management model will be?

Mr Carters—It is not a legal issue; it is a contractual issue. If they contract to pay an NGO and the money has been appropriated by parliament then that is dealt with through the contractual arrangements.

Senator WONG—Sorry; I meant third parties, not the NGOs. As I understood your explanation of the financial case management structure, Centrelink might pay directly to a vendor, a landlord or a third party.

Mr Carters—Yes.

Senator WONG—I am asking what the legal authority for that is.

Mr Carters—Again, there is not a legal basis because it is not an income support payment.

Senator WONG—Correct.

Mr Carters—So there does not need to be one.

Senator WONG—There does not need to be one. Is that what you are saying?

Mr Carters—Yes.

Senator WONG—It is an administered appropriation, presumably. I suppose at some point we will be going through those numbers. I presume that the component that is paid to third parties is an administered appropriation.

Ms Golightly—Yes.

Senator WONG—What legislation et cetera governs that appropriation?

Ms Golightly—Just the normal appropriation bills.

Senator WONG—There are no guidelines or statutory provisions in relation to be administration of that particular appropriation.

Ms Golightly—There is nothing like the Social Security Act as an equivalent.

Senator WONG—If you are dismissed for misconduct, provided you meet the exceptionally vulnerable et cetera criteria, could you still have financial case management?

Mr Carters—Yes.

Senator WONG—I think the vulnerable dependents criterion suggested that those persons are required to be co-residing with the person who is potentially under case management. Is that right?

Mr Carters—Yes.

Senator WONG—What do you do, for example, when a parent has an older child with a disability who is not living in the home but the parent is the person on whom that child is dependent? Would that adult child not be classed as a vulnerable dependent for the purpose of access to financial case management?

Mr Carters—That is something we will have to take on notice. It is an area that obviously would require a little bit of thought. We have not provided any guide which would say either yes or no to that.

Senator WONG—Are you intending to allow the capacity for a person to prove that they have a vulnerable dependent who does not live with them?

Mr Carters—Again, that is something that we will need to work through.

Senator WONG—So you have not considered that issue?

Mr Carters—We certainly have not either approved or otherwise that issue.

Senator WONG—Has the department advised any community organisations, for example, that a person would need to prove that they provided support for a person not in their household in order to meet the exceptionally vulnerable criteria?

Mr Carters—Not that I am aware of. We have not raised that with NGOs.

Senator WONG—What is the time frame by which an NGO has to make contact with the client after the case management has commenced?

Mr Carters—That is a Centrelink contract issue. We have not specified that.

Senator WONG—You have not specified that?

Mr Carters—No.

Senator WONG—You do not think that is a policy issue? We are talking about exceptionally vulnerable people and NGOs being contracted to buy them food and other essential items. Who is determining how long before they actually have to make contact?

Mr Carters—That would be a contractual issue between Centrelink and the NGO. Essentially, what we are stating is that the contact needs to be fortnightly. So, in terms of the first contact, whether that is day 1 or day 2 and so on, we are not specifying that.

Senator WONG—What is the process for monitoring whether or not the NGO is complying with whatever time period is required of them in terms of first contact and the periodic fortnightly contact?

Mr Carters—Again, Centrelink as the contract managers will need to hold the NGOs accountable to the contract.

Senator WONG—Dr Boxall, I wonder whether it is possible to perhaps go through a breakdown of this budget item before I move on to the next.

Dr Boxall—Which item is that?

Senator WONG—Financial case management.

Ms Golightly—At lunchtime we were still getting that. I understand there was just one more component that needed to be checked.

Senator WONG—That is fine. I am trying to minimise how many things I have to remember to come back to. Ms Curran has left the room, I think. I was not sure whether she was getting back to me about the time frame for referral commencement and the ESAs or whether that has been taken on notice?

Ms Golightly—I checked on that one at lunchtime too, and that could take some time.

Senator WONG—That is very efficient of you, Ms Golightly.

Ms Golightly—Thank you.

Senator WONG—Question No. W669-06 is the one on which you are going to take advice, Minister Abetz, isn't it?

Senator Abetz—Yes.

Senator WONG—Shall we move on, Ms Golightly?

Ms Golightly—Yes. I understand that the person is trying to find a car park.

Senator WONG—In question No. 679, employment services—it might be for you, Ms Golightly—there is a reference at paragraph (e) to the employment services code of practice. I cannot recall whether you have provided that to the committee before, Ms Golightly.

Ms Golightly—I cannot recall either.

Senator WONG—Are you able to provide that? I am interested in that bit. How big is the code of practice?

Ms Golightly—It is several pages long.

Senator WONG—Is it a hard document only? Is it an electronic only?

Ms Golightly—No. It is part of the contract, so there will be both electronic and hard copy versions.

Senator WONG—Are you able to provide me with a copy of the code of practice?

Mr Manthorpe—Yes.

Senator WONG—Would you like to take that on notice?

Mr Manthorpe—I can chase that up this afternoon without any problem.

Senator WONG—That would be useful. Then I will know whether I have to ask any questions on that. This question dealt with the wage subsidy issue. Maybe someone can help me, because I did not quite understand the answer. You require now an authorisation to go beyond a wage subsidy of 100 per cent, but is there additional job seeker account money over and above wage subsidy that can also be paid to an employer?

Ms Caldwell—Yes. The job seeker account involves quarantine funded flexible funds, so Job Network members are free to enter into arrangements with employers for reimbursement through the account for a range of work related activities. ‘Employer incentives’ is the label we apply administratively. It predominantly consists of wage subsidy arrangements, but it also covers other payments to employers that may be for assistance for modification.

Senator WONG—So in your electronic tracking of this, you have a dataset called ‘employer subsidies’ which includes wage subsidy but may include these other subsidies?

Ms Golightly—They are not necessarily subsidies.

Senator WONG—What word would you like me to use, Ms Golightly? I will try to use a less loaded word.

Ms Golightly—Employer incentives is the general category we use.

Senator WONG—Employer incentives.

Ms Golightly—Yes.

Senator WONG—But your data obviously enables you to disaggregate the wage subsidy component of the employer incentives.

Ms Golightly—I think manually we are able to do it.

Senator WONG—Which you have done, and I am very grateful for that. Presumably, on what you have told me therefore, you can work out those occasions on which the total employer incentive, including wage subsidy plus whatever other incentive is in place, would exceed 100 per cent of the wage?

Ms Golightly—We can certainly work out whether the wage subsidies exceed 100 per cent of the wage. The other items might be to assist with something in the workplace or clothing that is required. It is not necessarily directly associated with the wage.

Ms Caldwell—It may be the provision for an employer taking on a person such as this; they may need an extra set of tools of trade or accommodation for the person. So it is for the general defrayment. On-the-job training would actually be paid as an employer incentive if the employer says, ‘I’m happy to take this disadvantaged person on. Of course I will need a bit of extra supervision and some on-the-job training while they are coming up to speed.’ That would be packaged as a payment to the employer under the administrative data.

Senator WONG—I am sorry; I thought you said it was employment incentive data. Is it actually administrative data?

Ms Golightly—That is our administrative term for these types of payments. That is all that Ms Caldwell is trying to say.

Senator WONG—Employment incentive?

Ms Golightly—Yes, that is the administrative term we give to these things.

Senator WONG—So you can determine the number of wage subsidies and now, as a result of the policy change in March last year, there is presumably a trigger if the wage subsidy is in excess of 100 per cent?

Ms Golightly—Certainly we actually monitor wage subsidies to see at various levels but, yes, in particular 100 per cent. But we also look at others which tend to be high or low. We look at the whole lot.

Senator WONG—In terms of the data you collect, are employer incentives broken up into different subcategories? Obviously wage subsidy is one of them.

Ms Golightly—Only, as I said before, if we go through manually each transaction. The administrative category we use is employer incentives.

Senator WONG—But within that?

Ms Golightly—Within that there are various types.

Senator WONG—What are they?

Ms Caldwell—Within that, it would appear on our information technology systems as a tick box saying ‘employer incentives’. The additional information that Ms Golightly refers to would be free text comments. The provider might have a note on the file or an arrangement with an employer that was on the paper copy to say, for example, ‘This takes into account the on-the-job training costs,’ and that is the basis of the arrangement. But, on the information technology, the category is ‘employer incentive’.

Senator WONG—Yes, I understand that. You have indicated that wage subsidy can be extracted because you have provided that information, I think, on a few occasions. Obviously, with your 100 per cent trigger, you have to be able to analyse that separately. So I am asking what analysis of the breakdown of categories of incentive payments to employers you are able to undertake.

Dr Boxall—They are all in one category. We went through and dug out wage subsidies manually, partly to answer your question. The others have not been disaggregated.

Senator WONG—Dr Boxall, surely you are not telling me that, despite the fact you have a policy that anything over 100 per cent be approved, there is not somehow some trigger where a wage subsidy is sought for 100 per cent or over.

Dr Boxall—No. We have well established that we can single out wage subsidies. But I thought your question went to the other items within ‘employer incentive’. The answer to that is that a disaggregation of those items is not available.

Senator WONG—But you can disaggregate wage subsidy as a component.

Ms Caldwell—In the context of contract monitoring, we certainly can. Most expenditure under the employer incentive broad category is well under anything that would approach a full 100 per cent wage subsidy of a job. So you can exclude entirely those low-value expenditures, because they are clearly nowhere near the threshold. Where you start getting into arrangements that are approaching an amount that may approximate or exceed the 100 per cent, we can then look at the details and particulars of those for the purpose of ensuring they do not exceed the 100 per cent wage subsidy. They very much are an exception.

Senator WONG—But you can give me the total expenditure on employer incentives excluding wage subsidy, which is I suppose the flipside of what you have given me.

Ms Golightly—We could pull that figure out by deducing it because we have the total spent on employer incentives.

Senator WONG—Let me look at it and I might give you something on notice so that it is a little clearer. Is anyone able to give me a bit of an update on the employer demand strategy?

Dr Boxall—Yes.

Mr Foster—Which parts, broadly?

Senator WONG—What you are doing.

Mr Foster—As of 1 May, we have committed some 40 projects totalling \$3½ million—\$3.5 million roughly. That is in respect of the employer demand demonstration projects.

Senator WONG—What else has been done?

Mr Foster—We have implemented the labour market information portal.

Senator WONG—Is this an employer information portal?

Mr Foster—That provides information on numbers of people in the labour market in particular areas and numbers of income support customers and so on. It is available to the broader community and to Job Network members.

Senator WONG—I am talking about employer demand. That is information—

Mr Foster—I am sorry; I thought you were after the whole employer demand workplace flexibility strategy. Within the employer demand demonstration project funding, if that is—

Senator WONG—I want to know what is happening on the demand side. You have told me about 40 projects, you have told me about a labour market portal which is a macro analysis of particular employment areas, which arguably is probably used more by Job Network members than by anybody else, but I am not sure. What else has occurred in terms of stimulating employer demand for welfare recipients?

Mr Foster—We have been conducting Better Connections workshops.

Senator WONG—What are they?

Mr Foster—They are workshops where we bring together employers, Job Network members and so on in particular areas to try to increase the take-up of disadvantaged job workers in particular areas.

Senator WONG—How many of those have there been?

Mr Foster—We have conducted 25 workshops in 2005-06 to date. A further five will be completed before the end of this financial year.

Senator WONG—Do any of those involve groups such as people with a disability or sole parents, or is it Job Network members plus employers?

Mr Foster—It is predominantly Job Network members and employers.

Senator WONG—What is the cost of the workshops; how much has been expended to date?

Mr Foster—I do not have that figure in front of me at the moment, but the cost of the workshops is essentially room hire and lunch and so on. These are forums for bringing people together to try to come up with local solutions to issues.

Senator WONG—So what are the 40 demonstration projects in relation to—people in particularly disadvantaged groups?

Mr Foster—The target group are the particular disadvantaged groups. They cover a whole range of industries and possible customer groups. They are predominantly targeted at lone parents, people with disabilities, Indigenous people and so on, the long-term unemployed. Again they are to try to come up with innovative projects to stimulate employer recruitment of people in these categories.

Senator WONG—Are you able to provide us on notice with a list of the 40 projects approved to date?

Mr Foster—Yes.

Senator WONG—So you have the demonstration projects, the portal and the Better Connections workshops. Is there any other activity within the employer demand strategy?

Mr Carters—The demonstration projects that have been approved for funding through this employer demand strategy are actually on our website.

Senator WONG—Okay. So you do not want to provide them; you want me to download them—is that what you are saying? The 40 are all on there?

Mr Foster—As they are finalised and all the contracts completed, they all get placed on the website with a description of what is involved in each.

Senator WONG—That is fine; I am sure I can manage to look at that.

Mr Foster—Within the broad strategy, there is training for employers to effectively manage an ageing workforce.

Senator WONG—What is being done there?

Mr Foster—We are trialling a range of material with the Victorian Employers Chamber of Commerce and Industry, IBM, Spotless et cetera to try to encourage employers to train and retain mature age employees.

Senator WONG—Sorry, I am having trouble hearing some of what you are saying. There was VECCI, IBM—and what were the other organisations?

Mr Foster—The ones to date are Spotless, the Greater Brisbane Area Consultative Committee and Hastings Business Centre Enterprise. They are the bodies we have been dealing with to date.

Senator WONG—This is on the ageing workforce?

Mr Foster—Yes.

Senator WONG—Are these on your website too?

Mr Foster—I am not sure about that. I suspect they are.

Senator WONG—And these are training as opposed to demonstration projects?

Mr Foster—Yes, these are specific additional projects to the demonstration projects. They are to provide training for employers to effectively manage an ageing workforce. So it is another activity which has been identified as being necessary.

Senator WONG—And what has been spent in relation to that aspect of the strategy?

Mr Foster—I am not sure what has been spent to date. What has been allocated is about \$2 million to this activity.

Senator WONG—You are not able to tell me what has been spent to date in that program?

Mr Foster—Only because I do not have it in front of me.

Senator WONG—Could you take that on notice?

Mr Foster—Yes.

Senator WONG—What else?

Mr Foster—We have been conducting a number of Workforce Tomorrow industry breakfasts around Australia.

Senator WONG—How many of those have there been?

Mr Foster—We had completed 21 as of 26 May. There will be a total of 33.

Senator WONG—Who speaks at these?

Mr Foster—A minister. There have been a number of ministers involved: Minister Andrews, Minister Stone, Minister Fran Bailey.

Senator WONG—You said there were 33.

Mr Foster—There will be 33 in total.

Senator WONG—Where have the 21 been and how have you determined the location of those breakfasts?

Mr Foster—The 21 that have been held have been in Canberra, Sydney, Melbourne, Wagga, Brisbane, Homebush, Wollongong, Launceston, Glen Waverley, Adelaide, Hobart, Dubbo, Gosford, Gisborne, Albury, Geelong, Bendigo, Newcastle, Perth, Gold Coast and Tamworth. These are all seen as significant regional centres or areas of employment.

Senator WONG—How was the location for those breakfasts determined?

Senator Abetz—Are you talking about the cities or towns or the actual place in the city or town?

Senator WONG—Sorry, the city or town. I do not want to know who booked the hotels—unless you did, as that might be interesting. But I am sure you did not.

Senator Abetz—I have no interest.

Mr Carters—We have a reference group which we have to assist us in deciding the location for the Workforce Tomorrow breakfasts. They include representatives from ACCI, Recruitment and Consulting Services Australia, NESAs, National Seniors and groups such as that. In terms of the locations, we have actually answered that for you in the answer to question on notice No. W696_06, and that also suggests where ones which have not yet been conducted will be located.

Senator WONG—Did the reference group determine where these breakfasts would be held?

Mr Carters—They provided advice as distinct from making the decision.

Senator WONG—Was it discussed with the minister's office?

Mr Carters—The minister was certainly consulted in terms of what was recommended by the advisory group.

Senator WONG—Was there any alteration to the recommendation of the advisory group?

Mr Carters—To our knowledge there were no changes, but we will take that on notice.

Senator WONG—Paragraph (i) states:

Where possible an Australian Government Minister will attend each breakfast.

Have there been any breakfasts where a government minister has not attended?

Senator Abetz—How come I missed out on this free breakfast?

Senator WONG—Senator Abetz wants to know how come he missed out on a free breakfast.

Mr Carters—The two locations where a minister did not attend were Hobart and Launceston.

Senator WONG—Senator Abetz, I am appalled!

Senator Abetz—That is why I want to know why I missed out on a free breakfast. Thank you for raising that matter. I can assure you that will be pursued with great vigour.

Senator WONG—No Tasmanian minister; dear me! So there were two at which a minister did not attend—Hobart and Launceston. No doubt Senator Abetz will follow that up. Were other members of parliament invited to each breakfast?

Mr Carters—Yes, particularly including local members.

Senator WONG—That is at paragraph (i) which states:

Local Members of Parliament and Senators are also invited to each breakfast.

Is that right?

Mr Carters—That is correct, yes.

Senator WONG—Therefore, I presume non-government members and senators were also invited.

Mr Foster—Local members were, in the particular areas.

Senator WONG—So the member for Denison would have been invited. That is Hobart, isn't it, Senator Abetz?

Senator Abetz—It is indeed.

Senator WONG—Was the member for Denison invited to the Hobart session?

Mr Carters—We will have to take that on notice.

Senator WONG—Was the member for Brisbane invited to the Brisbane session?

Mr Carters—We will have to take that on notice.

Senator WONG—Were any non-government senators invited to any of the capital city breakfasts?

Mr Carters—We will check that. We will take it on notice and get back to you later.

Senator McEWEN—Do you have the details of how many people attended each of the breakfasts?

Mr Carters—We do have that.

Senator WONG—Mr Foster, please do not read 21 out.

Mr Foster—No, I will not read out 21.

Senator Abetz—'Don't give enough; give too much.' You will never satisfy Senator Wong.

Senator WONG—I thought he could just annotate W696_06 for us!

Mr Foster—Over 2,300 have attended the 21 held to date.

Senator McEWEN—Have you costed each breakfast?

Mr Foster—No. The total allocation for breakfasts was \$360,000.

Senator McEWEN—For the 21 or for the whole program?

Mr Foster—For the 33 in the whole program.

Senator WONG—Will you be within budget for \$360,000?

Mr Foster—Yes.

Senator WONG—So you are taking on notice the question on invitations to non-government members?

Mr Foster—Yes.

Senator WONG—How is it determined which minister will attend which breakfast?

Mr Carters—It is essentially based on their availability. They have very busy timetables, so they get to as many as they can. Who does what is generally based on that.

Senator MARSHALL—So a few are invited and the ones who can accept attend and the ones who cannot do not? That was really the question: how is the minister determined?

Mr Carters—Essentially, it is Minister Andrews who is initially invited. He will do a certain number of breakfasts and there will be ones that he is not able to attend that Minister Stone will do. There are other ministers who may do others if those two are not available.

Senator MARSHALL—How do they find out about it? Do you invite every minister?

Mr Carters—No. The ministers' offices look at which ones the ministers can attend. Then we start to fill the gaps with other ministers when they cannot attend.

Senator MARSHALL—So you fill the gaps? What I am asking is: how does poor Senator Abetz ultimately get his invitation to the breakfast?

Senator Abetz—I am glad you are drilling down on this, Senator Marshall!

Mr Carters—The local members and senators are invited to the breakfasts in their locations.

Senator MARSHALL—Yes, but Senator Abetz is a minister. How does he get invited?

Senator WONG—Hang on, Mr Carters. Be careful about the evidence you just gave. When you answered the same question to me, you said you would take it on notice as to whether local members and senators were invited to local breakfasts.

Mr Carters—Yes. Sorry, Senator. Local members and senators are invited to the breakfasts and we are taking on notice whether or not that includes both government and non-government members and senators.

Senator WONG—How can local not include non-government?

Mr Carters—It may well. We just have to confirm that. I cannot give you a definite answer there. Basically we are saying that it is led by a portfolio minister when that is possible. If that is not possible then another minister is asked to fill in.

Senator MARSHALL—And that is done by your department?

Mr Carters—We have the secretariat role and the organisational role. In terms of specifically asking another minister to fill in, that would be done by our minister's office.

Senator MARSHALL—How do you determine if the first two ministers who are responsible for the portfolio area are not available? How is it determined which other minister is invited?

Mr Carters—Our ministers determine that.

Senator WONG—Which ministers?

Mr Carters—Ministers Andrews and Stone.

Senator WONG—Yes. I was just checking as you used the plural.

Senator MARSHALL—We got there. So that is who you need to talk to, Minister Abetz.

Senator Abetz—Thank you for that, Senator Marshall.

Senator MARSHALL—We have solved the problem of the missing breakfast invitation.

Senator Abetz—That's good. It is good to see you pursuing the big issues!

Senator MARSHALL—You raised such concern about it that I was feeling guilty for not pursuing it on your behalf!

Senator Abetz—Were you? I appreciate your concern, Senator Marshall. Thank you!

Dr Boxall—Madam Chair, we have some answers to some of Senator Wong's earlier questions.

Senator WONG—Thank you. Before we go to them, I think Senator McEwen had a couple more questions on this issue.

Senator McEWEN—I am curious about the cost of the breakfasts. It works out at roughly \$10,000 per breakfast with the budget. Is that correct?

Mr Foster—It is an average of \$11,275 for the breakfasts.

Senator McEWEN—I can do sums!

Senator Abetz—You must have been able to do some numbers to get here, Senator McEwen.

Senator McEWEN—And there has been roughly 100 or so people at each breakfast?

Mr Foster—Yes. The full cost includes catering, events management, information kits, the publication and so on. It is a full cost; it is not just the cost of the breakfast. It has menus—

Senator McEWEN—Including, I presume, airfares for the public servants who attend?

Mr Foster—No, that is not counted in it.

Senator McEWEN—That is not included?

Mr Foster—No.

Senator MARSHALL—How many people on average have attended each of the breakfasts so far?

Mr Foster—The total that have attended the 21 breakfasts is 2,300.

Senator MARSHALL—What is that on average?

Mr Foster—It is a bit over 100.

Senator MARSHALL—So on average it is \$11,275 per 100 people, for breakfast?

Mr Foster—Yes.

Senator MARSHALL—If you take the maths one step further, what is that on average per head for breakfast?

Mr Carters—Roughly about \$100 per head, Senator.

Senator WONG—What is the name of the events management company?

Mr Foster—That is an in-house activity. We have costed that in—

Senator WONG—Sorry, I thought you said that the—

Mr Foster—The airfares were not costed into it.

Senator WONG—No, I am not asking about that. When you were asked about the cost, you said it was an all-up cost, including catering, brochures et cetera, and I thought you said events management. So I am asking who is providing the events management?

Mr Foster—That is internal departmental people.

Senator WONG—And you are costing that to this program?

Mr Foster—Yes.

Senator WONG—What is the cost of events management?

Mr Foster—The total cost of internal events management is \$70,000 over the 33 breakfasts.

Senator WONG—In the answer to question No. W696, which Mr Carters so kindly reminded me about, what is ‘corporate overheads’ in paragraph (m)?

Mr Foster—I understand that is staffing costs associated with the overall strategy.

Senator WONG—Staffing costs?

Mr Foster—It is IT and—

Mr Carters—IT and general staffing resources.

Senator WONG—So is the events management on top of that or was it part of that?

Mr Foster—I will have to take that question on notice.

Senator WONG—In terms of the break-up you have given me in this answer and the break-up you gave me previously, where does the \$3½ million for the demonstration projects come to? I am referring to the answer, and then your verbal answer today. Can you tell me which of the key components includes the \$3.5 million for the demonstration projects that you gave evidence about today? Is that the first one?

Mr Foster—It is the first one.

Senator WONG—It is under 12.1?

Mr Foster—Yes.

Senator WONG—What is the total spend or funds committed to date under that aspect of the strategy?

Mr Foster—I have given you the actual employer demand demonstration projects. I will have to take on notice the other components of that.

Senator WONG—Take that on notice, but could we do it globally also. Of the \$50 million, how much has been spent or funding committed?

Mr Foster—I will have to take that on notice.

Mr Carters—Could I clarify an earlier question that we took on notice. You asked whether the \$0.5 million Workforce Tomorrow funding was part of the corporate overheads. In fact, it is not part of the corporate overheads.

Senator WONG—No, I did not ask that—did I? I asked whether the events management that Mr Foster referred to was taken up in the \$0.5 million. Is that what you are referring to?

Mr Carters—Yes. The answer to that is that the Workforce Tomorrow breakfasts are actually funded out of the Welfare to Work communication strategy. They are not funded out of the employer demand strategy. So they were not funded out of the corporate overheads of \$0.5 million.

Senator WONG—Now I am very confused. I am sorry; I thought Mr Foster indicated, in answer to an earlier question, that Workforce Tomorrow was part of the employer demand strategy. That was the context of the question. You are saying now that actually it is not part of that?

Mr Carters—It is not funded out of those funds, no.

Senator WONG—Okay. It is funded out of the communication budget.

Mr Carters—Yes.

Senator WONG—I want to talk about the communication budget shortly. I would like to know the terms of the employer demand strategy, what has been spent and what has been committed to date in the various bits, Mr Foster—if that is possible. Chair, you wanted to go back to the previous witness?

CHAIR—Yes, we have some answers ready, I believe.

Senator Abetz—Yes. I can table question on notice W669_06, with a whole lot of attachments. I have not been able to get to the bottom of why that was not tabled with the other answers, other than it would appear that there was some oversight in the minister's office. So apologies to the committee for that.

Senator WONG—I appreciate you following that up, Minister.

Ms Golightly—I have the hard copy of the employment services code of practice document that Senator Wong asked for.

CHAIR—Thank you.

Ms Golightly—I also have the figures in relation to employer incentives. From 1 July 2003 until 21 April 2006, the amount spent on the wages subsidy part of the employer incentives is approximately \$166.8 million, and the amount spent on other employer incentives is approximately \$8.3 million.

Senator WONG—Have you got that under a time series in that document, Ms Golightly?

Ms Golightly—No—

Senator WONG—That is just a point in time, is it?

Ms Golightly—It is the total over the life of the current contract. Earlier this morning, one part of another question you asked in relation to the JSCI was whether we had had any legal advice in relation to Job Network members being able to update records. I am advised that we have no record of any legal advice on that matter.

Senator WONG—Are you tabling the document in relation to the employer incentives?

Ms Golightly—No, they were just numbers that I have been handed. Also, Mr Manthorpe has an answer to one of your other questions.

Mr Manthorpe—This morning you asked us a question about privacy provisions in the employment services contracts. I can advise you that privacy clauses in the contracts have consistently protected personal information, in accordance with the act, since the beginning of Job Network. The basic obligations applying to Job Network members have remained the same throughout that period but have been updated to reflect changes to the Privacy Act, including the introduction of the national privacy provisions—or the NPPs—which apply to the private sector, which were effected in December 2001. That amendment was reflected in the second Job Network contract. So, in short, there have been privacy provisions along the lines of the current ones in the contracts right through.

Senator WONG—Could you table that, Mr Manthorpe?

Mr Manthorpe—I have just read it out. I have paraphrased what I have got.

Senator WONG—Could you read it out again? It is my fault; I was distracted.

Mr Manthorpe—Privacy clauses in the employment services contracts have consistently protected personal information in accordance with the Privacy Act 1988. The basic obligations on the Job Network members have remained the same throughout the life of Job Network in relation to privacy; although the contractual clauses were updated to reflect changes to the Privacy Act, including the introduction of the national privacy provisions—or the NPPs—which apply to the private sector, which were effected in 2001. Those changes were therefore reflected in the second Job Network contract that was applicable at that time. So, in short, there have been privacy provisions along the lines of those currently applying throughout the life of the contracts.

Senator WONG—I have a brief question about the employment services code of conduct. Ms Golightly, do you remember which question on notice this was referred to in?

Ms Golightly—I believe it was W679-06.

Senator WONG—Well done. What part of the code of practice could potentially be offended by inappropriate use of a wage subsidy?

Mr Manthorpe—It would depend on what the inappropriate practice was on the part of the Job Network member, but I think it would probably be the first part of the code of practice, which I hope you now have in front of you. It is the one about upholding the integrity and good reputation of employment services by acting with honesty, due care and

diligence, avoiding any practice or activity which could reasonably be foreseen to bring employment services into disrepute and so on.

Senator WONG—I thought from part (e) of the answer that there would be some more specific reference to the use of job seeker accounts and wage subsidies. This is a general proposition about acting honestly.

Ms Golightly—That is correct. The specific guidance in relation to 100 per cent wage subsidies is the change in policy that we mentioned earlier. But, in terms of considering somebody's behaviour under a contract, we have to refer to the actual contract materials. That is what we have just given you to complete the picture.

Senator WONG—I have not actually got it yet, but I am sure I will get it at some point. The secretary has indicated that it has been tabled. I want to ask about evaluation of the effectiveness of the Welfare to Work package. The previous budget included an evaluation and monitoring allocation of \$11.2 million over four years, I think. Has that been altered in the current budget round?

Mr Carters—No, it has not.

Senator WONG—Can you tell me how the government proposes to evaluate and monitor the Welfare to Work package? Firstly, there is \$2.2 million for the 2005-06 year. Can you tell me what that has been spent on or what activities has that been funded by?

Mr Whittingham—Most of the activities to date on developing the evaluation strategy have gone to the staff who are conducting and preparing for the evaluation, but also for some survey activity.

Senator WONG—For survey activity?

Mr Whittingham—Yes. Part of the Welfare to Work evaluation will include a longitudinal survey of income support recipients, which will be used to provide information that cannot be provided through administrative data. So some money has been spent on preparing for that survey in terms of the design and also the conduct of the first wave.

Senator WONG—How many staff are engaged in relation to the evaluation and monitoring?

Mr Whittingham—I am happy to take that question on notice, Senator. They are some staff devoted to the activity 100 per cent of the time, but there are other staff undertaking evaluation activities who will spend part of their time, and have spent part of their time, on other activities.

Senator WONG—Sorry—Mr Whittingham, is it?

Mr Whittingham—Yes.

Senator WONG—I do not have a witness list to hand at the moment; could you tell me your position?

Mr Whittingham—Group Manager, Research and Evaluation Group.

Senator WONG—Okay. So that group deals partly with this but also, I presume, with a whole range of other issues?

Mr Whittingham—Yes, that is right.

Senator WONG—It is not focused only on this?

Mr Whittingham—No.

Senator WONG—Were any additional staff employed to deal with the Welfare to Work evaluation and monitoring?

Mr Whittingham—Sorry, Senator, I didn't catch the first part of your question.

Senator WONG—You are in research and evaluation.

Mr Whittingham—Yes, that is right.

Senator WONG—Okay. In that group, I presume you not only deal with the Welfare to Work evaluation and monitoring but also have other projects.

Mr Whittingham—Yes, that is right.

Senator WONG—My question was: as a result of the budget allocation for the 2005-06 year, were any additional staff employed by your group for the purpose of evaluation and monitoring of Welfare to Work?

Mr Whittingham—I think we would have to take that question on notice. We have certainly recruited staff in the relevant period, but many staff are engaged in a range of activities and so I think we would have to take that question on notice.

Senator WONG—Mr Whittingham, who else is specifically involved, other than you, in the Welfare to Work evaluation and monitoring? Is there anyone else?

Mr Whittingham—There are a range of staff in the group who are either directly or indirectly working on the evaluation, and that will change from time to time in the course of the evaluation, which lasts this financial year plus the next three financial years.

Senator WONG—We are nearly at the end of the first financial year, for which you budgeted \$2.2 million for this, so what has been done?

Mr Whittingham—We are preparing a detailed evaluation strategy. We have been spending a considerable amount of time working out the data requirements and ensuring that the administrative databases are going to be in place to collect the information which is required. We have also designed and implemented a longitudinal survey which will be used to supplement the data that is available through the administrative data systems.

Senator WONG—Did you use a consultant to develop the longitudinal survey?

Mr Whittingham—Yes, there were several consultants used in the design phase, and the conduct of the survey has been contracted out.

Senator WONG—Did the jobs for the design and the conduct of the survey go to tender?

Mr Whittingham—I will just check.

Senator WONG—Mr Whittingham, we are going to have to break in any event. What I would like to know is the expenditure on both consultants and others, and any other activities under the evaluation program, for want of a better term, or measure. So maybe when we come back after this break you might be able to provide me with that information, if that is possible.

Mr Whittingham—Okay. We will see what we can do.

CHAIR—The committee will resume at four o'clock.

Proceedings suspended from 3.00 pm to 4.08 pm

Ms Golightly—Following the questions about the financial breakdown of financial case management, we have figures on the departmental side of a total over the four years of \$23.5 million for the departmental appropriations. For the administered appropriations, it is a total of \$25.7 million over four years.

Senator WONG—And the \$23.5 million is over the same time frame?

Ms Golightly—Yes.

Senator WONG—Is that departmental appropriation only for DEWR?

Ms Golightly—No. That is for Centrelink. It comes through us as the purchasing agency.

Senator WONG—So is that the total amount of moneys for both DEWR and Centrelink on the development and administration of that policy?

Ms Golightly—Yes.

Dr Boxall—Senator Wong, do you want to move on to the next answer?

Senator WONG—No. I thought there were a number of other things I was asking about the financial case management. Can you tell me what the \$23.5 million comprises?

Ms Golightly—Basically, it is to cover Centrelink's costs, but I think it includes some of the other things you were talking about earlier—payments to the NGOs, for example, to provide these services. It would also include money for Centrelink to conduct training, to conduct tenders—that sort of stuff.

Senator WONG—But there are no tenders on this, are there? I thought they were just registering NGOs.

Ms Golightly—I understand that they set up a panel where they registered, yes. There would still have been some costs associated with that.

Senator WONG—Were there any IT costs, to your knowledge?

Ms Golightly—I am not aware, but that might be a question for Centrelink.

Senator WONG—So the NGO payments are included in the \$23.5 million?

Ms Golightly—Yes.

Senator WONG—I think Mr Carters said it was \$650,000 or thereabouts. Is that right?

Ms Golightly—Yes, that is correct.

Senator WONG—Is the administered appropriation of \$25.7 million broken down?

Ms Golightly—No, except by year. We have a breakdown by year.

Senator WONG—And it is how much?

Ms Golightly—In 2006-07 it is \$5.7 million, in 2007-08 it is \$6.4 million, in 2008-09 it is \$6.7 million and in 2009-10 it is \$6.8 million.

Senator WONG—Presumably, the estimation of the costs that would be expended through this administered appropriation was DEWR's. Is that right?

Ms Golightly—As I understand it, Centrelink do the costings, and normally everyone's costings go through the department of finance.

Senator WONG—So these are not your costs per se. You have not estimated the expenditure that this is predicated on?

Ms Golightly—No, not that I am aware of.

Senator WONG—That is Centrelink, is it?

Ms Golightly—Yes.

Mr Carters—Yes. Centrelink negotiated the costs with the department of finance.

Senator WONG—Is there anything further on that?

Ms Golightly—No.

Senator WONG—Thank you.

Dr Boxall—Mr Foster would like to correct the cost of the breakfasts.

Mr Foster—Before the break, I gave you an estimate of the cost of the breakfasts of \$360,000. I have since been advised that that figure is out of date and the estimate is actually \$509,000.

Senator WONG—\$509,000 on 33 breakfasts?

Mr Foster—Yes.

Senator MARSHALL—What does that break down to as an average per head? I now understand why you are so disappointed about missing out on an invitation, Minister.

Senator WONG—You should have seen the breakfast.

Senator Abetz—I am not sure that opposition senators were invited, Senator Wong.

Senator WONG—No. I am guessing, actually.

Senator MARSHALL—So we are up around \$170 a head now?

Mr Foster—That is possible.

Senator MARSHALL—Can you do that for me and let me know?

Senator Abetz—We can, yes, but not now.

Senator WONG—Can you give us a breakdown of the \$509,000?

Mr Foster—I have not been given the breakdown, but I will take that on notice.

Senator WONG—So you are not able to tell us?

Mr Foster—I do not have the breakdown of the \$509,000.

Senator WONG—Does anybody else have it?

Mr Foster—Not in this room, no.

Senator Abetz—I am sure we can take that on notice, but I would imagine there would be huge expense from sending out invitations, getting lists off organisations as to who to invite, loudspeaker systems and hiring of those sorts of facilities. I imagine there would be considerable costs.

Senator WONG—Will you take the breakdown of the \$509,000 on breakfasts on notice for me, Mr Foster? I think you said in this answer that invitations for the breakfasts were extended to chief executives, proprietors et cetera from a range of small, medium and large businesses, that you purchased address lists and that you also consulted ACCI and their state bodies. Were local members or the minister's office consulted or asked to provide names for invitation?

Mr Foster—I am not sure. The answer that was provided to the question on notice talks about, as you have said, purchase of lists for large, medium and small businesses. It says the department consulted with:

... the Australian Chamber of Commerce and Industry, State Chambers of Commerce and Industry, and industry associations such as National Seniors, Recruitment Consulting Services Australia, and the National Employment Services Association ...

Senator WONG—I have the answer in front of me.

Mr Foster—I have no further information at my fingertips about whether we consulted beyond the list that was in the answer.

Senator WONG—So you are not able to tell me whether the invitation list was the subject of consultation either with one of the relevant ministers or with a local member or members in the location in which the breakfast was held.

Mr Foster—No.

Senator WONG—No, you cannot tell me, or—

Mr Foster—I do not know the answer to the question.

Senator WONG—Perhaps you could take that on notice. Is it clear what I am asking for?

Mr Foster—Yes.

Senator WONG—And, Mr Carters, you will get back to me regarding the invitation of local members.

Mr Carters—Yes. If you would like, we can give you a breakdown of the \$2.2 million in Welfare to Work funds expenditure for this year, which you asked for before the break.

Senator WONG—That would be useful. Would you prefer to do that on notice?

Mr Carters—Okay.

Senator WONG—I am asking whether you can do that now or you will have to do it on notice.

Mr Carters—We can do that now.

Senator WONG—I had not quite finished with Mr Foster, but he has gone away again. Now I have lost my place. We were talking also about the employer demand strategy. There

was something else on that I wanted to know. You were going to give me a breakdown of the expenditure and committed funds on that to date.

Mr Foster—Yes. I have taken that on notice.

Senator WONG—You are not able to do that today?

Mr Foster—No.

Senator WONG—I would like to know, regarding that half a million dollars for breakfasts, which bit of the components or strategies itemised at paragraph (m) that comes under.

Mr Carters—I said before that the funding for the Workforce Tomorrow breakfasts came out of the communications strategy not out of the employer demand strategy.

Senator WONG—That is right: you did tell me that. And the 40 projects of 3.5 come under the first—is that right?

Mr Foster—Yes.

Senator WONG—I want to come to communications shortly, Mr Carters, but let us deal first with Mr Whittingham, who has been waiting. Thank you, Mr Foster. I have not got any further questions for you.

Mr Whittingham—We have put together a breakdown of the \$2.2 million for the Welfare to Work evaluation in 2005-06. The first element of the expenditure goes to consultancies. We had a consultancy with Data Analysis Australia. It was for longitudinal survey design advice. That was \$32,000. That was a select tender where we had three quotes. The reason for select tender was that we needed to have specific expertise in longitudinal survey design. There was another sort of consultancy for \$5,000. That was Dr Bob Breunig. He also provided expert advice on longitudinal survey design and he was selected on the same basis as the previous advisers—in other words, his expertise in longitudinal survey design.

We will spend \$452,000 this financial year on the actual longitudinal survey fieldwork. It is currently in the field and the work will be completed before the end of June. That service is being provided by the Social Research Centre, and the basis for selecting that provider was that we had invited four organisations off the DEWR research panel with proven expertise in longitudinal survey design to tender for that project and there was an open tender for the research panel.

Senator WONG—You said you invited people with expertise in longitudinal design of surveys, but the \$450,000 contract is not for the design of the survey; it is for the implementation.

Mr Whittingham—The implementation—yes, that is right.

Senator WONG—Did that go to open tender or select tender?

Mr Whittingham—People were invited from our research panel, but there was an open tender for organisations to be on the research panel.

Senator WONG—Did all four research panellists tender for this project on invitation?

Mr Whittingham—My advice is that three of the four attended.

Senator WONG—Sorry; go on.

Mr Whittingham—There were some administrative costs associated with running the survey. Salmat, who have the mail contract for the department are there—\$25,000—and so are Green and Green, who also have a departmental contract. Green and Green assisted with running a hotline associated with the survey and following up what we call inviting people to opt in—writing to people with silent phone numbers and following up to see if they would be willing to participate in the survey.

Those are the expenses on consultancies associated with the longitudinal survey. The remainder of the activities and expenses relate to departmental staff. Those activities have changed in nature over the course of the year, but effectively we have had around 11 or 12 people in full-time equivalents working on the evaluation over the course of the financial year.

Senator WONG—11 or 12 full-time equivalents?

Mr Whittingham—Around 11 or 12 people working full time.

Senator WONG—Is that at any one time?

Mr Whittingham—At any one time there would be that level of activity and it remains so.

Senator WONG—The primary evaluation strategy is this longitudinal survey—is that a correct analysis?

Mr Whittingham—The longitudinal survey is a component.

Senator WONG—What are the other components of the evaluation strategy?

Mr Whittingham—In broad terms, the evaluation strategy will have three main elements: the first is ongoing monitoring and quick analysis and reporting of what is happening in the key Welfare to Work populations—

Senator WONG—Sorry, Mr Whittingham, I am having trouble hearing you. Could you possibly speak up a little and I will try and do the same because I know people have similar problems with me sometimes.

Mr Whittingham—Sorry for that. The evaluation strategy has three broad strands: one goes to monitoring on a regular and real-time basis of what is happening in the populations. The third strand really goes to—

Senator WONG—The first one was ongoing monitoring?

Mr Whittingham—Yes, of the Welfare to Work implementation and what is happening in the key Welfare to Work populations—the income support populations.

Senator WONG—Is that the longitudinal survey?

Mr Whittingham—The longitudinal survey will be combined with administrative data to answer those questions.

Senator WONG—I am sorry I interrupted you. You had three planks. One was ongoing monitoring of the Welfare to Work implementation.

Mr Whittingham—That is right.

Senator WONG—What was the second?

Mr Whittingham—The second strand will involve a range of activities which will go to answering the question of how effective the Welfare to Work package as a whole has been in achieving the policy objectives of increasing participation and reducing welfare dependence. There will be an overall assessment and evaluation of how those objectives have been achieved.

Senator WONG—What is the third?

Mr Whittingham—The third strand will look at the effectiveness of individual components—for example, employment preparation, which is a distinct new initiative. We will be looking very carefully at those initiatives in terms of how effective they are and how they contribute to the overall effectiveness of the package.

Senator WONG—They are not unreasonable words, but I am actually interested in what you are going to do in order to do ongoing monitoring to determine the overall effectiveness and to determine the effectiveness of individual components in the package. What are the practical methods by which you are going to undertake these strategies? You have mentioned one, which is the longitudinal survey, and I can accept that that probably goes to, maybe, a number of those strategies.

Mr Whittingham—It will.

Senator WONG—That is one mechanism. What other mechanisms, activities et cetera will the department undertake in order to, as you say, do the ongoing monitoring?

Mr Whittingham—If you are asking about the types of methodologies we might be using, they would encompass qualitative surveys and other surveys and econometric and more detailed statistical analyses of outcomes and how they relate.

Senator WONG—Have you determined what outcomes you are going to assess for the purposes of quantitative assessment?

Mr Whittingham—At the higher level, the main indicators for Welfare to Work are the participation in employment, the proportion of the income support population on full rate and part rate and the proportion of the working age population on working age income support. They are the broad indicators.

Senator WONG—That might be a macro variable for the state of participation. It is not necessarily an evaluation of the policy. There may be a range of other mechanisms and other issues such as growth in the global economy and the growth in the domestic economy, which might impact on the participation rate. What other outcomes are you looking at to assess the effectiveness of this policy?

Mr Whittingham—The questions you are asking really go to the detailed evaluation strategy, which is still being formulated.

Senator WONG—There are two things about that. One is that you are one month off spending presumably \$2.2 million on this evaluation strategy, so I would have hoped we might have gone a little further than saying that we do not have the detail. The other point is that, as I understand it, Dr Boxall in a public lecture has indicated an evaluation plan was in

preparation and on its way to the minister. So are we not at least at the point where you can indicate to me some of the outcomes against which Welfare to Work will be assessed?

Dr Boxall—That is true.

Senator WONG—So far I have been told the participation rate.

Dr Boxall—No. The indicators that Mr Whittingham just referred to are on page 69 of the portfolio budget statements and your follow-up question was that those are macro indicators; what is happening with respect to the impact of Welfare to Work? Mr Whittingham said that that is why they are doing this data analysis; that is why they are doing the longitudinal survey and also the econometric techniques to look at what impact Welfare to Work will have on those particular performance indicators.

Senator WONG—Will the longitudinal survey target people who are the subject of Welfare to Work particularly—that is, people with a disability and parents who would otherwise have been on the parenting pension or the DSP and will now be on Newstart? Are they a specific target group in your longitudinal survey?

Mr Whittingham—The longitudinal survey is designed to pick up basically data that will not be available through the administrative systems. There will be more than one cohort. There is a survey currently in the field that will pick up people who are currently on income support prior to the introduction of the changes and there will be cohorts post the implementation of those coming onto income support for the first time, with a specific focus on the priority groups for Welfare to Work.

Senator WONG—Of your longitudinal survey.

Mr Whittingham—The evaluation in general will focus on those four priority groups and those four priority groups will also be picked up or, if you like, will be the focus of the longitudinal survey as well.

Senator WONG—So they will be the focus of the longitudinal survey; okay. Is the survey in the field now similar or identical to the survey you intend to utilise post Welfare to Work implementation?

Mr Whittingham—Do you mean in terms of the different waves or cohorts I have been referring to?

Senator WONG—I just want to know if the questions will be the same.

Mr Whittingham—There is no intention to change the survey over the cohorts, although there would be scope to finetune the questions in subsequent waves and subsequent cohorts.

Senator WONG—Is the current survey on the website?

Mr Whittingham—I have just been advised that there are details of the survey on the website, but certainly the instrument itself is not there.

Senator WONG—Could you provide the current survey instrument, please, on notice? This is the one that is in the field, so you are already utilising it. This is the survey you are currently utilising. Is there any difficulty in providing that?

Mr Whittingham—We can provide that.

Dr Boxall—We will take it on notice.

Senator WONG—Does it deal with whether or not employment has been obtained? We can do it this way, Dr Boxall: if there is going to be an issue, I can just ask every question I have listed here instead of looking at the survey.

Dr Boxall—I am sorry?

Senator WONG—Does it deal with whether employment has been obtained?

Mr Carters—Yes, it does. In fact, the value of the longitudinal survey is that it looks at people post employment; so once they have left the income support system, it still tracks them.

Senator WONG—Does it deal with the nature of the employment obtained?

Mr Carters—Yes, it does.

Senator WONG—Occupation, skill level, number of hours and basis of employment?

Mr Carters—Certainly a number of those.

Mr Matheson—It collects a range of key demographic information about the survey recipients. Certainly, it includes details of their employment as part of it. As Mr Carters says, that is one of the key elements of the survey. It allows us to see what happens when people leave the income support system and you can track income support recipients through the administrative data, but the survey gives us that capacity to look at what happens to them after they leave.

Senator WONG—Yes, I understand that. I was asking what detail it seeks on the nature of the employment obtained—for example, occupation, skill level and the basis of employment, that is, full time, part time, permanent, casual or temporary.

Mr Matheson—I would have to take that on notice. I do not think I can answer that off the top of my head. I know there is quite a deal of information around the employment outcomes that people may get.

Senator WONG—How long does it go for? For a longitudinal survey, I presume you interview or you ask someone to get information from someone over a period of time?

Mr Matheson—Yes.

Senator WONG—What is the period?

Mr Matheson—We are proposing to run it in five waves six months apart. The first wave that is in the field at the moment is establishing baseline data. We will also be introducing new cohorts into the survey in future years to pick up people who might come in down the track. But essentially we are running it as a longitudinal survey over five waves six months apart.

Senator WONG—But presumably the same people will not be interviewed or surveyed all five times?

Mr Matheson—Some of them will be.

Senator WONG—Some of them will be?

Mr Matheson—Yes. Those people who we are interviewing in the surveys in the field at the moment will be tracked the whole way through.

Senator WONG—They are like your control group, as it were, are they?

Mr Matheson—Not exactly, because some of these may be affected by Welfare to Work and some of them may be in grandfathered groups. If, for example, some of the people in the survey are in a DSP grandfathered group then they are an ideal candidate for a control group. Others of course will be, if you like, to use the jargon, part of the treatment group as we go forward.

Senator WONG—Does the baseline group—I think that was the term you used—include parents or people with a disability who have volunteered for participation?

Mr Matheson—There will probably be some in there. It is a population survey. It is a survey of the income support population. I would imagine the numbers who volunteered would be relatively small in terms of their representation in the sample, but that is not something I can tell you and we would not know the answer to that, I do not think, until we do the analysis down the track.

Senator WONG—Presumably you would be tracking employment earnings and the periods of employment through this survey?

Mr Matheson—Yes.

Senator WONG—Is there anything in the survey to look at the issue of financial disincentives such as from the EMTR that someone might face?

Mr Matheson—We will certainly look at barriers or perceived barriers to employment. One would imagine some people might have views on that. So part of the value of this survey is that you can actually get to some of those issues that you cannot get to through the administrative—

Senator WONG—But do they have to self-select that issue?

Mr Matheson—I do not think we would be asking leading questions. I probably cannot answer off the top of my head, as I say, to the exact questions.

Senator WONG—What about the availability of affordable child care?

Mr Matheson—We will be asking questions about child care. That is obviously a major component of Welfare to Work, so it will be a feature of the evaluation.

Senator WONG—And whether it is affordable or not?

Mr Matheson—Again, I cannot tell you that off the top of my head.

Senator WONG—What about impact on work and family for parents or carers?

Mr Matheson—Yes, we are asking questions around work and family.

Senator WONG—And, for people with disabilities, the impact of factors such as the availability of affordable and appropriate transport?

Mr Matheson—Again, that is one I cannot tell you from memory.

Senator WONG—As part of the evaluation of the longitudinal survey, is there engagement with relevant community organisations about their views of the effectiveness of the implementation of Welfare to Work?

Mr Matheson—Not specifically around the survey, but certainly through, for example, the Welfare Reform Consultative Forum.

Senator WONG—I figured that it would not be in the survey, because I presume you are not surveying organisations, although you might be.

Mr Matheson—No, it is income support.

Senator WONG—I am asking whether or not the department will be involving community sector organisations in the evaluation process and, if so, how?

Mr Matheson—As I said, through the Welfare Reform Consultative Forum we are certainly consulting with stakeholders, including community organisations.

Senator WONG—So it is through that forum. Remind me of who is on that.

Mr Carters—That has representation from quite a broad grouping of individuals who are members of particular organisations but they are selected in their own right. It includes representatives from NESAs, from the Salvation Army, from the Smith Family, from ACCI, from an employer representative, Mission Australia, NATSEM and a number of others.

Senator WONG—But that is the group I think you consulted with in terms of some of the detail of the policy, is it not?

Mr Carters—They are the group that the ministers use as a core referral group for policy and implementation issues.

Senator WONG—I am more interested in whether any community organisations that might be involved, I suppose, at a more grassroots level would be consulted or involved in the evaluation process.

Dr Boxall—Some of these people come from organisations at the grassroots level. Also there has been some discussion at the Welfare Reform Consultative Forum on the evaluation process.

Senator WONG—What does ‘there has been some discussion’ mean?

Dr Boxall—It means that the minister has discussed with them the proposed evaluation process and given them some idea of what he is planning to do.

Senator WONG—Is there any mechanism other than the discussions with the Welfare Reform Consultative Forum for community sector organisations to be involved in the evaluation process?

Mr Carters—It is actually the Welfare to Work Consultative Forum; the name has changed.

Senator WONG—I am sorry; I thought I wrote down what you said.

Mr Carters—Yes. It is not what I said but what my colleague said. Essentially, the intention is to use that forum as the means by which those consultations will be undertaken. In

terms of the evaluation, there will be future opportunities to discuss issues with providers et cetera, many of whom are also community organisations.

Senator WONG—Mr Whittingham, has your group or anyone in your group, Mr Carters, actually done, or has DEWR conducted its own research or analysis of, research of other parties in relation to the disincentive effect of high effective marginal tax rates on the Welfare to Work transition?

Mr Whittingham—Work of that nature has not been done in my group.

Mr Carters—No.

Senator WONG—So you have not done any of your own research into this. Have you undertaken any analysis of the research conducted by others such as NATSEM, Gregory or anyone else?

Mr Carters—We have certainly looked at the NATSEM analysis and they have obviously looked at effective marginal tax rates and we have provided appropriate briefing to our minister.

Senator WONG—Is it the case that high effective marginal tax rates constitute a disincentive for the Welfare to Work transition?

Mr Carters—Effective marginal tax rates are one component of the very complex and broad issue of moving people from welfare into work. The amount of funding that the government has spent on services to assist people to move into employment is very substantial and likely to impact very positively on the opportunities for people to move into work.

Senator WONG—Is DEWR implementing any programs or policies which reduce the disincentives to people to move from welfare to work which are posed by high effective marginal tax rates?

Mr Carters—Again, it is the same answer. Essentially the substantial number of services that the government has invested in are there to move people as quickly as possible from income support into work.

Senator WONG—Do the services address the EMTRs?

Mr Carters—The services are there to assist people into work. If people move into the 15 hours of work, which is the objective of Welfare to Work then the disincentives will be overcome. Essentially people will be better off.

Senator WONG—I think you indicated earlier today that there is no guarantee that a person with a disability will not be worse off.

Mr Carters—I indicated that, in terms of effective marginal tax rates, they will be better off. The issues which I assume that you were referring to there were other—

Senator WONG—Costs of working.

Mr Carters—Costs of working, yes, which people with a disability may incur. Certainly, in terms of effective marginal tax rates, with their gross earnings and so on with 15 hours of work, they will be better off.

Senator WONG—Does DEWR provide any policy advice in the context of whole-of-government formulation of tax and welfare policies on the issue of effective marginal tax rates?

Mr Carters—From time to time, we have, yes.

Senator WONG—I thought you said you had done no research on that issue.

Mr Carters—It depends on what you mean by ‘research’. Certainly we were involved in some analysis of that as we developed the Welfare to Work package, yes.

Senator WONG—This is the package which actually moved people with a disability onto an income support payment where they lost more of every dollar earned.

Mr Carters—This is the package where we moved people from welfare into work.

Senator WONG—Not yet. This is the package by which you propose to put people onto the dole, which has a higher taper rate than the DSP.

Mr Carters—We are assisting people into employment, whereas at the moment the proportion of people on DSP who are in employment at any one time is only 10 per cent.

Senator WONG—Do I take it from that therefore that DEWR does not regard an increase in financial disincentive to work as problematic?

Dr Boxall—No, you cannot take that.

Mr Carters—The services which are being offered are very considerable—hundreds of millions of dollars. The intention is to move people very quickly from welfare to work.

Senator WONG—Did DEWR provide any advice in the context of interagency discussion on the issue of EMTRs faced by low-income Australians, particularly those moving from welfare to work prior to the current budget?

Mr Carters—Certainly, in the development of the Welfare to Work package, there was analysis of effective marginal tax rates.

Senator WONG—What about the 2006-07 budget?

Mr Carters—No.

Senator WONG—I have some questions on supported wage. Is that in outcome 1?

Ms Golightly—Again, it depends on the nature of the question but it could possibly be.

Senator WONG—I need to get a bit of a sense of what the historical funding is for the last few budgets for SWS.

Ms Golightly—Certainly. Ms Curran has those figures.

Ms Curran—The expenditure last year was just over \$2 million and the expenditure year to date is about \$1½ million. If you want further historical figures I will have to take that on notice, I think.

Senator WONG—Can you tell me what the 2004-05 SWS budget was? I have been given a figure of \$3 million but that may not be correct

Ms Curran—It was \$2.05 million in 2004-05.

Senator WONG—How many assessments were there in that year?

Ms Curran—We assisted 3,425.

Senator WONG—I presume you do not have figures prior to 2004-05 here.

Ms Curran—I am sorry, I do not have them here.

Senator WONG—I might have to put them on notice. Have you gone to tender in relation to the current supported wage system places?

Ms Curran—For the assessors, yes. In fact I can give you some historical data. I can give it to you for a number of years, from 2000.

Senator WONG—I would appreciate that.

Ms Curran—In 2000-01 it was 2,820. It was 3,480—

Senator WONG—What are you giving me?

Ms Curran—I am giving you the number of people assisted under the scheme.

Senator WONG—Okay. But you do not have the actual budget?

Ms Curran—I have expenditure figures for those years.

Senator WONG—Can we do 2000 first?

Ms Curran—In 2000-01 the number of people assisted was 2,820 and the expenditure was \$1.89 million. In 2001-02 people assisted was 3,418 and expenditure was \$1.73 million. In 2002-03 people assisted was 3,010 and expenditure was \$1.74 million. In 2003-04, 3,425 people were assisted and expenditure was \$1.87 million. And you have the figures already for 2004-05.

Senator WONG—Which were 3,425 and \$2.05 million. Is that right?

Ms Curran—That is correct.

Senator WONG—The numbers vary; it is not a direct correlation between numbers assisted and the expenditure. For example, there is a variance between 2003-04 and 2004-05 in terms of the actual expenditure but the number assessed—if that is the correct phase—is identical.

Ms Curran—It can change. There have been some changes to the scheme but I am not across the detail, I am sorry.

Senator WONG—When did you go to tender for assessors?

Ms Curran—Earlier this year. That tender process is still in train, so our ability to talk about the tender process is constrained by appropriate advice.

Senator WONG—You are trying to cut me off before I have even gone anywhere, Ms Curran. I might not have even been going there. I was actually going to ask: is this the first tender in the SWS?

Ms Curran—For assessors, it is the first time we have gone to tender in this way; that is correct.

Senator WONG—From my understanding, haven't some of these assessors been performing this for quite a number of years?

Ms Curran—That is correct.

Senator WONG—Some for up to 10 years—would that be right?

Ms Curran—I do not know whether they have been performing it for 10 years, but I do understand that some of them have been performing it for quite some time.

Senator WONG—So why the decision to tender it out at this point?

Ms Curran—It was to meet the Commonwealth procurement guidelines.

Senator WONG—Okay. So how many current assessors do you have?

Ms Curran—It is a couple of hundred. I do not have the exact figure with me.

Senator WONG—When is this tender to be concluded?

Ms Curran—The tender is just about to close, then we will have our assessment process.

Senator WONG—When is that going to be finalised?

Ms Curran—I would say late June.

Senator WONG—I presume the request for tender went through the normal processes and was made public et cetera.

Ms Curran—Yes.

Senator WONG—Has the SWS rate of assessment been reviewed at any point in the last 10 years?

Ms Curran—With this new arrangement, we have actually changed the figures for the assessment rates. The current average is around 750. But we do not know what it will move to because we have a tender process.

Senator WONG—You had better not say. I did not ask her that! So the 750 was the previous average per assessment. I was actually looking at the hourly rate. It used to be done on an hourly rate, did it?

Ms Golightly—Can I just check that we can talk about that? It might go to—

Senator WONG—This is in the past.

Ms Golightly—Yes, but it still may go to pricing. Can we take that on notice and check what we can tell you from a probity perspective?

Senator WONG—Sure; that is fine. It might be better to do it that way. I will give you some questions on notice. Is the disability open employment service you too, Ms Curran?

Ms Curran—Yes.

Senator WONG—We had a discussion last time about the capped and uncapped places. I have to remember a lot of things, so I might get this wrong, but my recollection is that the uncapped places are those for people who have participation requirements under the new Welfare to Work legislation—

Ms Golightly—Correct.

Senator WONG—and the capped were for what I suppose you could call voluntary participants.

Ms Golightly—It is also for participants who, through a JCA assessment, do not have a capacity to work more than 15 hours. In fact, I think it is less than eight.

Senator WONG—I am sorry; maybe there are three categories then. There are grandfathered DSP recipients, and they would access the capped program.

Ms Golightly—Yes, unless they volunteered to go to Job Network, for example.

Senator WONG—Then you have those who will be assessed as having below 15 hours capacity.

Ms Golightly—Yes. Perhaps it is easier to take it the other way and say—

Senator WONG—Why don't you explain to me who gets uncapped and who gets capped?

Ms Curran—The uncapped stream is essentially for—

Senator WONG—Ms Curran, you speak really quickly, which is great but I have to write it down so I can ask you something.

Ms Curran—That is an incentive for me! The uncapped stream is essentially for those with a partial work capacity, and the capped stream is for those who might have a work capacity of less than 15 hours or more than 30 hours.

Senator WONG—More than 30?

Ms Curran—Yes, they will go into the capped stream if that is the most appropriate intervention for them. I am not sure what additional information you would like.

Senator WONG—What about a non-obligated recipient, a disability support pensioner who is grandfathered? Do they fall into—

Ms Curran—The capped stream.

Senator WONG—Can you remind me of the current allocation for the capped and uncapped streams?

Ms Curran—The Welfare to Work announcement was for 21,000 places. We have just gone to tender for 21,000 over three years for the uncapped stream. The capped stream is by far the most significant part of the program.

Senator WONG—The capped?

Mr Carters—The capped stream. The number is in the order of 38,000 places.

Senator WONG—Over three years?

Ms Curran—No, that is nominal places at this point in time. We have 38,000 places.

Senator WONG—Will there be 21,000 over three years or every three years?

Ms Curran—Over three years. The capped program is the most significant part of the disability open employment services.

Senator WONG—Has there been a recent reallocation of 4,000 capped places to the uncapped program?

Ms Curran—The department recently advised providers that all the Welfare to Work places would be in the uncapped stream.

Senator WONG—I think at last year's budget estimates or subsequently you indicated to me that there was some proportion going to capped and some to uncapped.

Ms Curran—That was our understanding at the time.

Senator WONG—So you have recently advised people that all the 21,000 places will go to the uncapped stream.

Ms Curran—That is correct.

Senator WONG—What precipitated that?

Ms Golightly—There was a clarification process between us, DOFA and PM&C following the budget process last year.

Senator WONG—When did you determine that this was occurring? You say 'clarification', Ms Golightly. Do I understand, because you told me, and I assume you would not have told me if you did not believe it was correct—

Ms Golightly—That is correct.

Senator WONG—that DOFA and PM&C said, 'Actually, no—they are all going to uncapped.'

Ms Golightly—Yes.

Senator WONG—When did they tell you that?

Ms Golightly—I do not have the date here.

Senator WONG—This year?

Ms Golightly—My memory is that it happened last calendar year, but we were already in a purchasing process. We have made it very clear now in the contracts that there are 21,000 places, all in the uncapped stream.

Senator WONG—So you went to purchase for the 21,000 on the basis of the allocation between the two different streams?

Ms Curran—We said in purchasing it was up to 21,000 uncapped places.

Senator WONG—What is the current unmet demand in the capped places?

Ms Curran—We have no accurate measure of unmet demand but we know that, since the introduction of case based funding, the capped stream's performance has increased markedly.

Senator WONG—What does that mean?

Ms Curran—Prior to the introduction of case based funding the benchmark for utilisation, the KPI, was 75 per cent. We have increased that to 90 per cent, and current utilisation is in the order of 95 per cent.

Senator WONG—Meaning you are utilising 95 per cent of your places?

Ms Curran—That is right, and with a stronger focus on outcomes the sector has responded and is finding employment for the people utilising their services.

Senator WONG—Did DEWR do any projections as to program demand resulting from the Welfare to Work initiatives?

Mr Carters—As part of the process of determining the number of places which were appropriate in the Welfare to Work package, there was work done on analysing how many places might be appropriate. An important thing to note is that the previously capped places included providing services for people on DSP who volunteered to be assisted through the disability employment services who, because of the current rules for DSP, could work between 15 and 29 hours a week. Moving that group into uncapped places actually frees up some places in the capped stream for people able to work less than 15 hours a week. That was part of the process in determining how many places should be provided.

Senator WONG—So what did you come up with?

Mr Carters—We came up with advice to government, and government made the decision about the Welfare to Work places.

Senator WONG—Which was the right figure—your figure or PM&C's figure?

Dr Boxall—The right figure was the government's figure.

Senator WONG—The government told us two things, I think.

Dr Boxall—No.

Senator WONG—I do not know that that is right, Dr Boxall, but I won't go there. What process was used to determine what the program demand would be for the uncapped places?

Mr Carters—It was basically an estimate of the numbers of people who would go into the 15-to-29 hour work capacity group and the need to guarantee them a service through the disability employment services if that was the appropriate referral service for them.

Senator WONG—So how many people will go into the 15-to-29 hour work capacity group?

Mr Carters—We do not have that information with us. We will have to take that on notice.

Senator WONG—You appear to be indicating that you have made some analysis of what proportion of this population will fall into the zero-to-15, 15-to-29 and 30-and-over categories. That is what I am interested in.

Mr Carters—We will take that on notice.

Senator WONG—Thank you. If I could have that over the forward estimates period, that would be useful.

Mr Carters—Okay.

Senator WONG—What is the budget allocation for 2006-07 for the capped program, Ms Curran?

Ms Golightly—We have the total budget, but we are going to have to take on notice the break-up between capped and uncapped for you.

Senator WONG—You do not have that?

Ms Golightly—Not that break-up, no.

Senator WONG—Basically, I want to know, over the current budget year and the forward estimate period, what the allocation between those two streams is.

Ms Golightly—We will take that on notice.

Dr Boxall—As you would be aware, the government do not publish forward estimates in that detail. They just publish for the budget year.

Senator WONG—Yes. This is a Senate estimates committee and I can actually ask questions beyond the statements, I think.

Dr Boxall—That is fine and we have said we will take it on notice. However, both that question and your follow-up question to Mr Carters a minute ago ask for forward estimates over the four years, which are not published by the government.

Senator WONG—If you are not able to provide it, I am happy to have it for 2006-07 in regard to both of those questions.

Dr Boxall—Thank you.

Senator WONG—What proportion of DSP recipients does the department project will be referred to the PSP?

Ms Curran—We had that discussion before. We have to wait and see what happens from 1 July with the JCA process.

Senator WONG—In the early intervention engagement pilot, what proportion of participants were referred to PSP?

Ms Curran—It was a relatively high proportion.

Senator WONG—Was it 25 per cent.

Ms Curran—It was of that order. That was for the new claim population.

Senator WONG—In that pilot, what proportion was referred to DOES?

Ms Curran—For new claims, it was in the order of 16 per cent.

Senator WONG—Was that for new claims?

Ms Curran—Yes, DSP new claims.

Senator WONG—How does that compare with the normal rate of referral?

Ms Curran—To PSP or to DOES?

Senator WONG—DOES.

Ms Curran—This was a specific pilot testing—

Senator WONG—Sure, but I would have thought it was higher. I am asking what your experience has been in terms of the rate of referral to DOES.

Ms Curran—Currently, I think that, of those who volunteered and want to work and go to Centrelink, Centrelink would refer perhaps 30 per cent to DOES. I would need to check that figure.

Senator WONG—Thanks, if you could let me know that. Post 1 July or even currently, on what basis will an assessor make a decision to refer a person with a disability with a partial work capacity to a disability open employment service as opposed to Job Network?

Ms Golightly—In general, it is to do with their ongoing support needs. Ms Curran might be able to give you more detail on that.

Ms Curran—Perhaps my colleague Mr Sandison might like to add to this. The JCA needs to take into account such things as employment barriers, health related barriers, personal non-vocational barriers and level of education. That would influence the referral to DOES, to Job Network or to PSP or vocational rehabilitation.

Senator WONG—I am just interested at the moment in DOES. Is the key criteria, as Ms Golightly said, the level of ongoing support required?

Mr Sandison—One of the primary requirements is about the capacity of the disability specialist services to assist the person achieve the 15-hour a week capability. That is one of the requirements. If a person has an immediate capacity of 15 hours or more, they may be a Job Network participant. If they need the specialist disability assistance, there are the specialist Job Network members who specialise in disability and/or DOES and rehab. If, within the two-year period, they needed to be assisted in their capacity to get to the 15-hour mark, that would be when the specialist services of Disability Employment Network or the Commonwealth rehab services would be the appropriate referral.

Senator WONG—Is disability employment network the disability open employment services or is this something else I do not know about?

Dr Boxall—It is the new name.

Ms Golightly—It is the new name for DOES.

Senator WONG—Oh, it is a new name. I did not know that. We have had CWCA become JCA and now DOES is what?

Mr Sandison—Disability employment network.

Senator WONG—DEN. So is there somewhere that I can look at that will set out the characteristics that might lead to a referral to DEN?

Mr Sandison—We can provide that to you.

Senator WONG—I would appreciate that. Is that part of the JCA or is this at a high-level policy level?

Mr Sandison—No, as Ms Curran said, it is part of the assessment process but one of the key elements is around the specialist support that will be provided to people with disabilities where they need it. The ongoing support needs primarily is a decision process around somebody who might end up staying on disability support pension and therefore be a voluntary job seeker, if they need that long-term ongoing support.

Senator WONG—Has the department engaged an organisation called Banks and Associates to prepare a report in relation to a Job Network member?

Ms Caldwell—Could I ask you to repeat the end of the question, please?

Senator WONG—Do you have any contracts or arrangements with Banks and Associates?

Ms Caldwell—No.

Senator WONG—Did such a firm prepare a report for DEWR in relation to Wesley Uniting at Ulladulla?

Ms Golightly—This may go to one of the investigations that is currently under way, so I will just double-check. No, we did not engage that company but they may have been engaged by another party. We would need to check that.

Senator WONG—Who would the other party be?

Dr Boxall—We do not know because we did not engage them.

Senator WONG—Ms Golightly said that she might need to check. Is it another government agency?

Ms Golightly—Not that we are aware of, but I would need to check.

Senator WONG—Did DEWR conduct a regular monitoring visit to the Ulladulla office of Wesley Uniting Employment in May 2005?

Ms Golightly—I would need to check that with our New South Wales office.

Ms Caldwell—We would not have the full details of every monitoring check that we conduct on an ongoing basis in the room.

Senator WONG—No, but there have been sanctions applied in relation to this office, have there not?

Dr Boxall—The bottom line is that we are unable to answer in the room whether we conducted a monitoring visit in May 2005. We would have to check with our New South Wales office.

Senator WONG—Sure. I think it has been quite clearly made public that there has been an investigation and some sanctions in relation to these offices.

Dr Boxall—That is a separate question.

Senator WONG—I am asking this: have sanctions been applied in respect of Ulladulla Wesley Uniting?

Ms Golightly—I can confirm that sanctions have been applied to Wesley. I am not at liberty to discuss the detail of those sanctions without first checking with that organisation.

Senator WONG—I was not going to ask you anything further on that. What I am putting to you is the suggestion that there was a regular monitoring visit conducted in 2005 and I am asking what the conclusions were as a result of that monitoring visit.

Ms Golightly—I am sorry, but I am going to have to confirm whether the visit was undertaken in 2005 and from there I can work out what happened as a result, if it was undertaken.

Senator WONG—Did such a visit occur; what was the result, if it occurred, of the monitoring; and what action was required of the Job Network member as a result? Similarly,

was there any investigation into the Narooma office prior to any sanctions being imposed on the organisation?

Ms Caldwell—That last question—you said was there any examination or investigation of Narooma or a site visit?

Senator WONG—I am sorry?

Ms Golightly—We are asking for clarification.

Senator WONG—I see. Any of the above.

Dr Boxall—We will take it on notice.

Senator WONG—I want to ask a natural justice question, I suppose. Obviously, it is a concerning issue, the fact that moneys have had to be paid back. But was there a process whereby staff in agencies which were being investigated for alleged misclassification or however you want to term it—was a process whereby the relevant staff members were given the opportunity to respond to those propositions?

Dr Boxall—This is staff in Job Network members?

Senator WONG—Correct.

Ms Golightly—I am very limited in what I can say about the fraud investigation. In terms of any contract management issues, we always give the organisation concerned the chance to respond and to explain to us what the situation was and provide any details which support their case.

Senator WONG—When you say ‘fraud’, you do not mean fraud as in a DPP referral; you are referring to it in the context of the departmental unit.

Ms Golightly—Yes, that is—

Senator WONG—I just want to make that clear.

Ms Golightly—Yes. This is prior to the referral to DPP. We do a formal investigation first.

Senator WONG—Yes. I am just asking. So the organisation is given the opportunity to respond, but the nature of the allegations here are about presumably specific reclassifications. So in that context is it the department’s approach to ensure that there is some natural justice applied to the staff concerned?

Dr Boxall—Just to clarify: where it is a contract management issue, it is as Ms Golightly outlined that, in the event there is a contract management issue about a job seeker classification upgrade, the organisation is given a chance to explain and put their side of the case before the remedy is taken under the contract. On the separate issue which was mentioned, fraud investigation—and we are not saying whether there is a fraud investigation or not—that is a separate issue.

Senator WONG—I am asking whether there is an approach by DEWR when investigating to ensure that individuals concerned have a right to respond to allegations that are being made, or is it only at an organisational level?

Dr Boxall—It is at an organisational level. If it is a contract management issue, it is at an organisational level.

Senator WONG—Has there been any loss of employment by staff at Wesley Uniting at Ulladulla or Narooma?

Ms Golightly—You would have to ask Wesley Uniting.

Senator WONG—You are not aware of that?

Dr Boxall—It is not for us to answer. Wesley is responsible for hiring staff.

Senator WONG—And you do not want to provide me with any information about what sanctions, if any, were applied?

Ms Golightly—I cannot, without checking with the organisation involved first.

Senator WONG—In spite of your consideration of these issues, did the investigations team or DEWR interview job seekers?

Ms Golightly—As part of determining whether any practice has been appropriate or not, yes. Part of our research or review would involve possibly interviewing job seekers.

Senator WONG—Were any job seekers interviewed in the Narooma area?

Ms Golightly—We are not aware that we have, as part of contract management, but I am checking that. I cannot discuss what may or may not have happened in a fraud investigation which may or may not be underway.

Senator Abetz—Now that is clear.

Senator WONG—Very.

CHAIR—I think you have covered every base there.

Ms Golightly—I try.

Senator WONG—It is difficult for me to know whether I should press or not because I do not know if this is one of the ones where they are investigating. Has DEWR interviewed staff at Narooma Wesley Uniting?

Ms Golightly—I do not believe in connection with contract management issues, but I am checking on that.

Senator WONG—But you are not commenting on any potential investigation.

Ms Golightly—That is correct.

Senator WONG—Are any of the sanctioned providers listed as receiving contracts for 2006-09?

Ms Golightly—Yes.

Senator WONG—So there was not a view that there should be any effect on their ongoing contract?

Ms Golightly—That is not the foregone conclusion. Any behaviour or performance under the contract is taken into account before new contracts are awarded.

Senator WONG—I have a general question. Does your IT system enable you to determine which questions were altered in a JSCI reclassification by Centrelink or by a Job Network member?

Ms Caldwell—I will check as to the individual question. What the IT does allow us to do is to determine which user—so whether Centrelink or Job Network—effected the most recent update to the JSCI at a particular point in time associated with when a claim was lodged.

Senator WONG—You can identify by logon who completed the last update, but can you identify which questions were altered in the last update?

Ms Caldwell—Subject to confirmation, I do not think we can do that. Of course, when a Job Network member user looks at a JSCI they have to ensure the accuracy of the entire response, not just of a particular field.

Senator WONG—So it is not possible for you to track through and work out in relation to a JSCI update who changed which question?

Ms Caldwell—We can determine with certainty who updated, agreed to and confirmed the accuracy of the JSCI in its entirety corresponding with a claim for payment against the department.

Senator WONG—But not necessarily which question was altered.

Ms Caldwell—The questions are part of the entire questionnaire when one confirms that it is complete in all respects.

Ms Golightly—I have our technical people checking, and they will confirm that.

Senator WONG—Does it enable you to differentiate between an entry into a record where no update is made and an entry where the record is updated?

Ms Caldwell—We will check that with the technical people. I believe it does, but we will check it.

Senator WONG—Maybe by the time we come to the next estimates all your investigations will be completed, but then you will probably tell me it was a confidential settlement and you cannot talk about it. Has the department done any demand assessment or considered the provision of Job Network services for people who are not on income support, for example, because their partner earns too much?

Ms Golightly—They can volunteer, but I am not aware that we have done any demand projections on that.

Senator WONG—Can they volunteer? You don't pay outcome payments for them, do you?

Ms Golightly—No, but I do not believe a Job Network member is precluded from assisting those people if they wish.

Senator WONG—But they are not going to do it if they are not going to get paid for it, are they?

Ms Caldwell—If they are unemployed—and non-allowee youth are fully Job Network eligible as well—

Senator WONG—Sorry?

Ms Caldwell—Young unemployed people who are not in receipt of income support are also fully Job Network eligible. That is a class of people who are eligible for all services and for outcomes even though they are not currently in receipt of income support.

Senator WONG—So young unemployed people are fully Job Network eligible. Until what age?

Mr Carters—Until they are 21. Basically while they are eligible for youth allowance, because that is means tested on their parents' income and assets. So as not to disadvantage them because of their parents' income and assets, they are fully Job Network eligible.

Senator WONG—Even if they do not receive youth allowance?

Mr Carters—That is correct.

Senator WONG—Do the Job Network members know that?

Mr Carters—They certainly do, yes. It is in their contracts in terms of payable outcomes.

Senator WONG—A number of people have indicated that they have been told that they were not eligible. It was a genuine question. It was in a regional area.

Ms Golightly—I am guessing that the confusion might be between what type of Job Network service they are eligible for.

Senator WONG—I thought you said they were fully eligible, no?

Ms Golightly—No. that is just the particular category that this group—

Senator WONG—I am talking about young people at the moment.

Ms Golightly—Sorry.

Senator WONG—So who else is eligible if they are not on income support?

Mr Carters—Fully Job Network eligible? Just the young people. The job search support only services are available to most people not on income support as long as they are not in employment or full-time education.

Senator WONG—Not on income support?

Mr Carters—Yes.

Senator WONG—Is that just the kiosk thing?

Ms Golightly—That is part of it.

Senator WONG—But no job seeker account type thing?

Ms Golightly—No, and no intensive support customised assistance.

Senator WONG—Okay. Have you done any consideration of the cost impact of extending Job Network eligibility beyond unemployed people not on income support?

Mr Carters—Not really.

Senator WONG—So there is no consideration of what the cost impact of that might be or any demand?

Dr Boxall—Not that I am aware of.

Mr Carters—No, there have been a couple of individual initiatives which give people not on income support access to some of the services. For example, under the Welfare to Work initiatives there are 5,000 employment preparation places available for parents and mature age people not on income support. There are some NEIS places available for mature age people not on income support. So there are a few categories like that, but otherwise no.

Senator WONG—Surely the objective is to increase participation across the board, not just amongst income support recipients?

Dr Boxall—The question is who pays for it. The government's position is that they are prepared to pay outcomes for people who are on benefits, apart from the categories that have been mentioned: young people up to 21, people who are not in a job and not in full-time education—the government will pay a job placement fee if they are placed—and, as Mr Carters mentioned, a couple of very small groups.

Senator WONG—Mr Carters, can I go back to something and make sure I got it down right amongst all my scribbled notes. You said that the budget papers indicated the number of people who were projected to be breached for the eight weeks. Did you indicate that to me?

Mr Carters—The 4,000 to 5,000 people who are likely to be eligible for financial case management is in the budget paper.

Senator WONG—Can you take me to where that is? Is it PBS or No. 2?

Mr Carters—It is No. 2. It is on page 174.

Senator WONG—So 4,000 to 5,000 per year to access financial case management. I thought you gave me a figure as well of the number that was predicted to be the subject of the eight-week penalty. Was that 14,000?

Mr Carters—It was 18,000, and you subtracted one from the other.

Senator WONG—Thank you. Is DEWR proposing that Work for the Dole recipients work as crossing attendants on school crossings?

Mr Parsons—Not as yet.

Senator WONG—So it is not a DEWR policy to fill the shortage of crossing attendants by Work for the Dole participants.

Dr Boxall—DEWR does not have policies. But it is not a government policy.

Senator WONG—Okay. You are the policy department for this program. Is that one of the parameters or objectives?

Dr Boxall—We cannot disclose what might be policy objectives. That is the sort of advice we give to government.

Senator WONG—Are you encouraging people who you pay to do Work for the Dole to engage those people as crossing attendants?

Dr Boxall—No. The government policy is not to do that.

Mr Parsons—One of the problems is that, across the various states, there are different—

Senator WONG—I am not advocating it, Mr Parsons, but you can tell me why it is not a good idea.

Mr Parsons—I am not saying it is a good idea or a bad idea; I am just saying that one of the policy tenets of Work for the Dole is that it cannot displace paid labour. Across the various states, crossing attendants are either voluntary or employed by the relevant roads and traffic authority. Where they are voluntary, Work for the Dole would be a possible alternative. In states where they are actually employed by the relevant roads and traffic authority, we have a conflict with that policy position.

Senator WONG—Are you aware that the federal member for Cowper has called for the shortage of crossing attendants to be solved by Work for the Dole?

Dr Boxall—We have seen newspaper articles to that effect.

Senator WONG—Just to go back, Mr Carters, that 18,000 was over what period of time?

Mr Carters—That is an annual estimate.

Senator WONG—And the 4,000 to 5,000 is an annual estimate as well?

Mr Carters—Yes.

Senator WONG—The Voluntary Work Initiative: I am not sure whose this is, but \$2.1 million is budgeted for 2006-07 and 2007-08 and it states, 'Provision for this funding has already been included in the forward estimates'. Can someone explain to me where that is? I think this was originally a FaCS program, wasn't it?

Ms Golightly—It was, and it came over to DEWR in late 2004. It would have been in the estimates of whatever year that measure was introduced. This year's budget confirmed that it would continue to be there for another two years.

Senator WONG—Is Volunteering Australia the primary recipient of this funding currently?

Mr Parsons—Yes, it is.

Senator WONG—When was VA advised of this rollover of the funding?

Ms Golightly—Following the budget announcement. I think that was a week or two ago.

Senator WONG—Okay. I would like to go to the communication strategy in advertising, Mr Carters. In the 2005-06 budget, just remind me what was budgeted in relation to Welfare to Work advertising.

Mr Carters—Mr Manthorpe will take those questions.

Mr Manthorpe—The 2005-06 year was the one you were asking for, Senator?

Senator WONG—It is \$8.51 million, is that right?

Mr Manthorpe—It is \$8.7 million for 2005-06.

Senator WONG—All right. Could I take you to W688-06?

Dr Boxall—Yes, Senator; we have it.

Senator WONG—So \$28.94 million was allocated as part of the Welfare to Work package over three years?

Mr Manthorpe—Yes.

Senator WONG—The answer to the question refers to \$8.51 million for 2005-06. You are now indicating it is a bit more than that—\$8.7 million. Is that right?

Mr Manthorpe—Yes, Senator. In fact, the difference can be accounted for in terms of a corporate overhead that amounts to about \$200,000 that was not included in that response, 688-06.

Senator WONG—Can you tell me the expenditure to date?

Mr Manthorpe—I would have to figure that out. I have the expenditure broken down by various components. Not much of that has been expended to date. Most of it will be expended—

Senator WONG—Are the components the ones that you have provided here in 688?

Mr Manthorpe—They would certainly be the main ones, yes. There is no significant change that springs to mind between those and now.

Senator WONG—So you have still got just over \$20 million for communication over the three years?

Mr Manthorpe—We still have most of the \$29 million over three years.

Senator WONG—But there is \$8.7 million budgeted for this year, so over the subsequent two years you still have an additional \$20-odd million for communication?

Mr Manthorpe—Yes.

Senator WONG—Have you engaged consultants, agencies or other contractors for this purpose, the communication budget?

Mr Manthorpe—Yes.

Senator WONG—Could you provide me with an updated list and the value of the contract?

Mr Manthorpe—I can tell you who they are now. We have engaged Open Mind Research Group to conduct research related to the campaign; we have engaged Vinten Browning as the creative agency for the campaign; and Quay Connection as a public relations firm.

Senator WONG—What is the value of the contracts awarded in relation to those three groups?

Mr Manthorpe—I would have to check that.

Senator WONG—Could you get that?

Mr Manthorpe—Yes.

Senator WONG—How long will it take us to get that?

Mr Manthorpe—I can tell you straightaway that the public relations agency contract is worth \$160,000.

Senator WONG—Which one is that?

Mr Manthorpe—That is Quay Connection. The budget for the research agency for this financial year is \$641,000, and the budget for the creative agency for this financial year is \$273,000.

Senator WONG—And that one is Vinten Browning?

Mr Manthorpe—Yes.

Senator WONG—Did all of those go to tender?

Mr Manthorpe—They went to select tender.

Senator WONG—So that means you pick who you ask to tender?

Mr Manthorpe—The way this works in government advertising is that we select from a list provided to us by the government communications unit in the Department of the Prime Minister and Cabinet.

Senator WONG—Are you involved in that, Minister?

Senator Abetz—I used to be, as Special Minister of State.

Senator WONG—It is the spin unit, isn't it? They are the ones who have all the money.

Senator Abetz—It is a communications unit.

Senator WONG—Up to \$250 million, not including the amount you have just given me—pretty good!

Senator Abetz—That is right. The business of government requires a lot of communication. I just wish the federal opposition were as critical of state government advertising as they are of Australian government advertising.

Senator WONG—You've got to find a better line, Minister.

Senator Abetz—When you find that the New South Wales state Labor government has a significant advertising budget, you start wondering why the opposition are so concerned about Australian government advertising but are strangely silent on New South Wales state government advertising.

Senator WONG—A quarter of a billion dollars just in the 2006-07 budget.

Senator Abetz—Yes. Take us to New South Wales and on a comparative basis—

Senator WONG—It is not your money.

Senator Abetz—you will see it is very modest.

Senator WONG—I do not think anybody would regard the Howard government's advertising and communications expenditure as modest.

Senator Abetz—I think they would in comparative terms to Premier Iemma's attempts.

Senator WONG—I have some questions about the research group. Did DEWR request that Open Mind Research Group be provided by Centrelink with some data as to people to contact for the purposes of their research?

Mr Manthorpe—Not exactly. We provided data to Open Mind Research Group of income support recipients. We did not request that from Centrelink.

Senator WONG—You have already got it.

Mr Manthorpe—There are officers in the department with access to that database.

Senator WONG—Did that include the home and mobile telephone numbers and names of income support recipients?

Mr Manthorpe—It would have included contact details. I am not quite sure whether it was mobile phone numbers or not, but contact details of numbers of income support recipients, yes.

Senator WONG—It is the case, isn't it, that this Open Mind Research Group essentially were researching the effectiveness of various messages in an advertising campaign with this group of recipients?

Mr Manthorpe—It would be fair to say that they were researching how best to communicate information about the welfare to work changes, which we think are important to communicate clearly to the public.

Senator WONG—But it was about an advertising campaign in relation to the changes.

Senator Abetz—It is a communication campaign.

Senator WONG—An advertising campaign in relation to the changes. Were they going to prepare advertisements for television and radio?

Mr Manthorpe—There are communication products that have been prepared.

Senator WONG—What are the communication products that they were testing?

Dr Boxall—TV and radio messages.

Senator WONG—About a policy that has already been determined; correct?

Dr Boxall—It is to communicate the policy to people.

Senator WONG—DEWR has the information on these private details by virtue of access to Centrelink databases. Is that how it works?

Mr Manthorpe—By access to databases of income support recipients.

Senator WONG—Are you aware that Centrelink's privacy guidelines indicate clearly that personal information is collected for various reasons; that the personal information can only be collected for a lawful purpose. It then sets out circumstances in which the information is disclosed. For example, it says that the guidelines for the release of personal information are strict. I will read from the Centrelink publication titled *Your right to privacy*, which is available on their website:

The guidelines for the release of personal information are strict. Information may be disclosed to:

- The Department of Employment and Workplace Relations, Department of Family and Community Services ... for functions directly related to the administration of social security law, family assistance law and/or the *Student Assistance Act 1973*. This includes uses and disclosures that allow the Departments to carry out their functions of administering these laws, as well as evaluating and monitoring the delivery of programs and for the conduct of appeals.

Mr Manthorpe, can you explain how it is that providing personal details to test an ad complies with the government's privacy policies?

Mr Manthorpe—Yes, I am happy to do that. Income support recipients, when they apply for income support from Centrelink, are apprised of the notice called the IPP2 notice, the information privacy principle 2 notice. It includes advice to income support applicants and thence income support beneficiaries that 'limited personal information collected from you may be used to conduct customer surveys run by Centrelink, its client agencies or by research organisations on their behalf'.

Senator WONG—Can you provide me with a copy of what you are reading from, or is it in the privacy policy that I was referring to before, because I have that in front of me.

Mr Manthorpe—I do not know if it is in the document you have in front of you, but I am reading directly from the notice that is—

Senator WONG—I would like to see it. I will be clear with you. DEWR giving a private research agency private details of recipients in order to test an ad has been the subject of a number of complaints to my office, so I would like to see what it is you based your legal and, arguably, moral claim on for the provision of this information.

Dr Boxall—Mr Manthorpe has just read out the document to you.

Senator WONG—I would like to see the document if it is a formal document.

Senator Abetz—Even that from which you read does allow DEWR to do things that are directly related to administering and evaluating—and they were two words I wrote down from what you were reading out—

Senator WONG—It says, 'Administering these laws, evaluating and monitoring the delivery of programs.' I do not think an ad is about evaluating and monitoring the delivery of programs.

Senator Abetz—You are talking about advertisements; we are talking about communications. To administer a program, you have to be able to communicate with potential recipients in a meaningful way. If you want to then undertake evaluation work as well in relation to proposed messages as part of the communication, I would have thought that is all covered by what you read out but that which Mr Manthorpe read out makes the case absolutely watertight in the event that there was any doubt.

Dr Boxall—Mr Manthorpe is reading from a one-page sheet which is attached to the application form for benefits. We cannot give you his copy, because he has written on it.

Senator WONG—Is this what you read out, Mr Manthorpe: 'Limited personal information may be used to conduct customer surveys run by Centrelink, its client departments or by research organisation on their behalf'?

Mr Manthorpe—That is it.

Senator WONG—Limited personal information.

Mr Manthorpe—If you have the same document in front of you as I do—

Senator WONG—No, I do not. I just got an extract.

Mr Manthorpe—The note goes on to explain that, if someone does not want to be contacted for that purpose, they can advise the Centrelink free call number and we will not pursue them.

Senator WONG—Does limited personal information include the private phone number?

Mr Manthorpe—It would have included sufficient information to enable us to contact the people.

Senator WONG—Does limited personal information include the person's financial status and the age of their youngest child?

Mr Manthorpe—I do not have an itemised list of the details that were provided, but they would have been sufficient for us to enable a targeted approach to testing the communication messages that we were looking at delivering.

Senator WONG—Is it part of Open Mind Research Group's contract that they can offer a \$50 cash payment in this ad testing?

Mr Manthorpe—Yes, to meet the costs of people who participate in that process.

Senator WONG—Are you aware that sessions to which people were invited were not to discuss their policy but to simply look at their response to an ad?

Senator Abetz—We have gone through this.

Senator WONG—No. I have not asked about what happened in the sessions. I know you are embarrassed about this, Minister, but I am entitled to ask questions.

Senator Abetz—Not at all. Having administered it for five years as Special Minister of State, I am very proud of the way the government conducts itself as opposed to Working Nation type campaigns.

Senator WONG—We are talking about people's private details being disclosed to private companies.

Senator Abetz—No. We are talking about communications campaigns.

Senator WONG—I am asking this: are you aware that the private company to which DEWR gave private details of income support recipients indicated that they were not discussing the government's proposed changes; they were there to do market research in relation to an ad?

Dr Boxall—That is consistent with what Mr Manthorpe read out. The \$50 was apparently to defray the costs of people attending focus groups.

Senator MARSHALL—It's a lot cheaper than breakfast!

Senator WONG—That is true. Did DEWR give any instructions or does the contract outline any restrictions on what Open Mind Research Group can indicate to people when they contact them as to the purpose of the morning tea or afternoon tea?

Mr Manthorpe—I do not know, Senator.

Senator WONG—Who would know?

Mr Manthorpe—I would have to check. I could take it on notice.

Senator WONG—Is there no-one here who would know what is in the contract?

Mr Manthorpe—There is someone here who would know that, and I am going to ask them—

Senator WONG—Okay, I will wait.

Mr Manthorpe—They may know that; I will ask them.

Senator WONG—I will wait.

Ms Golightly—Senator, we are going to need to check a hard copy of the contract. We can come back to you a bit later on that.

Senator WONG—Okay; except that I am nearly finished with this outcome.

Senator Abetz—Would you have more follow-up questions on that or can we just take it on notice?

Senator WONG—I would have more follow-up questions on it. I presume you could provide the committee with a copy of the contract with perhaps some of the commercial-in-confidence bits blanked out. It is already awarded, obviously.

Mr Manthorpe—It is awarded. I would want to take on notice whether or not we can provide the contract.

Senator WONG—On what basis are you taking it on notice?

Mr Manthorpe—I am just not sure what the standard practice is around the provision of contracts.

Senator WONG—There is a bit in the Clerk's advice, I think, about commercial-in-confidence. People might want to look at that. What is the situation in terms of the script and what they are supposed to say to people they contact?

Mr Manthorpe—We are still checking. We don't have the contract here with us; that is the problem.

Senator WONG—Has there been any change to the instructions to Open Mind Research over the course of the contract in relation to what they can or cannot say to income support recipients when they contact them?

Mr Manthorpe—Not to my knowledge, no.

Senator WONG—I suggest that you take some advice on that.

Mr Manthorpe—I will, Senator; if I find that that is incorrect, I will certainly correct the record.

Senator WONG—Do you have a communications branch?

Mr Manthorpe—Yes.

Senator WONG—Is anybody from that branch here?

Mr Manthorpe—Yes.

Senator WONG—Perhaps you could check if there has been any alteration to what the research companies can say or not say to income support recipients over the course of the contract.

Mr Manthorpe—I will take that on notice, Senator.

Senator WONG—Well, I am waiting.

Ms Golightly—We have to go and check the contract. We do not have it here. So we will do it as quickly as we can.

Senator MARSHALL—I know you are checking the contract but you might be able to answer this anyway: does the contract enable the company to obtain information for purposes outside what you have contracted them to do?

Mr Manthorpe—No.

Senator MARSHALL—And that is very clear in that?

Mr Manthorpe—That is my understanding, yes.

Senator MARSHALL—How do you check that?

Mr Manthorpe—The company we are contracting with for research purposes is a reputable research firm that is regularly engaged by government to undertake this sort of work. So I would be very surprised if an issue like that arose or they would be in breach of the contract, and I am sure the repercussions of that would be quite serious.

Senator Abetz—If they were caught, there would be serious consequences. It would be a bit like parliamentarians being caught selling the electoral roll to which they are entitled. Do we run checks to make sure that they don't, and check every parliamentarian's bank account? No, we don't, but there are serious disincentives for parliamentarians to do that. Similarly, with a commercial contract, I would imagine there would be a disincentive.

Senator WONG—I thought it was publicly available.

Senator Abetz—Not certain aspects of it, such as dates of birth, gender.

Mr Manthorpe—The other point is that if we got a complaint that suggested that the company had in some way breached its contract, we would examine that and take that very seriously.

Senator MARSHALL—This is asking the obvious, too: the information that they obtain for the purposes of your contract remain exclusively with it; they cannot then use that information outside that?

Mr Manthorpe—That is right.

Senator MARSHALL—From personal experience, you involve yourself in some of these surveys only to find that the information is used more broadly. You may have also had your letterbox filled with mail that you did not think you were soliciting but at the end of the day you realise that you were. It is fairly common practice within that industry, I would have thought. But you are confident that the contracts are tight enough to ensure that that does not happen?

Mr Manthorpe—Yes, I am.

Mr O’Sullivan—Any entity that contracts with the Commonwealth government is bound by the Privacy Act as if it were an emanation of the Commonwealth too. That provides in and of itself a significant safeguard.

Senator WONG—Could you repeat the first part of that answer?

Mr O’Sullivan—Any entity that engages in a contractual relationship with the Commonwealth is bound by the Privacy Act as if it were an emanation of the Commonwealth.

Senator WONG—I didn’t realise that that was the case. So it is the Privacy Act; what about the privacy policy of Centrelink, which is the original holder of the data?

Mr O’Sullivan—That is just an additional safeguard.

Senator WONG—But that is not transmitted by the contract?

Mr O’Sullivan—Without getting into too much complexity, the Privacy Act applies to private organisations in one capacity—for example, the national privacy principles. But by virtue of the fact that an entity is also engaged with the Commonwealth, the IPPs, the information privacy principles, additionally apply. So you have that additional safeguard.

Senator WONG—Were you going to come back to me on anything apart from this privacy issue, Dr Boxall? I think you have done most of them. With respect to the PSP time frame for referral commencement, I think Ms Curran said it would take her some time. Is that right?

Dr Boxall—That will be taken on notice.

Senator WONG—You have given me the breakdown between administered and departmental appropriations for financial case management. We talked about the communication strategy. You have taken on notice the guide to social security law and the guide for the financial case management. In terms of these other organisations, Vinten Browning and Quay Connection, has any additional private information of income support recipients been provided to those groups?

Mr Manthorpe—Not to Quay Connection, and I don’t think to Vinten Browning either. I would have to check but I am pretty sure there would have been no need to provide it—

Senator Abetz—It would be highly unlikely; I could not imagine any circumstance in which it would.

Senator WONG—The car industry or the Mitsubishi labour adjustment package: does that come under this outcome?

Mr Carters—Yes, it does.

Senator WONG—Mr Foster, are you aware of evidence that was given to the House committee on employment and some press that was generated in relation to the asserted lack of effectiveness of the car industry restructuring?

Mr Foster—No, Senator.

Senator WONG—Evidence was given to that committee that a number of former vehicle employees were in casual or low-paid employment such as delivering chickens. The suggestion made was that the labour adjustment program had been less than successful. Are you aware of these complaints?

Mr Foster—Is this about Mitsubishi, Senator?

Senator WONG—Yes.

Mr Foster—No, I am not.

Senator Abetz—Who presented that evidence to the House committee? Can you give us a reference?

Senator WONG—The *Hansard* of 1 May 2006.

Senator Abetz—Whose evidence was it?

Senator WONG—Mr Camillo's, I understand.

Senator Abetz—Who is he?

Senator WONG—He is the secretary of the AMWU in South Australia.

Senator Abetz—Right; that is the source of the evidence. Thank you for that.

Senator WONG—Do you think that is amusing, Dr Boxall?

Senator Abetz—I just thought I would drill down to ascertain—

Senator WONG—Is that amusing, Dr Boxall? Do you think unions presenting evidence about job losses is amusing?

Dr Boxall—No, I didn't. As a matter of fact, I predicted who it was.

Senator Abetz—It is just a question as to the robustness of the evidence; that is all. I am glad I asked that series of questions to drill down to it.

Senator WONG—Perry Mason, eat your heart out! This generated some press in South Australia, Mr Foster, because obviously we care a lot about our car industry.

Mr Foster—I understand that people are aware of the submission.

Senator WONG—I am interested in the evaluation of the effectiveness of the government's labour adjustment package for Mitsubishi. Have you done an evaluation of what sort of employment people have got, the length of that employment, the type of that employment?

Mr Foster—An evaluation has been done. There was a survey of 200 former workers. My understanding is that to date 72 per cent of workers surveyed are now in employment or training; 18 per cent have left the workforce; and only 16 per cent of the sample are currently still looking for work.

Senator WONG—Of the 72 per cent in employment or training, do you break that down between employment and training? How many are in employment and how many are in training?

Mr Foster—I have that as a combined figure.

Senator WONG—With respect, I am interested in how many of them have got jobs.

Mr Foster—The number placed in employment is the 72 per cent figure—839 in total.

Senator WONG—You told me this was a survey of 200; now you are giving me a figure of over 800. I don't understand.

Mr Foster—There were two separate activities. There was a Mitsubishi evaluation survey, which surveyed 200 former workers. In terms of the actual placements of Mitsubishi redundancies—this is actual numbers, not the survey—the total numbers placed in employment is 839.

Senator WONG—Out of how many?

Mr Foster—1,161 registered with Job Network members.

Senator WONG—And the 839 are of the 1,161?

Mr Foster—Yes. In addition, 22 individuals have been placed in full-time education.

Senator WONG—The total redundancies were more than that?

Mr Foster—Redundancies were 1,337.

Senator WONG—So not everyone went to the Job Network?

Mr Foster—That is right.

Senator WONG—Did you do an analysis of the 839 as to the nature of employment? For example, how much was at a lower wage, how much is casual, how much is permanent, how much is part time, full time?

Mr Foster—I am advised that the answer is no, Senator.

Senator WONG—So we don't have any evaluation of the type of employment these people went into?

Mr Foster—That is right.

Senator WONG—Is it a point-in-time figure—as at a certain date?

Mr Foster—This is as at 19 May.

Senator WONG—Does that mean 839 up to 19 May have entered employment? Do you track exit from new employment?

Mr Foster—No.

Senator WONG—So you don't know how many of the 839 might have got a job but lost it subsequently? I am not trying to confuse you, Mr Foster. As I understand it, you are only tracking entry into new employment, not the ongoing nature of that employment?

Mr Carters—There were actually 1,774 job placements as such—people who were placed in a job of at least 15 hours over a five-day period.

Senator WONG—Out of?

Mr Carters—The 839 figure that you were provided with is the number that actually sustained employment for 13 weeks. So they were paid a 13-week outcome.

Senator WONG—So 839 is a 13-week figure. How many job placements were there?

Mr Carters—1,774.

Senator WONG—So that was more than the number of people made redundant?

Mr Carters—There could be more than one job placement for each individual.

Senator WONG—I worked that out, Mr Carters. I am making the point.

Mr Carters—That was the reason.

Senator WONG—So there are a number of people who would be churning through because they are multiple job placements?

Mr Carters—There are a number of people who would be placed in short-term placements and would gradually get a longer term outcome.

Senator WONG—Any evaluation beyond the 13 weeks?

Mr Carters—No.

Senator WONG—How are we going with the Open Mind Research matter?

Ms Golightly—We are just waiting on one final piece of advice which I think Mr Manthorpe is checking.

Senator Abetz—While we are waiting for that, I have two further answers to table—W699_06 and W709_06.

Senator WONG—I may have questions on those. We have received some answers that you have just tabled, Minister—also some very lengthy answers. There may be questions arising out of these. I assume they can be dealt with under cross-portfolio.

Ms Golightly—Is this about the guidelines on JSCI?

Senator WONG—Yes. Ms Golightly, please proceed on that other matter.

Ms Golightly—My advice is that we did have a script for the consulting company. It was not part of the contract but it was provided to them in writing that advice to them was that they were to tell people they were ringing that they wanted to hold a focus group in connection with government policy and communicating messages to do with government policy. We had a number of focus groups and received one complaint.

Senator WONG—That is less than I receive, Ms Golightly!

Ms Golightly—The person attending in that case was not aware that it would go to actual advertising campaigns. As a result of that complaint, we talked to our legal advisers and we asked the company to from then on give that as an example of one of the ways messages might be conveyed. So we went on from there.

Senator WONG—What do you mean?

Ms Golightly—The script goes to talking to the person about government policy and the best way of communicating government policy, the types of messages that should be involved, and the revision went on to say ‘and this could include things such as advertisements’.

Senator WONG—Do you have a copy of the original script and the amended script?

Ms Golightly—I do not have a copy here.

Senator WONG—Are you able to provide that perhaps tomorrow morning?

Ms Golightly—We would need to get it for you in the morning.

Senator WONG—I am happy with that. Those who are able to answer questions on that might be able to be here under cross-portfolio. But you are always there, anyway, Ms Golightly!

Ms Golightly—I am always here!

Proceedings suspended from 6.25 pm to 7.32 pm

CHAIR—The committee will reconvene. I welcome officers from the Office of the Employment Advocate. Good evening, Mr McIlwain.

Senator MARSHALL—Good evening, Mr McIlwain.

Mr McIlwain—Good evening, Senator.

Senator MARSHALL—You probably will not be surprised to realise that I am after a fair bit of statistical information, specifically from 27 March onwards, but I also have some questions on the pre-Work Choices regime as well, which I will go to. At present, how many AWAs are in operation?

Mr McIlwain—Based on our methodology, we estimate that, as at 31 March 2006, 538,120 AWAs were in operation.

Senator MARSHALL—Why only as at 31 March?

Mr McIlwain—We typically compile those sorts of statistics on a quarterly basis, so the latest quarterly information we have is for the March quarter.

Senator MARSHALL—So really you have no information in that respect about the new regime of Work Choices.

Mr McIlwain—I do, yes.

Senator MARSHALL—What can you tell me about that, then?

Mr McIlwain—I have statistics for April 2006. In April 2006, 6,340 workplace agreements covering 10,257 employees were lodged with the OEA.

Senator MARSHALL—How can there be more employees than there are AWAs?

Mr McIlwain—I am sorry; these are total workplace agreement numbers—collective agreements—

Senator MARSHALL—I am sorry. I thought you were giving me the figures for April alone.

Mr McIlwain—Yes, they are. I have figures covering all forms of workplace agreements for the month of April 2006. They are workplace agreements of the six types, five collective agreement types and—

Senator MARSHALL—I am sorry; I misunderstood you. I thought you were indicating that there were 6,340 AWAs across 10,257 employers.

Mr McIlwain—No.

Senator MARSHALL—So the employer number is the total for all agreements in April?

Mr McIlwain—Employee numbers covered by those agreements total 10,257.

Senator MARSHALL—Of which 6,340 are AWAs?

Mr McIlwain—No. The total figure is 6,340. If you bear with me for one moment, I will give you a disaggregated figure. In April 2006, 6,263 Australian workplace agreements were lodged with the OEA, 43 employee collective agreements were lodged—

Senator MARSHALL—That is what we call a non-union collective agreement?

Mr McIlwain—that is a collective agreement between the employer and a group of employees—16 union collective agreements were lodged, 16 employer greenfields agreements were lodged, two union greenfields agreements were lodged and zero multiple business agreements were lodged, which makes a total of all agreement types for the month of April of 6,340.

Senator MARSHALL—This is where I get confused. What is the 10,257 figure then?

Mr McIlwain—The figure of 10,257 represents the total number of employees covered by all six—although there were zero multiple business agreements—agreement types.

Senator MARSHALL—How many employees are then covered by union collective agreements?

Mr McIlwain—I believe that I may have that here, if you bear with me for one moment.

Senator MARSHALL—Sure. I will be seeking the same information for non-union, union greenfields agreements and employer greenfields agreements?

Mr McIlwain—In the month of April, there was union collective agreement coverage of 1,239 employees.

Senator MARSHALL—And non-union collective agreements?

Mr McIlwain—I beg your pardon. Employee collective agreement coverage of employees was 2,735.

Senator MARSHALL—And union greenfields agreements?

Mr McIlwain—At the time of lodgment, there were zero employees covered by union greenfields agreements because of their nature.

Senator MARSHALL—So that would be the same for employer greenfields agreements?

Mr McIlwain—For a reason known to the employers, we were advised that 20 employees were covered by employer greenfields agreements at the time of lodgment.

Senator MARSHALL—How can that be?

Mr McIlwain—That is a good question. We believe it to be an error in the information provided at lodgment.

Senator MARSHALL—Have you followed up on that? That could not be. My understanding of that clause in the legislation means that there cannot be an employee—

Mr McIlwain—That is correct. We will take that on notice and tell you what action we have taken.

Senator MARSHALL—Of the 16 agreements, is that 20 all in one of them or is it spread across a number?

Mr McIlwain—I do not have that information with me, I am afraid.

Senator MARSHALL—Will you take that on notice and get back to us?

Mr McIlwain—I will.

Senator MARSHALL—Will you also provide the explanation of why that figure has come up? If it is an error, that is fine.

Mr McIlwain—Of course, yes.

Senator MARSHALL—That brings me to the question: how do you actually verify lodgment of a greenfields agreement to ensure that it is, in fact, a greenfields agreement?

Mr McIlwain—We rely on the lodgment declaration, which the employer must make at lodgment, which must be made truthfully. It must be properly executed. There are, in fact, criminal penalties for lodging a false declaration.

Senator MARSHALL—I thought you said to me that the error would have been in the application by the employer. If that was the case, even if there was an error, how did that get past?

Mr McIlwain—The employer has somehow provided a statistic as to the number of employees covered by the agreement. I am not able to answer exactly how that information was provided at the point of lodgment.

Senator MARSHALL—We can assume that it was provided by the employer, because you have said it was. What is the process of testing the veracity of that? If the employer has indicated that it is ‘employees’ and it has got past anyway, it raises some questions about the verification process.

Mr McIlwain—It does not raise questions about the lodgment process. The OEA relies on the declaration, which the employer is bound to make truthfully and correctly. I am not able to say how the figure of 20 employees—whether it was in one agreement or the other—entered our system, but I will take that on notice and see, indeed, exactly how that information entered our system at the point of lodgment.

Senator MARSHALL—I am interested to know anyway—and perhaps you will take me through this now, if you can—the process that you go through in testing the veracity of the information that is provided to you in the declarations. You get a declaration from an employer with an application for a greenfields agreement. What do you do then?

Mr McIlwain—We rely on the declaration, for which there is a very high standard in that a false declaration can attract a penalty of up to 12 months imprisonment.

Senator MARSHALL—That is it.

Mr McIlwain—Built into the system are some protections against an employer when lodging an agreement online without properly making a declaration. We have a manual system for postal lodgment.

Senator MARSHALL—Just explain that to me. When lodging electronically, the agreement will not be accepted unless every box is filled in. Is that what you are telling me?

Mr McIlwain—The declaration must be completed and properly executed. The declaration must be made by clicking the box that says, ‘I declare and submit this declaration.’ Unless the employer goes through that process, the declaration cannot be lodged and then we are not able to issue a lodgment receipt, which is the regime that the act establishes for the process. With paper lodgments, we check to make sure that the lodgment declaration is present and that the employer has made an effective declaration—that it has been properly executed. If the declaration is not made—if it has not been executed—we reject that paper lodgment.

Senator MARSHALL—That begs the question again: will your system in terms of lodging a greenfields agreement accept a number put in the number of employees’ box?

Mr McIlwain—I am not able to answer that question. It should not be possible for an employer to provide that information, but one way or another that information was provided. I need to check and take that question on notice.

Senator MARSHALL—In a manual paper lodgment, apart from looking to see whether the lodgment has been signed, do you check the information in the lodgment?

Mr McIlwain—Yes.

Senator MARSHALL—Do you check the agreement that is being lodged?

Mr McIlwain—We check to see that the employer has lodged or has annexed an agreement to the lodgment declaration form.

Senator MARSHALL—So you check to see whether there is an agreement attached.

Mr McIlwain—We check to see that there is an agreement attached.

Senator MARSHALL—Do you look at the agreement?

Mr McIlwain—No.

Senator MARSHALL—Not at all?

Mr McIlwain—We are not required to look at the agreement. That is a specific provision of the legislation.

Senator MARSHALL—With AWAs, in terms of their lodgment, do you look at them?

Mr McIlwain—No.

Senator MARSHALL—In terms of union collective agreements, do you look at those agreements?

Mr McIlwain—No.

Senator MARSHALL—Non-union collective agreements?

Mr McIlwain—No. I can be quite specific here. Save for multiple business agreements where the authorisation of the Employment Advocate is required first before the lodgment is made, we do not look at agreements for their content at the point of lodgment.

Senator MARSHALL—When do you look at the agreements?

Mr McIlwain—We may look at agreements following lodgment, as part of an analysis and sampling regime that we are establishing.

Senator MARSHALL—What percentage of agreements do you look at?

Mr McIlwain—We look at a small percentage of AWAs per month.

Senator MARSHALL—How small?

Mr McIlwain—In April, 250 AWAs lodged.

Senator MARSHALL—Can you tell me off the top of your head what percentage that is? Is that out of 2,653?

Mr McIlwain—No. That is out of 6,340. I beg your pardon; it has been pointed out to me that that is, in fact, all 6,263 AWAs. We have a sampling methodology, which has been put together by our statisticians, that gives primacy to the demographic factor of employer or workplace size. On that basis, we stratify the AWA population of lodgments per month and then select from that stratification into four standard business sizes AWAs that in a sample match the numerical proportions of the four stratified employer business sizes over the whole AWA population in that month.

Senator MARSHALL—That is very clear to me. Thank you for that. If there were a single employer that has multiple AWAs, would you exclude taking more than one sample from that employer?

Mr McIlwain—We would generally not take more than one AWA, but again it would depend on how many AWAs that employer has lodged and how large they loom in the AWA population of lodgments for that month.

Senator MARSHALL—So there is some subjectivity in the decision of where to look as opposed to a strict statistical modelling process.

Mr McIlwain—No.

Senator MARSHALL—Then how would you do that?

Mr McIlwain—It is not subjective. It is simply the case that, if there are a large number of AWAs from a single employer in the AWA population that month, on the basis of that stratification approach and then a random selection from those business sizes, you might find that, because they are more numerous within the AWA population, there is more than one AWA in that sample lodged by that employer during that month.

Senator MARSHALL—What are the four different sizes of employers you use?

Mr McIlwain—They are employers with fewer than 20 employees, employers with between 20 and 99 employees, employers with between 100 and 499 employees and employers that employ 500 or more employees.

Senator MARSHALL—What size is the sample for union collective agreements?

Mr McIlwain—I do not have that information.

Senator MARSHALL—Can you get that for me?

Mr McIlwain—We will take that on notice.

Senator MARSHALL—And non-union collective agreements?

Mr McIlwain—I do not have any of those break-ups with me this evening.

Senator MARSHALL—Will you be able to get that information for us for each of those categories?

Mr McIlwain—Yes, I believe so. I need to change the evidence I have just given in regard to more than one AWA from a particular employer. Reading my brief here more carefully, I discover that we actively avoid selecting more than one single AWA from any one employer for the sample.

Senator MARSHALL—Is there an outline of the methodology used in collecting this information that you could make available?

Mr McIlwain—There is and I could make that available.

Senator MARSHALL—If you could provide the advice from the statistician that you have used that suggests this is an appropriate model by which to get a sample, that would be useful.

Mr McIlwain—Certainly.

Senator MARSHALL—Thank you. What do you do with the samples; what do you check?

Mr McIlwain—I am sorry, I did not catch that.

Senator MARSHALL—Go through the checking process that you then apply to the agreements that you sample.

Mr McIlwain—The samples are drawn for a number of purposes. Typically, each month, we look at issues such as how protected award conditions are handled in the sample. I should say also that, in regard to collective agreements, the same activity is being undertaken by the Department of Employment and Workplace Relations in their research area.

Senator MARSHALL—Is that not a responsibility given to you?

Mr McIlwain—There is an agreement between the department and the OEA that, as the department has for several years maintained the workplace agreements' database, it will continue to compile information in regard to collective agreements, principally for the biennial report on agreement making, which is the report required by the legislation. The OEA will continue to analyse AWAs and it will provide a large sample of them to the department for coding into the workplace agreements' database, again for the principal purpose of preparing the report on agreement making every two years.

Senator MARSHALL—Do they do that task on your behalf?

Mr McIlwain—Yes, they do the task on my behalf.

Senator MARSHALL—My understanding is that it is, in fact, your responsibility to maintain that. Do you pay them to do that?

Mr McIlwain—There is an agreement that the department and its workplace agreements' database team is funded to do that work.

Senator MARSHALL—But not from your office.

Mr McIlwain—The office of the Employment Advocate is part of DEWR's funding framework.

Senator MARSHALL—But you have a specific budget to carry out your responsibility. If you, in effect, have subcontracted out part of that responsibility, I am interested to know whether, as a result, there is a transfer of budget allocation.

Mr McIlwain—The budget allocation exists already in the portfolio budget arrangements for the workplace agreements' database to undertake that work.

Senator MARSHALL—So they report all that information directly back to you?

Mr McIlwain—They will report it to me and it will go also into the biennial report on agreement making.

Senator MARSHALL—So you say you do not have any role in checking the content of those agreements; they do all the checking of the content?

Mr McIlwain—Of collective agreements?

Senator MARSHALL—Yes.

Mr McIlwain—Yes.

Senator MARSHALL—You say you only check the content of AWAs.

Mr McIlwain—That is correct.

Senator MARSHALL—So the department does all the other forms of agreement.

Mr McIlwain—At the moment there is a notional split: the OEA will undertake analysis of AWAs and the workplace agreements' database will undertake analysis of AWAs in coming months and collective agreements now and into the future. The agreement with the department is that in coming months, in regard to AWAs, we will commence a process where annually a sample of 10,000 AWAs is made available to the workplace agreements' database for the purpose of coding into a form that will go into the report on agreement making every two years.

Senator MARSHALL—Coming back to the original question: what do you check for?

Mr McIlwain—We do not check.

Senator MARSHALL—In terms of the sample, you started to tell me that you check for protected award conditions, but that is as far as we got.

Mr McIlwain—I am sorry; if I have used that word—

Senator MARSHALL—Correct me if I am wrong but, from what you have said, I have taken it that in the month of April you have sampled 250AWAs—and let us just limit it to AWAs for the moment—and so far, you have told me, you have checked those 250 samples for protected award conditions.

Mr McIlwain—I am sorry; if I used the word 'checked', that was inadvertent.

Senator MARSHALL—What word—

Mr McIlwain—We analyse agreements. I want to be quite clear here. The act requires me not to check anything in regard to agreements lodged.

Senator MARSHALL—What do you say 'analysed' means?

Mr McIlwain—I may, however, analyse agreements.

Senator MARSHALL—What is your process of analysis?

Mr McIlwain—We analyse agreements for, amongst other things, protected award conditions, their compliance with the Australian fair pay and conditions standard, family friendly provisions, workplace flexibility provisions and wage increases.

Senator MARSHALL—By the Fair Pay Commission standard, do you mean the minimum wage?

Mr McIlwain—I am sorry, I did not catch that last question.

Senator MARSHALL—By the Fair Pay Commission standard, do you mean that the minimum wage is included?

Mr McIlwain—I mean the Australian fair pay and conditions standard.

Senator MARSHALL—So that is the five—

Mr McIlwain—The five elements of the standard in regard to agreements—relevantly, the minimum classification wage and then the five statutory conditions established by the standard.

Senator MARSHALL—If you are checking for those five things—

Mr McIlwain—I am sorry, the four statutory conditions.

Senator MARSHALL—What do you then mean by ‘protected award conditions’?

Mr McIlwain—How protected award conditions have been dealt with by the parties.

Senator MARSHALL—Whether the award conditions have been specifically removed from an agreement.

Mr McIlwain—Or modified or retained. May I make a distinction here for the avoidance of confusion?

Senator MARSHALL—Yes.

Mr McIlwain—Agreements separately are analysed—and perhaps here a better description is ‘checked’—for the inclusion of prohibited content post lodgment.

Unknown member—Every agreement?

Mr McIlwain—No. The intention there is also to sample agreements, both collective and AWAs, to check for prohibited content, which is a specific function of the Employment Advocate under the legislation. It is separate from the analysis function that I have been describing to you. We are in the process of determining what methodology to adopt for the sampling of agreements for the purposes of prohibited content checks post lodgment.

Senator MARSHALL—So you are going to do it twice. You are going to do one analysis of protected award conditions and how they have been treated or modified, Fair Pay Commission standards, family friendly—

Mr McIlwain—Provisions.

Senator MARSHALL—provisions, work flexibility—

Mr McIlwain—Workplace flexibility provisions.

Senator MARSHALL—And what the wage is.

Mr McIlwain—Wage increases, yes.

Senator MARSHALL—Then, separately to that, you will do check?

Mr McIlwain—The function is a separate function, so the answer is yes. It is a check rather than analysis.

Senator MARSHALL—Will the same person do it?

Mr McIlwain—No. Whether we determine in the end to use the same sample of agreements—and there must be a sample of collective agreements also in that case—whether we use the same sample of AWAs, remains to be seen. We may use the same sample or we may in fact draw a different sample, according to a different methodology.

Senator MARSHALL—Will the size of the sample be the same?

Mr McIlwain—I am not able to say at this stage.

Senator MARSHALL—Are you presently checking for prohibited content?

Mr McIlwain—We are not checking for prohibited content in lodged agreements.

Senator MARSHALL—We are only talking about one month. Tell me: how many agreements have you checked for prohibited content?

Mr McIlwain—I need to make a distinction here. I have a couple of functions with regard to prohibited content. One is to provide advice to the parties on prospective workplace agreements not yet made—

Senator MARSHALL—Sure, but I am not asking about that yet. I will come to that, Mr McIlwain.

Mr McIlwain—The second function I have with regard to prohibited content is to check agreements lodged. So far we have checked no agreements lodged for prohibited content.

Senator MARSHALL—When you do the analysis, tell me how you handle the identification process specifically for AWAs. Is that information collected?

Mr McIlwain—Sorry—the identification process?

Senator MARSHALL—You are checking 250 AWAs. Each one of them is an individual agreement and has a name attached to it. How do you deal with that? Do you collect that information? Do you keep that? Or is it a sample where the name of the employer and the name of the individual are not recorded?

Mr McIlwain—We use a methodology that uses the unique agreement number which is assigned to the agreement at lodgment.

Senator MARSHALL—So let us assume now that one of the agreements that you check does not have the Fair Pay Commission minimum. What do you do?

Mr McIlwain—We refer that agreement to the Office of Workplace Services for whatever action it believes is appropriate.

Senator MARSHALL—So you have no further role, apart from that?

Mr McIlwain—That is correct.

Senator MARSHALL—Would you then look at all the agreements from that employer?

Mr McIlwain—No, we would not. Again, that would be a matter for the Office of Workplace Services.

Senator MARSHALL—So you simply stick to the percentage that you analyse.

Mr McIlwain—I stick to the functions that I have been given by the parliament.

Senator MARSHALL—When you get around to checking for prohibited content, what will you do if you identify agreements that have prohibited content?

Mr McIlwain—In all areas where prima facie there is evidence of noncompliance with one of the provisions or requirements of the legislation with regard to agreement making, we will refer that agreement to the Office of Workplace Services for whatever action it believes to be correct. Sorry—with regard to prohibited content, I have a particular compliance function for agreements that have been lodged. The legislation sets up a regime where, if I find prohibited content in a workplace agreement that has been lodged, I have the power to remove that prohibited content and to vary the agreement to that effect. Where I believe that a lodged agreement contains prohibited content I will write to the parties, put to them my views, seek submissions from them and then make a decision on the content that I believe to be prohibited content—which may be, indeed, to remove that content and vary the agreement to that effect.

Senator MARSHALL—If the parties were both to say they do not believe it is prohibited content, if they have come to that agreement amongst themselves, and you decide that it is prohibited and you simply remove that, is that a binding agreement on both parties? The point of the question is: if you cancel that part of it, is the whole agreement then null and void or does it become a binding agreement?

Mr McIlwain—The inclusion of prohibited content in a lodged agreement does not render the agreement void or inoperative. However, the prohibited content can have no effect once it has been identified by me as prohibited content. Further, the legislation says I must remove that prohibited content and vary the agreement to that effect.

Senator MARSHALL—Given that you are not going to check every agreement for prohibited content, in agreements that may contain prohibited content but are not checked by you does that clause remain in force until you remove it?

Mr McIlwain—No. Prohibited content is void in any effect.

Senator MARSHALL—But you have just told me that the process you take is identifying what you may believe to be prohibited content, taking submissions and then making your decision. How does that process happen in advance?

Mr McIlwain—I make this distinction. Section 358 of the Workplace Relations Act says:

A term of a workplace agreement is void to the extent that it contains prohibited content.

Note 1: The Employment Advocate can vary the ... agreement to remove prohibited content ...

Section 360 of the act says:

(1) If the Employment Advocate is considering making a variation to a workplace agreement ... the Employment Advocate must give the persons mentioned in subsection (2) a written notice meeting the requirements in subsection 361(1).

To the extent that I have confused, let me be clear. Prohibited content is, in any event, void in a workplace agreement. If I identify prohibited content and wish then to vary that agreement to remove the prohibited content, as per section 360, I must give notice to the parties that that is my intention.

Senator MARSHALL—I do not think either of those sections actually answers the question. I thought what you said was that once you identify you can then vary. Then there was another process of how you should vary, by giving people an opportunity to comment. But, until it is varied, is it enforceable?

Mr McIlwain—No.

Senator MARSHALL—Is that right, Mr Rushton?

Mr Rushton—Yes, that is correct. As Mr McIlwain said, the provision is void in any event, whether the Employment Advocate removes it or not. So, if it is prohibited content, it is void. But the act then sets up a regime where, if we then discover that there is prohibited content in an agreement that has been lodged, we then have an obligation to go through the process that he has set out, which is to notify the parties and receive their submissions. Then, if the Employment Advocate is of the view that it is prohibited content, he must remove it. So there are two separate concepts: one is a concept of it being void in any event, and the other is the regime of removing the content so then the parties are aware that it has been removed.

Senator MARSHALL—Given that there is a relatively small sample of checking going on, if a provision of an agreement which has been in operation for some time comes to your attention and you determine that it is prohibited content, yet the parties have been implementing the prohibited content for a period of time, what do you do given you have compliance responsibilities in this respect?

Mr McIlwain—What I do is what I have just described—and, indeed, what Mr Rushton has just described—and that is to write to the parties and advise them of my intention to vary the agreement to remove the prohibited content. I share with the Office of Workplace Services a responsibility for compliance in regard to prohibited content. My function extends only to varying agreements that contain prohibited content to remove that prohibited content. The Office of Workplace Services' function extends to investigating breaches of the legislation where prohibited content has been included in an agreement lodged—that is, a separate breach of the legislation.

Senator MARSHALL—That is not your responsibility?

Mr McIlwain—That is not my responsibility. Further, there is a breach for seeking, in the making of a workplace agreement, to have included prohibited content—again, another breach that it is not my responsibility but that of the Office of Workplace Services to deal with.

Senator MARSHALL—If a benefit has been derived by either party as a result of a clause which you rule to be of prohibited content, is there any obligation to reclaim that benefit from either of the parties?

Mr McIlwain—That is not for me to comment on. It would be a matter for a court.

Mr Rushton—Yes, it is certainly not a matter for the Employment Advocate.

Senator MARSHALL—Once you remove it, it is removed, and it is a matter for Workplace Services as to what they do after that?

Mr McIlwain—Indeed.

Senator GEORGE CAMPBELL—Mr McIlwain, would you of necessity advise the Office of Workplace Services that you have varied an agreement that contained prohibited content?

Mr McIlwain—Yes, I would.

Senator GEORGE CAMPBELL—Is that a statutory requirement of your office?

Mr Rushton—It is not a statutory requirement but it is the practice that we will be adopting.

Senator GEORGE CAMPBELL—Irrespective of the circumstances, if you found an agreement with prohibited content, you will advise the OWS?

Mr McIlwain—Where I find that prima facie there is a breach of provision of the act, I feel it is incumbent upon me to advise the Office of Workplace Services, which is responsible for the enforcement of those provisions.

Senator GEORGE CAMPBELL—Can I raise another issue while I have your attention. The agreements that you provide to the department as part of their analysis of agreement making: do you provide those agreements to the department with the name of the person covered by the agreement and the name of the employer to whom the agreement applies?

Mr McIlwain—So far, we have provided no agreements to the department. The legislation allows me to formally delegate other Commonwealth officers to undertake functions on my behalf as per the usual arrangements with a delegation. That is one approach that would be available to me. Mr Rushton will be able to explain another approach that we believe is also secure.

Mr Rushton—I will be in a minute!

Mr McIlwain—Mr Rushton's view is that the delegation approach that I just described is the preferable approach. We have provided access to the department to collective agreements lodged under Work Choices—there is no prohibition to that. My comments about the delegation response—having the department undertake analysis of AWAs—are in regard to AWAs, not collective agreements.

Senator GEORGE CAMPBELL—But I thought you had a responsibility to protect the confidentiality and privacy of the individuals who sign AWAs—

Mr McIlwain—I absolutely do.

Senator GEORGE CAMPBELL—and that you were not free to provide that information to other parties without their agreement.

Mr McIlwain—That is not strictly the case. I must as an official maintain the privacy and the confidentiality of the parties to AWAs, but I am permitted to delegate functions to other Commonwealth officers. Mr Rushton will find the relevant section.

Senator GEORGE CAMPBELL—I understand the functions, but for the purposes of their two-yearly report the department does not require the name of the individual or the name of the employer in order to undertake an analysis of what the contents of agreements are, do they?

Mr McIlwain—No. It would be possible to provide a report without access to that information.

Senator GEORGE CAMPBELL—If that is the case, why would you not then ensure that the confidentiality of those agreements is maintained?

Mr McIlwain—Because the legislation allows me to delegate, and I will read from section 154:

The Employment Advocate may, by instrument in writing, delegate any of the Employment Advocate's powers or functions to:

- (a) a person who is appointed or employed by the Commonwealth;

Section 165, which is about the fact that the identity of parties to AWAs is not to be disclosed, reads:

A person commits an offence if:

... the disclosure is not made by the discloser in the course of performing functions or duties as a workplace agreement official;

A workplace agreement official means among other things 'a delegate of the Employment Advocate'.

Senator GEORGE CAMPBELL—So the access, potentially, to these agreements could be very broad indeed.

Mr McIlwain—No, it could not.

Senator GEORGE CAMPBELL—Why not?

Mr McIlwain—Because I would not delegate it broadly.

Senator GEORGE CAMPBELL—So you would delegate to specific officers within the Department of Employment and Workplace Relations?

Mr McIlwain—I would—for the purposes of undertaking analysis of workplace agreements alone.

Senator GEORGE CAMPBELL—So you will control who has access within the department?

Mr McIlwain—Indeed. It would be my delegation. I would have to sign the delegation.

Senator MARSHALL—Can you tell me how many AWAs from April contained only the Australian fair pay and conditions standard?

Mr McIlwain—The answer is that no AWA in the sample contained only the standard.

Senator MARSHALL—What could that mean? Was there a bulk? Was there a fancy heading? I am talking about the substantive clauses that make up the agreement. I want to be clear that you are not giving me an answer that is technically correct but does not address the thrust of my question.

Mr McIlwain—So I know what question I am answering, are you asking me, for example, what percentage of the sample provided conditions that were superior to the—

Senator MARSHALL—No, I am asking for the percentage that provided the minimum. Apart from the heading, a possible preamble and some words that do not go to a benefit, what percentage of agreements contain only—in terms of the employment benefit—the fair pay and conditions standard?

Mr McIlwain—The coding is not performed in that way. It is performed in a way which compares the condition that appears in the standard with the condition that appears in the AWA. So I am unable to say, for example, that X per cent provided, in total, only the five minimum conditions that would have applied to that employee from the standard.

Senator MARSHALL—Just so I understand the coding, the way you have explained it to me—and again maybe I am assuming this—is that you have got a code for each of those five standards. So there were no agreements that only had those five codes identified, in totality.

Mr McIlwain—I am not able to say that. I can give you a percentage against each of the five elements of the standard. For example, the percentage of agreements in the sample that were superior against the condition of wages—the fair pay and conditions standard wage that would have applied to that employee. I can give it to you in regard to annual leave, casual loadings, hours of work, carers leave, et cetera. But I am not able to provide a compilation of that information.

Senator MARSHALL—Why not?

Mr McIlwain—Because the agreements are coded one by one, against each of the conditions one by one. There will be, unavoidably, overlapping in the percentages.

Senator MARSHALL—I would ask you to explain that in more detail. If it is entered one by one, I fail to see how an individual agreement cannot then be identified by each of your coded clauses against each standard and against each of those other matters which you referred to.

Mr McIlwain—What if I were to give you some of the statistics—

Senator MARSHALL—No, give them all to me. Do you have a sheet of all the results of the coding for the month of April—the 250? And what am I able to ascertain from that?

Mr McIlwain—What I can provide to you this evening is a summary against each of the conditions, if that would be helpful.

Senator MARSHALL—All right. Give me the summary, and we will see where we go from there.

Mr McIlwain—For example, wages: in 84 per cent of the agreements sampled, wages were greater than the comparable standard rate—expressed either as weekly and/or hourly rates.

Senator MARSHALL—Greater than the minimum wage set by—

Mr McIlwain—Yes. In 89 per cent of the sampled agreements, the annual leave conditions were equal to those of the standard.

Senator MARSHALL—When you say ‘the standard’ do you mean four weeks? Or do you mean two weeks and potentially two weeks cashed out?

Mr McIlwain—In that case, it would mean both. It would mean compliance with the standard.

Senator MARSHALL—While we are on annual leave, are we able to identify how many agreements have cashed out two weeks annual leave?

Mr McIlwain—No.

Senator MARSHALL—When two weeks annual leave is cashed out, does there have to be a monetary gain for that, or can people still be paid at the minimum standard?

Mr McIlwain—That condition of the standard set out in the legislation has attached to it a number of requirements which must be met for the standard to be met. Without getting into—

Senator MARSHALL—I am happy to get into detail. For my information—it is a very long piece of legislation, and I cannot recall the detail of it—maybe you could explain to me the conditions under which the two weeks can be cashed out.

Mr McIlwain—We have an extensive information fact sheet on the standard. Mr Rushton will find all of the relevant conditions to ensure that the standard is met in regard to the cashing out of annual leave.

Senator MARSHALL—I am glad that he also has to look it up—it is not just me!

Mr Rushton—The fair pay and conditions standard is on the web site. In order to cash out annual leave, the following conditions must be satisfied: the employer and the employee must have entered into a workplace agreement; the agreement must contain a term allowing for cashing out; the employer must provide the employee with a written election to cash out the annual leave; the employee must have an accumulated annual leave balance of at least the amount that they wish to cash out; the rate of pay at which the annual leave is paid out must be at least the rate of pay that the employee is entitled to receive at the time of making the election; and the employer authorises the employee to forgo the amount of annual leave. They are the rules in relation to the cashing out of annual leave, so there is a process.

Senator MARSHALL—So you will be working two weeks extra, which you will be paid for at your rate of pay—

Mr Rushton—That is right.

Senator MARSHALL—and then you get cashed out an amount of two weeks on top of that.

Mr Rushton—That is effectively so, yes. It must be paid at the rate of pay that you are entitled to receive at the time of making the election to cash out.

Senator MARSHALL—I understand. Just coming back to the stats, you are not able to identify how many times that option has been exercised in AWAs that you have sampled?

Mr McIlwain—No, I am not.

Senator MARSHALL—Will you be able to at some point? Is this a teething problem, or is there no code?

Mr McIlwain—It is something that we could consider. We have not considered it in the first cut, which was for AWAs lodged in April, but we will consider making a change to the coding framework to allow for that.

Senator MARSHALL—I think you said that 89 per cent met the minimum annual leave requirement.

Mr McIlwain—Yes.

Senator MARSHALL—What happened to the other percentage?

Mr McIlwain—The other 11 per cent were evenly split between those providing benefit greater than the standard—that is six per cent—and those providing a benefit less than the standard, which is five per cent. Significantly—

Senator MARSHALL—Just bear with me. In terms of people that work shiftwork who would have normally under the award system been entitled to five weeks, is there a provision for extra annual leave for shiftworkers in Work Choices?

Mr Rushton—There is an extra one week; that is correct.

Senator MARSHALL—You talked about the 89 per cent who I think you said were equivalent to the standard, which I assumed was four weeks. Would shiftworkers, who would be entitled to more than four weeks, be in that 89 per cent or would they be part of that six per cent?

Mr McIlwain—They would be in the 89 per cent.

Senator MARSHALL—Are you sure about that?

Mr McIlwain—Yes. Significantly—

Senator MARSHALL—Explain to me how the five per cent, which is providing less than the minimum, could be made up.

Mr McIlwain—Half of the five per cent—so, of the total, 2.5 per cent—compensated the employee with wages in excess of the standard. So there was a cashing out that went further than that permitted by the legislation.

Senator MARSHALL—What have you done with those agreements?

Mr McIlwain—Agreements that are identified on the basis of what is—

Senator MARSHALL—It is a flawed agreement, isn't it?

Mr McIlwain—Agreements that are identified by the OEA on the basis of what we can see as prima facie in not meeting the standard are referred to the Office of Workplace Services.

Senator GEORGE CAMPBELL—What do you mean by ‘cashing out payments that went further than the standard’? As I understood the conditions that Mr Rushton read out, they referred in the main to four or five points, mainly the minimum of two weeks and the minimum wages applicable to the classification. So if he or she is paid more for the cashing in of the two weeks, how does that breach the minimum standards? Are you talking about circumstances where more than two weeks are cashed out?

Mr McIlwain—That is what I am talking about. The two weeks is a maximum that may be encashed, and for these agreements—I beg your pardon, I see now that I have the five and the six around the wrong way—of that 11 per cent, it was the six per cent that had conditions inferior to the standard with regard to leave. I beg your pardon. So in fact it is three per cent of the total number of the agreement sample that cashed out more than the legislation provides for.

Senator MARSHALL—And the other three per cent?

Mr McIlwain—Mr Rushton has reminded me—and I need to be careful of my language—that the standard of course always applies. It is not possible to contract out of it so it is more correct to say that these agreements purport to cash out more than the standard provides for.

Senator MARSHALL—Those agreements are still in force though. You have identified that they do not meet the minimum requirement but they are still in force?

Mr McIlwain—That is correct.

Senator MARSHALL—And it is simply a matter for Workplace Services?

Mr McIlwain—Indeed.

Mr Rushton—To clarify and to follow on from what Mr McIlwain said, they are enforced but the standard applies in any event. If they have got a provision which is below the standard, the standard kicks in and applies over and above the agreement. The agreement is still in place.

Senator MARSHALL—It comes back to the point that I was making earlier—it is the same point but a different issue in terms of disallowable clauses. Obviously one party or the other has derived a benefit while this is in operation even though you say the minimum applies. What is the remedy? How does a person who has given their benefit away—less than the minimum—get that back?

Mr Rushton—The standard is what applies—

Senator MARSHALL—I know, but how do they get it back?

Mr Rushton—and that can be pursued as a matter of law if there has been an underpayment against the standard.

Senator MARSHALL—So it is a matter that the aggrieved party, if they want the minimum to apply, have to go to court. Assume they entered into this agreement which they are not allowed to—as Mr McIlwain said, you cannot contract out below the minimum—are you happy if both parties just simply ignore the standard and it just continues on? What is the process?

Mr Rushton—The Office of Workplace Services is the office charged with dealing with those underpayments against the standard and, as Mr McIlwain said, matters will be referred if it appears from the evidence of the agreement that there may be some non-compliance with the standard—

Senator GEORGE CAMPBELL—How many of the six per cent that you have identified have been referred to the Office of Workplace Services?

Mr McIlwain—They have all been referred to the Office of Workplace Services.

Senator GEORGE CAMPBELL—So the remedial action available to you has not worked in those cases?

Mr McIlwain—I have no enforcement in compliance functions with regard to the standard.

Senator GEORGE CAMPBELL—But the act provides for you to write to the parties and draw their attention to the fact that they are in breach.

Mr McIlwain—No, Senator, that is with regard to prohibited content alone. This is with regard to the fair pay and conditions standard. I have no enforcement function with regard to the standard. My responsibility is to pass on to the Office of Workplace Services instances where I believe there is a breach of the legislation regarding agreement making including the standard. As Mr Rushton said, under Work Choices the aggrieved party can take action in the courts themselves or, indeed, the Office of Workplace Services can itself initiate a prosecution on their behalf.

Senator MARSHALL—We will talk to them when they appear before us. You would not write to the parties and tell them that you have identified a clause below the standard?

Mr McIlwain—No.

Senator MARSHALL—There is still three per cent missing.

Mr McIlwain—The other three per cent provide annual leave in excess of the standard.

Senator MARSHALL—No, I thought that was the five per cent?

Mr McIlwain—I beg your pardon, no; you are quite correct. The five per cent provide annual leave in excess; six per cent provide leave inferior to the standard. Of that six per cent, roughly half—say, three per cent of the total sample—provided extra pay, so cashing out beyond the limit permitted by the standard. The remaining three per cent did not meet the annual leave standard and did not provide extra cashing out.

Senator MARSHALL—So they reduced the four-week standard without any compensation at all?

Mr McIlwain—The four-week, or if it were the five-week standard, the five-week standard.

Senator MARSHALL—To what extent, can you tell us?

Mr McIlwain—Mr Rushton has pointed out that it is not strictly correct to say there was no purported compensation.

Senator MARSHALL—Gee, you're sorry you brought him, aren't you?

Mr McIlwain—There could be other compensation of a non-monetary kind, but nonetheless the standard was not met.

Senator MARSHALL—Given that there is a sample of 250 and this is over one month, can you give me some examples of what actually happened in that three per cent?

Mr McIlwain—No, not tonight.

Senator MARSHALL—Can you take that on notice?

Mr McIlwain—We will take that on notice.

Senator MARSHALL—In terms of those overall statistics which you have for that first month, you have given me a summary, which you indicated you were prepared to do, and I thank you for that; that was very useful. But there is the full coding. Are you able to give me all those statistics?

Mr McIlwain—I will take on notice whether it is possible for us to provide the statistical spreadsheets. I am not sure in what form they exist. I am not a statistician.

Senator MARSHALL—Take that on notice, and if you can provide that information, I would appreciate it. Given that it is the first month, it would be very useful for everybody to be able to analyse what has been happening so far. What information do you keep on AWAs across the board? Do you register in location, addresses, suburbs?

Mr McIlwain—We have the business's address and we have the employee's address.

Senator Abetz—So where is it registered? Just out of interest, where you have the split-up between the states, for example, the employee might be working in Tasmania but paid through the head office in Melbourne. Would that AWA be seen as a Tasmanian AWA or a Victorian one or would it depend on where it was registered?

Mr McIlwain—It would be determined by the employee's place of residence.

Senator MARSHALL—We are still not finished with the summary. We have done wages and annual leave. What else do you have in your summary? Do you have family-friendly provisions?

Mr McIlwain—In regard to the standard, Senator?

Senator MARSHALL—Well, there is no standard, is there? In terms of wages you said that 84 per cent of agreements were greater than the minimum. In annual leave you gave me the break-up—89 per cent complied with the four weeks, and then the breakdown of what doesn't. What else can you tell me in the summary? Can you tell me about family friendly provisions, overtime and penalty rates, and the averaging of hours? That is specifically what I am interested in.

Mr McIlwain—If I can stick with the standard for the time being, with regard to hours of work, 80 per cent of the agreements in the sample provided for hours of work less than or equivalent to the maximum three-hour week in the standard.

Senator MARSHALL—I am trying to fathom what that means. This is a problem. If you say less than or equivalent to, how do we work out what is part time and what is full time? Are they both in there, or can we identify them separately?

Mr McIlwain—I am not able to distinguish between those.

Senator MARSHALL—So 79.9 per cent could in effect be part-time jobs and 0.1 per cent full-time jobs, or a casual on 38 hours?

Mr McIlwain—I think that unlikely.

Senator MARSHALL—It probably is but I would like to know the break-up.

Mr McIlwain—I don't have that information this evening.

Senator MARSHALL—So there is no way under the present regime you have—I understand that it is just April—to break that down?

Mr McIlwain—I am unable to say whether we are at the moment coding for part-time and full-time.

Senator MARSHALL—And casual.

Mr McIlwain—And casual.

Senator MARSHALL—You have in the past, though, haven't you?

Mr McIlwain—No.

Senator MARSHALL—Are you sure?

Mr McIlwain—We collect information as to that employee's status. I don't believe that we have regularly analysed agreements in regard to hours of work and matched that information against employees' status.

Senator MARSHALL—I imagine every AWA has an hours-of-work clause, or is that a big assumption?

Mr McIlwain—It would be a fair assumption.

Senator MARSHALL—Tell me the rest of the percentages first, and then I will come back to that. So 80 per cent are either part-time or full-time or 38 hours a week.

Mr McIlwain—In regard to casual employees and casual loadings, 86 per cent of the casual employees included in the sample received a casual loading greater than or equal to that provided by the standard.

Senator MARSHALL—We will come back again. I thought you just finished telling me that you could not identify casuals.

Mr McIlwain—I can't give you a cross-reference or cross-match between casual, part-time and full-time employees and hours of work. I can give you, though, information about casual employees and their receipt of a casual loading.

Senator MARSHALL—But can't you tell by the amount of times that clause is actually entered in your database—that the box is ticked? That is how you do it, isn't it? If there is a clause identifying casual loading, it is ticked. If it is only ticked five times, there are five casuals, aren't there?

Mr McIlwain—I can tell you whether an AWA lodged is for a casual or for a part-time employee or for a full-time employee.

Senator MARSHALL—Well, give me the breakdown.

Mr McIlwain—I don't have that breakdown this evening. What I can't tell you I can do is match at the moment, out of that sample, the information about employee status with the number of hours worked by that employee and whether that meets or is in excess of or inferior to that of the standard.

Senator MARSHALL—We will go through the rest of the percentages, but in addition, would you please provide me with a breakdown of casual, part-time and full-time AWAs?

Mr McIlwain—We will take that on notice.

Senator MARSHALL—Thank you. So 80 per cent are less or equal to 38 hours.

Mr McIlwain—That is correct.

Senator MARSHALL—You had some casual loading figures.

Mr McIlwain—In regard to casual loading, 86 per cent of casual employees included in the sample received a casual loading greater than or equal to that provided by the standard.

Senator MARSHALL—What is the standard for casual loading?

Mr Rushton—It is 20 per cent.

Mr McIlwain—Of the 86 per cent, one-third received a loading higher than that provided by the standard.

Senator MARSHALL—What about the other 14 per cent?

Mr McIlwain—The other 14 per cent, I am deducing here, are receiving a loading inferior to that provided by the standard.

Senator MARSHALL—That is a void clause, too, isn't it? That does not meet the standard.

Mr McIlwain—Yes. The standard must always apply. The language would be more correct to say 'purports not to meet the standard'.

Senator MARSHALL—The recovery, again, is either workplace services taking it up or them pursuing their own legal remedy.

Mr McIlwain—Indeed.

Senator MARSHALL—Just as an aside before we go on: any clauses that do not meet the standard do not render an agreement invalid, do they?

Mr McIlwain—That is correct. Once the agreement is lodged, it operates, but where it is inferior to the standard the provisions of the standard apply nonetheless.

Senator MARSHALL—Okay. What else do you have for me? Is that all the information you have on hours of work?

Mr McIlwain—Yes, that is all the information I have on hours of work and on remuneration. With regard to the standard, that is all the information I have on hours of work or remuneration.

Senator MARSHALL—Tell me about the removal of award provisions. Which heading would you like to start with?

Mr McIlwain—I will go first to how the parties in April dealt with protected award conditions. Again, this is from a sample of 250 AWAs. I have some information about collective agreements, as well, provided by the Department of Employment and Workplace Relations.

Senator MARSHALL—We will keep them separate and come back to them.

Mr McIlwain—In the sample, all AWAs expressly excluded at least one protected award condition.

Senator MARSHALL—At least one?

Mr McIlwain—At least one. Of the sample, 16 per cent expressly excluded all protected award conditions.

Senator MARSHALL—I know last time you were before us you were not clear on how that could happen. Has that happened by a single clause removing all award conditions or has each award condition been removed individually?

Mr McIlwain—It has happened both ways.

Senator MARSHALL—That is okay? I thought the evidence provided last time by Mr Rushton, if my memory serves me correctly, was that each individual clause would need to be excluded.

Mr McIlwain—We believe that either approach can be effective.

Senator MARSHALL—Okay. A clause simply excluding all other award provisions is okay?

Mr McIlwain—Without actually seeing the wording of a particular clause, I must be cautious, but—

Senator MARSHALL—A single sentence could do it.

Mr McIlwain—we are suggesting that parties that wish to adopt that omnibus approach use words like, ‘For the avoidance of doubt, the following protected award conditions are excluded or modified in this agreement.’ Then the parties may choose to list by dot point those protected award conditions that they are excluding or modifying.

Senator MARSHALL—So you are assisting the parties in making sure there is no doubt, but at the present time you are accepting a single sentence removing all award conditions.

Mr McIlwain—Again, I do not want to talk about a hypothetical. It is possible that a single sentence might effectively exclude or modify all or some protected award conditions. However, our advice would be that, if the parties wish to exclude or modify protected award conditions, they use language like, ‘For the avoidance of doubt, the following protected award conditions are excluded or modified,’ and then nominate them as they appear in the legislation.

Senator MARSHALL—So 16 per cent of your sample removed all of the award conditions. Do you have any other information?

Mr McIlwain—The three most commonly excluded protected award conditions were leave loading, penalty rates and shiftwork loadings.

Senator MARSHALL—What is the percentage for each of those? Start with leave loading.

Mr McIlwain—It is 64 per cent. For penalty rates it is 63 per cent and shiftwork loadings, 52 per cent.

Senator MARSHALL—What other information do you have?

Mr McIlwain—The three most commonly modified protected award conditions were overtime loadings, in 31 per cent.

Senator MARSHALL—Do you have information on how they were modified—up or down?

Mr McIlwain—No, I do not on overtime loadings. Next is rest breaks, in 29 per cent.

Senator MARSHALL—Again, does that mean additional rest breaks or the removal of rest breaks?

Mr McIlwain—I do not have that information. And public holiday payments, 27 per cent.

Senator MARSHALL—And they are legally removed?

Mr McIlwain—All of these findings are on the basis that the provision was effective in its intention.

Senator MARSHALL—So when you talk about removed public holiday payments in 27 per cent of the AWAs, is that referring to an additional amount for working a public holiday, the complete payment for a public holiday or the removal of a public holiday?

Mr McIlwain—It would be an additional amount for working public holidays. The most commonly retained protected award conditions were declared public holidays.

Senator MARSHALL—What is the percentage of that?

Mr McIlwain—It is 59 per cent.

Senator MARSHALL—So 59 per cent of agreements retained declared public holidays?

Mr McIlwain—They retained declared public holidays.

Senator MARSHALL—All right. Go on.

Mr McIlwain—And days to be substituted for public holidays were retained at the level of 54 per cent.

Senator WONG—That means 40 per cent of agreements do not contain existing gazetted public holidays—is that right?

Mr McIlwain—It means that 40 per cent of that sample of 250 AWAs—

Senator WONG—Yes, of the sample. What about the 54 per cent? Is that of all of them? That does not make sense. Or is it 54 per cent of the remaining 40 per cent? You said 54 per cent have an alternative day identified instead of the gazetted holiday—correct?

Mr McIlwain—Yes.

Senator WONG—I presume, therefore, that is not the 60 or 59 per cent which actually retained the gazetted day. So is it 54 per cent of the 40 per cent?

Mr McIlwain—I would have to check that.

Senator WONG—That is pretty important, because, if it is 54 per cent of the 40 per cent, that means that in 20 per cent of agreements you do not have the gazetted day and you do not have an alternative day.

Mr McIlwain—I will check that. The way the information is provided here suggests strongly to me that it is 54 per cent of the total.

Senator WONG—How does that make sense? If you have 60 per cent which retain the gazetted day and 54 per cent which have an alternative day, that adds up to more than 100 per cent, and I think that is a problem.

Mr McIlwain—I will take that on notice. Mr Casson suggests that, whilst at first blush those two characteristics may seem mutually exclusive, in fact it may not be the case that the parties are making clear in the agreements that public holidays are retained but, where one is required to work a public holiday, there is, nonetheless, a day substituted in its stead. It is not possible to say this evening, without further reference to those agreements, whether in fact that is the case or the view you propose is the case.

Senator WONG—Of the 41 per cent that do not protect the gazetted day, how many have, and consequently how many do not have, an alternate day identified?

Mr McIlwain—I am unable to say.

Senator WONG—You did not collect that data.

Mr McIlwain—I do not know whether we collected that data. I do not have it with me this evening.

Senator WONG—Are you able to come back tomorrow? You were originally scheduled to come tomorrow evening.

Mr McIlwain—I am unable to answer this question. I do not know whether we have the data available now. I will take the question on notice, and we will answer it as part of that process.

Senator WONG—I understand that Senator Marshall may well still be asking you questions tomorrow morning, so you might have the opportunity then to provide it.

Senator Abetz—Senator Marshall did ask for a fair degree of statistical analysis, which Mr McIlwain has agreed to take on notice. With a bit of luck, these sorts of matters can possibly find their ways into that statistical analysis.

Senator MARSHALL—Yes, it depends how it is presented.

Senator Abetz—Yes. This is the difficulty with the statistical analysis presented thus far: the statistics on their own do not necessarily mean all that much. As I understand it—and correct me if I am wrong, and I may well be—with the public holidays, for example, it may be that extra pay is put into the amount that people are paid so that they are above the standard, or they may be given more annual leave in exchange. I think I made a note from

time to time that the journalists award, the media alliance award, has in it that they get six weeks annual leave but are required to work on public holidays. The fact that there is no substituted day does not, of itself, mean that it has been cut out of the agreement.

Senator MARSHALL—I think the stats we have actually do tell an important story, and I thank you for it. But I do accept that they do not give us a complete picture. For example, Minister, you said in terms of wages that 84 per cent are actually equal to or above the minimum rate of pay—that may well be a small addition, like a couple of cents an hour or a cent an hour. We cannot identify that. It may be cashing out the extra public holidays for a very small amount of money.

Senator Abetz—All hypothetically possible.

Senator MARSHALL—That is right. It is exactly what you would put into it. I thought we would keep going on that basis. Let me come to the same issue again, maybe from a different angle. If 59 per cent of agreements have retained gazetted public holidays, what have the other agreements done?

Mr McIlwain—I do not have that information.

Proceedings suspended from 8.59 pm to 9.13 p.m.

CHAIR—The committee will resume. Senator Marshall?

Senator MARSHALL—Mr McIlwain, I just want to go back to the removal of award conditions—and you have given me a lot of information, which I thank you for. You gave me a percentage for the proportion of agreements that have removed at least one award condition, and that is 100 per cent; you went to the other extreme, where 16 per cent of agreements have removed all award conditions; and then you gave me some percentages for specific clauses that have been removed, on average. Can you break that down into percentages of agreements that have removed two award conditions, three award conditions et cetera?

Mr McIlwain—I believe we can do that, but in the summary information which I have this evening I do not have that information. But we could take that on notice.

Senator MARSHALL—If you could provide that on notice. Thank you. Can you tell me how many AWAs have included a pay increase?

Mr McIlwain—Of the sample of 250 AWAs, 78 per cent provided for a pay increase during the life of the agreement.

Senator MARSHALL—So I can assume that 22 per cent provided for no increase during the life of the agreement?

Mr McIlwain—Yes.

Senator MARSHALL—Now, that is a pay increase during the life of the agreement, but it depends on where the base starts. Can you tell me how many AWAs have actually provided an increase from the previous agreement or the previous terms of employment?

Mr McIlwain—No, I am not able to. This is much more difficult, if not impossible, to do with AWAs, for reasons I have given in evidence on a number of occasions. It is possible for collective agreements, because of their nature, but with Australian workplace agreements any findings would be risky because of the uncertainty as to the exact identity of the parties—

whether the agreement was with a new employer, whether it was a replacement agreement with the existing employer. So establishing what the employee was paid prior to entering into the AWA lodged is much more difficult to do, if not impossible.

Senator MARSHALL—And in any case you do not seek to capture that information.

Mr McIlwain—We do not capture information about the pre-lodgment status of the employee to the extent of knowing whether or not they have ever been on an AWA before.

Senator MARSHALL—All right. You said 78 per cent of agreements provide for a pay increase. I automatically made the assumption that the other 22 per cent would provide for no increase. Are there any AWAs that provide for a wage decrease?

Mr McIlwain—I do not believe so, no.

Senator MARSHALL—But, in terms of the same problem that we just discussed, if an AWA simply states a rate and does not provide for a pay increase, you would not know whether that rate of pay was in fact less than the pre-existing rate of pay, before entering into that agreement.

Mr McIlwain—Sure. Senator, I have been careful with my language: 78 per cent of sampled agreements provided for a wage increase during the life of the agreement; 22 per cent provided for no increase during the life of the agreement. I am unable to say whether the employee entering that AWA gained an increase upon signing the agreement—

Senator MARSHALL—Or a decrease.

Mr McIlwain—or a decrease.

Senator MARSHALL—Thank you. Can you tell me how many AWAs have averaged the working hours over a 12-month period?

Mr McIlwain—No, I do not have that information.

Senator MARSHALL—That is a new workplace provision that has been introduced by Work Choices. Why have you not sought to capture that?

Mr McIlwain—At this stage, we have put together a coding or analysis methodology, which we believed would provide some early indicators, based on a very small sample size, of what the parties were doing with their AWAs. The coding or analysis framework that we have developed is our first cut and, indeed, we may change that in coming months. So, whilst I cannot categorically say that we would code agreements to indicate which ones averaged the 38 hours a week over a 12-month period, we may indeed include that, along with some other lower detail factors—if I can describe them like that—of the standard, in our coding and analysis framework in the coming months. In short, this is our first cut, on the basis of a very small sample size of agreements—250 of the 6,000 or so AWAs lodged in April. We will refine our methodology over the coming months with a view to providing a higher sophistication of analysis.

Senator MARSHALL—I just want to be clear about the stats for the month of April. Is there any time lag with getting into the system for either an electronic or a paper lodgment of an AWA with you? Could we confidently say that every single agreement that was lodged during the month of April is captured in your stats?

Mr McIlwain—Yes.

Senator MARSHALL—So there is no lag?

Mr McIlwain—No. The reformed legislation with regard to agreement making establishes a lodgment-only process. As soon as the agreement is lodged with the OEA, it is operational. That means whether it is lodged by post or online. In fact, 90 per cent of AWAs were lodged online in April, and 70 per cent of collective agreements were lodged online in April. So it is a one-step process. There are no time lags in the process, as there were under the previous regime where there was in fact a three-step process: lodgment, filing and approval. That meant that agreements could be lodged and filed—filed invariably within three working days—and then, some time later, approved, meaning those statistics might not go into statistics for the month in which the agreement was lodged and filed. Under Work Choices, all of the statistics will be available immediately on lodgment within that month.

Senator MARSHALL—When you say ‘all the statistics’, you mean the actual number of lodgments as opposed to the detail we have been talking about, don’t you?

Mr McIlwain—To be precise, it is the number of agreements involved, yes.

Senator Abetz—So when you took your sample of 250, Mr McIlwain, that would have been all the ones that had been provided to you up until 30 April.

Mr McIlwain—That is correct.

Senator MARSHALL—I was going to ask whether that includes the four days in March.

Mr McIlwain—Up to and including 30 April.

Senator MARSHALL—And that includes the four days in March?

Mr McIlwain—Yes, that includes agreements that were lodged in the four days in March as well.

Senator Abetz—I think the point to be made, if I may, is that it is in its very early stages at this point. Until the Office of the Employment Advocate gets its full—what is the term?—coding and other statistical analysis in place, I think it would be dangerous to try to draw conclusions from the statistics provided so far.

Senator MARSHALL—That raises an interesting aspect. I can understand that from the point of view of you having more detailed coding and being able to disaggregate some of those numbers, but I do not think the minister was suggesting that any of the statistics you have given us are incorrect.

Mr McIlwain—No.

Senator Abetz—If that is the suggestion, no. But statistics are often, if I may use the analogy, a bit like skimpy bathers: what they show is interesting but what they hide is vital. Do you like that non-sexist approach, ‘skimpy bathers’, where it could apply to either?

CHAIR—No, we do not like it, Minister, so please do not talk about it any further!

Senator MARSHALL—You are also eating into my valuable time.

Senator Abetz—But it is important that we do not give too much weight to the statistics in isolation. If there is an agreement dealing with public holidays or gazetted public holidays,

you should also take into account whether or not there has been an increase in wages, an increase in annual leave or an improvement of other conditions. It is important to look at the agreement in its totality.

Senator MARSHALL—And I think there are some examples, Minister, where we will enjoy receiving further information and finding out what has happened in some of those areas. But some of the other stats are very clear and can be taken at face value—for example, the fact that 100 per cent of all AWAs have removed at least one so-called protected award condition and 16 per cent of all AWAs have removed all so-called protected award conditions. Those figures certainly stand on their own.

Senator Abetz—It is also interesting, though, that in those statistics it says 33 per cent of collective agreements expressly excluded all protected award matters.

Senator MARSHALL—We haven't got to that.

Senator Abetz—That is what I am saying: a little knowledge can be a dangerous thing, Senator Marshall.

Senator MARSHALL—Not for me. If that is why—

Senator Abetz—Never for you. It would never stop you.

Senator MARSHALL—If you are encouraging your officials not to provide all the information to us because you are fearful that a little knowledge is a dangerous thing, be assured that we do require answers to all the questions that we ask and we expect all the details. If you would continue in that vein—

Senator Abetz—Never been in doubt.

Senator MARSHALL—of cooperative approach that we have had so far, that would be useful. Thank you, Minister, for your comments. Mr McIlwain, is there any more detail of the breakdown of the statistical summary that you can give us on AWAs? Let me go through what I think you have given me so far. You have given us some information about wages, annual leave, hours of work, casual loadings, the removal of award conditions as well as substantial detail about percentages of commonly removed clauses—

Senator Abetz—But all with the important caveat that they are in isolation.

Senator MARSHALL—public holidays and wage increases. Is there anything else in your summary that you can provide to us today?

Mr McIlwain—I have some information about collective agreements.

Senator MARSHALL—But nothing more on AWAs?

Mr McIlwain—I have examples of family-friendly provisions in AWAs.

Senator MARSHALL—All right. Yes.

Mr McIlwain—They are not statistical data. They are simply examples of actual clauses drawn from AWAs.

Senator MARSHALL—Right. So you cannot tell us how many agreements have them or not?

Mr McIlwain—No.

Senator MARSHALL—Well, provide that information on notice, if you would. Any other areas? I actually asked you about family-friendly provisions and then we went back to the standard provisions.

Mr McIlwain—Yes. I will just check.

Senator Abetz—Which side of the court is the ball on?

CHAIR—We are waiting for Mr McIlwain to see if he has any further information to offer Senator Marshall in which Senator Marshall may or may not be interested.

Mr McIlwain—Senator, that covers the broad areas that we have analysed thus far in the sample of AWAs. I would say that I have information in some of those areas on collective agreements that were lodged in—

Senator MARSHALL—Yes. Let's move to collective agreements now. Can you break them up into the different sorts?

Mr McIlwain—No, I am not able to, because the data was not compiled.

Senator MARSHALL—So this will be a mixture of union collective agreements and non-union collective agreements.

Mr McIlwain—Yes.

Senator MARSHALL—Just so I get my figures right—you were saying that there were 2,735 non-union collective agreements and 1,239 union collective agreements. Are those figures right?

Mr McIlwain—I think you are reading figures for employees covered.

Senator MARSHALL—I am sorry; I am too. Can you give me the figures for those agreements again?

Mr McIlwain—The numbers are 43 for employee collective agreements, 16 for union collective agreements—

Senator MARSHALL—So the information you will give me will be fairly heavily biased towards non-union collective agreements.

Mr McIlwain—2,735 for employee collective agreements and 1,239 for union collective agreements.

Senator MARSHALL—Yes, I got them. But, in terms of the clauses that we are going to go to the detail of now, it is on the basis that there are 16 union collective agreements and 43 non-union collective agreements. You are unable to break them up. For the purposes of the collective process, I can get some statistical information, but it is not going to be useful in comparing union agreements to non-union agreements. That is correct, isn't it—unless you can break them up?

Mr McIlwain—No. I am unable to disaggregate them. I need to say that the analysis of collective agreements thus far has been conducted by the department through its workplace agreements database.

Senator MARSHALL—Under your delegation?

Mr McIlwain—Indeed.

Senator MARSHALL—They will not give us that information, will they?

Mr McIlwain—I will provide information that I am able to this evening and, if I take any questions on notice with regard to collective agreements, I will also provide that.

Senator MARSHALL—Those staff are appearing before us tomorrow. Am I able, they being your delegated representatives, to ask them questions about this too?

Mr McIlwain—It may be more efficient if you allow me to provide that information.

Senator MARSHALL—I just might think of something overnight—that is all.

Senator Abetz—Put it on notice.

Mr McIlwain—You are welcome to put it on notice. The agreement I have with the department—

Senator Abetz—I will not stay awake wondering.

Mr McIlwain—is that they will compile for me this information and provide it to me. The OEA will then be the collator of data in regard to both AWAs and collective agreements.

Senator MARSHALL—Okay, shoot.

Mr McIlwain—I should say too that I am advised that the employer and union greenfields agreements lodged during April—

Senator MARSHALL—Let us do them separately.

Mr McIlwain—would also have been included in any analysis of collective agreements.

Senator MARSHALL—Let me double-check I have those figures right. For union greenfields agreements the figure is two and for employer greenfields agreements—they are simply agreements that employers make with themselves and then lodge with you—it is 16.

Mr McIlwain—That is correct. Whilst I am unable to be exact about it, I recall that some of the coding that the department undertook took into account agreements lodged in the early part of May as well so in fact may possibly involve more collective agreements than were lodged in April. I will advise you as to the total sample size in regard to any of those.

Senator MARSHALL—Given that they are all bunched together—and I know there will be no employer greenfields agreements prior to 27 March; you can assure me of that, can't you?

Mr McIlwain—Yes.

Senator MARSHALL—Given that they are all bunched together, maybe you should just provide all that information on notice. If we have time later, we will come back to it, because I would like it tonight. The usefulness of the statistics for me at the moment, not being able to separate all of them out, is probably less than I thought it would be. We will see how we go with time. I will move onto the issue of AWAs across the board, not just since 27 March. You may be aware that, on 25 May, Minister Andrews said in the House:

In the Leader of the Opposition's electorate there have been 18,471 Australia workplace agreements entered into since 1996—almost 20,000 Australian workplace agreements just in the electorate of the Leader of the Opposition. In the electorate of the previous speaker, the member for Perth, there has been 10,391 Australian workplace agreements since 1996.

Was it the Office of the Employment Advocate that provided this information to the minister or his office?

Mr McIlwain—I am aware that we have provided information on agreement coverage by postcode to the department. I will have to check whether we have provided that information directly to the minister.

Senator MARSHALL—Nonetheless, the source of the information must have been the Office of the Employment Advocate.

Mr McIlwain—Yes.

Senator MARSHALL—Okay. Are you able to provide a breakdown for the committee of AWAs by each electorate nationally?

Mr McIlwain—We can provide it by postcode.

Senator MARSHALL—Why can't you match the postcodes to the electorates?

Senator Abetz—Sometimes the postcode may straddle electorates. That is the problem, I would imagine.

Mr McIlwain—Yes. I will check if we are able to provide, or if we ever have provided, a reconciliation of agreements by postcode with federal electorates. If I am able to do that, I will do that.

Senator MARSHALL—The minister is exactly right; postcodes do overlap electorate boundaries. But the information that was provided to the minister's office either directly or through the department was specifically about federal electorates. So are you saying you can provide the information by electorate or only by postcode?

Mr McIlwain—What I am saying is that we are absolutely able to provide it by postcode and I will check whether we can reconcile postcodes with electorates to come up with that other cut of the data. And, if we have done that in the past, I will most certainly do that.

Senator MARSHALL—Would you have provided information on street names and numbers to the department or the minister's office?

Mr McIlwain—No.

Senator MARSHALL—You would not have. The minister was very specific when he said that, in the Leader of the Opposition's electorate, there had been 18,471 AWAs. That is a very precise figure. He does not say 'approximately'. He gives an exact figure. If that information was only ever provided by postcode then that information is not necessarily correct, is it?

Senator Abetz—That depends. The electorate of Brand may have all postcodes contained within it. I do not know. I think, for example, the electorate of Denison in Tasmania has discrete postcodes, all contained within its boundaries, whereas I know Bass and Lyons do share some postcodes. So I dare say it depends on the specific electorate.

Senator MARSHALL—The minister was also very specific about the electorate of Perth and said there were 10,391 workplace agreements. Maybe two electorates do not have overlapping postcodes. That is something we can check. You will advise the committee whether you have ever provided information broken down by electorates. You have already said you have not. Have you? Let us be clear.

Mr McIlwain—We have a record of AWA employees by postcode. I am uncertain whether we have reconciled that with federal electorates and provided that information to the department or—

Senator MARSHALL—But if you have never provided street names and numbers there is no way anyone else could have done that work. If you provided the information by postcode—unless Minister Abetz is correct and the federal electorate contains all the postcodes; that is one explanation that may well be the case—the only other way to do it would be for someone to go through every street name and number contained within the federal electorate to double-check, and you have never provided that information, have you?

Mr McIlwain—No, we have not provided that information. But it strikes me that there could be a number of explanations.

Senator MARSHALL—What explanation strikes you?

Mr McIlwain—There could be a category of other, unassigned or unknown electorates in that data set. For example, where it was not possible to determine safely the electorate of the employee, that employee and all others in that circumstance could go into another category of other undetermined electorates. I simply do not know, but it strikes me that that is a possibility, and it is an approach often used for statistical matters where uncertainty is present. Another explanation that strikes me is that there may be some IT product available which does an automatic reconciliation and has built into it an algorithm to allocate undetermined or uncertain addresses to a particular electorate on the basis of that algorithm.

Senator MARSHALL—So you are saying your IT system will default to an electorate.

Mr McIlwain—No. I am saying there may be a product that is available for statistical purposes that would do that. I do not know. They strike me as two possible explanations.

Senator MARSHALL—Let us be clear: you have never provided the street names and numbers of recipients of AWAs.

Mr McIlwain—That is correct.

Senator MARSHALL—All you have provided is postcodes.

Mr McIlwain—That is correct.

Senator MARSHALL—We are clear about that.

Mr McIlwain—All I know to my personal knowledge that we provided is postcodes. However, I will check whether we have ever provided to the department both postcodes and an electorate reconciliation and whether we have ever provided anything at all directly to the minister's office.

Senator MARSHALL—You are going to check whether you have ever provided an electorate—what did you say?

Mr McIlwain—A reconciliation of postcodes with federal electorates.

Senator MARSHALL—That is right. We come back to what Minister Abetz said. If the postcodes neatly fit into a federal electorate you could get the exact number and if postcodes overlapped federal electorates you could not get a precise number unless you provided the street names and numbers, because every address is matched to the boundary but every postcode may not necessarily be. But, again, I am not ruling out the possibility that Minister Abetz has indicated.

Mr McIlwain—I can be categorical and say we have not provided street numbers and names to anyone. Whether it is possible in some other way to determine safely the electorate of a particular employee in a postcode that straddles more than one electorate I am unable to say.

Senator MARSHALL—Thank you.

Senator GEORGE CAMPBELL—But I also understood you to say, Mr McIlwain—just for the record—that if you have provided those figures based on electorates to the minister or to the department then you will do it for all electorates.

Mr McIlwain—I am certain that the information we have provided is for every Australian postcode in which an employee with an AWA is living. I am certain of that. The information provided to the department would cover, I know from personal knowledge, all postcodes.

Senator MARSHALL—And you are happy to provide that to the committee.

Mr McIlwain—Yes, we will provide that.

Senator MARSHALL—That is what I thought you indicated earlier.

Senator McEWEN—I just want to clarify that: you are going to provide the committee with a list of the number of AWAs by postcode?

Mr McIlwain—Correct.

Senator McEWEN—Thank you. Have you finished on that bit, Senator?

Senator MARSHALL—Yes.

Senator McEWEN—I have a few questions, Mr McIlwain, or your trusty offsidiers, about a matter that was raised at Senate estimates last week with regard to AWAs at the Civil Aviation Safety Authority. It generated some media attention. At CASA there are a number of employees who will be redeployed. CASA advised the Senate Rural and Regional Affairs and Transport Legislation Committee that CASA had a standard AWA that they offered employees but that they were seeking advice about whether or not they would be able to require redeployed employees to also be employed under the conditions of that AWA. Can you advise whether any AWAs between CASA and their employees have been lodged with you recently?

Mr McIlwain—I simply do not know. But, as you know, I am not able to reveal the identity of AWA parties without their consent.

Senator McEWEN—Obviously this is a matter between, essentially, two government departments. CASA have gone on record saying that they are seeking advice about whether they are able to do this.

Mr McIlwain—I am not aware of being in receipt of a request from CASA for advice. Even if I were in receipt of such a request from an employer, that would still not release me from my responsibility not to discuss the parties to AWAs without their consent.

Senator McEWEN—Would that also apply to inquiries by employees of CASA who may have sought your assistance?

Mr McIlwain—I am unable to say. I have no knowledge of whether we have received, in our call centre, inquiries from CASA employees—and, indeed, there again I would be bound to respect the confidentiality of those employee parties seeking assistance from the OEA.

Senator McEWEN—Then could you venture an opinion, assuming you know the situation at CASA with the redeployed employees and CASA's wish to offer them employment on the proviso they sign an AWA? What is your opinion; would they be able to require redeployed employees to accept employment under an AWA or not at all?

Mr McIlwain—I really do not know enough of the facts concerning this situation to be able to reliably answer that question. It would turn on the facts and I know none of them.

Senator McEWEN—Would you be able to venture an opinion if you took the opportunity to look at them? The facts are quite well known, they are on the public record and they were discussed at Senate estimates last week. Employees will be redeployed and CASA's intention is to offer them new jobs that they have to apply for, and they want to employ them on an AWA take it or leave it basis. Are they able to do that under the Work Choices legislation? You must have had this inquiry.

CHAIR—Senator McEwen, the facts that Mr McIlwain knows as of this moment about this case are what you have laid before him. With due respect, that may not be the entire story and I think it is very unfair to ask Mr McIlwain to express an opinion on this when he does not know the basic details of the story.

Senator McEWEN—Perhaps, Mr McIlwain, if you do find out any information about that particular situation, you could advise the committee, because I am sure it will apply to other government departments shortly.

Mr McIlwain—I will take that on notice and I will do my best to provide the committee with advice about the general issue of employees being offered a new role by an employer and whether that is considered new employment.

Senator MARSHALL—Mr McIlwain, I want to talk a little bit about prior to 27 March. Can you briefly describe the process that you applied in ensuring that AWAs complied with the no disadvantage test under the pre Work Choices changes.

Mr McIlwain—We had, prior to 27 March, a statutory responsibility to approve only those AWAs that overall did not result in a disadvantage to the employee when the agreement was compared with the relevant award and other relevant laws. We had, up to 27 March, in excess of 140 staff, both in our national office and in our seven regional offices, who applied the no disadvantage test to AWAs.

Senator MARSHALL—Did your office verify every AWA that you received to ensure that it met the no disadvantage test?

Mr McIlwain—Every AWA that was approved was found to have met the no disadvantage test.

Senator MARSHALL—Yes. So every AWA that came had the test applied to it, and some passed and some failed?

Mr McIlwain—There was a no disadvantage test for every AWA and those that met the no disadvantage test were approved.

Senator MARSHALL—What did you do when AWAs did not meet the no disadvantage test? What was the procedure then?

Mr McIlwain—AWAs which at first blush, so, on first assessment, were found not to meet the no disadvantage test were subject to a second process, where the employer was asked to provide what the legislation described as an undertaking to overcome the Employment Advocate's concerns that the no disadvantage test was not met. That undertaking was typically to increase the pay rate, to change the patterns of work or to provide some other compensation, monetary or in kind, that would overcome my concerns that the employee was disadvantaged.

Off the top of my head, including AWAs approved with undertakings, 98 per cent of AWAs were found to meet the no disadvantage test, including those where the employer had provided the undertaking. I will check these figures momentarily. Those where the employer refused to provide an undertaking that would overcome my concerns were referred to the AIRC for a third process. The AIRC had a power that I did not have, which was that it could approve an AWA with an undertaking given to it or it could approve an AWA that did not beat the no disadvantage test but which it was not against the public interest to approve.

I am checking the figures now and, in the nine months ending 31 March 2006, only 0.5 per cent of all AWAs filed during that period were referred to the AIRC. In the six months to the end of March 2006, 14 per cent of the total number of AWAs approved during that period were approved after the employer had provided an undertaking at the OEA's request. That would mean that the remaining 85 per cent of AWAs approved during that period were approved without the need for an undertaking.

Senator MARSHALL—So it is your evidence that every AWA that was approved by your office met the no disadvantage test?

Mr McIlwain—Yes.

Senator MARSHALL—Are you aware of the case of Sachie Murata and Dion Woo?

Mr McIlwain—I am aware of that case.

Senator MARSHALL—Can you advise how your office came to approve that AWA, which was received from Ms Murata's employer, Dion Woo?

Mr McIlwain—Yes, I can. That AWA was subject to a no disadvantage test. On the basis of the information provided to us by the employer and the content of the AWA, it was found to meet the no disadvantage test.

Senator MARSHALL—Are you aware of that case inevitably going before the Industrial Magistrates Court?

Mr McIlwain—I am aware of that.

Senator MARSHALL—And I am too—I just have to find the right spot in my notes. The Industrial Magistrates Court found that under the AWA Ms Murata was underpaid; she had signed it under duress; that the OEA approved the AWA without ever checking its bona fides with Ms Murata; and that the AWA provided to the OEA contained incorrect information. Do you agree with those findings?

Mr McIlwain—No, I do not agree with all those findings.

Senator MARSHALL—Which of those findings don't you agree with and why?

Mr McIlwain—I need to make the point that this matter is still on foot in the Industrial Magistrates Court in New South Wales. Beyond what I have said so far, I need to exercise great caution as I understand that the applicant's solicitors may seek the magistrate's agreement to seeking from the OEA a formal submission with regard to the issue of duress and the effect of a finding that the employee had entered into the AWA on the basis of duress.

Senator MARSHALL—I accept that, and so I will not pursue that specific matter further but I will ask you some more general questions. Did the OEA have in place any follow-up verification regime to ensure compliance with authorised or approved AWAs from your office?

Mr McIlwain—What I can say, having answered cautiously your first question—

Senator MARSHALL—Let me be clear if this makes you more comfortable: I am not pursuing that matter I was referring to; I am now talking about your general processes in respect of all AWAs.

Mr McIlwain—What I can say is that, firstly, prior to 27 March, the OEA sent to every employee for whom an AWA was lodged a letter to their residential address asking them to contact the OEA if they had any concerns whatsoever about the process leading to the making or the lodgment of their Australian workplace agreement. Secondly, all complaints made to the OEA by an employee with regard to their Australian workplace agreement were taken most seriously and investigated to ascertain whether *prima facie* there was any evidence of a breach of the law applying to AWAs at that time.

Senator MARSHALL—I want to talk about post 27 March. We have dealt with these things in bits and pieces, but I would like to pull some of these issues together. What do you do for each and every AWA in terms of ensuring that the five minimum standards set by the fair pay and conditions standard under Work Choices is complied with?

Mr McIlwain—The system is a lodgment-only system. I will tell you what I do and what my staff do: where the employer lodges a declaration and a copy of the agreement is annexed to that declaration, the agreement is lodged—that is under section 344(1).

The gazetted declaration form requires the employer to declare that the agreement being lodged is a copy of the workplace agreement. A lodgment receipt is not issued for the agreement but rather for the employer's declaration—that is under section 345(1)—and this is what the lodgment receipt says: 'I accept the lodgment of Australian workplace agreements and five types of collective workplace agreements.' Section 344(5) of the act says:

The Employment Advocate is not required to consider or determine whether any of the requirements of this Part—

being part 8, workplace agreements—

have been met in relation to the making or content of anything annexed to a declaration lodged in accordance with subsection (2).

I do not check the standard in regard to lodged workplace agreements. Post facto, as part of the analysis function also given to me under the act, as I have explained here at length tonight, I sample and analyse workplace agreements to see what the parties are doing amongst other things in regard to the standard.

Senator MARSHALL—Thank you for summarising that. As I said, we had dealt with most of that in bits and pieces through the course of the night but I think it was useful to get that in one spot. I want to move on to some monetary details with regard to that. I think you indicated in answer to question W777_06 that you have budgeted for 32.3 full-time equivalent staff in the 2005-06 year for the promotion of workplace agreements.

Mr McIlwain—Yes, that is correct.

Senator MARSHALL—How many full-time equivalent staff have you budgeted for for the checking of AWAs for prohibited content and/or other non-allowable matters for the 2005-06 and 2006-07 years?

Mr McIlwain—For prohibited content, it would be a proportion of all of our legal staff and a proportion of some of our lodgment management staff. I will see if I am able to give you a figure from what I have with me this evening.

Senator MARSHALL—I recall from an answer to an earlier question that you have not done any checking up until now. While you are looking for those figures, will you be doing some checking for prohibited content up until the end of June this year?

Mr McIlwain—I believe we may not start until July. I have several functions in regard to prohibited content: an education function; I have the post—

Senator MARSHALL—At this point, I am just interested in checking the amount of staff that you intend to put on the checking process.

Mr McIlwain—I have the post-lodgment checking function and I also have a pre-lodgment advice function where advice is sought formally. Priority is being given to the pre-lodgment advice function at the moment. I am not able to say now, in 2006-07, exactly what proportion of legal staff and what proportion of lodgment management staff—of the full-time equivalent staff—will be expended on the post-lodgment checking process. It will probably be early next financial year before I am able to give an indication there. As I mentioned earlier this evening, we are still in the process of determining the sampling methodology to deal with prohibited content checking post-lodgment.

Senator MARSHALL—Just remind me: were you going to check every agreement or only a sample.

Mr McIlwain—We will check a sample of agreements.

Senator MARSHALL—Again, just to remind me: you still have not determined the percentage of the sample?

Mr McIlwain—That is right—or, indeed, how the sample will be put together. It may not necessarily be the same methodology adopted for the analysis of workplace agreements that we have discussed extensively this evening.

Senator MARSHALL—Thank you. How much money did your office receive for industry partners in 2005-06, and what will you receive for 2006-07?

Mr McIlwain—There is no specific allocation for the industry partners program. It is part of our overall advice and assistance function. Just to be clear, industry partners receive no funding from the OEA. The relationship is a non-contractual one. No money changes hands. The advice and assistance provided to industry partners is provided by those staff who provide advice and assistance to employers directly, to employees directly, and to the representatives of both employers and employees.

Senator MARSHALL—So you cannot put a figure on what that costs you?

Mr McIlwain—No.

Senator MARSHALL—What about in respect of community partners?

Mr McIlwain—Community partners is an entirely different kettle of fish. Community partners are contracted by the OEA to provide services. In the current two-year contract period, the total cost of the contracts—it was originally 13 and it is now 12—with working women's centres and community legal centres is \$1.457 million. That is over a two-year period, ending on 31 August 2006.

Senator MARSHALL—So that is the total budget amount going back to August 2004.

Mr McIlwain—Going back to 1 September 2004. The period of the current contracts is 1 September 2004 to 31 August 2006.

Senator MARSHALL—That comes up during the next financial year. What is going to be the case for 2006-07?

Mr McIlwain—Beyond the current contract period?

Senator MARSHALL—Yes. Is there money allocated for that?

Mr McIlwain—The contractual arrangements are being reviewed at the moment, and I am not able to speculate whether the arrangements will continue in their current form into the future.

Senator MARSHALL—But is there a budget allocation for a type of community partner program—however you re-establish it—to go beyond 1 September?

Mr McIlwain—The OEA has, within its budget, funds to provide services to those designated demographic groups—being women, people of non-English-speaking background, young people, apprentices and trainees. However those services are provided, we have sufficient funding to ensure that those services are discharged.

Senator MARSHALL—What is your budget for 2006-07 for promotional activities—promoting workplace agreements?

Mr McIlwain—It is an indicative figure at the moment. We are still in the process of determining our internal allocations, but I can give you a broad indication. In 2006-07 the OEA believes that 59 per cent of its budget, or \$21.299 million, will be spent on promotion, advice and assistance and information.

Senator MARSHALL—And that is across all the agreement range?

Mr McIlwain—Absolutely.

Senator MARSHALL—Have you broken that down into promoting different sorts of agreements?

Mr McIlwain—No. We have not determined our internal allocations at this point. I am not sure that there would be a disaggregation on the basis of agreement type.

Senator MARSHALL—I accept that you have indicated that they are indicative figures—but fairly precise too, I might say. How many full-time equivalent staff are to be engaged in promotional activities for workplace agreements for 2006-07?

Mr McIlwain—Those functions—being promotion, advice and assistance—will be discharged largely by our client services staff located in our regional offices, and there will be 115 of those around the country in 2006-07. The function is partly discharged also by staff in our agreement services division. There are currently 85 staff in that division and there will be some more in the 2006-07 financial year when we determine the internal allocation of the global budget. The staff in our agreement services division do not spend all of their time on promotion, advice and assistance. They spend some of their time on lodgment management, and that would include, amongst other things, the processes of sampling that we have discussed this evening and prohibited content checking post lodgment—and indeed some prohibited content advice pre lodgment. Mr Casson reminds me that of course staff in our regional offices also provide assistance directly to the designated groups who are subject to the contracts with community organisations at the moment.

Senator MARSHALL—Are you able to give me a rough percentage breakdown of those activities?

Mr McIlwain—I can: lodgment management, on the basis of budget, 36 per cent; promotion, advice and assistance and information, 59 per cent of the budget; and a small allocation for the finalisation of pre reform AWAs lodged by 27 March but not finalised by 27 March—five per cent of our 2006-07 allocation. That makes a total of 100 per cent.

Senator MARSHALL—Thank you. I noticed in the paper on the weekend there was an Australian government ad entitled ‘Work Choices—how will it apply to you?’ I will hold it up. It is not large. Are you responsible for that?

Mr McIlwain—That advertisement, I believe, on the basis of what I can see, would have been placed by the department. Is it advertising seminars?

Senator MARSHALL—‘Attend a Work Choices seminar to understand how Work Choices will work for you and what opportunities it can provide.’

Mr McIlwain—We present Work Choices seminars jointly with the department. We present on agreement making under Work Choices. That ad, though, would have been placed by the department.

Senator MARSHALL—Can you tell me how many seminars you plan to hold?

Mr McIlwain—I can tell you how many seminars we participated in.

Senator MARSHALL—I am very keen to know whether breakfast will be provided and at what cost.

Senator Abetz—I am not sure that you will get an invite.

Senator MARSHALL—No, I am not seeking an invite, but I might head along to one anyway, as long as breakfast is not provided.

Mr McIlwain—In April, we participated in 132 Work Choices seminars with the department.

Senator MARSHALL—Can you tell me where? It might be more useful if you can take that on notice unless you have a ready breakdown of it.

Mr McIlwain—We could, but you may prefer to ask the department as the organising agency to provide the information they may have.

Senator MARSHALL—Yes, but I have this problem with Dr Boxall whereby, whenever I get to some good questions, he says: ‘You’re too late, Senator. That was some other area that you missed yesterday.’ I am sure you coach him on that, Minister.

Senator Abetz—I am sure it is not fair to blame Dr Boxall for that.

CHAIR—I think you will be pretty safe with workplace relations implementation tomorrow.

Senator MARSHALL—I take your assurance of that, Chair, and will rely on you steering the ship adequately. Where does the cost for these come from? Do you share that with the department, or does it come out of the department? What role do you play in that? What do you provide to get your name on this ad?

Senator Abetz—They scramble the eggs.

Mr Casson—The department funds this series of seminars, and we fund the activity of having our employees attend, so their travel costs and accommodation costs are funded by us.

Senator MARSHALL—And they attend to do what?

Mr Casson—They attend to give advice and assistance on agreement making, which is our function under the act.

Senator MARSHALL—Is there a standard presentation that is made available?

Mr Casson—Yes.

Senator MARSHALL—And it does not matter which group is there. Is it for employers, employees, both?

Mr Casson—This is for anybody who wants to come along and understand agreement making under Work Choices.

Senator MARSHALL—Is the same presentation given to anybody?

Mr Casson—Yes.

Senator MARSHALL—Are you able to provide to the committee the outline of the presentation?

Mr Casson—Yes.

Senator MARSHALL—That will save me attending.

Mr McIlwain—That is the outline of our part of the presentation. Of course, you would have to ask the department separately for its part of the presentation.

Senator MARSHALL—Thank you. You have done 132 so far. Do you know how many are intended to be done? I will ask the department how much it is going to cost.

Mr McIlwain—In May, 114 were scheduled and 137 have been scheduled in June.

Senator MARSHALL—This is a lot. How many staff have you got involved in this?

Mr McIlwain—In effect, we have almost all of our client services staff involved, presenting one or more seminars.

Senator MARSHALL—This is more than five a day, I suspect, unless you are doing them on weekends as well.

Mr McIlwain—They are across Australia. There have typically been many seminars conducted on the one day. We have had 109 staff involved to one extent or another from our client services area either directly presenting or involved in the arrangements to get our presenters to the location and the venue on the day at the appointed time.

Senator MARSHALL—The ad indicates that bookings are essential. How many people attend a seminar?

Mr McIlwain—I do not have that information. That is a question more properly put to DEWR.

Senator MARSHALL—All right. I am interested to know what sort of exposure and reach you are having there. Is there information provided as well?

Mr McIlwain—There is an information kit provided.

Senator MARSHALL—Is that provided by you or the department?

Mr Casson—There are information kits that are provided by the department on the department's element of the seminar, which is Work Choices and how it operates, and there is a kit provided by us on agreement making.

Senator MARSHALL—Will you provide the kit as well as the course presentation outline for me?

Mr Casson—Yes.

Senator MARSHALL—Thank you.

[10.26 pm]

Equal Opportunity for Women in the Workplace Agency

Senator McEWEN—At the additional Senate estimates on 16 February this year, you said:

The research and surveys that we do—

that is, EOWA—

feed back into the department and are shared with the Office for Women in the Family and Community Services Department.

Can you us give some examples of how you share that information, particularly with the Office for Women?

Ms McPhee—We forward the information to the Office for Women and sometimes discuss it with them. It is generally just forwarded.

Senator McEWEN—Are there any policy outcomes that you could attribute to that exchange of information?

Ms McPhee—Specifically in relation to workplace matters with the Office for Women, the only overlap is the women on boards work that the Office for Women do, as I understand it.

Senator McEWEN—Have there been any discussions with the Office for Women about women's participation in the workforce, particularly given the Welfare to Work legislation?

Ms McPhee—No.

Senator McEWEN—Has the EOWA done any work or analysed how the new Work Choices act will affect women?

Ms McPhee—No.

Senator McEWEN—You have not adapted your survey at all to take into account any impact of the Work Choices legislation?

Ms McPhee—The way in which organisations need to report to EOWA is legislated. Legislation would need to be changed. Organisations report to us on a range of matters which would be covered by the general minimum standard benefits. We would be looking at that.

Senator McEWEN—I am not sure what you mean by that.

Ms McPhee—We look at things like pay equity, part-time work, access to maternity leave, access to general leave and work organisation matters.

Senator McEWEN—Are you set up to compare those aspects of working life before and after the Work Choices legislation comes into effect?

Ms McPhee—No. The AWA legislation is set up to specifically look at seven employment matters for the access of equal opportunity for women in the workplace.

Senator McEWEN—Given that there are going to be significant changes arising both out of the Work Choices act and the Welfare to Work legislation, have you contemplated some kind of comparison between the situation that occurred prior to the implementation of those two pieces of legislation and subsequent to? I know you are confined within your parameters about what you have to report.

Ms McPhee—We will be able to track specifically, for example, the Welfare to Work provisions. We will be able to track the increase in part-time activity within workplaces and the increase in participation of women at a part-time level within organisations, which is a provision under Welfare to Work. In relation to Work Choices, we do not have organisations report to us specifically on their industrial instruments, as to how they negotiate with their staff.

Senator McEWEN—On that matter of Work Choices instruments and the kinds of employment instruments that people are employed under, I think last time you appeared at Senate estimates you said you would look into it in the future. I asked whether you asked a question about what kind of legislative employment instrument applied in a workplace. At that stage you did not.

Ms McPhee—Generally, most workplaces have a number of different instruments operating within them. Organisations are not required to report to us on that issue. It would be a significant regulatory burden, I would imagine, on businesses to report on how many employees are covered under each different industrial instrument within their workplace and how that relates to how many women are involved. So, at this stage, no.

Senator McEWEN—Surely, the objective is to improve women's participation in the workplace on the basis of equity.

Ms McPhee—And we can track that without looking at industrial instruments. We can look at the participation of women in the workplace, participation of women at certain levels within an organisation, salary levels, access to paid maternity leave, access to part-time provisions—a whole range of different things—as well as promotion and recruitment issues, which show whether or not women have equal opportunity within a particular workplace.

Senator McEWEN—Given the government's stated preference for Australian workplace agreements, wouldn't it be useful to ask organisations whether or not they use AWAs, so that you can work out whether or not, as a result of AWAs or any other legislative employment instrument, things are improving for women?

Ms McPhee—The government has not asked us to specifically ask that question in relation to AWAs and women.

Senator McEWEN—Do you ever make suggestions to the government about how your work could be improved by expanding the terms of reference to include AWAs?

Ms McPhee—As I said earlier, we were able to track the improvements for women in the workplace by looking at a number of other different measures rather than specifically how those benefits are determined or delivered. A lot of them are just within policies, so they are policies within a workplace rather than through a formal enterprise agreement, AWA or certified agreement.

Senator McEWEN—If employers come to you for advice about how to make things better in the workplace for women, would it not be useful for you to be able to say, 'From our knowledge and the surveys that we undertake, employers who offer this particular kind of industrial instrument tend to provide better family-friendly provisions'?

Ms McPhee—I think we would advise that organisations which consult directly with their employees on the needs of those employees have better workplaces. That is the nature of the legislation—that organisations are required to consult with their staff and understand the issues of their staff and then take action from that consultation. So it is at the workplace level, employer to employee.

Senator McEWEN—But you do not ask questions in your survey about what consultation mechanisms are in a workplace?

Ms McPhee—Not specifically about how they consult. Whether it be through meetings or surveys, a whole range of different mechanisms are used by employers. They report to us on that consultation, but the type varies from organisation to organisation depending on size, needs, preferences.

Senator McEWEN—But you do not ask specifically what consultations take place?

Ms McPhee—We ask that consultation takes place and that evidence of that consultation be described. The fact that they consult is the important matter; how they do it should not necessarily be prescribed by us.

Senator McEWEN—All right. I know that you put out your report about paid maternity leave. Do you have any updated information?

Ms McPhee—We issued a report on paid paternity leave; is that what you are talking about? Or was it on paid maternity leave?

Senator McEWEN—It is on maternity leave, I think. It was posted on your website earlier this year.

Ms McPhee—Maternity leave. I am not sure of the last figures that you have but, in 2005, 46 per cent of organisations that report to EOWA that were surveyed provided paid maternity leave. That has doubled over the last four years.

Senator McEWEN—Do have a breakdown of the industries you surveyed? Were they private sector, higher education or government institutions?

Ms McPhee—Private organisations, universities and private education institutions, group training organisations, unions.

Senator McEWEN—What percentage of the private companies offer paid maternity leave? Or perhaps we should say parental leave.

Ms McPhee—Off the top of my head I cannot recall the private sector breakdown but I can provide that for you. It would be available on the website, but I can provide that for you.

Senator McEWEN—Okay. I am assuming it would not be 46 per cent of your respondents.

Ms McPhee—Overall, no, it is not 46 per cent. For example, in the finance sector approximately 56 per cent of organisations provide paid maternity leave. So it varies from industry to industry.

Senator McEWEN—If you could provide that, that would be good—and also for those other criteria of employers that you survey.

Ms McPhee—Sorry?

Senator McEWEN—And also for the other criteria of employers that you survey, like higher education and private education institutions.

Ms McPhee—Right. Yes.

Senator McEWEN—The work and family test case that the Australian Industrial Relations Commission handed down in August 2005 awarded employees various parental leave rights. Have you considered asking questions of your respondent employers to find out how many businesses provide the conditions that were outlined in that test case?

Ms McPhee—We do not ask specific questions but we are seeing organisations that are providing them.

Senator McEWEN—How do you find that out if you are not asking them?

Ms McPhee—We do not ask specific questions, but organisations report on the provisions that they offer and we capture it that way. I cannot give you a specific percentage of businesses that provide those conditions. There are instances of organisations providing, for example, another year's extension to the maternity leave provision.

Senator McEWEN—Do you know what percentage of the organisations that report to you are now offering that?

Ms McPhee—No.

Senator McEWEN—You should be able to find out what it is, though, I presume, out of the organisations that are required to respond to you.

Ms McPhee—The reporting period has only just begun since the test case was laid down, so organisations are only now reporting on their previous 12 months programs. I would not be able to provide that information until the end of that reporting period and the collection of that information. We are currently not set up to collect that information specifically. It would be a manual collection.

Senator McEWEN—Have you built into your website information about the test case to alert employers who are preparing reports to the fact that that is something they could report to your agency?

Ms McPhee—Not specifically to the test case, but we provide information to employers that that is an action or an initiative that they could implement in their workplace that other organisations are already doing.

Senator McEWEN—But you are alerting employers to the components of the test case, which includes the 12 months extension of unpaid personal leave and the employee's right to request part-time work.

Ms McPhee—Yes, and using case studies where it is occurring.

Senator McEWEN—Does the information you glean from employers contain any information about their employment of women with disabilities?

Ms McPhee—We do not specifically ask that question, but some organisations provide that information in relation to their workforce.

Senator McEWEN—Given that one of the objectives of the government's Welfare to Work legislation is to assist people with disabilities into the workforce, have you considered proposing to the government that there should be some sort of statistical information collected on women with disabilities' improved participation rates?

Ms McPhee—We are considering spotlighting the issue in relation to creating employer awareness of it by including it in our annual awards program. We would highlight organisations which are currently implementing programs and recognise what they are doing to demonstrate to other organisations the importance of the issue and what they could be doing.

Senator McEWEN—So you will not be asking any specific questions about it.

Ms McPhee—In relation to the reporting program but not as part of the specific questions. In future, in relation to the annual survey—we would not do it this year—we will probably follow the awards process.

Senator McEWEN—Do you collect any information from the employers who either complete this survey or are required to report to you about pay equity?

Ms McPhee—Yes. Organisations provide pay data in their reports. I will just make the distinction between reports and surveys: a survey is something that we do in talking with organisations—it is an actual questionnaire; reports are what organisations provide to us as part of the legislation and they do provide that information.

Senator McEWEN—So they compare wages of women in the workforce vis-a-vis men.

Ms McPhee—Yes.

Senator McEWEN—For equivalent kinds of occupations.

Ms McPhee—Yes.

Senator McEWEN—Is that information analysed on your website?

Ms McPhee—That information is not made public, given the commercial-in-confidence nature of salaries.

Senator McEWEN—We understand that, but do you draw an overall picture?

Ms McPhee—Yes. In our current research in relation to industries, we are looking at that data and reporting it back to business in relation to pay equity issues and how businesses are redressing some of the issues they find. We also have available on our website a pay equity tool, which enables organisations to do that analysis in their workplace and helps them by explaining the types of inequity that might occur.

Senator McEWEN—Have you given any consideration to the issue of pay equity in relation to the implementation of both the Work Choices and Welfare to Work legislation?

Ms McPhee—We will as a part of our regulatory process continue to monitor the issue of pay equity in workplaces.

Senator McEWEN—Will you compare that information post and pre Work Choices and Welfare to Work legislation?

Ms McPhee—Similarly with our information and I suppose ABS data as well, in looking at whether the pay gap continues to decrease or whether it increases.

Senator McEWEN—Have you received any specific requests from the minister or the government to continue to collect that kind of information for the purpose of providing pre and post Work Choices and Welfare to Work legislation reports?

Ms McPhee—Not specifically pre and post, but we are tasked with the job of monitoring organisations and what they are doing in relation to opportunity for women in the workplace, of which pay is one aspect.

Senator McEWEN—Has that requirement on behalf of the government changed at all since the implementation of those two new pieces of legislation?

Ms McPhee—No.

Senator McEWEN—So you have not received specific instructions to collect other kinds of information or to report it in another way?

Ms McPhee—No.

Senator McEWEN—Are you aware of any mechanisms that the government might have in place or might be intending to put in place to ensure that the wage gap between men and women does not widen as a result of the Work Choices legislation?

Ms McPhee—We just heard about the information sessions that OEA are providing, and one segment of that group is women, in relation to agreement making. That is information provided to women to help them understand agreement making and how they can benefit from agreement making.

Senator McEWEN—Does your agency provide any assistance in that regard to OEA?

Ms McPhee—No. OEA will be doing that work.

Senator McEWEN—As you are no doubt aware, the Work Choices legislation decrees that the Australian Fair Pay Commission must take equal remuneration for work of equal value and antidiscrimination legislation into account when setting minimum wages. Has the Fair Pay Commission sought any advice from your agency about achieving those goals?

Ms McPhee—Not specifically, except for their calls for submissions to look at the issue.

Senator McEWEN—Have you put in a submission?

Ms McPhee—We are considering it.

Senator McEWEN—You are considering putting in a submission. When is that required to be in by?

Ms McPhee—I am not certain of the date off the top of my head.

Senator McEWEN—What will make up your mind about whether or not you put in a submission?

Ms McPhee—Whether we would be able to add anything specifically that others may not already be able to add.

Senator McEWEN—Is it your decision whether or not you put in a submission?

Ms McPhee—Yes, looking at the resources that we have and the information that we have and whether or not we can add value to the commission.

Senator McEWEN—Will you be making your mind up about that fairly soon?

Ms McPhee—Yes.

Senator McEWEN—I presume if that is your decision the committee will be able to access that. I presume the submissions to the Fair Pay Commission are public. Do you know?

Ms McPhee—I do not know.

Senator McEWEN—Will they be publicly available?

Ms McPhee—They will probably be made publicly available eventually, but I do not know.

Senator McEWEN—Do you know, Minister?

Senator Abetz—Nobody knows. We can potentially explore that tomorrow.

Senator McEWEN—That would be useful for us to find out. Similarly, do you know, Ms McPhee, whether the Fair Pay Commission has sought any information from your agency about mechanisms that it could employ to negate the potential for indirect discrimination such as bias about the value of certain skills and attributes in feminised occupations and industries when setting its wages and classifications?

Ms McPhee—Not that I am aware of.

Senator McEWEN—They have not sought any information from you?

Ms McPhee—Not directly from me, no.

Senator McEWEN—Is that something that you would address in a submission if you decided to put one in?

Ms McPhee—Yes.

Senator McEWEN—Do you know whether the Fair Pay Commission will have the capacity to hear pay equity cases or work value applications?

Ms McPhee—I am not sure.

CHAIR—We can possibly put that to them tomorrow as well.

Senator McEWEN—Unless the minister knows.

Senator Abetz—Let's find out tomorrow.

Senator McEWEN—Finally, Ms McPhee, do you feel that your agency is limited in any way about its ability to monitor the progression of women in the labour market?

Ms McPhee—By our IT database. We have a wealth of information that organisations provide to us. We have been focusing on unlocking that information and giving it back to the business community so that they can see what other organisations are doing so that they can benchmark themselves and we can use that information to educate businesses on the issues for women and the actions that have been taken and we are constrained by the ability to mine that information. We will be addressing that in the next few months in improving that system.

Senator McEWEN—Am I right in thinking that you have had an increase in funding in the budget?

Ms McPhee—Yes, there is an increase in funding to cover depreciation of the capital investment which we funded out of existing appropriations.

Senator McEWEN—So that will include investment in the technology to enable you to unlock the information—is that correct?

Ms McPhee—Yes, part of the depreciation, to improve that reporting database. A lot of the data mining is currently manual.

Senator McEWEN—I understand. So, as part of the great unlocking, which I presume involves different kinds of technology, will you be using that opportunity to expand or refine the kinds of reporting requirements of employers?

Ms McPhee—Again, the legislation has the seven employment matters. While organisations report on the seven employment matters, they may report in different ways. So the system needs to be flexible, in a way.

Senator McEWEN—But if you are going to put in a new system then presumably there is an opportunity to expand beyond the seven matters and take into account benchmarking pre and post.

Ms McPhee—It would require legislative change. The seven employment matters are fairly comprehensive in covering the work experience of women in the workplace.

Senator McEWEN—Or what their employers say is their experience.

Ms McPhee—The seven employment matters touch on where issues for women exist. What the organisations report, certainly, is what they tell us.

Senator McEWEN—So you do not think there is any need to go beyond the current seven reporting criteria?

Ms McPhee—For example?

Senator McEWEN—What kind of industrial instrument applies at that workplace, for example.

Ms McPhee—No. The seven employment matters for that example currently provide us with the information in looking at equal opportunity issues for women. The seven employment matters are promotion, recruitment, work organisation, pregnancy, sexual harassment—and I can never remember all seven! They touch on women's experience in the workplace.

Senator McEWEN—Have you put in a request to the government for a new system to unlock this information that you are collecting?

Ms McPhee—That is what the capital investment in IT is doing.

Senator McEWEN—So you know what you want and have asked for it?

Ms McPhee—Yes.

Senator McEWEN—But substantially it will not be asking any different questions than currently are asked?

Ms McPhee—It will not be asking different questions; it will enable us to access more readily the information which organisations provide to us so that we can, I suppose, look more deeply into the issues. The reporting process is a very manual process; it is a one-on-one relationship between our client assessors and business. So we talk annually with a business, they report in writing to us, that report is assessed and a conversation is had and notes are recorded. As you can imagine, there are multiple pages of reports, and they are entered manually. To then unlock or mine that would require sophisticated technology. So we will be doing our best to improve that mining ability.

Senator McEWEN—We look forward to seeing bigger, better and more informative reports from your agency.

Ms McPhee—We will be lodging one next week on the finance industry, so watch this space!

CHAIR—Thank you very much for appearing before us.

Committee adjourned at 10.56 pm