



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

SENATE

FINANCE AND PUBLIC ADMINISTRATION
LEGISLATION COMMITTEE

Estimates

MONDAY, 17 OCTOBER 2011

CANBERRA

BY AUTHORITY OF THE SENATE

INTERNET

Hansard transcripts of public hearings are made available on the internet when authorised by the committee.

The internet address is:

<http://www.aph.gov.au/hansard>

To search the parliamentary database, go to:

<http://parlinfo.aph.gov.au>

SENATE

FINANCE AND PUBLIC ADMINISTRATION LEGISLATION COMMITTEE

Monday, 17 October 2011

Senators in attendance: Senators Abetz, Bernardi, Brandis, Bob Brown, Cormann, Di Natale, Edwards, Faulkner, Fierravanti-Wells, Fifield, Humphries, Kroger, Madigan, Moore, Parry, Payne, Polley, Rhiannon, Ronaldson, Ryan, Siewert, Thistlethwaite and Xenophon.

PARLIAMENTARY DEPARTMENTS

In Attendance

Senator Hogg, President of the Senate

Department of the Senate:

Dr Rosemary Laing, Clerk of the Senate

Mr Richard Pye, Deputy Clerk of the Senate

Mr Chris Reid, Clerk Assistant (Committees)

Ms Bronwyn Notzon, Clerk Assistant (Procedure)

Ms Maureen Weeks, Clerk Assistant (Table Office)

Mr Brien Hallett, Usher of the Black Rod

Mr Joe d'Angelo, Chief Financial Officer

Mr Simon Harvey, Director Parliamentary Education Office

Department of Parliamentary Services

Departmental overview and major corporate issues

Mr Alan Thompson, Secretary

Mr David Kenny, Deputy Secretary

Ms Roxanne Missingham, Parliamentary Librarian

Ms Karen Sheppard, Assistant Secretary, Corporate Services Branch (and CFO)

Ms Judy Tahapehi, Director, Strategy and Communications

Program 1: Parliamentary Library services

Dr Dianne Heriot, Assistant Secretary, Research Branch

Ms Judy Hutchinson, Assistant Secretary, Information Access Branch

Program 2: Building and occupant services

Ms Bronwyn Graham, Assistant Secretary, Building Services Branch

Program 3: Infrastructure services

Ms Freda Hanley, Assistant Secretary, Infrastructure Services Branch

Program 4: Parliamentary records services

Ms Karen Greening, Assistant Secretary, Content Management Branch

Program 5: Works programs

Ms Liz Bryant, Assistant Secretary, Projects Branch

Mr John Edwards, Senior Project Officer, Projects Branch

Ms Kylie Scroope, Director, Art Services

Committee met at 9:00

CHAIR (Senator Polley): I declare open this meeting of the Senate Finance and Public Administration Legislation Committee. The Senate has referred to the committee the particulars of proposed expenditure for 2011-12 for the parliamentary departments and the portfolios of Prime Minister and Cabinet and Finance and Deregulation. The committee may

also examine the annual reports of the departments and agencies appearing before it. The committee has fixed Friday 2 December 2011 as the day by which answers to questions on notice are to be returned. The committee's proceedings today will begin with the examination of the parliamentary departments followed by the Prime Minister and Cabinet portfolio. Examinations of the Finance and Deregulation portfolio and the Department of Regional Australia, Regional Development and Local Government will commence tomorrow.

Under standing order 26 the committee must take all evidence in public session. This includes answers to questions on notice. Officers and senators are familiar with the rules of the Senate governing estimates hearings. If you need assistance the secretary has copies of the rules. I particularly draw the attention of witnesses to the order of the Senate of 13 May 2009 specifying the process by which a claim of public interest immunity should be raised and which I now incorporate into *Hansard*.

The extract read as follows—

Public interest immunity claims

That the Senate—

(a) notes that ministers and officers have continued to refuse to provide information to Senate committees without properly raising claims of public interest immunity as required by past resolutions of the Senate;

(b) reaffirms the principles of past resolutions of the Senate by this order, to provide ministers and officers with guidance as to the proper process for raising public interest immunity claims and to consolidate those past resolutions of the Senate;

(c) orders that the following operate as an order of continuing effect:

(1) If:

(a) a Senate committee, or a senator in the course of proceedings of a committee, requests information or a document from a Commonwealth department or agency; and

(b) an officer of the department or agency to whom the request is directed believes that it may not be in the public interest to disclose the information or document to the committee, the officer shall state to the committee the ground on which the officer believes that it may not be in the public interest to disclose the information or document to the committee, and specify the harm to the public interest that could result from the disclosure of the information or document.

(2) If, after receiving the officer's statement under paragraph (1), the committee or the senator requests the officer to refer the question of the disclosure of the information or document to a responsible minister, the officer shall refer that question to the minister.

(3) If a minister, on a reference by an officer under paragraph (2), concludes that it would not be in the public interest to disclose the information or document to the committee, the minister shall provide to the committee a statement of the ground for that conclusion, specifying the harm to the public interest that could result from the disclosure of the information or document.

(4) A minister, in a statement under paragraph (3), shall indicate whether the harm to the public interest that could result from the disclosure of the information or document to the committee could result only from the publication of the information or document by the committee, or could result, equally or in part, from the disclosure of the information or document to the committee as in camera evidence.

(5) If, after considering a statement by a minister provided under paragraph (3), the committee concludes that the statement does not sufficiently justify the withholding of the information or document from the committee, the committee shall report the matter to the Senate.

(6) A decision by a committee not to report a matter to the Senate under paragraph (5) does not prevent a senator from raising the matter in the Senate in accordance with other procedures of the Senate.

(7) A statement that information or a document is not published, or is confidential, or consists of advice to, or internal deliberations of, government, in the absence of specification of the harm to the public interest that could result from the disclosure of the information or document, is not a statement that meets the requirements of paragraph (1) or (4).

(8) If a minister concludes that a statement under paragraph (3) should more appropriately be made by the head of an agency, by reason of the independence of that agency from ministerial direction or control, the minister shall inform the committee of that conclusion and the reason for that conclusion, and shall refer the matter to the head of the agency, who shall then be required to provide a statement in accordance with paragraph (3).

(Extract, Senate Standing Orders, pp 124-125)

Officers called upon for the first time to answer a question should state their name and position for the *Hansard* record and witnesses should speak clearly into the microphone. Please ensure that all mobile phones are turned off. I also remind witnesses to ensure that their name plates are at the front of the table.

I would also like to request that if senators wish to table any documents or provide additional information during the proceedings that they please bring in duplicate copies so that copies can be made as quickly as possible for other members of the committee.

Department of the Senate

I welcome the President of the Senate Senator the Hon. John Hogg; Clerk of the Senate Dr Laing; and officers of the Department of the Senate. I thank the department for again providing the committee with updated information on Senate committee activities.

Senator Hogg, do you wish to make an opening statement?

The PRESIDENT: No.

Senator FIFIELD: Dr Laing, last estimates you said you were in the process of examining the publication of a 13th edition of *Odgers' Australian Senate Practice*. Is it still your intention to produce a 13th edition later this year?

Dr Laing: Yes, it is the intention to produce the 13th edition as soon as we can. There is a lot of finicky stuff to do, and not too many breaks between sitting weeks at the moment in which to do it. But, yes, we are proceeding towards a 13th edition.

Senator FIFIELD: By the end of this year?

Dr Laing: Maybe not by the end of this year, but certainly over the summer I hope to finalise it.

Senator FIFIELD: Have you given any further thought to an iPad app?

Dr Laing: Yes. When we have a manuscript we will look further at that. Because it will be a PDF file it can be made amenable for an iPad.

Senator FIFIELD: As it is at the moment that can be transferred to iBooks. So that is certainly possible but I am just wondering if a specific *Odgers'* app might be in the pipeline.

Dr Laing: We have not got that far yet. We will have a look at it.

Senator FIFIELD: Given that just about every senator has one of those iPads it would make it a lot more accessible, I am sure.

Dr Laing: It certainly would. I have an iPad as part of the trial of iPads for staff. I have not quite worked out what to do with it yet!

Senator FIFIELD: As a serious point, *Odgers'* is, I think, a much underappreciated resource, which I am sure all senators could benefit from having greater accessibility to.

Senator FAULKNER: On that question, Dr Laing, can you tell me how many people have read the previous 12th edition?

Dr Laing: Senator Faulkner, I could get you the numbers of copies of the 12th edition that we have either sold or distributed free of charge. Of course, it is on the internet and we would have internet statistics on hits. What they would tell you I really do not know. But we can get that for you if you would like.

Senator FAULKNER: No, it is okay. It was slightly tongue in cheek.

Dr Laing: It did sound slightly tongue in cheek.

Senator FIFIELD: Why not, Dr Laing?

Dr Laing: Certainly.

Senator FIFIELD: I am not sure which officer at the table this is a question for but I will start with you, Dr Laing. One of the Department of the Senate's outcomes is public education and awareness of the function of the Senate. Is satisfying that outcome the purpose of the Senate Twitter account?

Dr Laing: Yes, very much so. It is a trial at the moment to experiment with a medium that we have not used before to disseminate information about the Senate and, as you might be aware, we use it to provide links to things like the dynamic red, committee reports that are coming out, the public hearing program and various bits of news about the Senate.

Senator FIFIELD: I do not personally tweet but I know that many of my colleagues are on Twitter. Are you the chief tweeter, Dr Laing, or the tweeter in chief?

Dr Laing: I regret to inform the committee that I cannot claim the title of chief tweeter. The exercise is under the supervision of the Deputy Clerk.

Senator FIFIELD: Could the Deputy Clerk advise, perhaps, how many followers the Senate has as yet?

Mr Pye: There are about 1,200 followers on Twitter after a bit short of two months. I think there are about 3,500 following the House of Reqs account, which has been active for a year or so.

Senator FIFIELD: Do you tweet from the chamber?

Mr Pye: I have tweeted from the chamber.

Senator FIFIELD: Maybe you could elaborate on the nature of the tweets from the account, in all seriousness.

Mr Pye: This conversation could be being tweeted as we speak. We are aiming to get some formal information and informal engagement. That is the mission that I think we have. We tend to tell people when the Senate is going to meet, the nature of the non-sitting committee activities, when large or long committee reports are being tabled or debates are coming on, or when there is a bill that has been sponsored by someone who is tweeting themselves. Senator Abetz, for instance, had a bill considered by the Senate a couple of weeks

ago and we mentioned on the Twitter account that his bill was going to be considered. That is the sort of thing. The very exciting tweets that I have done from the chamber are things that say: 'The Senate stands adjourned till Monday at 9.30 am.'

Senator FIFIELD: It is important information. Do you tweet or does the department tweet to advise people who follow when submissions are being called for by various committees?

Mr Pye: We hope to go down that track. At the moment we are starting to build up networks within the Senate department itself to work out the best way of promoting that sort of thing. We certainly are tweeting when new committee inquiries are established and leading people to the pages on the website that have the fuller detail of that information. There is obviously only so much you can get through with the 140 characters including links, but we are hoping that the committees themselves will be able to use it in the future to think of different ways to engage with different audiences and get different types of submissions.

Senator FIFIELD: I do commend the department because anything that can raise the public awareness of the operation of the parliament is obviously a good thing. Does the department have a social media strategy more broadly?

Mr Pye: We are developing it, I think is what we can say. We have established a new office which commenced operation in July. It sounds like a big operation—the Senate Public Information Office—but it is two staff working for me on this sort of issue, developing better ways of sharing and managing our information resources within the department itself and better ways of promoting awareness of them outside.

Senator FIFIELD: Do any of the 1,200 followers respond to tweets?

Mr Pye: Some of them do, yes; a handful.

Senator FIFIELD: Any interesting ones?

Mr Pye: One of the difficulties of course is there is often a lot of political talk on Twitter, and we obviously do not want to get engaged in that. We follow our usual approach of all staff in this place of having a non-partisan approach to these things. I understand there are other places on Twitter people can go for political discourse if they wish, but there is some to and fro.

Senator FIFIELD: You or other officers respond to tweets seeking further information?

Mr Pye: That is right; where it is appropriate. Often people ask questions to clarify the business or ask questions that are not necessarily related to our tweets at all but to the work of the Senate and its committees and we certainly respond to them.

Senator FIFIELD: Thank you for that. Does the House have an equivalent account?

Mr Pye: The House has a Twitter account called @AbouttheHouse. It is connected to the *About the House* magazine and associated parts of their website. I believe they have got about 3½ thousand followers or something like that.

Senator FIFIELD: Thank you for that. I might also ask—and this may or may not come under your responsibilities, Mr Pye—about the Senate website?

Mr Pye: Ask the question and we will see.

Senator FIFIELD: I understand the Senate website is undergoing a revamp at the moment.

Mr Pye: The whole Parliament House website is undergoing a revamp at the moment. The ownership and management of that project belongs to the Department of Parliamentary Services, but we are obviously updating and refreshing our content for that part of the website that we will be responsible for.

Senator FIFIELD: I guess that is a process that involves the DPS and the two chamber departments in terms of freshening it up. Is there a DPS committee that oversees that?

Mr Pye: There is a project board which is made up of Roxanne Missingham, the Parliamentary Librarian; me; and Joanne Towner, who is Clerk Assistant, Committees, from the House of Representatives, so all three departments are represented on that project board.

Senator FIFIELD: Is there any improved functionality that the Department of the Senate is seeking?

Mr Pye: Really it is more a case that the technologies underlying the existing website are pretty old now. The website has been in place for 10 or 12 years in its current form. There is not a lot of ability to use particularly interactive stuff on the current website. We would like to use a lot more multimedia material as well, and it is a bit difficult to put that onto the current site.

Senator FIFIELD: So would it be envisaged that you could make submissions to Senate inquiries through the new website?

Mr Pye: To some extent, you already can with the existing website and it would be hoped that that will continue to be enhanced on the new one.

Senator FIFIELD: Thank you for that. At the last estimates I think we canvassed with Dr Laing and Mr Hallett some of the concerns or the challenge facing the department when confronting the issue of getting 12 retiring senators out of the building and 12 senators elect into the building in just one week, which was caused by that additional sitting week which is not usual. Dr Laing, I think you said that you were having sleepless nights over the issue in the lead-up to that changeover. I am just wondering if that concern was justified in the end or if it in fact saw guarantee that there was a smooth transition.

Dr Laing: I think the latter is a more accurate characterisation. I think that we were very conscious of the tight time frame and that meant that we began early to plan for the changeover and we tried to cover all bases to make everybody happy. We did of course do a post-implementation assessment of how it all went, down to quite a detailed level, and we concluded that there were really only minor problems. My staff worked incredibly hard to make the changeover, and everybody had a home of sorts in the first week, even if it was not their permanent home.

Senator FIFIELD: A home of sorts—

Dr Laing: A temporary office.

Senator FIFIELD: That might have been working out of a party room or—

Dr Laing: We did have one senator working out of a party room for one morning, or part of the first day, but once the office holder positions were settled it meant that we could then move senators into at least temporary offices for that first week.

Mr Hallett: If I could add to what the Clerk said, one of the key things that really assisted us was that every single one of the 12 retiring senators vacated well before the two weeks that we had indicated they could keep their offices. While we did not insist on that, the level of cooperation and assistance, particularly from retiring senators, really gave us a bit of a head start on top of the planning that we had done.

Senator FIFIELD: Congratulations on what you were able to achieve, given the challenge. Mr Hallett, at last estimates you mentioned that there would be some delay to maintenance and refurbishment that usually takes place during the winter recess. What has been the effect of those delays?

Mr Hallett: Normally during the long winter recess we take the opportunity to refurbish a couple of suites. Again, because we were fortunate, due to a combination of good planning and assistance from all senators and possibly a little bit of good luck, we were able to refurbish one complete suite, which was one more than we expected at the last hearing. That is a cyclical process, but we were able to do one in the end. We also did a range of what we call patch-up jobs where furniture is moved, carpet is faded or we need to put a lick of paint on things. Again, with the help of the Department of Parliamentary Services, we were able to do that as well. It would possibly have been good to get another suite refurbished, but we are certainly not as far behind as we thought we would be.

Senator FIFIELD: Is there any other outstanding maintenance as a result of the delay?

Mr Hallett: No, it proved to be very routine.

Senator FIFIELD: I recall that at last estimates we might have asked DPS whereas we should have asked here. We asked more broadly about the issue of changing furniture or renewing furniture in the Senate suites. Could you take us through that?

Mr Hallett: There is a project that is being managed out of Black Rod's office to replace the furniture of departmental staff and senators' staff—not senators' furniture in your particular suites. The existing furniture is the original staff furniture that came with the building in 1988. I have literally run out of spares. For example, if a winding mechanism on a computer desk fails, I do not have another piece that I can replace it with. By Commonwealth standards the furniture is well overdue for replacement, so over the past 12 to 18 months we have been involved in a project developing a style guide. We have also done some work more recently looking at the occupational health and safety aspects. We have purchased some trial furniture and we are now in the process of identifying some areas in the department where we could commence rolling out some of the new furniture. It is basically well overdue and certainly the current staff furniture does not meet current requirements for things like occupational health and safety.

Senator FIFIELD: What is the cost of that project?

Mr Hallett: Over the next four years we expect it will be a little bit over \$5 million, but remember that is for 160-plus staff of the department, plus a significant number of senators' staff as well. We would like to get at least two decades of value out of the furniture. So, if you amortise the cost over the number of people and at least two decades, we believe it would represent value for money.

Senator FIFIELD: Has additional funding been sought for that or will you do that within existing resources?

Mr Hallett: We will do that within existing resources.

Senator BERNARDI: I will address this to you, Dr Laing. I am not sure if it fits into this space. I contacted IT Services, 2020, the other day about installing some video editing software and I was advised that it was not available for installation in senators' Parliament House offices. It was available for installation in their electorate offices. With further inquiry I was told that it is available for members of the House of Representatives in their Parliament House offices. It struck me as unusual that senators are not eligible to access the same software as those in the House of Representatives.

Mr Hallett: Perhaps I can help. I am sort of aware of the issue you raise and we are following it up at the moment. As far as I understand, there is no distinction between what members and senators can do. The entitlements are the same for members and senators. There have been some issues recently about tightening up what any of us can load onto machines due to IT security concerns. Could I please take your particular issue on notice because I probably have to talk to DPS, who run the parliamentary computing network?

Senator BERNARDI: Please do. I did write a letter to the President because I thought it was appropriate to be addressed to him, but I thought whilst we are here we should raise it.

Mr Hallett: My understanding is that we are working with DPS to prepare a response to that letter.

Senator BERNARDI: I appreciate that. It just does not sit well that senators do not have access to the same software.

Mr Hallett: On the face of it, it did seem odd to me because, for just about everything, senators and members have the same entitlements.

Senator BERNARDI: Just for the record, there was special permission given to me for this particular request, but I do not think it should be a matter of getting special permission.

Senator ABETZ: Because you are special.

Senator BERNARDI: I may be special.

Senator ABETZ: Clerk, I have a question relating to the protocol surrounding the employment of secretaries to committees that the Senate operates. I was wondering if you could indicate what the protocol is if a committee secretary seeks to give evidence to the committee that he or she might be the secretary of?

Dr Laing: It would be a very unusual circumstance. Do you have a particular case in mind?

Senator ABETZ: Are you aware whether it has occurred or not?

Dr Laing: I am aware that in one case a secretary gave a committee a briefing in public.

Senator ABETZ: What is the difference between giving a briefing in public and giving evidence? It was recorded on the *Hansard*, wasn't it?

Dr Laing: It was in public. When it comes down to the bottom line, probably not very much.

Senator ABETZ: So you described it as 'unusual'?

Dr Laing: Unusual.

Senator ABETZ: That is a good neutral term. Since then, have you indicated to other secretaries as to the desirability of that course of action?

Dr Laing: I do not know that we have done so in overt and specific terms, but I believe we have indicated that it is not a model to be followed in future.

Senator ABETZ: Thank you. That occurred informally rather than formally—is that a correct description?

Dr Laing: Informally.

Senator ABETZ: If I may, I will leave with you the possibility of providing some formal advice for the future. Take that on notice and let me know what you have decided about it, because like you I consider it unusual. I would personally go further and say it is highly undesirable because every senator should be able to have confidence that the secretary of the committee does not come to a particular topic with a barrow to push. Therefore it seems to me to be a highly undesirable practice. The fact that informal advice has been provided is welcome, but if it could be taken that step further I think it would be of benefit to the whole of the Senate.

Dr Laing: I am very happy to say here and now to any Senate committee secretary: it is not a good idea to purport to give your committee evidence. You are there to advise. You may have some subject area knowledge, which is great for the committee, but you are there to advise and provide procedural support to the committee.

Senator ABETZ: I suppose I could ask you now whether this was a briefing in public to the secretaries or whether it was a formal submission, but I think we get the drift.

Dr Laing: I shall draw the *Hansard* to their attention.

Senator ABETZ: I thank you, Clerk, for your approach.

Senator FAULKNER: We receive Dr Laing's usually annual report of updates to the Senate dictionary of biography. I wonder if you might let us know where things are up to.

Dr Laing: As you know, we have published three volumes. That has taken us up to 1983, I think. Volume 4 is being worked on at the moment, and I think we probably have about half the entries completed and they are in the process of being verified and edited. This volume is a different exercise to our previous three volumes because for the first time we are confronting the reality that many of our subjects are still with us, happily. That presents different challenges, but it also means that we have a living subject to raise queries with if we need to. We are also looking at a different form of publication: we are looking at going straight to online publication with the fourth volume as well as a physical hard copy. We are also working on the online publication of the previous volumes.

Senator FAULKNER: What is the expected publication date at this stage? I realise you cannot be precise about this, but what is the target date?

Dr Laing: At this stage, because of the unusual situation we face, I have indicated to the team that we should not rush this volume. So I have not set a target, but we are approximately 50 per cent of the way through.

Senator FAULKNER: After volume 4, are there any plans for the future?

Dr Laing: Not at this stage, because I think we have caught up to the future. Volume 4 will complete our centenary project, which was the first 100 years of the Senate, and then I

think it is something to lay aside for a future generation of parliamentary officers to take up again at an appropriate time, because, frankly, I do not think you can write history while it is still happening.

Senator FAULKNER: Fair enough; thank you for that.

Senator PARRY: I knew the Senate was advanced, but I did not know we were that advanced that we can catch up to the future—that is very good! Can I start with where Senator Fifield had a line of questioning. In relation to May 23 this year on page 9 and 10 of the Senate *Hansard* there was some reference to the parliamentary sitting schedule, although it was not discussed in that light. I gather the parliamentary sitting schedule comes solely from the Prime Minister's office. Is that correct?

Dr Laing: I am not sure where it comes from, but it does come from the government.

Senator PARRY: So the government of the day advises the Senate as to what the sitting schedule would be, based, I suppose, upon knowledge about how the Senate works.

Dr Laing: The government of the day moves a motion in the Senate proposing the days of meeting, usually a year in advance. So sometime late in the preceding year a notice of motion is given and put on the *Notice Paper* by the government.

Senator PARRY: Have you ever known the Senate to disregard, object to or not endorse the government's sitting schedule?

Dr Laing: I think that over the years there has been a lot of discussion about this. After all, although it is proposed by the government, it is up to the Senate when it sits—it is a decision of the Senate to set its days of meeting.

Senator PARRY: If I project forward to what we are about to be faced with, I think, seven weeks with five or six of those seven weeks here in Canberra, how does that affect staff—in particular the Senate staff—in relation to having so many weeks together, potentially with late hours and the stresses that go with a sitting week? Is that a consideration that we as senators need to take into account?

Dr Laing: It is not something that we have not faced before. We are here to serve the Senate, and the sitting pattern is something that gives us advance notice of what we are up for. But certainly towards the end of the year, when there is a concentration of sittings, everyone gets tired. We try not to make mistakes, but it is a fact of life.

Senator PARRY: Does it affect budgeting? Do you have to have additional rosters for additional staff because of the prolonged—

Dr Laing: It means that we make more use of our sessional staff, for example. But our core chamber support staff are there to perform that role. It does have some flow-on effects for what committees can do at the same time, because while the Senate is sitting for intensive periods it means that committees either cannot get the free space to hold public hearings on the road or have to have hearings here in Canberra with the permission of the Senate. So there is a concentration of effort, but certainly in my time I have experienced more intensive periods of sitting than what we are facing.

Senator PARRY: Do you get provided with an advance draft for comment prior to the government releasing the sitting schedule?

Dr Laing: I do not know that we get an advance draft for comment. I think that as soon as a draft is released we would be amongst the people who see the draft.

Senator PARRY: So it is a *fait accompli* when you receive the draft?

Dr Laing: I would not call it a *fait accompli*. It is like any notice of motion that comes before the Senate. It is available to be debated, amended and then determined.

Senator PARRY: If you saw a glaring issue that you thought you needed to comment on, would you comment or have you commented to the government?

Dr Laing: I expect I would, yes.

Senator PARRY: And have you?

Dr Laing: I do not believe I have, no, not in the two years that I have been Clerk.

Senator PARRY: Could I refer to this document that I presume you, Clerk, tabled this morning. It has the breakdown of the committees and the cost structure by committee.

Dr Laing: I provided it to the committee last week and no doubt you received it this morning.

Senator PARRY: I received it this morning. Could I go to the second page of the list of committees. The third, fourth and fifth items are Australian Commission for Law Enforcement Integrity—it is repeated three times. There must be a logical explanation, but I gather it is to do with the Australian Crime Commission becoming the law enforcement commission. That would be one reason. I just want to know what the three lines are. I could understand there being two. There is obviously an explanation that I just cannot fathom.

Dr Laing: I will see if I can get you an explanation.

Senator PARRY: I am happy for you to take that on notice if it is something simple.

Dr Laing: We think it is probably something to do with our accounting system that has not amalgamated those figures, but we will take it away and check it for you. I expect that those figures in the three entries should be totalled.

Senator PARRY: Thank you.

Senator RYAN: Dr Laing, you mentioned that you are not consulted with a draft for comment on the sitting schedule. It goes onto the *Notice Paper* as a government notice of motion. It is circulated, sometimes a couple of days before it goes onto the *Notice Paper*. You are not provided with a draft before it is circulated broadly, are you?

Dr Laing: No. My belief is that we are provided with a draft at the same time as it is pre-circulated.

Senator RYAN: As quick as anyone. Senator Hogg, are you consulted by the government about the proposed sitting schedule of the Senate?

Senator Hogg: No. That is a matter for the government. It is not for me.

Senator RYAN: At no point does the Manager of Government Business—

Senator Hogg: There is no consultation whatsoever.

Senator RYAN: Referring to the document that was tabled today, presented last week, there is a dramatic decline in the administrative expenses for most committees across the years. Is there a quick explanation for that?

Dr Laing: They are not travelling as much.

Senator FAULKNER: Are you aware, Clerk, if practices have changed in relation to the Senate involvement in, lack of involvement in, consultation with or lack of consultation with the government in relation to the proposed sittings timetable?

Dr Laing: My recollection is that they have been this way for just about as long as I can remember.

Senator FAULKNER: That is certainly my understanding. It does not appear to have changed. It is also my understanding that this is a matter that, in successive governments, has been determined by the Parliamentary Business Committee of the cabinet, but I suppose you would not have much insight into that—would that be right?

Dr Laing: None.

Senator FAULKNER: Well, there we are. It is no different—

Dr Laing: Nor would we expect to.

Senator FAULKNER: From your perspective as Clerk of the Senate, the situation that we have in relation to the 2011 sitting pattern and the 2012 sitting pattern, when that is provided, with regard to the involvement of the Department of the Senate is no different from what it has always been?

Dr Laing: That is my understanding, yes.

Senator PARRY: I will go back to the document we discussed earlier with the committee summaries. Under the amounts for staff costs and/or administrative costs, are those figures direct costs by staff deployed or do they, Clerk, take into account, for example, a proportion of your involvement and the Clerk of Committees?

Dr Laing: No, they are direct costs of the staff actually working on those secretariats.

Senator PARRY: So it does not take into account any other administrative additional aspect, such as the actual management or the running of the Department of the Senate?

Dr Laing: No, because they would come under a different cost centre—the Clerk Assistant (Committees) and Senior Clerk and their officers would be accounted for separately; my office is accounted for separately.

Senator PARRY: What about material costs—publication of documentation? Would that be in the administrative costs?

Dr Laing: Yes, printing and those sorts of costs are included in the administrative costs.

Senator RONALDSON: Can you remind me of the standing of evidence given at this committee. It is not on oath, is it, and there are no perjury implications that flow from it? What is the standing of evidence given at this committee and committees in general?

Dr Laing: I am not quite sure that I follow the question.

Senator RONALDSON: If evidence is found to be untruthful, what are the ramifications of that?

Dr Laing: If evidence is untruthful, if evidence given to a committee is false or misleading, it may be held to be a contempt.

Senator PARRY: Of the Senate.

Dr Laing: Of the Senate, yes. There cannot be contempt of a committee; it is contempt only of the parent body.

Senator RONALDSON: All right. And then the Senate itself would need to take action.

Dr Laing: Yes. In a case of false or misleading evidence I think it is possible that the committee itself might do the preliminary investigation and satisfy itself one way or the other as to whether it is a concern. If it is a concern the committee or any member of the committee can raise it as a matter of privilege under standing order 81 with the President, who then makes a determination as to whether to give it precedence in the chamber and makes a statement. A notice of motion is given and the Senate determines its position on the motion to refer it to the Privileges Committee for inquiry as a contempt.

Senator RONALDSON: I hasten to add that I am not referring to any evidence that you have given but I thought I should put it on the public record that I was interested in finding out exactly what it was. Thank you.

CHAIR: As there are no further questions I thank you, Dr Laing and the officers of your department.

Department of Parliamentary Services

[09:40]

CHAIR: I would like to welcome Mr Alan Thompson and officers of the Department of Parliamentary Services. Mr Thompson, do you wish to make an opening statement?

Mr Thompson: Yes, I would. Firstly, Madam Chair, I do wish to reaffirm the very deep concern of the DPS executive about evidence that was provided to this committee in February regarding the disposal of two billiard tables. It is very clear that the evidence relating to the heritage assessment of the tables was not correct. For this, I do apologise. We wrote to the committee about these matters on 4 July. We set out a series of actions to investigate the disposal process of the billiard tables and to improve our overall disposal process. Subsequently, we have provided two audit reports undertaken by PricewaterhouseCoopers—they have both been provided to the committee—about the sale of the billiard tables. More recently, last week, we provided a comprehensive review of disposal procedures undertaken by Mr Robert Tonkin. Prior to receipt of the Tonkin review we had already made a number of improvements to our disposal procedures, and further changes will now occur to implement all 10 of Mr Tonkin's recommendations. We will, of course, be happy to respond to any further questions you may have about the billiard table issue.

Turning to other matters, our annual report was tabled along I think with the Senate report last week. I am very pleased to report on behalf of the overall DPS team about the considerable achievements that were delivered for the parliament for 2010-11. That includes the day-by-day service delivery to the parliament as well significant improvements to the building and its systems.

Moving into the new financial year, I will make three quick points. Firstly, the electorate office IT operations are very largely—effective as of late last week—now under DPS controlled. Secondly, we are very pleased with the progress in making connections to iPads and iPhones for senators, members and their staff. That is progressing very well. Thirdly, we have been very pleased with the progress of our employment agreement negotiation. The vote

has occurred, the approval has been given by Fair Work Australia and our staff are now receiving the new pay rates in their pay.

Looking to the future, we do expect physical security and information security issues to be with us in the short term and in the long term. We just do not see those issues going away at all. We do have some significant short-term challenges and highlights. Two big highlights will be the upcoming visit of Her Majesty the Queen and, hopefully, the President of the United States over the next four to five weeks.

Our continued high service delivery is subject to a lot of challenge, simply because our budget remains pretty constant in dollar terms, notwithstanding that CPI increases are occurring. That is going to be a continuing challenge. Nevertheless, this year we do expect to make significant further capital improvements to the building and we also expect to complete a new heritage management framework for Parliament House. Over the next two months we also have been planning to launch a renewed package of programs to better support the health—both physical and mental—and well-being of our staff.

In the longer term, looking into the year beyond, we are steadily developing plans to improve access for the disabled to both parliament and Parliament House. This will build on some improvements to physical access we will be making in the current year. Chair, we would now be happy to respond to any questions.

CHAIR: Thank you very much. Senator Ryan, we are going to program 1, Parliamentary Library services.

Senator RYAN: I have some questions about the website, which I understand is under your management, Ms Missingham. This has been going on for a while—

Ms Missingham: Yes.

Senator RYAN: I think since I started in this place. I was wondering where we are in terms of a new website being launched or put on the web.

Ms Missingham: We have been working on the website for a while, and there have been some delays in its delivery. We are now at the stage of what we call user acceptance testing. We have staff in the chamber departments and the Department of Parliamentary Services making sure that all of the functions are working. Some of the delays have been because the system has been more complex than our vendor originally thought. We have also had to do an assessment of security issues. The department has a heightened interest in security and we wanted to make sure it would pass all of the tests, so we had an external company look at that, and quite a bit of rectification has had to go on. We have also been building the content iteratively. We are hoping to launch before the end of this calendar year.

Senator RYAN: When the new Parlinfo went live—I have lost track of time—about 18 months ago, there were some user acceptance issues. We had some discussions about that here. How are you managing that? I remember that, when we went from the old Parlinfo to the new Parlinfo, those who had only used the old system had quite a lot of adjustment to do. In patterns of usage and habit, as much as anything else—and I still have challenges with the new one—how radical is the changed interface going to seem to people who use it often, and what programs do you have in place for those of us who might find the change significant?

Ms Missingham: The work that was done to prepare the new website was based on a lot of feedback. We did surveys and we did focus groups—in Canberra, Sydney and Geelong—to

get a very wide range of users involved. We put the mock-ups, which we call the 'wire frames', outside Aussies Cafe, and we sent those around to senators and members and their staff. When the website is ready to launch, we will also launch a communications program, which will involve releasing quite a lot of information about its functionality and how it looks. We also anticipate that we will be answering a number of questions to help people work their way through it.

It will look very like the UK parliament website and the New South Wales parliament website. The characteristics of the parliament websites that have been upgraded in recent years are the sort of characteristics that we are looking at for our website. It will have things like the navigation button on the bottom of the screen. We are aiming to use good web design skills, but we also anticipate having material out for senators and members to help them transition to the new website.

Senator RYAN: You say the launch will be towards the end of the calendar year. Will that be a hard launch, in the sense of having a bit of publicity, or a soft launch, where you change the website at a time where it might not be subject to the highest usage?

Ms Missingham: Our process will be that we will launch in a non-sitting week. We could launch on the Friday of a sitting week, but we will go live during a non-sitting week, when there will be less intense use of the site and people can become accustomed to it gradually.

Senator RYAN: I am looking at the UK parliament website and trying to anticipate questions that might occur next year. The UK parliament website at the moment has photos of David Cameron and William Hague. I would imagine that the selection of graphics—particularly photos of members of parliament, and particularly as it applies to parties but also potentially to chambers—would be an issue that might provoke some consternation. The current site is very bland, which is a benefit in that it is non-partisan; it balances the chambers perfectly. On the UK parliament website, there is only a very small mention of the House of Lords, not that I am a particular defender of that institution; I am just trying to anticipate questions next February.

Ms Missingham: Besides the background image, there is one image space at the top of the new Parliament of Australia website which, at the moment, has a photograph of the opening of parliament. Where possible, we use that photo as an opportunity to communicate that the site is about the whole of parliament. On the draft website, the House of Representatives and the Senate sites have banners at the top. They are also equally weighted through the website. In terms of balance and ease of access, both chambers are mentioned equally throughout the website.

Senator RYAN: And you have protocols in place about selection of photos? I am just looking here, for example, on the UK website. It has the statement on the Middle East and North Africa, a quite legitimate topic to have on the website, but it has got the photo of William Hague, presumably giving the statement to the House of Commons. I would imagine that, if there were a series of statements, there could quite legitimately be a series of photos of ministers that some people—whether they be minority parties or others—might think adds up to something that is different from what we have at the moment, which is non-partisan and bland.

Ms Missingham: It is very textually based. This will be the first time we have really got a lot of embedded images. There is only a single image on the home page, and the chamber departments will jointly decide what that image is. The Department of Parliamentary Services' role is there to support it, but on that home page that space is a decision of the two chamber departments. A proposed government practice is that, basically, that responsibility will be for the clerks or it will be delegated to—

Senator RYAN: To flag this issue, that is really the only space where you would see a problem, because at that point it branches off into the Department of the Senate and the Department of the House of Representatives.

Ms Missingham: Yes.

Senator FAULKNER: Mr Thompson, given your opening statement and also, of course, the letter you referred to dated 4 July this year, are you satisfied that the billiard tables issue—for want of a better description—has now concluded?

Mr Thompson: No, Senator. I will work backwards: Mr Tonkin has given us a very comprehensive review, and over the next couple of months we will progressively implement his various recommendations. To that extent, out of this we will end up with a much improved disposals process in all sorts of ways. To that extent, yes, we are approaching the end. In one perverse sense, I am grateful that this has all come out, because it has shown some weaknesses in our administrative process and that has allowed us to rectify our disposal systems. There are still some investigations underway, though I do not think it is appropriate to ventilate them in this public forum, but they are not complete yet. We would be happy to provide a private briefing to senators about those investigations.

Senator FAULKNER: We will be the judge of that. Let us just go through the investigations that we have had. There have been two audit reports—that is correct, isn't it?

Mr Thompson: Yes.

Senator FAULKNER: For the benefit of the committee—I think committee members are largely aware of this—would you like to give a very brief description of the two reports? The second is a less substantive report going to valuations and the like, but I would ask you to describe those two audit reports for us just very briefly.

Mr Thompson: Senators will recall that some evidence was provided to the committee in February. Come the May hearings we learned that some of that was not correct and that triggered an audit investigation into the sales process of the two billiard tables that had been in the previous staff recreation area behind the staff dining room. Pricewaterhouse did the work and they made quite a number of findings and recommendations. In brief, they found that the disposal process was in accordance with our then Chief Executive Instruction—think it is numbered CEP 4.3. But they did identify various shortcomings, not least that although the previous version of CEP 4.3 required items that might have some heritage value to be referred to our art services section that is a very narrow point of focus. Our art services people do generally focus on our art collections, but they do not focus—

Senator FAULKNER: I do not mean to go into this in great detail. I appreciate your help, but if we describe the first one as being about the sales process that would suffice. I do not want to delay the committee too long because, as you appreciate, the legislation committee is going to have a full inquiry into this and other matters pertaining to the Department of

Parliamentary Services. So we describe that as the sales process. Could you give me a brief description of the second PwC report?

Mr Thompson: The second use of PwC was to arrange for an independent investigation, if you like, into the provenance and value of these billiard tables.

Senator FAULKNER: Provenance and valuation—is that a fair description?

Mr Thompson: Yes, that is a fair way of putting it.

Senator FAULKNER: That was also conducted by PwC.

Mr Thompson: Yes, and they sought advice from the makers of those two billiard tables, a company called Heiron and Smith. They sought advice from a second company that makes billiard tables called Alcocks. They also sought advice from one of the independent valuers, Pickles. That put together a package which indicated that the tables had been manufactured around 1987 or 1988 and that in normal market terms had a value somewhere between \$1,500 and \$3,000.

Senator FAULKNER: Can you explain to the committee why there were effectively two PwC reports? Why was there a second report?

Mr Thompson: Once PwC had advanced their analysis of the sales process, it still essentially left a question open. We had committed to provide to this committee by a deadline—and I cannot recall what it was—the analysis of the sales process. So we then asked PwC to go a little bit beyond that, to also do this extra work and provide it to us.

Senator FAULKNER: Fair enough. So what drove that was to provide a report on the sales process in a timely fashion, effectively.

Mr Thompson: By the deadline, yes.

Senator FAULKNER: What did the first PwC report cost the department?

Mr Thompson: I think it cost us some \$30,000.

Senator FAULKNER: And the second one?

Mr Thompson: I would have to get further advice on that. I do not have that.

Senator FAULKNER: Could you give us some precise figures, please, on the costs of the two audit reports? That ought to be able to be provided pretty quickly, shouldn't it?

Mr Thompson: We will chase that up straightaway.

Senator FAULKNER: I thought officers at the table would have that, but no-one can help us? I am sure that someone will be able to help us over the morning tea break. Then, of course, as you indicated in your opening statement and provided to us, we had Mr Tonkin's report. Is it fair for me to say that was basically into the disposal policies of DPS?

Mr Thompson: That would be an accurate way of describing it, yes. PwC were simply focusing on that particular transaction—the auction of two tables. But as that unfolded it became very clear there were some deficiencies in the overall framework that had been in place for a number of years, and so it was time to ask somebody to come in from outside and give us an overview of all of our disposal processes and whether our staff were trained adequately.

Senator FAULKNER: What was the value of that consultancy?

Mr Thompson: My recollection is that was another \$30,000.

Senator FAULKNER: Again, if we could get precise figures on that as soon as possible, I would appreciate that. In your letter of 4 July to the committee you indicated that you had initiated the survey of heritage and cultural items. I assume—I just want to be clear on this—that that was an internal survey. Is that right?

Mr Thompson: Yes, that is right. Our officers worked on that.

Senator FAULKNER: Have you established a budget for that particular survey?

Mr Thompson: No, I do not have that figure with me. We could make an estimate. It was staff time. I would also note that, at some point in the life of this parliament, this sort of analysis, which I think was very valuable, needed to be done. I think we can be very grateful that the work has now been done and we have captured all these items in a decent survey.

Senator FAULKNER: Separate to Mr Tonkin's disposal policy review, is there an internal review of disposal practices as well?

Mr Thompson: No. We are simply progressively implementing the recommendations of Mr Tonkin.

Senator FAULKNER: So there is no separate internal review?

Mr Thompson: No. It is probably important to say that, as he did his work, he alerted us to one or two things and that has allowed us to move quickly on those. We are fixing things up as we go along.

Senator FAULKNER: So it is fair to say that there are four major reviews or inquiries: one on the sales process from PWC, one on the provenance and valuation from PWC, Mr Tonkin's report on disposal policies and the internal DPS survey on heritage and cultural items?

Mr Thompson: That would be right—yes.

Senator FAULKNER: You said a little earlier that there are other ongoing inquiries and it would not be appropriate to tell the committee about them. Why wouldn't it be appropriate to tell the committee about them?

Mr Thompson: It is to do with code of conduct investigations.

Senator FAULKNER: Why is that not the business of this committee? I have asked so many questions about code of conduct inquiries and so have so many other senators at estimates committees. Is there a code of conduct inquiry in relation to this matter or code of conduct inquiries in relation to this matter?

Mr Thompson: There is a code of conduct inquiry.

Senator FAULKNER: Who is conducting that?

Mr Thompson: That is being done at arm's length by an external investigator.

Senator FAULKNER: Yes—who? I know that.

Mr Thompson: It is being overseen by Dr Dianne Heriot of the—

Senator FAULKNER: Yes, but who is conducting it?

Ms Heriot: The investigator is the Centre of Public Management Pty Ltd. It has been appointed to conduct the investigation.

Senator FAULKNER: What are the terms of reference that have been provided to them? It is not necessary at this stage to mention the name of the individual. Mr Thompson, does this relate to an individual or individuals?

Mr Thompson: I think in the end it will relate to an individual. It started out with two, but now I think it will be one.

Senator FAULKNER: Let's just get the broad picture of what is happening here.

Ms Heriot: An investigator has been appointed to determine whether there was a possible breach of the Parliamentary Service Code of Conduct by a DPS employee.

Senator FAULKNER: You initiated that, Mr Thompson?

Mr Thompson: Yes, I did.

Senator FAULKNER: Who are CPM?

Dr Heriot: It is a Canberra based consultancy headed by Jeff Lamond that conducts a number of such reviews.

Senator FAULKNER: Is a specific investigator appointed?

Dr Heriot: The principal investigator is a Mr Peter Long.

Senator FAULKNER: When you say 'principal investigator' does that mean there is more than one?

Dr Heriot: It means that they have a team approach. There is an investigator but then the work is quality assured.

Senator FAULKNER: So he is leading a team of investigators?

Dr Heriot: He would be consulting with the principal consultants around his work. He is the investigator—

Senator FAULKNER: Run that by me again. Principal consultants?

Dr Heriot: He is working for a firm, the principal of whom is Jeff Lamond. As he goes ahead his work will be quality assured by the principal consultants of the firm, but he is the investigator.

Senator FAULKNER: Normally in a code-of-conduct inquiry there is one investigator.

Dr Heriot: Yes, and that is Mr Long. Sorry, I did not mean to create confusion.

Senator FAULKNER: No, I am just trying to understand what is happening. Who would he be?

Dr Heriot: He is an experienced investigator. I do not have his CV at the table but I can certainly get it in the break. He has previously worked for the New South Wales police and has worked in the Australian Public Service for a number of years. He has done quite a number of investigations.

Senator FAULKNER: Do we know at this stage, Mr Thompson, what costs, if any, have been borne by this CPM inquiry?

Dr Heriot: We have not had an invoice for work. They are still at the stage of interview.

Senator FAULKNER: Is there a budget for this inquiry?

Dr Heriot: We have an indicative budget of around \$25,000.

Senator FAULKNER: So we have \$30,000 for that sales process audit. We have \$30,000 for Mr Tonkin. We have at least \$25,000 for CPM. We do not know what the second PricewaterhouseCoopers audit cost and we await some information about the cost to the department of the survey on heritage and cultural items. Have I summed that up correctly?

Mr Thompson: That would be right. I might say, with regard to the survey of cultural heritage, at some stage in the life of the parliament that needed to happen.

Senator FAULKNER: They are starting to look like pretty expensive billiard tables, aren't they, Mr Thompson?

Mr Thompson: Undoubtedly.

Senator FAULKNER: When will I be able to get those monetary amounts in relation to those five elements?

Mr Thompson: I am hoping that we can provide them to you after morning tea.

Senator FAULKNER: I would very much appreciate that. I will not, at this stage, go any further in relation to the code-of-conduct matter. I point out that I could, but given that we have an exhaustive inquiry forthcoming from this committee in relation to DPS, I do not consider there is any particular need to, at the moment.

Are you able to indicate to the committee whether there are any other costs that have been borne by the department as a result of the billiard table debacle?

Mr Thompson: I cannot recall any.

Senator FAULKNER: You cannot recall any. Can we be a bit more precise? It is one thing to say that you cannot recall any; I am trying to find out whether there are any or not. I would hope you would be able to recall them if there were any other costs.

Mr Thompson: The only other cost, to be blunt, is that it has take up a significant time and effort by a number of senior people within the department. It would not be possible to quantify that.

Senator FAULKNER: I appreciate that. Obviously we will be dealing with this in far greater depth in a future inquiry. But, as it stands at the moment Mr Thompson, are you able to say to this committee that in relation to this particular matter some lessons have been learnt?

Mr Thompson: Very much so, yes—at a number of levels for me personally and, I think, for a number of senior officers within DPS.

Senator FAULKNER: I appreciate that. What about lessons learnt in relation to how DPS engages with parliamentary committees. At the end of the day my concern centred around, as you know, answers to questions on notice to this committee, the nature of which is now common knowledge.

Mr Thompson: I think it has taught us something about some of our internal processes, and I think that, across the whole of the senior DPS managers—and that would be a very broad range of people—it has reinforced to them how vital it is to provide timely, accurate and competent advice to a committee.

Senator FAULKNER: How much effort is going in to the preparation by DPS for estimates hearings now?

Mr Thompson: A great deal. I have to reaffirm to senators that, in my time here, it has always been thus. The level of effort that is put in across the very broad sweep of the services we provide is very substantial. In this case, we absolutely acknowledge that the rigour and accuracy of some evidence was not there, but the level of rigour input into preparations for each of these hearings has been, in my 3½ years here, very substantial, and I think it will continue that way; in fact, I am sure it will.

Senator FAULKNER: There are rigour issues in relation to the misleading and inaccurate information that was provided to the committee at the hearings of February this year; there was an absolute lack of rigour there. The problem is of course that when matters are taken on notice they are of a different nature, in a way, to evidence provided at the table.

Mr Thompson: I agree.

Senator FAULKNER: In relation to the billiard tables issue, Madam Chair, we will be dealing with this at much greater length at our inquiry into DPS. If that information is provided in relation to costings after the break on that particular matter, I have no further questions.

CHAIR: We look forward to getting that information.

Senator PARRY: I want to follow up a question from Senator Faulkner. Mr Thompson, to your knowledge, do any senior members of the DPS executive have any relatives who work for the Centre for Public Management—the CPM—in any senior capacity?

Mr Thompson: Not to my knowledge.

Senator PARRY: That is fine; thank you. My questions, Madam Chair—and I will be guided by you—go to some overall things about the structure of the Department of Parliamentary Services. Are you happy for me to ask those now?

CHAIR: Yes.

Senator PARRY: It does not really fit into any of the categories.

CHAIR: We will deal with them now.

Senator PARRY: I will ask Mr Thompson and Mr President to address these and both respond accordingly. My understanding is that the Department of Parliamentary Services was formed from three existing departments, basically the library and—

Mr Thompson: The three predecessor agencies were the Joint House Department, the Library and DPRS.

Senator PARRY: DPRS was the department of?

Mr Kenny: The Department of the Parliamentary Reporting Staff.

Senator PARRY: Which is *Hansard*, so basically the library, *Hansard* and obviously other things attached to those.

Mr Thompson: There was a small addition as well in that some security functions came out of the two chamber departments at the same time.

Senator PARRY: Right. That basically took five agency departments looking after the running of parliament down to three.

Mr Thompson: Three.

Senator PARRY: I understand that there was also at that time a report compiled that indicated that one of the models could have been going from five to two—having just the Department of the Senate and the Department of the House of Representatives. Is that true?

Mr Thompson: I do not recall seeing that. Andrew Podger, the Parliamentary Service Commissioner, did the report. My recollection of his recommendations is that they called it a 'joint services department' in the report, and I think it was always about coming from five down to three. That is my recollection of the Podger report.

Mr Kenny: That is my recollection also. But I think it is fair to say that in the discussions—and certainly I understand that there have been discussions over a number years about the way the parliament is served—it is quite likely that there was discussion at sometime that there might be two.

Senator PARRY: I have not read the paper but I understand that it was written quite some time ago—prior to the implementation and creation of the DPS. Following on from that has there been any discussion as to the merits or otherwise of potentially moving to a model of having a Department of the Senate and a Department of the House of Representatives—and I understand that you cannot divide Hansard or the Library—with maybe the Department of the House of Representatives looking after Hansard and the Department of the Senate looking after the Library? Has anything along those lines been discussed in recent years?

Mr Thompson: I am not aware of any discussions along those lines. There are some interesting issues particularly around information technology and just what is the best long-term model for the parliament. It has been very much around the IT area rather than for the whole of the services provided.

Senator PARRY: Do you think there would be a strengthening of the IT services if we had two discrete parliamentary networks—one for the Senate and one for the Reps?

Mr Thompson: That is the model in Washington and it does provide an excellence service for both chambers and their representatives. As far as I can tell it has a significant extra cost to it, and therein lies the central issue.

Senator PARRY: But if you one of them was attacked I assume you would have one still standing—if you had one hacked into severely you would assume that the other would survive, even though one of the houses would be without a service for a short period of time.

Mr Thompson: In terms of service delivery to members and senators in the US, I am sure it is an excellent service but it is at substantial extra cost.

Senator PARRY: In light of the upcoming inquiry into the Department of Parliamentary Services—and I do not want to delve into too much detail; I want a higher level discussion here—could I ask you to consider some of these ideas? And no doubt we will have some more questions in the upcoming inquiry. Do you feel as though there would be a more streamlined approach if senators had one particular department to deal with for all services involving senators and likewise members? Do you feel as though there could be some efficiencies gained by having not three senior administrations but bringing it down two?

Mr Thompson: We can certainly contemplate that. In many ways those sorts of considerations are best done by somebody who is independent and sitting externally, like the Parliamentary Service Commissioner—and he will not thank me for suggesting that he do

some work! In general those sorts of assessments are best done by someone who is outside of the existing operating framework.

Senator PARRY: Can you see any dangers or inherent problems with dividing the Department of Parliamentary Services into the Department of the Senate and the Department of the House of Representatives?

Mr Thompson: I can. I would make the point that, in the limited discussions I have had with officers of parliaments that do not have a joint house department such as we have, they can see some real positives in our model. I am not here to defend our model completely; I do believe that over time it will evolve and improve. Nevertheless, some other parliaments where they, if you like, divide it down the middle have significant problems in doing the whole-of-parliaments things that we do readily and easily. That is why, if there were to be any contemplation of a dramatic rejigging, I suggest it be done by someone external who could weigh up the benefits we have accrued over the last few years against any disbenefits.

Senator PARRY: You have not given me any concrete examples. I am happy for you to consider that, and maybe when we question you further in the inquiry you might have some responses. But are there any examples you can give where having just two departments instead of the current three would not work?

Mr Thompson: With some other parliaments you do end up with odd situations where even the cleaning contract divides down the middle of the building—so can have one contractor on one side of the building and a different contractor on the other. And events management, such as for the upcoming visits by her Majesty the Queen or the President of the United States, tends to become more complicated.

Senator PARRY: That is assuming that you divide on a geographical or demarcation issue. If you said, for example, that the Department of the Senate should look after all cleaning for the entire building then you would not have that issue. And if the Department of the House of Representatives looked after all security for the building you would not have that issue either.

Mr Thompson: No. All of that is possible, but I am just harking to the reality of what I have witnessed in some other parliaments where there are—

Senator PARRY: With geographical distribution I can understand that, yes.

Mr Thompson: I would say that in recent times we have had a very constructive relationship with the House of Reps. They now look after our payroll. And we look after most of the IT in the building, in many senses. It has been very useful and a good transfer of responsibility, with some cost savings, to ask the House of Reps to run our payroll, and that has been very positive.

Senator PARRY: Mr President, do you wish to make any comment on that?

The PRESIDENT: No, I have no comment.

Senator PARRY: I will leave it there, Mr Thompson. But if you could take that on board I have no doubt we will be asking further questions along those lines when we get to the upcoming inquiry. Thank you on that issue, Madam Chair.

CHAIR: Are there any further questions for program 1 before we move on? Senator di Natale.

Senator DI NATALE: I will ask a quick question following on from Senator Parry's question. As a new senator, after assuming responsibility for both the electorate office and the Parliament House office I was struck by the fact that that we have two completely different IT systems in place. We have laptops with different docking stations and a range of other things.

CHAIR: Can I just pull you up there. We will deal with IT in program 3.

[10:22]

CHAIR: We will now move to program 2

Senator RONALDSON: I want to talk about the security system. Who is responsible for that? I also have some questions in relation to art works and other building and occupant services. Who will be required for that? Is that Ms Graham?

Mr Thompson: It will almost certainly be Ms Kylie Scroope.

Senator RONALDSON: My notes show that Ms Graham is the Assistant Secretary, Building and Occupant Services. Is that not right? Who is the lady who came up before?

Mr Thompson: That was Kylie Scroope. We thought you were talking about art. Bronwyn can talk about security.

Senator RONALDSON: Does the loading dock area have security cameras in it?

Mr Thompson: It does have some in it, yes.

Senator RONALDSON: How long is the footage kept for that loading dock area?

Ms Graham: We have an improved capability as a result of a recent upgrade to the project. We have recording capability in excess of eight weeks, and that is intended to cover the period between parliamentary sittings—over the recess period.

Senator RONALDSON: In excess of eight weeks—up to what?

Ms Graham: Yes. In excess of eight weeks, definitely. It depends on the type of cameras and the images that are being recorded, but it is up to 14 weeks—between eight and 14.

Senator RONALDSON: We now have a new digital security camera system, is that right?

Ms Graham: That is correct.

Senator RONALDSON: When was that installed?

Ms Graham: It is currently in the process of final commissioning. I believe the project is just wrapping up to a formal close. I think we took over the system about October last year, but I would like to check that date.

Senator RONALDSON: This is a five-year implementation program, is it?

Ms Graham: No, it is a two-year—

Senator RONALDSON: This was BAE, is that right?

Ms Graham: British Aerospace is the contractor, yes.

Senator RONALDSON: And what was the cost of that?

Ms Graham: The total project cost is about \$7 million. The cost of the contract with BAE is about \$4.5 million.

Senator RONALDSON: And who made that decision to install the new system?

Ms Graham: The installation of the new system would have been part of our strategic plan, supporting our security outcomes. The Department of Parliamentary Services has a Strategy and Finance Committee in which we approve a capital works program. I understand that that program was also developed in consultation with the two chamber departments from a whole-of-parliament perspective.

Senator RONALDSON: Was there a specific recommendation to spend this amount of money because of issues with previous system, or what was the rationale for it?

Mr Thompson: There were two primary problems with the previous system. One was that the support systems for the older system were not very adequate. But the principal problem was that the old system only had a memory of 72 hours. We would find that on a regular basis we would want to go back and check what had happened in a particular part of the building and we only had the record for 72 hours, which is just one long weekend.

Senator RONALDSON: The previous system was the MaxPro system, wasn't it?

Ms Graham: That is correct.

Mr Thompson: Yes.

Senator RONALDSON: Did you ask the MaxPro people specifically whether you could get a longer holding period?

Mr Kenny: I do not recall that we had that discussion with them. We can take on notice the detailed process that led to the new system being selected but—

Senator RONALDSON: If that was one of the reasons you changed it, presumably you would have had the discussion with them and someone would remember what those discussions were. There are two reasons so far: support and retention time. Surely those discussions must have been had. Anyway, if you want to take it on notice that is fine. And those are the only two reasons for the changeover?

Mr Thompson: The two primary reasons.

Ms Graham: Also, the previous system needed an increased capacity for additional cameras; it was not able to take on additional cameras. Therefore, a new system was needed.

Senator RONALDSON: And you pursued that with MaxPro, did you?

Ms Graham: I think the answer to that would have to form part of the answer to the question that we have taken on notice.

Senator RONALDSON: I have just asked you two questions in relation to this matter. You and Mr Kenny have given me a third reason and you cannot even tell me whether you had these discussions with MaxPro to justify the upgrade. I find that extraordinary.

Ms Graham: I am not in a position to answer that question. They were decisions that were made prior to my coming into the role.

Senator RONALDSON: Did you replace a digital system, or an analog system?

Ms Graham: We replaced an analog system with a digital system.

Senator RONALDSON: I gather the MaxPro system had its own secure network. Is that right?

Mr Kenny: It was some years ago that the decision was taken. I do not have the details with me.

Senator RONALDSON: This is October, Mr Kenny. Was the MaxPro a secure network?

Mr Kenny: What does 'secure network' mean, senator?

Senator RONALDSON: What it means is that it had a freestanding network. The BAE system operates on the Parliament House computer network, is that right?

Mr Kenny: That is correct, yes.

Senator RONALDSON: Who is responsible for security? Is it you and Ms Graham, or is it someone else here who knows a bit more about this?

Mr Kenny: It is Bronwyn and I.

Senator RONALDSON: I take it that under the new system, under the BAE system, a security officer is physically looking at footage on his or her Parliament House computer screen. Is that right?

Mr Kenny: The system is monitored by staff in the operations rooms.

CHAIR: Senator Ronaldson, I take it that you are going to have a few questions in relation to the answers that are coming forth.

Senator RONALDSON: I will indeed.

CHAIR: So it might be a good idea if, instead of continuing on, we adjourn now and come back at 10:45.

Senator FAULKNER: Chair, given that Senator Ronaldson is asking these questions, I am very happy for those other matters which have been taken on notice not to come back to the committee until Senator Ronaldson has concluded his questioning.

CHAIR: Okay. We stand adjourned until 10:45. Thank you everyone.

Proceedings suspended from 10:30 to 10:45

CHAIR: We will now resume. Senator Ronaldson, you have the call to continue your questions.

Senator RONALDSON: Ms Graham or Mr Kenny, I take it that you are happy with the new system?

Ms Graham: Largely, we are very happy with the new system.

Senator RONALDSON: Very happy? Have you received any complaints from the security staff or others in relation to the operation of the system?

Ms Graham: Yes. Throughout the project, since it was initially accepted, we have had a number of issues that have been identified. I think there has been a very good working relationship between the security staff, the control room and the project managers. They have been in there almost on a daily basis throughout the project. Issues have been resolved wherever they have been able to fixed very quickly.

We had one substantive problem with cameras dropping out. They related to a particular type of camera—a high-definition camera; new technology for us. After we had an interface developed we had those problems resolved. A patch was installed onto the system about two weeks ago. We have had one drop-out since then. We believe that that drop-out was unrelated to the previous issues—that is, the patch has resolved our last concerns. I understand that the system is as stable as we would expect it to be.

Senator RONALDSON: Have there been any reports prepared internally that you are aware of in relation to the operation of the ongoing issues with the upgrade?

Ms Graham: Specific reports?

Senator RONALDSON: Are you aware of any reports? Have there been any reports done on the initial operation of the security system over the last 12 months?

Ms Graham: No.

Mr Thompson: I am aware that as it was being commissioned there was active paper work. Inevitably, with commissioning a large system like this, there are teething problems and I can recall being briefed on various actions to improve it as it was being commissioned.

Senator RONALDSON: With the system you are very happy with, Ms Graham, can I take you to an incident on 25 July where security cameras were unable to capture footage of two protestors above the great verandah because the servers were being shut down and rebooted, leaving that attached security cameras inoperable. Are you aware of that?

Ms Graham: I am not aware of that particular incident. At least, I do not recall it immediately. It may be related to this problem that we have had of cameras freezing and dropping out. I would say that in part the problem can be managed—there is a workaround in place—by not loading too many cameras up at a single time. We have been trying to work with the staff in the control room to manage that workaround whilst we have been working on the patch.

Senator RONALDSON: Are you saying that you cannot have all the cameras operating at once?

Ms Graham: The issue is related to the high-definition cameras on the system—of which I understand 18 are a problem. That is 18 out of in excess of 480.

Senator RONALDSON: I think it is 550 actually.

Ms Graham: Those cameras cause a stability problem on the system and can—not always—drop out when the staff are using them on the screen.

Senator RONALDSON: So that is still happening?

Ms Graham: I understand that that is not happening. The patch that we installed two weeks ago I understand to be successful. As I said, there has been one drop-out since but we understand that to be related to a power problem, not a problem with the processing of the system.

Senator RONALDSON: What happens when there is a power problem?

Ms Graham: In that particular instance I am not sure what action was taken.

Senator RONALDSON: But there is an issue, is there, if there is a power failure?

Ms Graham: It was a problem relating to power. I do not know if it is was a power failure.

Senator RONALDSON: On 4 October two of the 15 servers failed due to a service schedule change. Are you aware that footage was lost and security cameras were unusable?

Ms Graham: I was aware that we did have an issue as part of the patch process, where we did lose some footage, but I cannot recall the exact details. I would not be able to comment any further. If you would like me to get some information, I can do that on notice.

Senator RONALDSON: Yes. Are you aware that BAE have said that there have been failures which have been caused, to quote their words, by 'external influences'?

Ms Graham: I am aware, yes.

Senator RONALDSON: What are they, do you know?

Ms Graham: I understand they relate to the broader security of the network.

Senator RONALDSON: Right, but hackers, is it not?

Ms Graham: It is an area that is a little technical—

Senator RONALDSON: Ms Graham, if I know something about it, can I tell you, it is not too technical. Is this a hacking issue?

Ms Graham: I understand it may be.

Mr Kenny: One of the issues that I was aware of was that there were concerns about load on the network, possibly impacting in the early days the reliability of some of the camera management software functions.

Senator RONALDSON: Can I read you a quote, Mr Kenny:

Being on the PCN leaves critical asset more open to attack, as has been shown by the recent attacks on the parliamentary email service, the virus on the D32A and the issue caused by the external influences—

which Ms Graham has acknowledged exists—

mentioned above. In the event of an attack on the House control of these assets ... will allow the attacker to locate a person in the building, seal or unseal doors to facilitate an attack, remove lighting and power from the area, continue to surveil the person throughout the incident while removing the PSOR's ability to respond or even be aware that an incident is occurring.

Mr Thompson: Is that a report you have got?

Senator RONALDSON: It is a document I have been given, yes. Prepared by someone, I must say, who appears to know a lot more about this new system and what is happening with it than the two officers at the table. And I am further advised that the previous MaxPro system was not vulnerable to viruses, external attack or compromise as it was on its own secure network. Is that correct?

Mr Kenny: We have a logically separate security network that the MaxPro system was on. There were technical reasons why we could not put the new security cameras on to that system. That network is being upgraded and the intention is to move the security systems, the camera systems, back on to that network or subnetwork once the upgrade is completed.

Senator RONALDSON: If the network servers crash, what is the impact on the security camera systems, Mr Kenny?

Mr Kenny: What are the network servers in that context? If he servers that the camera management system is running on crashes then I presume that we would lose the functionality.

Senator RONALDSON: Indeed. But if the system was hacked to the extent that there was significant server crashes, you are telling this committee that the security system in this place would fail to operate. Is that right?

Mr Kenny: If the critical servers crashed then, yes, we would lose camera surveillance.

Senator RONALDSON: Well, if you lose camera surveillance—

Mr Kenny: Which has always been the case.

Senator RONALDSON: you lose control of security, don't you?

Mr Kenny: No, you lose one part of your security capability.

Senator RONALDSON: That depends on how significant the server crash is, doesn't it?

Mr Kenny: Yes.

Senator RONALDSON: If there are multiple server crashes then you will lose incrementally more security capacity won't you?

Mr Kenny: Yes. Right throughout the building, whether it be security servers, email servers or website servers, if the server crashes, then you will lose the functionality that it is supporting.

Senator RONALDSON: Under the MaxPro system was that a risk or were we not vulnerable to viruses or external attack or compromise of the nature we are under the new system?

Mr Kenny: Under the MaxPro system you were still vulnerable to a server crash but, because it was on a different network, it was less vulnerable to hacking. But, as I said a minute or so ago, we were not able for technical reasons to place the new system on the old network. We are upgrading the old network and then we will move it.

Senator RONALDSON: But this has been going since October last year. You are effectively acknowledging that while this implementation system is going on and the so-called issues are being ironed out the security in this place is compromised more greatly than it was under the old system. That is what you are telling the committee, isn't it?

Mr Kenny: That is an interpretation; I would say that the security capability that we get under the new system is much, much greater than we got under the old system. For example, as Bronwyn said earlier, under the old system we kept camera records for 72 hours, and I think we invariably found that, by the time we found we needed to investigate something, it was more than 72 hours old. Therefore—

Senator RONALDSON: Have you been able to ascertain yet whether you sought some new application, or some upgrade of the system, to accommodate that?

Mr Kenny: Yes, I can tell you that we approached MaxPro quite some time ago—we think about six years—about getting extra storage for their system. They advised that the system was at capacity and that there would need to be a substantial upgrade. They gave us some indicative pricing, which was a very large number upwards of \$10 million. That is the recollection of the project manager. We then—

Senator RONALDSON: That was six years ago, was it?

Mr Kenny: About six years ago.

Senator RONALDSON: When did you start negotiations with BAE?

Mr Kenny: Having received that information, the internal committee—the Strategy and Finance Committee—decided that going to tender was a preferable option, which I think is a sound decision. We issued an expression of interest to which MaxPro did not respond. We

received over 20 responses. We then went to a restricted tender to five of those, and we received four submissions.

Senator RONALDSON: Just one final question at the moment: if a security camera operator's workstation was to crash during a shift, that would require a reboot, presumably.

Mr Kenny: Possibly.

Senator RONALDSON: How long does a reboot normally take?

Mr Kenny: A couple of minutes.

Senator RONALDSON: So, if we had a demonstration that the security cameras were monitoring and those workstations crashed, we would lose any security overview for a minimum of two minutes. Is that right?

Mr Kenny: Bronwyn could add to this, but, if we had a demonstration, then we would almost certainly have AFP oversighting that process rather than be relying on only security cameras.

Ms Graham: When we have advanced intelligence that there is an activity on the forecourt that might result in a person or persons attempting to gain access through the terraces, we have additional AFP positioned on the grass ramps, and we also have additional PSS positioned on the two terraces. That provides us with an initial response capability far better than we have ever had before.

Senator RONALDSON: Ms Graham, I am sorry—this place houses the Prime Minister of this country; I do not think someone who is trying to impact on the security of the Prime Minister is going to put out an ad in the paper the day before that there is going to be a demonstration which would enable the AFP to be there. What I am talking to you about is the compromise of security in this place from the Prime Minister down where there is not some forewarning of a demonstration but there is a security threat which is heightened by the security system being on the parliamentary network and the risk of hacking and other external influences as admitted by BAE. Thank you, Chair—I will come back to this one.

Senator PARRY: Mr Kenny, can you explain why the CCTV storage control is attached to the PCN?

Mr Kenny: As I said, the old security network needs to be upgraded. There are technical issues with it.

Senator PARRY: Yes, I heard all that. Why is it not a stand-alone system? Why does it need to be attached or linked in any way, shape or form to the PCN?

Mr Kenny: It has to be connected to the infrastructure we have running around the building.

Senator PARRY: So it is a wiring issue?

Mr Kenny: Effective, yes. 'Connectivity' may be a better word.

Senator PARRY: Which is a wiring issue. So it uses the same wires as the PCN?

Mr Kenny: Yes.

Senator PARRY: Okay. So it would be a serious cost issue to rewire as a stand-alone unit?

Mr Kenny: That is right.

Senator PARRY: And that is the only impediment, the only reason?

Mr Kenny: Why it is using existing wires?

Senator PARRY: Yes.

Mr Kenny: Yes, that is accurate.

Senator PARRY: Wouldn't it be a far more functional and secure system if it had its own unique system without being attached to the PCN?

Mr Kenny: I am hesitating because in some sense that is a hypothetical question. I am trying to think of reasons why a security job that was looking at cameras; for example, the pass logging system—at why that same job might benefit by having access to the PCN for other reasons. If the answer to that hypothetical question is yes, then—

Senator PARRY: I do not see it being a hypothetical question; just simply, would it be better if it were on its own? I think that is a fairly straightforward question.

Mr Kenny: From a purely security access point of view, it would be better. I am sure that that would be the view of the security people.

Senator PARRY: Have any costings been done to make it a stand-alone system using its own unique structure, not connected to the PCN? If yes, could you give me the answer; if no, could you take it on notice?

Mr Kenny: As I have said, the networks are being upgraded—

Senator PARRY: You mentioned earlier in evidence to Senator Ronaldson that you are going to move it back to the PCN without any connection.

Mr Kenny: No, what I will call the security network.

Senator PARRY: Which is connected to the PCN.

Mr Kenny: Which is physically wired—

Senator PARRY: I call that connected.

Mr Kenny: but you will not be able to access it via your PC.

Senator PARRY: What does that mean?

Mr Kenny: It will use different network infrastructures. I will try not to get too technical but there are wires and then there are routers and other devices that sit on top that actually constitute the network. They would be manipulated.

Senator PARRY: They can be manipulated by people who know what they are doing, can't they?

Mr Kenny: Deep down I suppose you would argue that if there is a wire then you can penetrate.

Senator PARRY: That is right; that is what they say. Is it because the system is not a stand-alone system? Is that why there is a lag with the image? For example, if I walk in that door the CCTV picks me up and then a few seconds later—up to maybe 10 seconds—the image then becomes live on the screen where there is monitoring. I understand there is a lag within the system. Is that because it is sharing the PCN?

Mr Kenny: I would say no. If it were the case the PCN would struggle because it would be lagging behind the camera tracking.

Senator PARRY: Let us take it one step at a time. I understand there is a lag—is that correct? There is a lag between real time and the image appearing on the screen—up to 10 seconds.

Mr Kenny: That is not my understanding.

Senator PARRY: Can someone conduct a test and see whether that is correct? It should be fairly simple.

Mr Kenny: We will do some testing and take that on notice.

Senator RONALDSON: If it were not live, would it cause you concern?

Mr Kenny: If there were a 10-second delay on our network for anything, yes it would, very much.

Senator FAULKNER: In relation to these matters, is there a queuing problem at the ministerial wing car park entrance?

Mr Thompson: As we have commissioned those and we go through, at various times we have had some problems with queuing, yes.

Senator FAULKNER: The bollards that have been installed are comparatively new, aren't they?

Mr Thompson: There is a combination of bollards and secure gates, yes.

Senator FAULKNER: But that is new, isn't it?

Mr Thompson: That is right.

Senator FAULKNER: Is it true that a DPS employee stands at the bollards for their operation? It does not seem to be automatic.

Mr Thompson: On an interim basis, yes, while we get the whole system organised. That is a morning exercise, just at morning peak.

Senator FAULKNER: For how long has that been going on?

Ms Graham: Since the gates were installed. A couple of weeks after the gates were installed, we decided to do that. That particular PSS officer has a list of the people who have authorised access into the car park and, if they forget their pass, they can get that person into the car park faster than would otherwise be the case to address the congestion issues.

Senator FAULKNER: But there is a congestion issue, isn't there?

Ms Graham: I would say there was a congestion issue prior to the gates as well as currently, albeit absolutely increased by the timings of the gates and the bollards.

Senator FAULKNER: I would have to admit that I have no recent knowledge of it, but I did use that car park for some three years. I do not recall a queuing problem then.

Ms Graham: The queuing problem will come about when someone tries to get into the car park when they do not have access privileges.

Senator FAULKNER: Yes, of course there will be queuing problems then, but there are queuing problems all the time, aren't there?

Ms Graham: Yes.

Senator FAULKNER: Not everybody going into any car park has lost their pass.

Ms Graham: Correct. We have queuing problems at all of our car parks. That particular car park has got more problems associated with it due to the Melbourne Avenue configuration—

Senator FAULKNER: And there is a PSS officer there. I am not critical of that. Anything that helps is useful. Isn't it true, as I am advised, that a lot of cars are actually queuing over the pedestrian crossing? Isn't it true that this is not working well and there are some significant safety concerns in relation to pedestrians and vehicular traffic? In other words, it is a shemozzle and it just does not appear to be working. A number of people have told me this and I am just trying to understand whether DPS are also concerned about this. People are worried there will be a serious accident because cars are queuing over a pedestrian crossing, aren't they?

Mr Thompson: That is why we have the officer there. We have a dilemma. On the one hand we are trying to secure the safety of the car park, the occupants and the occupants in the ministerial wing, and we are still trying to fine-tune the way those bollards and the first gate work. We have commissioned a small piece of work to look at whether we can realign a little bit of the road to create a lane into which cars going into that car park can pass without impeding cars wanting to proceed further along Parliament Drive.

Senator FAULKNER: What I understand from what you are saying, Mr Thompson, is that it is acknowledged there is a problem. Is that correct?

Mr Thompson: Yes.

Senator FAULKNER: Is part of that problem safety concerns particularly about pedestrians because of queuing across a pedestrian crossing?

Mr Thompson: Very much so.

Senator FAULKNER: There is a PSS officer on hand to try to move the traffic through quickly—

Mr Thompson: That is right.

Senator FAULKNER: Is that a temporary measure?

Mr Thompson: We trust that it is temporary.

Senator FAULKNER: For high peak periods, is it?

Mr Thompson: In the morning peak—yes.

Senator FAULKNER: But still, in all, we have queuing across the pedestrian crossing.

Mr Thompson: And that is why we are looking to see whether we can realign the road through that area to create a lane for traffic that wants to proceed, say, around to the House of Reps car parks and not have them clogged up.

Senator FAULKNER: So it is a design balls-up, is it? It seems to be a problem. Someone got the design wrong, did they?

Mr Thompson: In a minor sense, yes. We have been trying to do the very best we can to secure the security of the car park and the ministerial wing, and in the end we have to do some fine-tuning of just how the traffic flows through that area.

Senator FAULKNER: When is this piece of work likely to be provided?

Mr Thompson: I think Mr John Edwards, who has oversight, is here. I will ask Mr Edwards to come forward.

Mr Edwards: Part of the problem we have got with the gates is that Parliament Drive is a one-way road, which means we can only effectively use the eastern entry—mainly because, if we did not use it, everyone that came in from Melbourne Avenue would have to go around the block. So we have put in the high-security gates, which are part of the protection program which was recommended from the 2009 protective security risk review. Part of the problem is that we have had a number of finetuning issues with the timing of the gates. We have done some reprogramming which has assisted this. As of a couple of days ago, we retested the timing and found it takes 24 seconds from a car swiping at the swipe point to it being through the second gate. That is quite an improvement on what it was. However, at peak times, particularly if someone who is not authorised to go in or does not have a pass arrives at the swipe point, there is a bit of a backup. As an interim measure, just to ensure safety and passage of traffic, we have an AFP officer—who, in fact, normally stands at the head of Melbourne Avenue—and a PSS guard there to assist anyone without a pass and to get them in quickly. I have also had a traffic engineer look at a new traffic plan. What we are looking at is having a dedicated slip lane alongside the entry that will allow at least three cars.

Senator FAULKNER: These traffic plans seem to be an annual event, don't they? There are changes to the traffic plan around Parliament Drive—which, as you say, is a one-way road just a couple of kilometres in length—all the time. Isn't it time someone got it right?

Mr Edwards: I cannot comment on the rationale for that.

Senator FAULKNER: There has been a lot of expense on new traffic lanes, new curb and guttering and all sorts of things, and it is still not working. The key problem here is, I would be the first to acknowledge, safety. I appreciate the security concerns. They are obviously important; everyone understands that. But the critical thing, I am being told, is that DPS is aware of the safety concerns. I assume that is your highest priority—is it, Mr Thompson?

Mr Thompson: Both safety and security, yes—security for that car park and the Ministerial Wing building and security in and around the intersection of Melbourne Avenue with Parliament Drive.

Senator FAULKNER: We do not want a situation where we have security doors and bollards but we have an accident involving a pedestrian—

Mr Thompson: Absolutely.

Senator FAULKNER: You are informing me that you are well onto dealing with this matter.

Mr Thompson: Yes, absolutely.

Mr Edwards: Senator, we have had the AFP detachment looking particularly at the traffic arrangements and monitoring them on a day-to-day basis. They have recommended a number of small changes, including having a monitor in the morning when it seems to be the peak hour—the period between about seven and 8:30 am.

Senator FAULKNER: Good.

Mr Edwards: We are hoping that, with a new modification that the manufacturer has now got, we can really speed up the passage through the bollards and the gate. We are looking at

the programming of those to, if you like, turbocharge those functions so that we can get people in very quickly.

An honourable senator interjecting—

Senator FAULKNER: I think we are turbocharging the cars that are going through bollards.

Mr Edwards: Part of the problem is that it is a hydraulic system which drives the gates and the locking pin, and that takes some little time to engage. We are trying to speed up as best we can. It is about striking that balance between and security and safety, and we are doing our utmost to get that right.

Senator FAULKNER: My concern is that the balance is not right and that there are some safety issues. That is certainly what has been raised with me. I do not have personal experience of this, but that has been told to me by users, and that is why I am raising it.

Senator RYAN: Could I ask you to take a couple of questions on notice about this. What is the final cost of the ministerial car park security upgrade? How long did the work take? And, if you have time at the moment, how long do you expect the guard to have to stand there during the morning peak and is there is a cost associated with that?

Mr Edwards: I can comment on that now. The cost of the ministerial wing upgrade, which includes the bollards, the high-security gates, the electrical reticulation, data and so on, was in the vicinity of \$940,000. The second part of the question was—

Senator RYAN: How long did it take?

Mr Edwards: It took approximately six months from design through to installation.

Senator RYAN: How long do you expect the guard to have to be there during the morning peak, and is there a cost associated with that?

Mr Edwards: I am not aware of the cost issue, but certainly we would intend to leave them at the moment during sitting periods just to double-ensure that there are no issues there and to speed the entry. We are hoping that with this upgrade to the hydraulic system we can really speed up the opening and locking procedure in the gate, which will get people moving through quickly. We are certainly investigating at the moment. The company concerned said that they do have a possible solution for us, but I would expect that that would probably take several months.

Senator RYAN: Would that be a change to the hydraulic system that was just installed as part of this upgrade?

Mr Edwards: Yes, it would.

Senator RYAN: So you did not envisage that there would be a peak queuing problem? We know it happens with the bollards. They occasionally get stuck, as they did yesterday. Do you have any idea of what the cost might be in terms of upgrading the system that was just put in place?

Mr Edwards: My expectation is that we would change the hydraulic motor that is on there and possibly the locking mechanism. I would suspect the cost would be in the vicinity of about \$20,000.

Senator RYAN: I assume you will be asked this at a future estimates as well: I assume there will be some reflection upon why there is an additional cost of \$20,000 to a million-dollar project for something that many of us may think might have been somewhat more predictable in terms of the volume of cars going in and out of that facility at peak times.

Mr Edwards: Part of the problem is the technology available on the market at the moment to get a crash-rated and tested gate. The gates that we did use were the only ones on the market that were crash tested under the British crash testing system. They come with some limitations in terms of opening time, but they are the best on the market in terms of protection.

Senator RYAN: There are other parliaments around the world, or other similar facilities—I am particularly thinking of the United States—which I imagine would have some pretty tight security around car parks around the houses of congress. But they might not be British tested, so to speak. Did you consider those? Or do we have a rule where we have to have something meeting some standard number somewhere?

Mr Edwards: When we did our market research the only gates on the market that met our needs were the ones that we imported from the UK.

Mr Thompson: Senator, perhaps I could add: I have observed the gates in Washington and the ones around the Palace of Westminster. They are a very different model. They are the ones that come up out of the ground, and it is quite a slow process getting into the underground car parks in both places because of that. People who use those car parks tend to factor in some delay time as they pass through those security hurdles. We do not want to have that level of delay. That is quite an additional time.

Senator RYAN: If I could move on to another security issue, and that is the appearance at Parliament House and the security issue around the President of the Czech Republic, Vaclav Klaus, earlier in the year. There were media reports in July about him turning up to Parliament House, not being willing to go through a metal detector, and then leaving Parliament House. Was the decision to ask him to go through the metal detector after he made clear who he was referred to anyone above the security guard? I am not suggesting that the security guard did anything wrong; I just want to know the decision process that happened here.

Ms Graham: By way of background, the visit was an unscheduled visit. I understand it was a private visit. Normally, if it was a guest of government or a guest of parliament, we would have known about it and those matters would have been addressed. The group arrived unannounced. I understand it was a team leader at the security point who made the decision at the time. I also understand that the group left pretty quickly. So, even it had been escalated—which it may have been; I am not sure—the group had left pretty quickly after they had come in.

Senator RYAN: Following on from previous estimates hearings, I understand the only people not subject to security screening coming into this building are the Governor-General and the Prime Minister. Is that still the case?

Ms Graham: Yes, it is.

Senator RYAN: So ministers—and I know you are, Senator Hogg—and everyone else is subject to screening. I am assuming, potentially, the personal security detail of those two people is also not subject to security screening—say, if you are travelling with them in cars?

Ms Graham: The Governor-General, their spouse and accompanying party and the Prime Minister and the close personal protection supplied by the AFP in support of the Prime Minister are exempt. Whenever there is CCP assigned to another individual, such as the Leader of the Opposition, during an election period, that would also be the case, and any person travelling with the Prime Minister by vehicle when entering the Prime Minister's courtyard.

Senator RYAN: I want to try to potentially avoid such a circumstance happening again. You mentioned earlier someone who was a guest of government or a guest of the parliament, so I presume that Her Majesty and her party will not be subjected to security screening later next week?

Ms Graham: That assumption is correct.

Senator RYAN: I am assuming the same applies to visiting heads of state; Barrack Obama obviously; and, for example, last week's visit by the Prime Minister of Papua New Guinea?

Ms Graham: I understand that to be the case.

Senator RYAN: How does someone get on to this list of people? For example, if I or a group of senators had invited the President of the Czech Republic here and notified the President of the Senate and DPS, is that a facility that would be made available to them, or is it only upon the invitation of the Prime Minister or one of the presiding officers?

Ms Graham: Generally it is a guest of government or guest of parliament visit, but there certainly have been occasions where other people have arrived, informally arranged through senators or members, and the decision is made on a case-by-case basis by the presiding officers.

Senator RYAN: Are there any such examples in recent years of someone being exempted?

Ms Graham: I think we had one recently, but I do not have the details off the top of my head.

Senator RYAN: Is it anyone other than a head of government or a head of state that I would be thinking would be granted such immunity from search?

Ms Graham: I do believe it would be more senior ministers in foreign governments.

Senator RYAN: If, for example, I or a group of us went to Senator Hogg and Mr Thompson and informed them that the president of a nation such as this was coming, it would then be up to the presiding officers to determine whether or not they would be exempted from the standard security procedures?

Ms Graham: Generally the Serjeant At Arms and the Usher of the Black Rod would manage those requests.

Senator RYAN: Sure, but the decision is made by the two presiding officers or by the Serjeant At Arms and the Usher of the Black Rod?

Ms Graham: Obviously the presiding officers are able to make that decision. Under the policy they delegate that authority to the Sergeant and the Black Rod.

Senator RYAN: And there are clear criteria available for this decision?

Ms Graham: Yes.

Senator RYAN: When you said 'case-by-case' I was not sure if that meant there were.

Ms Graham: Generally it is associated around a foreign visit.

Senator RYAN: Generally?

Ms Graham: Yes. I cannot think of an example where it has not been around a foreign visit.

Senator RYAN: What do you mean by 'foreign visit'—an official visit?

Ms Graham: A senior minister from a foreign government or, for example, the head of the United Nations.

Mr Kenny: Senator, I think 'official visit' is a better term.

Senator RYAN: So, for example, a visit like this by the President of the Czech Republic, which is not an official visit, is not something that would be covered by this?

Mr Kenny: Usually not. My understanding of that event was that he was coming into the building as a guest of a journalist who wanted to do an interview.

Senator RONALDSON: Mr Thompson, do any of your senior staff, including those at the table, have access to parliament artworks?

Mr Kenny: In our offices?

Senator RONALDSON: Yes.

Mr Thompson: We have none in our offices, no. I just pause there. There might be some of the Parliament House art works around the library space—not in Ms Missingham's office but around the library space.

Ms Missingham: Two artworks in the foyer.

Senator RONALDSON: Okay, but not in your DPS offices.

Mr Thompson: We have some photographs on the wall.

Senator RONALDSON: Do senior staff have private artworks in their own offices?

Mr Thompson: Some do, I think. Yes.

Senator RONALDSON: Do your senior staff ever have the need to access the loading dock area?

Mr Thompson: For moving works of art?

Senator RONALDSON: Yes.

Mr Thompson: I imagine if it is over sized then they would. Like any other over sized object it would come in through the loading dock rather than through the Senate or Reps normal entrances.

Senator RONALDSON: I have been advised that after the May estimates one of your senior officers came with some artwork through the loading dock area. I am sure there is a very good explanation for that. Does anyone at the table—

Ms Graham: I can answer that. Recently—I do not know exactly when it was—my branch had a number of photographs of the building and of the services that we provide in the branch framed. They were quite bulky. I did not want to bring them through one of the security points. That would be contrary to what we ask our security staff to do and I do not want to have one rule for myself and one rule for others. So I pre-arranged to have those items delivered through the loading dock.

Senator RONALDSON: Sure. I thought and hoped there would be a sensible explanation for it so thank you.

Senator RYAN: I have a follow-up question. Going back to the issue of car parks at Westminster and Washington, it is also fair to say that at Westminster as well as having the slow gate they do a bomb check on cars, don't they?

Mr Thompson: That is right. It is a very elaborate process.

Senator RYAN: So it is not just the gate that is slowing the issue down; there are also somewhat more extensive security procedures.

Mr Thompson: Yes, and I have witnessed something very similar on the hill, as well.

Senator RYAN: I thought I might clarify the comparison.

Senator PARRY: I would like to ask that the answers to these questions be provided on notice. I have the usual questions about the number of security passes that have been issued, the breakdown of the classification of staff and access points. I think that has been provided for in that format. Could that be provided on notice?

Mr Thompson: We can do that, yes.

Mr Kenny: By access points, do you mean slip roads?

Senator PARRY: Yes, and the number of passes on issue.

Mr Kenny: Yes, sure.

Senator PARRY: I think we have had these questions year in and year out—just the normal bunch of figures.

Senator FAULKNER: This is more a point of order or seeking some advice. It is not clear to me in which of the five programs corporate services, or what is now the equivalent of corporate services for DPS, come.

Mr Thompson: I think we have the same approach as most of the public service. The cost of corporate services are distributed across the delivery programs.

Senator FAULKNER: Yes, but where does the committee ask questions which would normally be described as corporate services? I accept what you say. That is true. The difficulty comes when you are on this side of the table, Mr Thompson. Not all of the difficulties are on your side of the table. I am just trying to establish where on earth we ask such questions.

CHAIR: My advice is that we would normally deal with that in general questions, at the beginning, but we did not have general questions. So with the leave of the committee we could deal with those now. Senator Faulkner do you have some questions?

Senator FAULKNER: The one thing I was interested in was understanding whether the department had a budget for the overseas travel of staff members.

Mr Thompson: Each year we establish a budget for overseas travel. I do not have exactly what it is for 2011-12 at my fingertips now.

Senator FAULKNER: What was it in 2010-11?

Mr Thompson: Again, I do not have it at my fingertips. We can provide it at quite short notice, but I do not have it.

Senator FAULKNER: Could I ask, then, about the prospective budget for this financial year and for the two or three previous years. Could I also be provided with details of all overseas travel expenditure funded out of the DPS staff travel budget, please? I have asked that question on notice.

Mr Thompson: Yes, Senator.

Senator FAULKNER: Again, I am not entirely sure where this fits in but do we have the answers to the questions that were taken on notice prior to the break?

Mr Thompson: Yes, these are the billiard table related ones. The PWC initial audit cost \$30,000, as I alluded to. The second part, where they checked on the providence and valuation of table cost was some \$12,000. We have not yet paid that bill but that will be the price. The Tonkin review was \$30,000. On the code of conduct work, we have a broad indicative budget, as Ms Heriot indicated, of \$27,500. On the internal preliminary survey of heritage items that fall outside the Parliament House art collection, our estimate of staff costs to do that work to date is \$5,300.

Senator FAULKNER: What does that add up to? Have you added it up?

Mr Thompson: No, I have not.

Senator FAULKNER: Do you want me to?

Mr Thompson: We can do it all. We have to be careful here. Unfortunately, my—

Senator FAULKNER: There are only \$5 figures to add up. I will try to be careful and do it for you.

Mr Thompson: It is just that I have realised that some of these are inclusive of GST and some are exclusive of it, and I apologise for that.

Senator FAULKNER: Okay. Which ones are inclusive of GST?

Mr Thompson: The PWC was \$30,000 plus GST.

Senator FAULKNER: So that is \$33,000.

Mr Thompson: Yes.

Senator FAULKNER: What about the \$12,000—does GST have to be added to that?

Mr Thompson: That is also plus GST.

Senator FAULKNER: That would be \$13,200—would that be right?

Mr Thompson: It might be better to do it the other way, because we do not pay GST; we get GST back.

Senator FAULKNER: If you are not paying the GST then we do not have to—I just want the figure. You give me the figure. Don't tell me that it doesn't include GST if you do not have to pay GST. I will go with your figure.

Mr Thompson: In round terms, \$105,000.

Senator FAULKNER: I always worry about those qualifications 'in round terms'. Let us go back to the first PWC audit. What is the figure, including GST if it has to be paid?

Mr Thompson: That would be \$33,000.

Senator FAULKNER: So it does have to be paid there, does it? I did not understand the qualification.

Mr Kenny: Normally we pay GST but then we get it back. So the net cost to the department does not include GST, but if you look at the invoice and the amount of money transferred, it would include the \$3,000 in this case.

Senator FAULKNER: So what figure are we going to work on—\$30,000 or \$33,000?

Mr Thompson: If you were looking at the cost to the department, I would suggest working on \$30,000.

Senator FAULKNER: I am happy to work on \$30,000, even though the invoice shows \$33,000. The next one is \$12,000, even though the invoice shows \$13,200. What about Mr Tonkin?

Mr Thompson: That, again, is another \$30,000, plus GST, so we exclude that.

Senator FAULKNER: What about the code of conduct?

Mr Thompson: That is 27,500, including GST, so that would come back to very close to \$25,000 excluding GST.

Senator FAULKNER: So that figure is \$25,000, is it?

Mr Thompson: Yes—very close to it. Finally, there is \$5,300—

Senator FAULKNER: Plus \$5,300. Does that make it \$102,300?

Ms Missingham: Yes.

Senator FAULKNER: Thank you. You are very on the ball, Ms Missingham, in terms of adding these things up, I am pleased to say. Your arithmetic is very good. Excellent. So it is \$102,300, excluding GST. Is that all the costs DPS has borne in relation to the billiard tables debacle or is there anything else?

Mr Thompson: As I alluded to, we acknowledge that there has been some distraction and some time commitment by senior managers.

Senator FAULKNER: Were there any removal expenses of the billiard tables borne by the department?

Mr Thompson: There was the whole exercise of cleaning up that area and converting it to a useful office space.

Senator FAULKNER: That is fine. I am asking whether there were any removal expenses to go to the auction house, for example.

Mr Kenny: I imagine that there would have been. We will try and get that number for you.

Senator FAULKNER: This is what is so difficult to cope with: you imagine. I am not interested in your imagination; I just want the facts.

Mr Kenny: Senator, I am sorry, I was not personally involved. I have said that we will get the facts for you.

Senator FAULKNER: Yes, but before I was told that was the only cost. So now there may have been removal expenses as well.

Mr Kenny: That is what we will get for you, Senator.

Senator FAULKNER: Who paid for the removal costs of the tables: DPS or the purchasers or the auction house?

Mr Kenny: We will find out and get the answer as to how much—

Senator FAULKNER: After all this, you do not know who paid for it. After two audit inquiries, a disposal inquiry and a code of conduct process occurring, you cannot tell me that.

Mr Kenny: I have a recollection that there was a cost and I have a recollection of who paid that, but, rather than go on my memory of it and have to perhaps correct it, I am saying that we will get the answer, hopefully in the next half hour.

Senator FAULKNER: I would have just hoped that in preparation for this estimates committee DPS would have had a few of these things at its fingertips, because Mr Thompson told me how much effort had gone into preparing. Anyway, you do not know. So we do not know whether DPS or the purchasers or the auction house paid for the removal costs. Where there any storage costs involved?

Mr Thompson: We will have to come back to you on that, too, Senator.

Senator FAULKNER: We do not know who paid for them. Were there any auction house fees?

Mr Thompson: There is a figure for the auction house.

Senator FAULKNER: Who paid for that? I suppose we do not know that either. God help us.

Mr Thompson: We will come back to you on that, Senator.

Senator FAULKNER: Oh, terrific. When will you be able to come back on those sorts of associated costs? I am just trying to find out the costs to the Australian taxpayer of the debacle of your department's billiard table sale exercise, and I have been asking this for a year. Even at today's estimates, after the circus surrounding it, we do not have any answers. It's pretty ordinary, isn't it?

Mr Thompson: We have provided you with all the major costs, Senator.

Senator FAULKNER: 'All the major costs'—now I want the minor costs. By the way, can you just remind us how much the tables sold for at the end of the day?

Mr Thompson: They each sold for \$2,500.

Senator FAULKNER: I am trying to find out other costs. So far that sale, for \$5,000 benefit, has been a \$102,500 cost to the Australian taxpayer—plus other minor costs we do not know about. I want the whole lot, Mr Thompson. Everything: every cost borne by the Department of Parliamentary Services in relation to the debacle which was the sale of these billiard tables. So far it is \$102,500 going north. As soon as possible I really believe we ought to be provided with those figures, and it is disappointing you are not able to provide them today. Obviously it includes removal expenses if there are any, obviously it includes storage fees if there are any and obviously it includes auction house fees if there are any—and I

gather there are figures in those three categories, given Mr Kenny's unsatisfactory evidence. If any other costs borne by DPS could be provided as soon as possible, I would appreciate it.

Mr Thompson: I will provide that.

Senator FAULKNER: Thank you.

Senator RYAN: I have a couple of quick questions on facilities. I understand that a lot of staff in the building, as part of the collective agreement, have access to the fitness centre.

Mr Thompson: Yes, they do.

Senator RYAN: Can you provide me, on notice, with the number of people who have effectively no-charge access to the fitness centre?

Mr Thompson: Yes, we can do that.

Senator RYAN: Some of those employees are not employed by you. They are employed by the department of finance, I understand. Or is it only DPS employees that have—

Mr Kenny: DPS staff have access to membership under our enterprise agreement. Non-DPS staff are not covered by that arrangement.

Senator RYAN: So it is only DPS staff who have access?

Mr Kenny: So I do not know whether or not other departments—such as the chamber departments and possibly the finance department, who employ the MOP people—have something in their agreement. But we could take—

Senator RYAN: It would surprise me if you were not aware that MOP staff, for example, had access to the fitness centre at no charge.

Mr Kenny: It would not be at no charge; we would receive the money.

Senator RYAN: I would ask you to take on notice, if there are arrangements outside DPS, the costs that are reimbursed to you to cover that.

Mr Kenny: Sorry, Senator; what was that question?

Senator RYAN: If there are departments other than DPS, whether it be chamber or department of finance, that as part of their collective agreements have similar arrangements to you—that is, no-charge access for staff members—what reimbursement do you receive for that?

Mr Kenny: That is fine, but you also had a question about how many of our staff—

Senator RYAN: I would be interested to know how many of your staff and how many other staff receive no-charge access.

Mr Kenny: Yes. It is in the second part of our annual report, Senator—how many of our staff—

Senator RYAN: Sure, overall. I will find out myself.

CHAIR: If there is nothing else in that outcome, we will move to outcome 3.

Senator FAULKNER: Do staff issues come under this outcome? It is not entirely clear to me.

CHAIR: What sort of issues?

Senator FAULKNER: There was, or is, a Comcare survey of staff—I read that in some of the material provided for our other inquiry. That is correct, isn't it, Mr Thompson?

Mr Thompson: That is right. It is still on foot; we have not received the results of that yet.

Senator FAULKNER: So that is just ongoing.

Mr Thompson: Yes.

Senator FAULKNER: Where, in future, would I ask questions about that?

Mr Thompson: I think, as madam chair acknowledged, it probably comes under general questions either at the beginning or end of the specific program questions.

Senator FAULKNER: All right.

Mr Thompson: It is just an oddity of the way the program structure is set up for us and all the Public Service departments.

Senator FAULKNER: When is that expected to be concluded?

Mr Thompson: We understand that we will receive feedback from that Comcare survey in November.

Senator MOORE: At the beginning of your survey, was it a process that there was a set link with the department about what was going to happen with the Comcare survey, so that there was an expectation about will happen at the end?

Mr Thompson: The way Comcare present their final information is in their hands. We understand that will give us an assessment of how effective our, if you like, HR practices are, particularly around harassment and bullying. We also understand they will give us something, if you like, quantitative as well, but just how that benchmarks against the rest of the broader Public Service we do not know. You would have to ask Comcare.

Senator MOORE: I am interested as to whether there was an introductory session between Comcare and the management team about expectations, how it will operate and your view before it started. Is that part of the process?

Mr Thompson: They approached us about participating in this survey. They had already committed to undertake this survey across a large section of the Public Service. We readily volunteered to be part of it. The discussion of that happened primarily through our human resources people. We are very concerned about the health and well-being, both physical and mental, of our staff. We felt this survey, this assessment, could provide us with some valuable inputs into how we are going, both in a comparative sense, in the Public Service, and in an absolute sense. We will be interested to see what they come back with.

Senator MOORE: Was your management team asked to give any comment about your own expectations and your own views about what was happening at the beginning of the process?

Mr Thompson: We had a discussion with our executive about our, if you like, willingness and interest to be part of it and there was an overwhelming interest in being part of it, and we encouraged our staff to participate. Just how many staff have participated I cannot recall. At one stage I do recall seeing a figure of some 250 having contributed, but I do not have a figure as of now.

Senator MOORE: That information is available from Comcare? They tell you that 250 people participated?

Mr Thompson: There was a figure of that order. Karen Sheppard is our Assistant Secretary, Corporate Services Branch, and Karen may have an updated figure.

Ms Sheppard: The Comcare survey closed on 30 September to staff and we were advised a couple of days before that that around 250 staff had responded at that time. We do not actually know what the final number was, but it was around 250 at that point.

Senator MOORE: Comcare advised you of that? You have no engagement; it is entirely independent? The staff respond directly to Comcare?

Ms Sheppard: That is right.

Senator MOORE: I am still trying to find out whether, before the survey started, there was a meeting engaging the management team, or whoever, from your area and Comcare to have a general discussion about your views about how things were going, what you were hoping to get to, any kinds of comments you would have—whether there was a benchmark or some discussion at the start before the survey that could then be useful at the end of the survey when you got your feedback. Did that happen?

Ms Sheppard: I understand there was discussion with the HR services team and Comcare, but, to my knowledge, not directly with management and Comcare.

Senator MOORE: Is there anyone from the HR services team that can tell me whether that did happen?

Ms Sheppard: We will have to find out and get back to you, if that is okay.

Senator MOORE: Okay.

[11:49]

CHAIR: We will now move on to Senator Parry, who is dealing with program 3.

Senator PARRY: I will ask the department to take this on notice. It might be more effective. Is there confidential counselling available for all DPS employees? If so, how is it accessed and through whom? Is it available 24/7? I presume it would be at no cost. Could those details could be provided? Also, could we have a breakdown of the number of referrals to any counselling service and from what areas the referrals were being made? Obviously, keep confidentiality, but can that be broken down into Security, Hansard et cetera? If there are different areas, could you break that down?

Mr Thompson: Yes, we can. I would just have to caution on the last one, because for some groups it might end up being a small number, and that might intrude on confidentiality.

Senator PARRY: If it breaches that, I do not want the answer.

Mr Thompson: But the service is definitely there, and it is used.

CHAIR: Will now go on to program 3. We will deal with 3.1 first.

[11:50]

Senator RYAN: I have some questions about the staff kitchen upgrade contract—CN434822, if I have the number correct. This is a \$2.2 million contract. How long is it since this kitchen was last upgraded? I remember there being works down there recently, but I was not sure if that was just in the serving area.

Mr Thompson: I will ask Liz Bryant to join us at the front table so she can map out the project. You are correct that the front-of-house—the actual staff dining room—was

refurbished about 2½ years ago. But that went from the serving counters forward out into the dining area, whereas this project is about the food preparation areas behind that wall.

Senator RYAN: We are very pressed for time, so I was just wondering whether this is the first upgrade those kitchens have had since the building was built.

Ms Bryant: They have had some minor upgrades, but not to the extent that we are doing at the moment. This is about the kitchen wall, floors and ceiling finishes, which we are upgrading to meet the current food premises guidelines. We are basically replacing old tiles et cetera on the floors and the grout surfaces that have become quite corroded and grubby and replacing them with clean surfaces. We are going right through the kitchens within Parliament House.

Senator RYAN: So it is not just the staff kitchen but all kitchens in Parliament House.

Ms Bryant: All kitchens in Parliament House.

Senator RYAN: That is \$2.2 million worth of tiles.

Ms Bryant: No, the total program expands over a number of financial years and totals \$14.2 million over a five-year period.

Senator RYAN: For tiles?

Ms Bryant: No, not just tiles.

Senator RYAN: Sorry, I misheard you.

Ms Bryant: That is part of the fabric that is being upgraded as part of the staff dining room. There are numerous amounts of work happening, including a new model where we are providing the basement kitchen as the main production kitchen, and then the other kitchens will be used as satellite kitchens as a plating-up and serving type arrangement, which will help with the efficiencies of the kitchen structure.

Senator RYAN: So you are sort of centralising where food is prepared.

Ms Bryant: That is correct.

Senator RYAN: I remember this being tried at a university I was once a student of, and it did not end up too well. It ended up costing a lot, but the satellite kitchens, for lack of a better way of putting it, were not very good at reheating food, basically—cooking it, transporting it and then reheating did not work so well. Is that basically the model?

Ms Bryant: That is the model—a centralised cook-chill production kitchen in the main production kitchen area down in the basement and then the satellite kitchens, as you have referred to them, in the other—

Senator RYAN: So food will be taken from the basement kitchens to the staff cafe, for example, where it will be effectively reheated?

Ms Bryant: I will just get Bronwyn Graham, who is the project sponsor and business owner of this project, to come up as well.

Ms Graham: It is fair to say that modern kitchen technologies have come a long way in recent years. The particular technology that Liz was talking about—the cook-chill technology—is a key feature of the centralised kitchen upgrade strategy. I would also say that the kitchens are generally upgraded every 10 years; these kitchens have not been upgraded, in general, since the building opened in 1988.

Senator RYAN: I am a relatively simple cook—I would barely use the term. I think there are stoves, there are ovens. Are we just looking at new equipment—stoves and ovens? A stove is a stove, as far as I know; I know you can spend a lot of money on different sorts of ovens. What sort of new equipment is being installed or needs to be installed?

Ms Graham: One example would be new modern ovens that are available on the market. For example, if there is a banquet being prepared for, browning some meat would normally need to be done in a pan and then put into the oven. New modern ovens can do that all in one go. They are fully automatic and can do hundreds of pieces without the need to double-handle. The equipment that we are looking at procuring does have efficiencies tied to it. Another example would be kitchen rangehood extraction systems. New technology today allows the caterer to clean those themselves by removing a cassette at a time, placing it through the dishwasher cycle and replacing it in the ceiling, where it currently requires a planned maintenance program.

Senator RYAN: So you expect some savings from this.

Ms Graham: Absolutely.

Senator RYAN: At what point do you expect the savings to balance out the costs of those parts that are relevant, because I understand the whole \$14 million project is not about extracting efficiencies? At what point do you expect a return on that investment in terms of it balancing out saved money?

Ms Graham: I do not have the figure, but a large proportion of the program is about bringing the kitchens up to compliance. I think Liz talked about that earlier with the flooring surfaces, the tiled surfaces and the ceilings.

Senator RYAN: This is where I have an issue. I understand bringing things up to compliance. Is this because there are new compliance requirements in place or is it because the actual facilities are unserviceable? I think you will appreciate there is a very big difference between the two—between a set of tiles that might look fine to someone and that can be washed versus some new particular compliance burden that says they have to be shiny to a certain degree?

Ms Graham: Certainly not the latter. The surfaces that we have in the kitchens do not meet standards—

Senator RYAN: What standards, though? Are they standards imposed by regulations that have been brought in over the last two or three years, or are they still compliant with the standards of 1988?

Ms Graham: The regulations I am talking about would be the HACCP food preparation standards. I could not tell you exactly when or if those standards have changed in the last few years to upgrade the specification for floors and the like. I do know for a number of years now we have had problems with our fabric, and that has meant that the catering contractor—

Senator RYAN: The fabric?

Ms Graham: The floors, the tiles—the fabric of the building. That has meant that the catering contractor had to put in place additional labour based steps to maintain reasonable level of food safety compliance.

Senator RYAN: There is a very big difference to me, Ms Graham. I would appreciate whether or not these tiles are being relaid at quite substantial cost driven by new a compliance regime or whether they are actually no longer serviceable. There is a very big difference. If we are incurring costs because the ACT government is suddenly upping the standards for what tiles need to be, that is very different to the tiles are cracked and you cannot clean them properly. I appreciate your job is to look at compliance—and you have mentioned that a few times—but I would appreciate there being an understanding of the two. We have heard about furniture earlier. OH&S standards have changed, so therefore we need new furniture. The regulatory requirements upon the department seem to be driving a lot of the costs that are being incurred by the department. That might provoke some of us to look at those regulatory burdens.

Is the staff dining room—the caf, for want of a better way of putting it—expected to close at any point?

Ms Graham: No.

Senator RYAN: You will not be closing any of the kitchens for a period other than over Christmas, for example?

Mr Thompson: I suspect over the January break we may do what we normally do in January and simply serve from the Queen's Terrace Cafe for two or three weeks.

Senator RYAN: I understand that is regular.

Ms Graham: But in relation to the upgrade project, the staff dining room will not close as part of those works.

Senator RYAN: And you do not expect costs to increase for staff as a result of this investment? There is no plan to effectively recoup the need for this capital investment by increased costs?

Ms Graham: No.

Senator RYAN: That is all I have on that issue.

CHAIR: I have a general question in relation to the fit-out of the new office facilities and particularly for staff. Can someone give me an overview of what the department's role is, if any?

Mr Thompson: This is in senators'—

CHAIR: Yes.

Mr Thompson: Yes, we can. We generally do the work in accordance with the program set out by the relevant chamber department. The vast majority of the people who do the work are out of the Infrastructure Services Branch, which is led by Freda Hanley, who is here. We would normally do the work on the program set by the chamber department and to a pre-agreed standard which accorded with the design integrity of the building.

CHAIR: Has there been any consultation with you in relation to the layout of the fit-out and, to your knowledge, was there any consultation with senators or staff on the design?

Mr Kenny: I do not know what consultation but I think that from that point of view it was the Department of the Senate, who were basically running the project. They would have done whatever consultation was done rather than our people. Our people would get involved

physically when it was time to lift and carry and get the drills out. There was a Parliament House style guide prepared, again under the leadership of the Senate department, but we had people involved in the preparation of that style guide.

CHAIR: Would you be able to provide to the committee a copy of that style guide?

Mr Kenny: Certainly.

CHAIR: Are there any further questions on this area?

Mr Kenny: Can I make a quick correction to Senator Ryan. My comment earlier about gym membership, I have just checked and the annual report actually only goes down to other building occupants in total. So we will provide you on notice with the detail of how many are our people and how many are other departments.

CHAIR: We will now deal with information technology.

Senator HUMPHRIES: I have a question about the requirements for renewal of the password in members' and senators' BlackBerries.

Mr Thompson: We can ask Freda Hanley to come to the table. She can assist on that.

Senator HUMPHRIES: When this issue was raised in the estimates in February in terms of what the policy was as to renewal of the password on the BlackBerries, Mr Sheridan at that time said that the Defence Signals Directorate sets the security requirements for the use of the BlackBerry, it sets the character length of the password, the time it takes for the password to change et cetera. You would be aware, I assume, Ms Hanley, that that advice is not actually correct. The Defence Signals Directorate gives advice but does not actually mandate the length of time the password needs to operate before having to be reset.

Ms Hanley: As I understand it, in some cases the password requirements are mandatory and in some cases they are—optional is probably not the right word but they are recommended. So from that perspective some are mandatory and some are recommended. In the case of DPS, currently we are following DSD guidelines where the minimum length for a BlackBerry password is seven characters with at least one alpha and one numeric. You have to change your password every 90 days and if you have a password that is longer than 12 digits I do not think you have to have alphanumeric.

Senator HUMPHRIES: Okay. I am talking about the length of time that elapses before a password needs to be re-entered to use a BlackBerry. I want to quote from an answer given by Defence Signals Directorate to the budget estimates:

Policy controls outlined in the manual that are prefaced by either a must or a should are mandatory.

Just to cut in there, I think the requirements applying to these BlackBerries are should, not must.

However, agency heads may choose to not comply with policy controls in cases where there are valid reasons to vary from a control. In the case of a should requirement, the agency's accreditation authority, usually the chief information security officer or security executive, can make the decision not to comply.

You are in that position, are you not, that is, DPS are in a position to be able to vary those controls?

Mr Kenny: That is not necessarily the case because we do not provide the BlackBerry. I am not try to be difficult but on the question of who is the relevant agency and therefore the

relevant decision maker, historically the practice was that the Finance Department took that role with mobile devices such as BlackBerries. I understand from the information security manual that governs these matters the agency that is supposed to make the decision about bearing of risk for these things is the agency which 'owns' the information on the devices, not the agency which owns the devices. You would be the organisation for administrative purposes which owns the information on the BlackBerries, wouldn't you?

Mr Kenny: Yes, I think that is fair, although I would not want to be described as owning your information.

Senator HUMPHRIES: Indeed, but administratively speaking, we are not agencies.

Mr Kenny: Administratively speaking, we do it on your behalf.

Senator HUMPHRIES: As I read the information security manual, it is the Department of Parliamentary Services which is responsible for setting the policy on how often passwords need to be renewed. If that is the case, and it is not the Department of Finance, then I am anxious to settle this. At the last set of estimates I asked the question of the department and you answered the question rather than said it was a matter for Finance. You said, 'It is the policy set by DFD'. I went to DFD and they said it was the Department of Parliamentary Services. I am not anxious to be flick-passed again on this matter. Do you have responsibility for determining what the policy is with these password issues?

Mr Kenny: Historically, and again this is by way of background, when the BlackBerries were first provided Finance gave us fairly non-negotiable directions as to what had to be set and we did not argue with that. We had some discussions as to whether there were better options but we took the role that it was their decision. What you have just said suggests that we did not question the authority enough and possibly now we should. I am quite happy to undertake to do so.

Senator HUMPHRIES: While you are doing that checking I have got to forego another set of estimates before I can get the answer to my question. This is the third set of estimates I have brought them to.

Mr Kenny: I can have an answer well before next February.

Senator HUMPHRIES: I have another suggestion as to how we deal with this. The Department of Finance comes up tomorrow. Can you, during the lunch break, check with the Department of Finance whether they can answer these questions. If they say that they cannot answer the questions and it is your responsibility, then I will come back and ask these questions this afternoon. You will still be here this afternoon, won't you, as in still in the building this afternoon?

Mr Kenny: Yes.

Senator HUMPHRIES: You are not going to run away. I have been asking these questions for three sets of estimates and I am—

Senator FAULKNER: Senator, you cannot have DPS coming back after we done the Office of the Governor-General and PM&C. I understand your frustration.

CHAIR: It is not a new subject, after all. It has been raised at every estimates for the last few years.

Mr Kenny: Can I suggest that we will have a discussion with Finance and if it is they who are responsible you can talk to them tomorrow. If it is us who are responsible, then I will undertake now to review the settings basically straight away, rather than review the ownership. If that is clear you will not have to come back to us again and lose another three months. As I said, the way that it has worked since the BlackBerry's were originally issued was that the Finance people made it clear to our technical people that they were the decision makers. What you have just said suggests that the issue of ownership suggests that we should be the decision makers. Obviously, on behalf of all BlackBerry users within the parliament, we have to then work out a way to act on that new responsibility.

Senator HUMPHRIES: I had some issues to place before you about consideration of those parameters. Perhaps I could convey those issues to you separately, if you end up being the decision maker.

Mr Kenny: Yes, that is fine.

CHAIR: Could I just clarify for the benefit of the committee: if Mr Kenny is taking responsibility, then you will put those questions on notice to him as to whether DPS is responsible?

Senator HUMPHRIES: Yes, I could do that.

Senator PARRY: Senator Humphries, I think that is another example as to why we should look at senators and members having global budgets for their own IT, because we are so far behind. It has taken three estimates to get an answer on that issue and there have been many other examples in the *Hansard*. I ask Mr Kenny, in particular, because I know this seems to be your area: exactly where are we with IT? I know I have discussed this with you in a previous committee, but, for the *Hansard* record, could you give us an update as to exactly where we are with IT in relation to what the department of finance currently looks after and what the Presiding Officers now have responsibility for through DPS?

Mr Kenny: We are now responsible for electorate office IT other than mobile devices—that is, BlackBerry's.

Senator PARRY: And mobile devices are not?

Mr Kenny: We have responsibility as in issuing and deciding what the entitlement is. Other electorate office issues, such as how many laptops, how many computers, what they are, what software runs on them and whether or not they are compatible with what is issued in Parliament House, we are now the decision-makers there—us or the Presiding Officers.

Senator PARRY: Are you the decision-makers for new and emerging technology, as in provision of services—not the actual new and emerging technology?

Mr Kenny: I would say yes, provided it is within the category of what is available in the electorate office and what is available in Parliament House.

Senator PARRY: Could I encourage you to be cognisant of the fact that technology does move rapidly and the Senate and the House of Representatives members and senators seem to always be lagging behind in what is available and what would be useful tools for the conduct of our duties.

Mr Kenny: Yes, we try to be across what is available, but we do understand that it is important that new technology is embraced as it becomes available and reliable.

Senator PARRY: Thank you.

CHAIR: I would like to ask a follow-up question. The issue of IT, since I have been on this committee for some six years, comes up at every estimates. Has there been any thought or planning for the future, an investigation, as to how other parliaments around the world deal with IT and the emerging technology issue?

Mr Thompson: Yes, we have looked at some other models. The submission we made to the inquiry into DPS performance does list some of those. They range from the one we mentioned before about the Washington model, where there is a separate service for the Senate and the senators' staff and there is a separate one for the House of Reps. Another interesting one is the PICT model for the Palace of Westminster which is a single service to provide the service to all House of Commons and Lords members. So other models are available. I do not think today is the day to canvass those possible models.

CHAIR: Could you take it on notice to provide us with some further information?

Mr Thompson: We could provide an extract out of that submission.

CHAIR: That would be good.

Mr Thompson: As I mentioned some hours ago, the final landing on what is the best model may be best assisted by somebody external to the place to stand back and look at it objectively to get the very best model to service the needs of senators, members and staff here.

Senator RYAN: You are not responsible for mobile devices, but your staff are at the other end of the phone when they have reliability challenges. I will place on record to begin with how sorry I feel for so many of the staff at 2020 who have to deal with what appears to be a particularly unreliable mobile service. Since the new BlackBerries came in—and I do not know what they are called, but they are the ones with the big touch screen and without the trackball—have you noticed any change in the number of queries, complaints or requirements for assistance? I am not sure how many have been rolled out yet.

Ms Hanley: Nothing has been drawn to my attention to say there is a particular problem here in relation to these new BlackBerries. But, having said that, we can look into it and see if there is.

Senator RYAN: It might be worth keeping a count. That would be my suggestion.

Mr Kenny: Yes, we can do that. Anecdotally I am aware that there is significant dissatisfaction with devices that have been issued recently.

Senator RYAN: Again, members and senators and staff can have their privately funded iPads and iPhones hooked up to the system now—and thank you for making that work. What I was wondering is: do you have any records on the numbers of queries or requirements for support for those devices versus a Blackberry device? Anecdotally I would suggest that even though people are increasingly happier to fund their own equipment and have it hooked up, because the Apples do not seem to have had the reliability challenges—and I talk about staff who seem to have more reliable iPhones than I have in a Blackberry. Do you have any insights into that?

Ms Hanley: Initially, with the set-up of iPhones and iPads, there certainly was a peak of support required just so that people could download iTunes, so their device was set up for

them, but subsequent to that there have been relatively few enquiries. We do have some enquiries such as, 'Can I download this app; can I download that app; how do you use apps?' but we are not in a position to provide that level of support.

Senator RYAN: No, I understand that. But in terms of reliability of what you might call email and web access via an Apple PDA as opposed to a Blackberry PDA, your experience has been relatively positive?

Ms Hanley: Yes.

Senator RYAN: We will chase that up again tomorrow. There was a problem a while ago—I think I was the first senator to have my iPad hooked up, because I happened to be in the building the day it happened—when the 90-day password rule on our laptops for the PCN caused a problem with Apple and, I presume, with iPhones; I know it caused a problem with all the iPads. Has that been sorted out? I know a lot of senators were locked out of the system, because the Apple device kept trying to get in with an old password, which triggered the security shutdown. Has that been resolved?

Ms Hanley: I know it has been worked on; I cannot confirm whether or not it has been resolved yet, but we can take that on notice.

Senator RYAN: If it has not been resolved could I suggest that you constantly remind senators and staff with devices that they need to keep an eye on this; otherwise it puts a great deal of stress on your staff, who then have to get us back into the system, through no fault of their own, and it tends to happen at critical times when we are in this building.

Mr Kenny: We have to find a resolution. It is a defect in the model of how the iPads work.

Senator RYAN: So it is an Apple issue that you cannot automatically—

Mr Kenny: No, I am not saying that; I am saying that the way we set it up—

Senator RYAN: Okay.

Mr Kenny: Whether it is the way Apple is doing it or the way we have done it, it does not matter; we have to resolve it.

Senator RYAN: Have you also got any closer to allowing, particularly iPad, access to ComDocs? At least part of it is overseas. Is part of it overseen by DPS or the library? One of the benefits of ComDocs was that we did not have to press print on every document we got, but when we walk around the building and go to meetings with tablet computers, we cannot access ComDocs, so we are tentatively putting a strain on the email system by emailing things to ourselves just to get access to them. Are we any closer to that?

Ms Missingham: There is a project underway to implement a system that will let you have that functionality. The pilot starts today and I am on the pilot. So hopefully all with go well. There are a number of people piloting from today.

Mr Kenny: It is a broader issue than ComDocs.

Ms Missingham: It is about accessing the whole network and your desktop, which is all covered.

Senator RYAN: Yes, I appreciate that. Just to finally clarify: was the letter that came out from the special minister of state to the two presiding officers merely to facilitate the transfer of your authority to act on electorate office computers?

Ms Hanley: Yes.

Senator RYAN: Electorate office IT; I am sorry.

Mr Kenny: I think I know the letter you are referring to.

Senator RYAN: It was a circular from the special minister of state saying that, effective from 1 September, the special minister of state had authorised the presiding officers—

Mr Kenny: Yes.

Senator RYAN: That was just to facilitate the transfer, nothing more?

Mr Kenny: That was just to announce the fact that the presiding officers now have an authority that previously was only with the special minister of state.

CHAIR: I will ask a follow-up question in relation to the iPads. Mr Thompson, I believe that at a previous estimates you indicated to the committee that iPads were being trialled through you department. Can you give us an update as to where that is?

Mr Thompson: We have—and I will ask Ms Missingham to contribute to this—I think, 40 across the department. They are being used by people at senior levels, like Ms Missingham, and at much more junior levels. At this stage we are finding them to be very useful. We would like to find ways that we could fund them for members and senators, and we may be able to do that once we get a better understanding of the electorate office IT system we are literally just inheriting. I think the experience has been very useful so far.

Ms Missingham: The pilot involved rolling it out to a number of different people within the Department of Parliamentary Services, including library staff, and we have used it to build technical expertise in the department so we can support it. We have also tested that all of our applications—like the parliamentary handbook and other publications—work on an iPad and we are interested in moving into apps for things like the handbook, and we are also now moving into a new trial of a new project to test full connectivity to the desktop and internal services. So it has been very useful for us to develop our skills and knowledge and then understand we needed to develop some products.

Mr Thompson: The other important small group within our 40 are the people in the 20-20 team who have a limited number—I am just not sure what it is. It is a small number. It is very important for them to have this thing that they can use so they can understand your needs as things unfold. They are another part of the group.

CHAIR: I too would like to join Senator Ryan in thanking the department for enabling us to have that connection. There are a very small number of staff who have the expertise and so they are under a fair bit of pressure from time to time, particularly when it comes to passwords and other issues. Is it in your projected future considerations to make iPads available to senators and members?

Mr Thompson: Our base IT budget is very tight but we have just inherited the electorate office IT responsibility as well. What we want to do over the first, if you like, year of running that is to understand the costs that are contained within that EOIT budget and whether we can

free up some money, one way or the other, to then allow for senators and members to be provided with an expanded service.

CHAIR: One of the benefits that I and senators I have spoken to have found with purchasing the iPad ourselves is that we are not limited to what we can do with it, which has given us much better use of it. That is, unfortunately, part of the problem with IT provided by the department—it has limited access, including the BlackBerrys. Once you have considered the trial of the iPads and the Apple processing, are you then open to looking at the Apple iPhones as a replacement for the BlackBerrys if they are proven to be—as most of us would attest them to being—more reliable?

Mr Kenny: I think there are strong technical reasons and strong useability, ease-of-access and functionality reasons for us to explore that. At the moment, there is a contract with BlackBerry that is with the finance department. We certainly have very positive feedback, we certainly get very positive messages back from people, about the iPhone and the iPad service that they can now use—very positive.

Senator PARRY: As highlighted through the comments from the secretary and the deputy secretary, when information technology comes onto the market—new products—businesses, within a few weeks, have determined whether it is a good product or a bad product. We are up to iPad version 2. Mr Secretary, you mentioned a moment ago that it is going to take a year to assess the cost et cetera. We will be up to iPad 3 or 4 or 5 by then. We have to move faster with tools that are going to make our jobs a lot easier and eventually benefit our service to the taxpayer. I stress that we need to move a lot quicker on this. iPhones have been out for a long time. I know at POITAG, the Presiding Officers' Information Technology Advisory Group, we have been advising that committee. Mr Kenny, you are there. We have been asking to have assessments made and get this stuff out because that is what senators and members need to be able to do their jobs. We are living too far behind the technology that is available. I just make that strong comment.

Senator THISTLETHWAITE: On the iPad issue, a number of senators have more than one email address. They have an office email address and a private email address. The iPads cannot connect to both, which is a bit of an issue. I am just wondering if anything is being done to resolve that connectivity issue.

Mr Kenny: We acknowledge that it is an issue. I cannot quite recall exactly where it is at, but we did find a technical solution that we are now looking at road-testing—if that is a word that people understand—just to make sure that it can be implemented, and then we can do it.

CHAIR: There has been some progress. I now have access to both, and it is complicated. It makes using your diary very complicated, so your public email address and your calendar will not sync if you start using your private email address and your private calendar. So there are still some issues there but it is progressing.

Mr Kenny: That is what the road-testing is about.

Senator THISTLETHWAITE: I will talk to Senator Polley at the break.

Mr Thompson: The dilemma we are faced with, with the whole iPad thing, is exciting new technology and great opportunity but we have been bringing it in against a background where we have been very concerned about information security. We are being very cautious about that.

Senator HUMPHRIES: Where do we stand at the moment with consideration of document management systems improvement for members and senators?

Mr Thompson: We have had a separate discussion with you about EDRMSs, as they are called. The internal one that DPS runs is called TRIM and it is proving to be very effective and a great cost efficiency for us. We have begun to identify some options for systems that could be made available to individual senators. There would be some cost in that. As a separate exercise, we were planning to get back to you in the next couple of weeks about that. In parallel, we do need to consult with both presiding officers about ways and means of funding that. We can see that there would be real productivity benefits to each parliamentarian if you had a very smart EDRMS suited to your particular needs or that of another senator.

Senator HUMPHRIES: As you know, I was prepared to access my electorate allowance to buy private software to do that, but I am told that cannot occur; hence my request for some global solution.

[12:27]

CHAIR: Are there any further questions on IT? If not, we will move to program 4, which is broadcasting services. Are there any questions? In relation to Hansard, program 4.2, I have a question—Mr Thompson, through you if that is appropriate. With the extraordinary amount of committee work that has been undertaken by the Senate, I am wondering if you could update the committee as to whether there has been any delay in the Hansard services and what pressure, if any, has been added to Hansard.

Mr Thompson: Thank you very much for the question. I will ask Karen Greening to join us. Karen is the assistant secretary who looks after Hansard and broadcasting. It would be fair to say that there are two significant workload things hitting both our broadcasting people and our Hansard people. On the one hand there is a very heavy committee workload on the Senate side. On the House of Reps side there have been greatly extended sittings as well. So delivering a good service to both chambers and the committees is proving to be quite a challenge at times. We have been meeting our deadlines for all chamber work but we are not always able to meet the deadlines and targets for committee work.

Ms Greening: It is correct that we have not been meeting all of our targets for committee work, and there have been a number of reasons for that. Primarily it relates to our Hansard production system. We replaced the Hansard Production System on 2 May this year. Leading up to the implementation of the new system, our old system went down on a couple of occasions and that impacted on the production of transcripts. Since we have implemented a new Hansard Production System we have had a few teething issues which have also impacted on our delivery of committee transcripts.

When parliament is sitting we give priority to the chambers. When parliament is not sitting we work very hard to produce as many transcripts as we possibly can within the negotiated timeframes. What we have been doing is that when we think we are going to be late producing a transcript we get in touch with the committee secretary and negotiate a new deadline for the production of the transcript.

CHAIR: Are there any further questions on program 4.1 or program 4.2? If not, are there any questions on program 5, Works programs?

[12:30]

Senator RONALDSON: Is there a works consultative committee?

Mr Kenny: DPS has a consultative committee.

Mr Thompson: There is a staff consultative committee.

Senator RONALDSON: But there is not a works consultative committee?

Mr Thompson: No. We have a forum called the senior management coordination group, SMCG, which combines the House of Representatives, the Senate and DPS to discuss the overall program. We also present information periodically to the Joint House Committee on projects, but not otherwise.

CHAIR: If there are no further questions, I thank Mr Thompson and the officers for appearing before us.

Proceedings suspended from 12:31 to 13:31

PRIME MINISTER AND CABINET**In Attendance**

Senator Evans, Minister for Tertiary Education, Skills, Jobs and Workplace Relations

Senator Arbib, Minister for Sport, Minister for Indigenous Employment and Economic Development and Minister for Social Housing and Homelessness

Department of the Prime Minister and Cabinet**Outcome 1****Overview**

Dr Gordon de Brouwer, Associate Secretary, Domestic Policy

Ms Renee Leon, Deputy Secretary, Governance

1.1 Domestic Policy

Dr Gordon de Brouwer, Associate Secretary

Ms Rebecca Cross, Deputy Secretary, Social Policy

Mr Richard Eccles, Deputy Secretary, Arts and Sports Group

Ms Marie Taylor, Acting First Assistant Secretary, Industry, Infrastructure and Environment Division

Mr Paul Ronalds, First Assistant Secretary, Office of Work and Family

Mr David Hazlehurst, First Assistant Secretary, Economic Division

Ms Helen McDevitt, Acting First Assistant Secretary, Social Policy Division

Paul Elton, Deputy Head, COAG Reform Council Secretariat

Mr James Shevlin, First Assistant Secretary, Tasmanian Forests Taskforce

1.2 National Security and International Policy

Dr Margot McCarthy, Acting National Security Adviser

Ms Rachel Noble, Acting Deputy National Security Adviser

Mr Rupert Hollin, Acting National Security Chief Information Officer

Mr Dave Sharma, Acting First Assistant Secretary, International Division

Mr Richard Sadleir, First Assistant Secretary, Defence, Intelligence and Research Coordination Division

1.3 Strategic policy and Implementation

Dr Paul Schreier, Deputy Secretary

Mr Dom English, First Assistant Secretary, Strategy and Delivery Division

Dr Rachel Bacon, Acting First Assistant Secretary Implementation Division

Mr Andrew Hockley, Executive Coordinator

1.4 Support Services for Government Operations

Ms Renee Leon, Deputy Secretary, Governance

Mr Kim Terrell, Acting First Assistant Secretary, Ministerial Support Unit

Ms Bernadette Welch, First Assistant Secretary, Corporate Services Division

Ms Philippa Lynch, First Assistant Secretary, Government Division

Mr David Macgill, Assistant Secretary, Parliamentary and Government Branch,
Government Division

Mr Chris Angus, Acting First Assistant Secretary, Cabinet Division

Mr Peter Docwra, Chief Information Officer

Mr Matthew King, Chief Financial Officer, Corporate Services Division

2.1 Official and Ceremonial Support

Ms Renee Leon, Deputy Secretary, Governance

Mr Kim Terrell, Acting First Assistant Secretary, Ministerial Support Unit

Mr Frank Leverett, Assistant Secretary, Ceremonial and Hospitality Branch

PM&C Outcome 2

Office for the Arts

Mr Richard Eccles, Deputy Secretary, Arts and Sports Group

Ms Sally Bassar, First Assistant Secretary

Ms Celia Street, Assistant Secretary

Ms Stacey Campton, Assistant Secretary

Mr Paul McInnes, Assistant Secretary

Mr Kim Allen, Assistant Secretary

Mr Stephen Arnott, Assistant Secretary

Ms Louise Doyle, Director, National Portrait Gallery

Screen Australia

Ms Ruth Harley, Chief Executive Officer

Ms Fiona Cameron, Chief Operating Officer

Mr Richard Nankivell, Chief Finance Officer

National Film and Sound Archive

Mr Michael Loebenstein, Chief Executive Officer

Mr Steve Vogt, General Manager, Corporate and Collection Services

Ms Sonia Gherdevich, General Manager, Collection Development and Outreach

Mr Noel Florian, Chief Financial Officer

National Gallery of Australia

Dr Ron Radford, Director

Mr Alan Froud, Deputy Director

National Library of Australia

Ms Anne-Marie Schwirtlich, Director-General

Mr Gerry Linehan, Assistant Director-General, Corporate Services

National Museum of Australia

Mr Andrew Sayers, Director

Dr Mike Pickering, Acting Assistant, Director Collections, Content & Exhibitions

Mr Graham Smith, Chief Operating Officer

Australia Council

Ms Kathy Keele, Chief Executive Officer

Tony Grybowski, Executive Director, Arts Organisations

PM&C Outcome 3

Office for Sport

Mr Richard Eccles, Deputy Secretary, Arts and Sport Group

Mr Bill Rowe, General Manager, Office for Sport

Ms Natasha Cole, Assistant Secretary, Sport Development Branch

Mr Jaye Smith, Assistant Secretary, Sport Events and Support Branch

Australian Sports Commission

Mr Simon Hollingsworth, Chief Executive Officer

Mr Phil Borgeaud, Acting Director, Australian Institute of Sport

Ms Judy Flanagan, General Manager, Government Relations, Communications and Research

Mr Geoff Howes, Acting General Manager, Sports Development

Mr Steve Jones, General Manager, Commercial Operations

Mr David Crocker, Acting Deputy General Manager, Sports Development

Office of the Official Secretary to the Governor-General

Outcome 1—Program 1

Mr Stephen Brady, Official Secretary to the Governor-General

Mr Mark Fraser, Deputy Official Secretary to the Governor-General

Ms Karen Baker, Director Corporate Services Branch

Ms Sharon Prendergast, Director Australian Honours and Awards Branch

Australian National Audit Office

Mr Ian McPhee PSM, Auditor-General

Mr Steve Chapman, Deputy Auditor-General

Dr Andrew Pope, Group Executive Director, Performance Audit Service Group

Mr Michael Watson, Group Executive Director, Assurance Audit Service Group

Ms Fran Holbert, Executive Director, Performance Audit Service Group

Dr Tom Ioannou, Executive Director, Performance Audit Service Group

Ms Anya Moore, Executive Director, Corporate Management Branch

Ms Tina Long, Acting Executive Director, Performance Audit Service Group

Mr Anthony Howatson, Chief Financial Officer

Australian Public Service Commission

Outcome 1

Mr Stephen Sedgwick, Public Service Commissioner

Ms Penny Weir, Acting Deputy Public Service Commissioner

Ms Annwyn Godwin, Merit Protection Commissioner

Mr Helen Bull, Acting General Manager Employment Frameworks

Mr Ian Fitzgerald, Chief Human Capital Officer

Dr Jane Gunn, Group Manager, Strategic Centre, Leadership, Learning and Development

Dr David Schmidtchen, Group Manager, APS Workforce
Ms Clare Page, Group Manager, Workforce Participation
Mr Damian West, Group Manager, Client Engagement
Ms Margaret Jamieson, Group Manager, APS Professional Development Services
Mr Derren Gillespie, Group Manager, Remuneration Tribunal Secretariat
Mr Roger Tarlinton, Acting Group Manager, Workplace Relations
Mr Owen Livermore, Group Manager, Workforce Classification
Ms Karin Fisher, Group Manager, Ethics
Mr Patrick Palmer, Group Manager, Corporate
Mr David Mylan, Chief Financial Officer

Office of the Australian Information Commissioner

Outcome 1

Prof John McMillan, Australian Information Commissioner
Mr Timothy Pilgrim, Privacy Commissioner
Ms Alison Leonard, Assistant Commissioner Operations

Office of the Commonwealth Ombudsman

Mr Allan Asher, Commonwealth Ombudsman

CHAIR (Senator Polley): This afternoon we commence our examination of the Prime Minister and Cabinet portfolio. Officers and senators are familiar with the rules of the Senate governing estimates hearings. If you need assistance the committee secretary has copies of the rules. The committee has set Friday, 2 December 2011 as the date by which answers to questions on notice are to be returned. I particularly draw the attention of witnesses to an order of the Senate of 13 May 2009 specifying the process by which a claim of public interest immunity should be raised, and which I now incorporate into *Hansard*.

The extract read as follows—

Public interest immunity claims

That the Senate—

(a) notes that ministers and officers have continued to refuse to provide information to Senate committees without properly raising claims of public interest immunity as required by past resolutions of the Senate;

(b) reaffirms the principles of past resolutions of the Senate by this order, to provide ministers and officers with guidance as to the proper process for raising public interest immunity claims and to consolidate those past resolutions of the Senate;

(c) orders that the following operate as an order of continuing effect:

(1) If:

(a) a Senate committee, or a senator in the course of proceedings of a committee, requests information or a document from a Commonwealth department or agency; and

(b) an officer of the department or agency to whom the request is directed believes that it may not be in the public interest to disclose the information or document to the committee, the officer shall state to the committee the ground on which the officer believes that it may not be in the public interest to disclose the information or document to the committee, and specify the harm to the public interest that could result from the disclosure of the information or document.

(2) If, after receiving the officer's statement under paragraph (1), the committee or the senator requests the officer to refer the question of the disclosure of the information or document to a responsible minister, the officer shall refer that question to the minister.

(3) If a minister, on a reference by an officer under paragraph (2), concludes that it would not be in the public interest to disclose the information or document to the committee, the minister shall provide to the committee a statement of the ground for that conclusion, specifying the harm to the public interest that could result from the disclosure of the information or document.

(4) A minister, in a statement under paragraph (3), shall indicate whether the harm to the public interest that could result from the disclosure of the information or document to the committee could result only from the publication of the information or document by the committee, or could result, equally or in part, from the disclosure of the information or document to the committee as in camera evidence.

(5) If, after considering a statement by a minister provided under paragraph (3), the committee concludes that the statement does not sufficiently justify the withholding of the information or document from the committee, the committee shall report the matter to the Senate.

(6) A decision by a committee not to report a matter to the Senate under paragraph (5) does not prevent a senator from raising the matter in the Senate in accordance with other procedures of the Senate.

(7) A statement that information or a document is not published, or is confidential, or consists of advice to, or internal deliberations of, government, in the absence of specification of the harm to the public interest that could result from the disclosure of the information or document, is not a statement that meets the requirements of paragraph (1) or (4).

(8) If a minister concludes that a statement under paragraph (3) should more appropriately be made by the head of an agency, by reason of the independence of that agency from ministerial direction or control, the minister shall inform the committee of that conclusion and the reason for that conclusion, and shall refer the matter to the head of the agency, who shall then be required to provide a statement in accordance with paragraph (3).

(Extract, Senate Standing Orders, pp 124-125)

Office of the Official Secretary to the Governor-General

[13:31]

CHAIR: I would like to welcome Mr Stephen Brady, Official Secretary to the Governor-General, and officers. Mr Brady, do you wish to make an opening statement.

Mr Brady: I welcome the opportunity to deliver a short report about the operations of the office. As an office we continue to be keenly aware of the difficult budgetary environment faced by the government and the broader community. We have implemented a range of austerity measures to cut costs and to create efficiencies. Our total departmental expenditure last financial year 2010-11 was \$900,000 less than the financial year prior to the Governor-General's commencement. The office saved \$200,000 in operating expenditure in last year over the previous financial year. Of course, in the previous financial year we had made the \$700,000 of savings. If the opportunity arises this afternoon I look forward to instancing the nature of those savings.

Overall staffing levels are down around 20 per cent over the past three years whilst the office has supported a significant increase in activity and outreach by the Governor-General. The Governor-General has participated to date in 2,250 official engagements around the country and overseas. That includes 796 attended functions, 435 that have been hosted, 405 functions overseas, 583 callers and 71 Executive Councils. The Governor-General has visited 145 different locations in Australia on 325 separate visits. She has given 522 speeches. She

has opened the official residences to 135,000 guests and visitors and is, as of today, a patron of a record 310 organisations. The point being that the office has supported all of that activity.

Finally, I would just make the observation that the Queen arrives at Government House in two days time. She will stay at Government House from 19 to 26 October, and so much of my office's immediate energies have been focused on ensuring the success of that stay. I welcome your questions.

CHAIR: Thank you very much for those opening comments. We will go to Senator Bernardi.

Senator BERNARDI: Mr Brady, just on the Queen's visit before I get to another line of questioning: are you responsible for coordinating the functions that Her Majesty will be attending and the guest lists for those functions?

Mr Brady: The only responsibility that my office has is for the period that the Queen will be resident at Government House. Prime Minister and Cabinet are responsibility for the totality of the visit, including, for example, the guest lists for the Prime Minister's reception here in parliament on Friday evening. The only guest list that I have had responsibility for liaising with the Governor-General and then passing that information through to the palace has been the Governor-General's lunch that she will host in honour of the Queen and the Duke on Sunday.

Mr Brady: Is any consideration given to inviting leaders of organisations supportive of our existing constitutional arrangements like Australians for a Constitutional Monarchy? I noticed a comment in a paper the other day that the convener of that, Professor David Flint, had said had he had not received an invitation to any event. That surprised me. Is consideration given to people of that stature and their office in inviting them to these functions?

Mr Brady: I saw the report. We have had nothing to do with the invitation list. We were asked if the Governor-General or the office had a couple of names that we wished to submit. We submitted them. They were knocked out, and the list is at PM&C.

Senator BERNARDI: I regret I have not received my invitation either but nonetheless—thank you for that. Going back to a follow-up on a question I asked in February in which I referred to the process for nominations for Australian honours. One of my constituents had nominated someone and not heard back in respect of the outcome of that nomination. I was told in February that nominators were informed of the outcome, either successful or not successful, and that my constituent should expect a response two weeks before the awards. I made the presumption it would be before the next awards, which were the Queen's Birthday awards in June. My constituent has got back to me and said, 'No, they have not received anything.' Is this normal? Why wouldn't they have received a response?

Mr Brady: A nomination, once received, takes between 18 months and two years to research. It is a thorough, comprehensive research phase and then it goes to council. The nominator would find out about two weeks before the announcement if their nomination was successful or unsuccessful—so about two weeks before January 26 and about two weeks before the Queen's Birthday.

Senator BERNARDI: I am just referring to the correspondence I originally received from my constituent. They nominated—I do not want to give anything away of course about

names—but the person was nominated in August 2010, so it was unrealistic to expect it in 2011; so possibly in June or later in 2012.

Mr Brady: It is on average about 18 months, and I might just say that in the last financial year we got 1,481 nominations of which about 55 per cent were successful. With 1,400 or 1,500 applications, by the time they are researched, it is between 18 and 24 months.

Senator BERNARDI: Thank you, that clarified that; I appreciate it—no more questions.

Senator FAULKNER: There are obligations on the nominator too, aren't there, Mr Brady, not to provide that information to the nominee effectively?

Mr Brady: Absolutely. The nominee should never know that he or she has been nominated.

Senator BERNARDI: So I am being supercautious here.

Senator FAULKNER: I appreciate you were.

Senator BERNARDI: It is in my nature.

Senator FAULKNER: I am always happy to reinforce your good behaviour, Senator Bernardi, and I hope I have some other opportunities to do so in the future.

Senator BERNARDI: I doubt that very much, Senator Faulkner.

Senator FAULKNER: So do I, actually.

Senator BERNARDI: No more questions from me.

Senator RONALDSON: Good afternoon, Mr Brady. The Governor-General awards honours on the recommendation of the council—is that right?

Mr Brady: That is right.

Senator RONALDSON: And you are the secretary of the council?

Mr Brady: Yes, that is right.

Senator RONALDSON: Mr Brady, does the council have any working manuals, policy guidelines or criteria that it uses when assessing potential candidates for honours?

Mr Brady: Senator, I will invite Sharon Prendergast, the director of the honours secretariat.

Ms Prendergast: We have internal working documents that we use. We also have the Constitution of the Order of Australia, which is what the Council for the Order of Australia uses to give them guidance.

Senator RONALDSON: For how long have these guidelines, criteria and working manuals been used by the council?

Ms Prendergast: The constitution was put into place back in 1975 and there have been some variations over the years. In terms of internal working documents, they would have been developed over a number of years since 1975.

Senator RONALDSON: Have they been recently updated, or are they regularly updated? Is anyone consulted prior to them being updated and, if so, who?

Ms Prendergast: In terms of these internal working documents, I would imagine that at times the council would be consulted on different policies and procedures.

Senator RONALDSON: Can you describe the nature of these internal manuals?

Ms Prendergast: As I said, we have a number of different documents. We have what we call a case officer manual that provides guidance to case officers when they undertake their research for the Order of Australia.

Senator RONALDSON: What else?

Ms Prendergast: We would have internal policies that are developed in line with the Council for the Order of Australia. And, as I mentioned, there is the constitution.

Senator FAULKNER: Are the policies from time to time examined by the council and the council will approve of them or amend them as it sees fit?

Ms Prendergast: That is correct.

Senator FAULKNER: How often would that occur? Every couple of years?

Ms Prendergast: It depends on which policy I suppose, but I would not say it was frequent. It may be every couple of years and it may be on a needs basis. It depends what situation may arise.

Senator RONALDSON: I did just ask, Senator, whether they had been updated recently and whether they were regularly updated.

Ms Prendergast: In terms of the case officer manual, we would regularly be updating that; it depends on different procedures that may change.

Senator RONALDSON: Regarding the updating, the consultation that takes place around those three or four areas, who is the consultation with?

Ms Prendergast: The members of the Council for the Order of Australia.

Senator RONALDSON: Who drafted the original policy guidelines or criteria working manuals—do you know?

Ms Prendergast: I am sorry, I would have to take that question on notice.

Senator RONALDSON: Ms Karen Kline applied for these documents through FOI, didn't she?

Ms Prendergast: That is correct.

Senator RONALDSON: And her application was refused?

Ms Prendergast: That is correct.

Senator RONALDSON: Why was this?

Mr Brady: I might invite Mr Mark Fraser who has been examining and looking at this case.

Mr Fraser: I was the decision maker under the FOI Act in relation to Ms Kline's request. I will quote from section 6A(1) of the Freedom of Information Act directly:

This Act does not apply to any request for access to a document of the Official Secretary to the Governor-General unless the document relates to matters of an administrative nature.

As the decision maker I made a determination that those manuals and procedures that you are referring to do not relate to matters of an administrative nature. In fact, they relate very much to our core business—our objective as stated by government—in administering the Australian honours and awards system.

Senator RONALDSON: How can a case officer manual not be an administrative matter?

Mr Fraser: This is a very complex matter of law that is at play here. I might say that this matter is currently before the AAT—the Administrative Appeals Tribunal—and it is probably best that I do not respond further on this matter as it is currently under consideration by that body.

Senator RONALDSON: I am sure you are not keen to, Mr Fraser, but I find it quite remarkable that an Australian citizen has requested working manuals, policy guidelines and other criteria which you acknowledge that you have in relation to the assessment of a recommendation to the Order of Australia and they are being denied access to that. Would you provide that to the committee, please?

Mr Fraser: I have a lot of information on that particular case—

Senator RONALDSON: No, would you provide the case officer manual and those other internal policy documents to the committee?

Mr Fraser: Senator, I do not consider that those matters are matters that are subject to the FOI act. I understand that—

Senator RONALDSON: I do not care. Would you provide—

CHAIR: Senator Ronaldson, please allow Mr Fraser to continue. I am trying to listen to this very carefully. He is very clear on what your question is and if he can respond, it will help me. Mr Fraser, please continue.

Mr Fraser: Those are internal working documents, they are not documents that would be subject to the FOI act and hence they were not made available to this particular applicant. I may say that the individual you are referring to took this matter to the office of the Australian Information Commissioner on review and my decision in relation to this matter was upheld.

Senator RONALDSON: Would you provide that documentation that you refused to give to Ms Kline to this committee?

Mr Fraser: I perhaps will take the matter on notice and seek further advice from the secretary or the chair of the committee. My understanding is that matters that are not normally subject to the FOI act would also not be provided in estimates.

Senator RONALDSON: I do not think there is any precedent for that whatsoever.

Senator RYAN: In support of Senator Ronaldson, whether or not something is subject to the FOI act is not necessarily—the grounds for claiming immunity are completely different from the FOI act and there is no correlation between the two.

CHAIR: You are quite at liberty to take that under notice to seek further clarification but you have to prove that it is not in the public interest—

Senator RONALDSON: A point of order, Madam Chair.

CHAIR: I will take the point of order when I have finished. You can take that under notice but you have to then determine that it is not in the public interest to provide that information to the committee.

Senator RYAN: On the point of order, Madam Chair, to be fair, he would have to assert a claim to immunity rather than simply take it on notice and provide advice later. If he is going to assert that claim then I think it is reasonable for Senator Ronaldson to be aware of the claim rather than pursue the line of questioning further or to do so in his own way.

Senator RONALDSON: My recollection is that it has got to be done immediately and I think the reasons for doing so have to be done immediately as well.

CHAIR: There is no time limit for that at all.

Senator RONALDSON: Is that your claim?

Mr Fraser: No, I am not claiming public interest immunity in relation to this matter at this point of the proceedings. What I am seeking to advise the committee is that the office of the Australian Information Commissioner, who reviewed this decision on appeal, affirmed the decision of the office of the Official Secretary to the Governor-General to refuse the applicant's request to the very documents that you are seeking.

Senator RONALDSON: I am sorry, Mr Fraser, you are not the one that makes the decisions about these things. The committee is. The only reason you can refuse to provide that information is if you are claiming public immunity. If you are not doing so, as you have just told the committee, when will you provide us with the information I have requested?

CHAIR: As I said, you can take it on notice. If you are not claiming public immunity now, you can take that question on notice.

Mr Fraser: I think we will take the question on notice.

Senator RYAN: The officer had the opportunity to refer it to the senior officer at the table, being in the unique position here that there is no minister. Can I respectfully suggest that an answer provided later, if you do intend to take it on notice, Mr Fraser or Mr Brady, might not want to refer to the ruling of the Information Commissioner as it is completely irrelevant to these hearings and the privileges of the Senate—completely irrelevant.

Mr Fraser: I take the point, Senator.

CHAIR: The point has been taken. My understanding is that Mr Fraser has taken that question on notice.

Senator RONALDSON: Madam Chair, with the greatest respect, if the immunity is not claimed, then the officer has to refer that to, as Senator Ryan said, the senior person at the table. If that is not done—and indeed, this officer has said that there is not that public interest immunity claim, and he has made that quite clear—there is no basis on which this matter can be taken on notice. If there is no reason for it not to be provided for the committee apart from the claim, which is not made, then there is no reason for this to be taken on notice, and I put it—

Senator RYAN: Given he has got the information.

Senator RONALDSON: I put it to you that that information is available and should be provided.

Senator FAULKNER: Is that a point of order or a comment?

Senator RONALDSON: It is in response to the Chair. I suppose it was a point of order.

Senator FAULKNER: Let me respond too. Actually I have not heard the question asked whether the information is available to hand or not. I do not know.

Senator RONALDSON: Well, it is. Senator, with the greatest respect—

Senator FAULKNER: I have not heard any evidence to suggest that the document is actually in the hands of the witnesses at the table, but it might be. It seems to me that it is

perfectly proper for the witnesses to take account of a range of matters, including what has been said at this hearing today—as, in this case, Mr Brady gives consideration to the request that you have made. It may or may not be relevant or irrelevant what the Office of the Australian Information Commissioner has said. I am by no means convinced it is irrelevant as Senator Ryan has said. I am by no means convinced that the matter before the AAT is irrelevant. I do not have a great deal of knowledge of this specific instance. But it is perfectly proper for Mr Brady to take the question on notice, give it consideration and either provide the information or provide an answer which will indicate why the information is not being provided—but with the benefit of being informed by what senators have said around the table.

Senator RONALDSON: On the point of order, I was not suggesting that this witness might have all that information here now; all I was asking was for that information to be provided, which was refused. This is clearly matters that form part of the outcomes of the Governor-General's office and, unless there is a claim of a public interest immunity—and it has been denied that there is—then there is no justification. On what basis does the secretary take the question on notice?

CHAIR: Senator Ronaldson, as you well know, any witness can take on notice any question that is put to them. We have given Mr Fraser the opportunity; he said he would take that on notice. He is quite entitled to take it on notice so he can give a full and frank account of their position. Mr Brady, did you want to add something?

Mr Brady: I would just like to put it in a context and a time line. The reason we need to seek advice on the issue of public immunity is that this is a matter before the AAT, and this Thursday the matter takes its next step. So I would feel far more comfortable seeking proper advice before answering Senator Ronaldson's question.

Senator RONALDSON: But, Mr Brady, Mr Fraser said he was not seeking that.

Mr Fraser: I think the *Hansard* will reflect that my initial response on this matter was that for the time being I was not seeking public interest immunity, and that was subject to—

Senator RONALDSON: With the greatest respect, you did not say 'for the time being'—

CHAIR: Senator Ronaldson, can you just allow the witness to complete his response, and then you have the call. Mr Fraser, please continue.

Mr Fraser: My understanding of this matter is that some of the documents that you are referring to do contain sensitive information that I would consider not in the public interest because they go to the very heart of the confidentiality of the process which underpins the honours and awards system itself. However, we do not have a minister at the table—as you have indicated, we are in a unique position—and, therefore, we would need to seek further advice before responding on that point.

Senator RONALDSON: We have talked about this. I have already discussed it with Ms Prendergast. What I am seeking is the working manuals and the policy guidelines and criteria which clearly exist. None of those would have any sensitive information about people who may or may not have been nominated for an award. These are the working practices of the council.

Ms Kline has sought what I would have thought was a quite reasonable request—just to know what the policy documents are that drives this process. This is nothing to do with who

may or may not have been nominated or who may or may not have been refused. This is simply would guidelines you use to make these decisions.

There would not be department that comes before committee that does not have guidelines that would be on the public record.

Senator FAULKNER: In your comment there—I do not have a finalised view on this—you talked about the view of 'this client'. Therein lies the problem. That was your terminology.

Senator RONALDSON: No, Ms Kline.

Senator FAULKNER: You have identified the individual. I thought you called her a client, generically.

Senator RONALDSON: I do not have clients anymore. It has been some 20 years since I have had clients.

Senator FAULKNER: Fine. What is her name?

Senator RONALDSON: Karen Kline—K-I-I-n-e.

Senator FAULKNER: By identifying the individual concerned, given that there is a case before the AAT—that is even more specific—I think the approach by the officers at the table to treat this with an abundance of caution in the circumstances seems to me to be sensible. I say to you that largely these—

Senator RONALDSON: I do not need a lecture from you about what is right and what is wrong. If you want to direct something through the chair do so. Do not tell me what is appropriate process and what is not.

CHAIR: Thank you, Senator Ronaldson.

Senator FAULKNER: I would think further about it if I were you.

Senator RONALDSON: I have further questions. If you want to send me a letter, do so but do not give me a lecture at this table, thank you very much.

Senator FAULKNER: Keep your shirt on!

CHAIR: Senator Ronaldson and Senator Faulkner. I have already determined in relation to the point of order.

Senator FAULKNER: You clearly do not know what you are talking about, but that is fine.

CHAIR: I think it has very clearly been taken on notice. Senator Ronaldson, have you got a further question?

Senator RONALDSON: I do indeed.

Senator FAULKNER: Thank heavens!

Senator RONALDSON: Now that Senator Faulkner has just let this Australian citizen and her concerns go through to the keeper I will ask a few more questions.

Senator FAULKNER: I have not let anything go through to the keeper. There is an AAT hearing in a couple of days about it.

Senator RONALDSON: So much of a protector of the individual you are!

CHAIR: Senator Faulkner and Senator Ronaldson, if you could stop talking across the table—

Senator FAULKNER: Isn't there an AAT hearing about this in a couple of days?

Senator RONALDSON: So what? I am asking this question through this committee.

Senator FAULKNER: I would not be saying at estimates, 'So what?'

CHAIR: Senator Ronaldson and Senator Faulkner, I can always suspend the estimates hearing.

Senator RONALDSON: Can I ask you please—

CHAIR: Senator Ronaldson, I ask both you and Senator Faulkner to show respect to the chair when I am trying to keep these estimates on time. We are already way behind. I know that the opposition will complain later in the day when we run out of time. That position has been made very clear. I have made a ruling on the points of order. Move on to your question, Senator Ronaldson.

Senator RONALDSON: Thank you. I can understand your admonishment of people giving other senators lectures. I support that wholeheartedly.

CHAIR: I do not think we need your commentary. I do not think that is helpful. I know you get excited during estimates. Do you have a question?

Senator RONALDSON: I do. I get excited when people like Ms Kline, an Australian citizen, cannot get access to quite simple information such as this.

CHAIR: Put a question to the witness. Continue with your questioning.

Senator RONALDSON: Did you engage lawyers, Mr Brady, in relation to the first review?

Ms Fraser: I might take that question. We did seek independent legal advice from the Australian Government Solicitor in relation to the handling of this case.

Senator RONALDSON: With regard to the submission—I think it was the second submission—to the FOI commissioner, I think there have been now two appeals and a third one is now going to the AAT. Is that right?

Ms Fraser: We have sought legal advice on this issue on numerous occasions. There is a very significant issue of principle at heart here, and that is the confidentiality of the Australian honours and awards system, and the ability of any individual who may be aggrieved or otherwise at the outcome of a nomination to be able to access the very documents that we are seeking to protect—referees comments—that go to the very heart of enabling the system to work. Under the FOI Act, legislators have seen fit to put in place a protection for the office so that the act does not apply to any requests for documents unless the document relates to matters of an administrative nature. In relation to this matter I made a decision that those documents do not relate to matters of an administrative nature. That decision has been upheld and the matter has now been taken to the AAT for further consideration, and it is a matter for that body to determine.

Senator RONALDSON: Mr Fraser, I put it to you that you are the one who is making a determination about the principle because you know as well as I do that Ms Kline has not sought the reasons for a decision; she has sought, and I am quoting from her FOI application,

'The working manuals, policy guidelines and criteria.' So why are you trying to muddy the waters by talking about reasons and matters of principle? That is what Ms Kline sought, was not it?

Mr Fraser: Ms Kline sought a range of documents and I considered each of them. I should say, we provided her with a number of documents outside of her FOI request and were commended for doing so by the Office of the Australian Information Commissioner.

Senator RONALDSON: The concern of the community, Mr Fraser, is this: this council is a bit of a secret society. There is no public rationale for the basis on which decisions are made. That is what this Australian citizen was seeking—some indication about what is driving the process in relation to manuals and other things. We have been told by Mr Prendergast that they exist. What is the secrecy about? Why are not you upfront about it?

Mr Brady: May give some context. Listening to your presentation would give people the wrong end of the stick. The person you are talking about made a nomination. That nomination was rejected by council. A request was made to place that nomination back to council earlier than it otherwise would. It was agreed and the council rejected the nomination. Since then, the individual has been persistent in taking us through various processes. I will take you through those now. Ms Kline has submitted a submission to the Senates Finance and Public Administration Legislation Committee inquiry relating to the Freedom of Information Reform Bill. She made a number of allegations centring on her perceived efficiency—

Senator RONALDSON: Mr Brady, what has this got to do with my questions?

Mr Brady: It goes to the heart of the fact that my office, and it is a very small office, has already spent over 3,000 hours on the case that we are discussing. There are a lot of complexities to this case and it is not as straightforward as you—

Senator RONALDSON: The only complexity in my view is this: you do not want the community to know the processes involved in this nomination process. That is what it is all about isn't it? You think it is your domain to retain complete ownership of the process and there is no openness and transparency whatsoever.

Mr Brady: The fundamental principle of an honours system is that it is a gift, and in this case it is a gift of the sovereign and it is non-reviewable. That is the nature of the honours system.

Senator RONALDSON: So what?

Mr Brady: It goes to the heart of what you are saying.

Senator RONALDSON: No it does not. The heart of this matter is the refusal of your office to provide this citizen with the working manuals, the criteria and internal policies that form part of the decision making process. That is what the heart of this issue is. Mr Brady has been given the opportunity to take this on notice, has he?

CHAIR: He has taken it on notice, Senator Ronaldson. Have you got any further questions? I have one question. Has the process changed in recent years in terms of how the honours are bestowed and the investigation and procedures? Has there been a change in the last two or three years?

Ms Prendergast: There has been no marked change in the process. As we said earlier, from time to time we will go back to the council, or the council will have thoughts or ideas on

different processes or procedures that we could change. But the actual process from within the secretariat has not changed markedly in the last few years.

Senator RONALDSON: If the reason for that question is any implication that I am viewing this as a political matter, can I absolutely, categorically assure you that this was not a party political question but a process question. So if that was the rationale behind your question, can I assure you that that premise is entirely wrong.

CHAIR: My question, Senator Ronaldson, was one that I am entitled to ask, and that was in relation to whether the process changed. It is something that I have had an interest in since long before I came to this place. Are there any further questions?

Mr Brady: Madam Chair, if I may just say: the composition of the council is in fact its major strength. The council is made up of community representatives and state representatives, and that has been acknowledged as its strength. It is not a secretive body that operates outside of community standards.

Senator FAULKNER: While broadly the guidance has not changed, from time to time there are minor changes of approach. I think that is what Ms Prendergast has said to us. Can that be confirmed?

Ms Prendergast: That is correct.

Senator FAULKNER: Inevitably, if a council's membership changes, which it does over time, of course—including the chair of the council—then it is not surprising that that would be another element in relation to some of these more nuanced changes or developments or, if you like, an evolution in responses, surely. Would that be right?

Ms Prendergast: That is correct.

Senator FAULKNER: I have got to say, Chair, that I do not know that that is particularly remarkable in any way, shape or form.

Mr Brady: Madam Chair, I think this is a good opportunity for me to mention that I asked for a review to be undertaken of the operations of the council. Specifically—and I will read this: 'The central question addressed in the review was whether the council's decision-making process should be supplemented by avenues of appeal which would be available to nominators upon being informed that their nominee had not been recommended for an honour by the council.' This review was undertaken by Mr Martin Bonsey, a former senior officer of the Department of the Prime Minister and Cabinet, a former official secretary to a Governor-General, a former secretary of the Council of Australia and a lawyer. The result of that review was, 'It is in my opinion a good system well suited to our democratic and egalitarian values. I have recommended against the establishment of any such appeal process. Ultimately, the composition and deliberative processes of the council are well suited to exercising the judgment required.'

CHAIR: Thank you. Are there any further questions? If not, Mr Brady and officers, thank you for appearing before us today.

Department of the Prime Minister and Cabinet

[14:13]

CHAIR: I welcome the Minister for Tertiary Education, Skills, Jobs and Workplace Relations representing the Prime Minister, Senator Hon. Chris Evans, and officers of the

department. We will commence with Outcome 1 on general issues followed by the listed agencies. The committee will move to Outcome 2 and Outcome 3 later in the day. Officers and senators are familiar with the rules of the Senate governing estimates hearings. If you need assistance the secretariat has copies of the rules. I particularly draw the attention of witnesses to an order of the Senate of 13 May 2009 specifying the process by which a claim of public interest immunity should be raised. The committee has set Friday 2 December 2011 as the day by which answers to questions on notice are to be returned. Minister, do you wish to make an opening statement?

Senator Chris Evans: No thank you.

CHAIR: Then we will go to questions—Senator Ryan.

Senator RYAN: Minister, you may wish to answer these questions. Why was Dr Henry appointed as a special advisor to the Prime Minister under Section 67 of the Constitution?

Senator Chris Evans: I am happy to advise that he was appointed so as to utilise his skills and experience, but, in terms of why under that particular section, I will have to get one of the officers to help you, Senator Ryan.

Ms Leon: Dr Henry was appointed under that section of the constitution in order to enable him to range across a wide portfolio spectrum. It is not expected that the tasks on which the Prime Minister seeks his advice from time to time will necessarily be attached to any particular portfolio. The constitutional position enables him to be across the range of policy issues on which the Prime Minister might seek advice.

Senator RYAN: You said advice to the office; what about the department?

Ms Leon: His appointment is as a special advisor to the Prime Minister but he is working with officers of the department.

Senator RYAN: He has no capacity to direct officers at the department?

Ms Leon: He will lead a taskforce of staff within the department.

Senator RYAN: And he has the capacity to direct those?

Ms Leon: Direct their work.

Senator RYAN: Did the request to have Dr Henry appointed originate with the Prime Minister's office or did it come from within the department?

Ms Leon: I am just checking on the history of it. I am fairly sure that it came from the department, but I might have to take that on notice.

Senator RYAN: I would also be interested in the first suggestion of the appointment of Dr Henry.

Ms Leon: The appointment to the current taskforce?

Senator RYAN: No, the appointment as a special advisor.

Ms Leon: I may be able to answer that while I am here, and if I can I will, but I am fairly sure that came from the department.

Senator RYAN: Who prepared the documentation for his appointment as an advisor?

Ms Leon: The department.

Senator RYAN: The department prepared the documentation for the executive council?

Ms Leon: Yes.

Senator RYAN: Did the Prime Minister or the Secretary of the Department of the Prime Minister and Cabinet write to Dr Henry outlining his responsibilities in April 2011?

Ms Leon: I may have that here; I will just see if I have a copy available. The then secretary of the department wrote to Dr Henry in April advising him of the Governor-General's appointment of him.

Senator RYAN: Is it possible to have a copy of that letter tabled?

Ms Leon: I would have to take that on notice. It contains a number of matters that may be personal to Dr Henry and so I will take on notice whether it is possible to release it.

Senator ABETZ: What was the date?

Ms Leon: I think it is 4 April, though it is a bit obscured on the copy that I have.

Senator CORMANN: The date that he had been appointed or would be appointed?

Ms Leon: The date of the letter. No sorry, it is 4 May and the appointment was 21 April.

Senator RYAN: You may not be aware of this but I am assuming you would be: is Dr Henry still a member of the Australian Public Service?

Ms Leon: He is not an employee under the Public Service Act.

Senator RYAN: On what date did he cease to be employed as a member of the APS?

Ms Leon: His appointment as Secretary of the Department of the Treasury expired on 26 April.

Senator RYAN: What discussions took place between the department, or the Prime Minister's office, and Dr Henry regarding his appointment prior to his retirement or resignation, as the case may be, from the department?

Ms Leon: I would have to take that on notice. I do not have those details with me.

Senator RYAN: You do not have the details of discussions about his appointment to this section 67 office, if we might call it that.

Ms Leon: I do not have those details with me.

Senator Chris Evans: This was a prime ministerial appointment though.

Senator RYAN: That is why I am asking if it was the office or the department.

Senator Chris Evans: There may well have been discussions. I got a bit confused in the earlier question. This is a decision by the Prime Minister.

Senator RYAN: I know. That is why I am asking while you are at the table, Senator Evans.

Senator Chris Evans: You went to the technical question. I did not know the answer to that so the officer gave you the answer to that in terms of the appointment under the act.

Senator CORMANN: Was it a cabinet decision or was it the Prime Minister's personal decision?

Ms Leon: We do not ever disclose what is discussed in cabinet.

Senator CORMANN: But you can say whether it was a decision of government.

Senator Chris Evans: No, we do not. The point is, the Prime Minister made it very clear it was her decision to invite Dr Henry to do the role. That is what I was trying to clarify before. I thought it left the impression that maybe the suggestion had come out of the Public Service. It may have originally, but all I am saying is that it was a decision by the Prime Minister that he be appointed to this role.

Senator RYAN: In a letter to the *Financial Review*, published on 17 October, Dr Watt, Secretary of the Department of Prime Minister and Cabinet, said that Dr Henry's role as a special adviser is limited to his leadership of work on the white paper on *Australia in the Asian century* announced by the Prime Minister on 28 September. What was he doing beforehand?

Ms Leon: He has been on leave.

Senator RYAN: Until?

Ms Leon: He was on leave from when he finished as Secretary of the Treasury.

Senator RYAN: Until when? When is he commencing?

Ms Leon: He is still on leave. The task force is still being established so work on the task force that will require his dedicated attention has not commenced as yet. The task force is being established and departmental officers are commencing the preliminary work. His involvement is only limited at this stage.

Senator RYAN: But you said he is still on leave.

Ms Leon: That is correct.

Senator RYAN: Is his involvement limited or is he not involved while he is on leave?

Ms Leon: His involvement is limited at the moment.

Senator RYAN: Is he on leave with or without pay?

Ms Leon: He is on leave with pay.

Senator RYAN: What form of leave is it?

Ms Leon: Long-service leave.

Senator RYAN: He is essentially, you are saying, Ms Leon, working during his period of long-service leave—

Senator Chris Evans: Ms Leon was suggesting that he is obviously being consulted about the role and people are dealing with him but he has not formally commenced the role, as the task force is being established, and he will commence shortly, as I understand it. But he is currently still on accrued leave from his time as Secretary of the Treasury.

Senator RYAN: So essentially he is working during the period of long-service leave that he accrued in his previous role, in his limited capacity, that you referred to.

Ms Leon: Saying that he is working during that period probably goes further than indicated. His role in relation to the task force is around its establishment and being consulted about the work rather than him yet coming into the office and working in a dedicated way on the subject matter of the task force.

Senator CORMANN: This might be a dumb question. Why was Dr Henry appointed as a special adviser to the Prime Minister effective from 27 April 2011, the day after he finished as

Secretary of the Treasury, when he is not due to start in that role until some unspecified point in the future?

Ms Leon: He was appointed at that time so that we could ensure we retained his services, but the Prime Minister had not, until recently, tasked him with a particular role.

Senator CORMANN: He was special adviser for five months, on leave, without a specific job, and presumably he was not drawing any salary or entitlements related to his role as a special adviser to the Prime Minister. Is that right?

Ms Leon: He has been on leave using his entitlements accrued during his time in the secretary of the Treasury role.

Senator CORMANN: And there are no additional entitlements accruing in the time that he was appointed since 27 April?

Ms Leon: If you are asking if he is being paid for his leave, and also paid as special adviser, no he is not.

Senator CORMANN: No, that it not what I am asking; I am asking whether there is any relevance to Dr Henry's entitlements to being appointed on 27 April 2011 the day after he finished in his role as Treasury Secretary rather than wait until he becomes available to perform the duties as special adviser to the Prime Minister?

Ms Leon: I am sure if the Prime Minister had asked him to start performing those duties immediately on 27 April, Dr Henry would have made himself available, but she has only now tasked him with a role.

Senator CORMANN: So it was not so much a matter of Dr Henry not being available; it was a matter of the Prime Minister not knowing what she wanted him to do?

Senator Chris Evans: I do not think we can read the minds of both parties in terms of those discussions. The facts are: Dr Henry finished at Treasury. He has a decent amount of leave, which he is now taking. He has not yet started in the position relating to the Asia white paper but he will do shortly and, from that point on, he will obviously be employed as a special adviser but the appointment had not been activated, if you like, had not been given fresh work until such time as this was announced.

Senator RYAN: His appointment did not involve any reference or discussion regarding this white paper that he is working on now—I take that from what you have just said. Prior to—

Senator Chris Evans: Senator, I am not sure I would agree with the way you have phrased that. I think what we have tried to indicate is no doubt there have been discussions about how the white paper would be completed, who might be involved in it. I think the officer was trying to give you the sense that he is involved in those sorts of discussions but he is not at work.

Senator RYAN: Okay. So were there any discussions about Australia in the Asian century white paper at the time of his employment between the office and Dr Henry, or the department and Dr Henry?

Senator Chris Evans: You might have to take that on notice.

Ms Leon: I think that is encompassed in my having taken on notice whether there were discussions with Dr Henry about—

Senator RYAN: I have just learnt to be very specific in the questions I ask.

Senator Chris Evans: We will take that on notice.

Senator RYAN: I would appreciate the advice and, if there were discussions about that, what those entailed? Was Dr Henry consulted by the department or by the office regarding this specific project which he is now tasked with prior to its announcement by the Prime Minister?

Dr de Brouwer: Yes, there was discussion with Dr Henry about the subject matter.

Senator RYAN: When was that discussion?

Dr de Brouwer: I do not know the exact dates, Senator, but I will take that on notice. In the lead-up to that announcement, there was significant discussion with Dr Henry about the subject matter.

Senator RYAN: I would appreciate the date of that discussion and are you referring to one with the department and Dr Henry or—

Dr de Brouwer: Of the department with Dr Henry.

Senator RYAN: Senator Evans, are you able to answer whether or not there were discussions between the Prime Minister and Dr Henry about this project or her office and Dr Henry?

Senator Chris Evans: I will have to take that on notice because I do not know. I would be surprised if there wasn't but, for the purposes of accuracy, I will take it on notice. I would be surprised if they did not discuss it, but factually, I do not know so I will take it on notice.

Senator RYAN: I would appreciate advice on when it took place, if it did take place.

Senator Chris Evans: I will take that on notice.

Senator RYAN: A spokesman for the Prime Minister was quoted in the *Australian* on 6 October saying:

Dr Henry has agreed to be bound by the (Australian Public Service) code of conduct and has given a written undertaking that he will disclose, and take reasonable steps to avoid, any conflict of interest... et cetera. When was the decision taken that Dr Henry would be bound by the APS Code of Conduct?

Ms Leon: I would have to take that on notice.

Senator RYAN: I am asking both the department and the office when the decision was taken that Dr Henry was bound by the APS Code of Conduct and, specifically, the date as to whether it was prior to his employment, subsequent to his appointment or subsequent to other appointments.

Senator Chris Evans: We will have to take that on notice.

Senator RYAN: The instrument of appointment of Dr Henry says that in item 3 'for any period that the special adviser performs the duties of that office on a full-time basis, the remuneration and other terms and conditions of employment for the special adviser be the same as those applied to the position who holds the position of secretary of the Department of Treasury at the relevant time.' Is that provision still in place?

Ms Leon: Yes.

Senator RYAN: Is Dr Henry on this particular project going to be tasked with working on a full-time basis at any point?

Ms Leon: At the moment it is anticipated that Dr Henry will be required only on a part-time basis for this project.

Senator RYAN: How many hours a week are we looking at on a part-time basis?

Ms Leon: It is a little bit fluid at the moment, but we envisage that it could be in the vicinity of one to two days per week.

Senator RYAN: This structure does seem quite fluid. Is it your opinion—

Ms Leon: I should say that the nature of leading a task force is that there will be peaks and troughs of work, so there might be periods where the task force is undertaking research or consultations and amassing material ready to be considered by Dr Henry for his guidance; so there might be periods where Dr Henry works several days in a row and then not for two weeks while further work is done. It is not expected to be a strict formula of every Monday and Wednesday, for example; it will be determined by the conditions of the work.

Senator RYAN: I appreciate that. But it is the second part of this clause that interests me, where it says that 'the terms and conditions of employment should be the same as those that apply to the person who holds the position of Secretary of the Department of the Treasury'. I may be being a bush lawyer, Senator Evans, but on a layman's reading that does seem to place limitations upon one's ability to be on the board of a bank.

Ms Leon: The question as to being on the board of the bank would be to determine whether there was any conflict between the duties of the position, rather than the question of whether his pay is the same as the secretary of the Department of the Treasury.

Senator RYAN: So the 'terms and conditions of employment' applies only to the remuneration?

Ms Leon: That is correct. And other terms and conditions, such as leave and so on.

Senator Chris Evans: At a part-time rate.

Senator FIFIELD: 'Terms and conditions' is broader than just pay level.

Ms Leon: Remuneration, access to leave; terms and conditions of employment rather than the duties of the position in terms of advising on economic policy.

Senator FIFIELD: Early, when asked whether he was a member of the Public Service, the answer was 'no'. But, if someone is availing themselves of long-service leave provisions, if they are bound by the APS code, if according to the instrument of appointment their conditions and terms of employment are the same as a departmental secretary, in what sense are they not a public servant?

Ms Leon: A person who is a public servant is employed under the Public Service Act, and he is not.

Senator FIFIELD: Everything else is the same as someone who is employed under the Public Service Act—the terms and conditions, bound by the APS code—

Ms Leon: The Public Service Act encompasses a broad—

Senator Chris Evans: The terms and conditions of remuneration was the point made, and effectively he has

been put on the same salary that was applicable when he was Secretary to the Treasury.

Senator FIFIELD: It says 'terms and conditions of employment', not 'terms and conditions of remuneration'. Is there a departmental secretary who is not a public servant? If the terms and conditions are the same—

Ms Leon: Secretaries are appointed under the Public Service Act.

CHAIR: Senator Fifield, if I could just interrupt for one minute, I would just like to clarify the situation for the media. They cannot go past the desk where the witnesses are. We had a meeting this morning and that was the determination of the committee.

Senator FIFIELD: Ms Leon, let me put the question another way: should Dr Henry be employed under the Public Service Act, given that the instrument of appointment itself says that the terms and conditions of employment should be the same as that of the departmental secretary?

Ms Leon: The Public Service Act is quite a long act. It deals with a broad range of matters. I do not have it here with me but I do not think that everything in that act is encompassed by the phrase 'terms and conditions of employment'.

Senator FIFIELD: Just those bits that would relate to the employment of someone who is a department secretary perhaps.

Ms Leon: In any event, the question you have asked as to whether he should be employed under the Public Service Act is, I think, asking me for an opinion, which, as you would understand, I will not venture upon.

Senator FIFIELD: It is really a matter for the minister.

Ms Leon: Relating to some questions that you asked earlier, I am advised that Dr Henry has agreed to the release of the letter of 4 May, so I will have a copy made available to the committee. I am also advised that the attachment to that letter at the time of his appointment as special adviser indicated that he would be bound by the APS Code of Conduct. So that decision was taken at the time of his appointment.

Senator RYAN: Were there any discussions between Dr Henry and the department or the Prime Minister or anyone in her office regarding his appointment and the terms of that specifically relating to his opportunity for other work, such as other board appointments?

Ms Leon: I think I have already indicated that I would take on notice the question of what discussions were had prior to his appointment. It was not in the Department of the Prime Minister and Cabinet at that time, so I did not have those discussions with Dr Henry. I will take that on notice. I can advise that, at least prior to the announcement of his role in relation to the Asian Century task force, there was discussion with the department about his intentions to be available for other private sector work. We certainly were proceeding in the department on the basis.

Senator RYAN: I am more interested in the discussion we were just having. We have a person appointed by a rarely used section—I believe there have been fewer than 10 in 35 years; I believe he is the seventh appointed to this under 67 of the Constitution, as an adviser in this capacity. I think it would be legitimate to say that, on plain reading, the remuneration and other terms and conditions of employment may preclude an appointment to someone directly under the supervision of the Department of the Treasury and that you are not prepared

for a series of questions, which I think were reasonably predictable, to be able to tell us whether the Prime Minister's department or office had discussions with him about a significant appointment. This is a quite strange construction of an advisory role.

Senator Chris Evans: Senator, I do not think you ought to verbal the officer. We took on notice the question of when the discussions occurred. There is no suggestion that there was not a discussion between PM&C regarding Dr Henry's role and the conditions under which that would apply. It stands to reason there had to be a discussion about those things.

Senator RYAN: Does the APS Code of Conduct allow for someone to be appointed to a board of that nature, such as a bank? If I was an APS6 in the Department of the Treasury, would I be allowed to be appointed to the board?

Ms Leon: Dr Henry is not in the Department of the Treasury. I should make that clear.

Senator RYAN: No, but you made the point just then that he is bound by the Australian Public Service Code of Conduct. If I am an employee of the Department of the Treasury as an APS6 level officer, I am bound by the code of conduct. Would that code of conduct restrict me being appointed to the board of a bank?

Ms Leon: It would depend on what your duties were. The requirement in all departments is that officers who wish to engage in other employment should seek approval to do so and need to ensure that there is no conflict between the duties of their employment with the Public Service and the duties that they are proposing to undertake. That is the same whatever level the person is at. I should draw to your attention that the question of Dr Henry being interested in undertaking other work was raised at the time of his appointment. The letter, which I am arranging for you to have a copy of, from the Department of the Prime Minister and Cabinet to advise him of his appointment indicates:

I note that you are interested in undertaking your new duties on a part-time basis so that you have the flexibility to undertake outside employment. I support that proposal. I request that you consult me prior to undertaking outside employment and that you be mindful of any real or perceived conflict of interest.

So the issue was raised at the time of his appointment and it was envisaged at that time that he might undertake other work and, in doing so, that he would need to ensure there was no conflict of interest between that other work and his duties as a special adviser.

Senator RYAN: When did Dr Henry approach the relevant officer, which I assume was the Prime Minister, to seek approval for the appointment to the board of the NAB?

Ms Leon: I do not have the exact date with me, but he did discuss that with the secretary of the department and the Prime Minister before the announcement of his role on the white paper.

Senator RYAN: I would appreciate the date he discussed it with the Prime Minister and/or the Secretary of the department.

Senator ABETZ: I assume we are accepting of the proposition that the Secretary of the Department of the Treasury should not be an executive director or non-executive director of any commercial bank.

Ms Leon: That is not the case here.

Senator Chris Evans: That question is not for the officer to answer.

Senator ABETZ: In the letter that was sent by the department or the Prime Minister to Dr Henry, it says that certain things might be allowed, whereas in the actual instrument of appointment it says:

... the remuneration and other terms and conditions of employment be the same as those that apply to the person who holds the position of Secretary of the Department of Treasury at the relevant time.

So we are now being told that parts of the terms and conditions of employment of the Secretary of the Department of Treasury can now also include sitting on the National Australia Bank board.

Senator Chris Evans: That is clearly a nonsense, Senator. You have sought to join two things together. What is being said is that the conditions of the remuneration package for Mr Henry would be the equivalent of those of the Secretary of Treasury as conducted on a part-time basis. That is the point of reference.

Senator ABETZ: That is not what the instrument says; it says 'the remuneration and other terms and conditions be the same as those that apply'. Nothing could be clearer than that he was to be subjected to all the benefits and, I suggest, also the responsibilities as he would if he were still Secretary of the Department of the Treasury. It seems as though you are now reading it down that he gets all the benefits but none of the responsibilities that go with it.

Ms Leon: Terms and conditions of employment do not mean the duties of employment. He is not performing any of the duties of the Secretary of the Department of Treasury; he receives the same employment terms and conditions. That means pay, leave—the conditions of employment, not the duties of the job. So both he—

Senator ABETZ: Clearly—

CHAIR: Senator Abetz, would you just allow the witness to complete her answer. Thank you.

Ms Leon: Both Dr Henry and the Secretary of the Department of the Treasury undertake, by virtue of their respective positions, not to engage in outside employment which would conflict with their duties. But Dr Henry and the Secretary of the Treasury have quite different duties, so what would be a conflict for one would not be a conflict for the other.

Senator RYAN: Should I take it, then, that the scoping work that is being undertaken for this white paper will involve no work whatsoever on the financial system and banking arrangements of prudential oversight?

Dr de Brouwer: The coverage of the white paper is very broad.

Senator RYAN: I realise that, and we understand that it is being worked on at the moment. But, if Dr Henry is on the board of the NAB and if you saying that there are all these arrangements in place to stop a conflict, surely you have to be saying now that this white paper will include no analysis, comment or advice as regards the financial system or prudential oversight or banking or anything else that potentially NAB is involved in.

Senator Chris Evans: No, what we have indicated is that Dr Henry will be bound by the same code of conduct that applies to public servants, and he has given that undertaking and the letter of appointment from the Prime Minister deals with that question and the question of conflict of interest. Clearly he is bound to make sure that he acts appropriately in terms of any potential conflict of interest.

Senator RYAN: How is it possible for Dr Henry to oversee a project which may or may not, because it is obviously still in its rather embryonic stages, include work on the financial system—presumably a pretty significant aspect of the white paper given our economic engagement in financial services, if nothing else—and not experience a conflict by being on the board of one of our major banks? Or is this something the department has not considered?

Senator Chris Evans: The officers have advised you of what the administrative arrangements are—

Senator RYAN: I am going to the white paper.

Senator Chris Evans: and you are trying to make an argument now. That is your prerogative; that is not a question. We made it clear what the arrangements are in relation to the code of conduct and potential conflicts of interest. They have been agreed with the Prime Minister, they have been set out to the letter of appointment and they are the ones that will apply.

Senator RYAN: No, Senator Evans, that was a question. I am asking now: will you as the minister say that this white paper project, which is still being developed, to avoid the conflict that your officers—as you have mentioned—have outlined, will not include any work on the prudential oversight or financial arrangements we have, given that Dr Henry is obviously conflicted from such policy advice? Or do you not agree that he is conflicted from such policy advice while he was on the board of the NAB?

Senator CHRIS EVANS: That is the point: you expressed an opinion, and I do not agree with that opinion. What we have done—

Senator ABETZ: That is on the *Hansard*.

Senator CHRIS EVANS: You claim he is conflicted. That is your right; that is not a question to the officers at estimates.

Senator RYAN: It is a question to you.

Senator CHRIS EVANS: But, Senator, I do not share your view.

Senator RYAN: So it is not a reasonable assumption to make—

Senator CHRIS EVANS: You may well be wanting to smear up Dr Henry. That is your business.

Senator RYAN: I am not doing anything of the sort.

CHAIR: You put a question, Senator Ryan. If you allow the minister to complete his answer then you have the right to put another question.

Senator BERNARDI: Chair, the minister is going to make allegations about what Senator Ryan has supposedly done: smearing Dr Henry, which is, I think, completely untrue.

CHAIR: Is no point of order, Senator Bernardi.

Senator BERNARDI: No, but it is completely untrue. I think Senator Ryan is entitled to respond to that. We do not want smears going from one side to the other.

CHAIR: That is right, Senator Bernardi. I have been in the chair all morning, and I will continue to chair the estimates. The question was put to Senator Ryan, and the Minister was in the process of responding. Senator Ryan will have the opportunity to ask another question.

Senator CHRIS EVANS: Madame Chair, we are just making clear that the question of potential conflicts of interest has been dealt with appropriately through the use of the code of conduct—

Senator RYAN: It is just that you can ignore the code.

Senator CHRIS EVANS: and the arrangements entered into between the Department of the Prime Minister and Cabinet and Dr Henry, and I am sure he will act appropriately. Of course, any decision will be a matter for government; the recommendations from his role as an advisor will be considered by government. But the point is that the code of conduct—the appropriate protections regarding conflict of interest—have been put in place.

Senator RYAN: So is it appropriate for Dr Henry to undertake work dealing with prudential oversight of our banks and financial services in Australia and the region as part of this project given his appointment and acceptance of that appointment to the board of the NAB?

Senator CHRIS EVANS: As I have made clear to you, the code of conduct arrangements put in place provide for the proper management of any potential conflicts of interest and Dr Henry informed the PM&C and the Prime Minister of his intention to accept this appointment and, as I say, the appropriate safeguards have been put in place.

Senator RYAN: So what are the safeguards? Take me through how this task force which is yet to be assembled and which is dealing with a project that is yet to be designed and terms of reference that we still have not seen is going to deal with financial services and prudential oversight in a way that avoids the perception of conflict of interest.

Ms Leon: I probably should draw your attention to the Prime Minister's announcement. The Prime Minister's announcement indicates that the paper will consider:

the current and likely future course of economic, political and strategic change in Asia, encompassing China, India, the key ASEAN countries as well as Japan and the Republic of Korea;

the domestic economic and social opportunities and challenges of the Asian Century ...

opportunities for a significant deepening of our engagement with Asia across the board, including in the economy, science and technology collaboration, clean energy, education, business-to-business and people-to-people links and culture;

the political and strategic implications of the Asian Century ... and

the role of effective economic and political regional and global cooperation.

Senator RYAN: My apologies if I used the incorrect term. It does read like some essay questions I used to answer at uni. It is clear that this project is still undergoing, as you have made clear on numerous occasions, a lot of scoping work in terms of pulling a task force together and its workload, because we do not even know yet how much is going to work over the coming months. My apologies if I used 'terms of reference' out of line, but I would like to know, given that financial services and prudential oversight are clearly part of those terms of reference, how Dr Henry is going to manage any potential, perceived or real conflict of interest in a task force he is leading that deals with those issues.

Ms Leon: I suppose I read those out partly to make the point that the provision of financial services and prudential oversight is not included in any specific way in those much broader terms of reference.

Senator RYAN: I think you would be struggling not to include soccer under those terms of reference—they are so broad—and that is why the department is clearly undergoing a lot of work pulling a task force together. I do not think there is any risk that prudential oversight or financial services could not be included under those terms of reference unless we are being told that that scoping work means that it will not be included in the program.

Senator Chris Evans: What you are being told is that the arrangements that have been put in place to deal with any potential conflicts of interest, or perceptions of conflicts of interest—those are being put in place. I cannot help you with the detail of how Dr Henry and the task force might operate in terms of the specific issues some time down the track, but what you can do is put in place a set of structures. The normal structures that occur in these sorts of circumstances have been put in place and will apply to Dr Henry.

Senator RYAN: The only things in place are the normal structures—is that what you are saying? You cannot give me detail, and I understand that we cannot talk hypothetically. But, Senator Evans, you use the words 'normal structures' there, so the only things put in place are the normal structures—nothing special given his rather unique constitutional method of appointment, nothing special given his appointment to the board of the NAB, just the normal structures that apply to everyone else in the Public Service?

Senator Chris Evans: When I was referring to normal structures I referred to the Code of Conduct, but you are aware of Ms Leon's reference to the specific issue being addressed in correspondence with the Prime Minister—I have not actually seen that letter yet, I do not know if it has come around. I took it from her reading part of it into the *Hansard* that those issues were directly dealt with in the letter of appointment—is that correct Ms Leon?

Senator Chris Evans: It is the letter advising him of his appointment by the Governor-General.

Dr de Brouwer: I might just add that the terms of reference also explain a variety of governance procedures. Besides the task force itself, which is an across-department task force, there is an advisory board with external advisers and government official advisers; a secretaries' board which oversees some of the work; a cabinet process; and very extensive public consultation. There is quite an extensive and open governance process around the material that is covered by the task force led by Dr Henry.

Senator CORMANN: On the letter to the editor of the *Australian Financial Review* titled 'Henry's advisory role part-time' and signed by the secretary, what caused the secretary to write that letter? Was it of his own initiative or did that follow an approach by the Prime Minister or her office?

Dr de Brouwer: The secretary normally writes his own letters. I do not know, but we will take that on notice.

Senator CORMANN: Are you saying that the Secretary of the Department of the Prime Minister and Cabinet sent a letter off to a major daily newspaper and none of you at the table actually knows the circumstances in which he came to write that letter?

Dr de Brouwer: I am sorry, both of us were on leave at that time.

Senator CORMANN: It was published today.

Senator Chris Evans: Can we just be clear about which letter we are referring to?

Senator CORMANN: It is a letter published today in the *Financial Review* titled 'Henry's advisory role part-time' and signed by Ian Watt, Secretary, Department of Prime Minister and Cabinet, Canberra ACT.

Ms Leon: I have just had some advice on the point. The letter by the secretary was written in response to articles in the *Financial Review* on the previous Saturday. The letter was drafted within the department, after discussions with the secretary, by departmental officers because of the desirability of ensuring that the record was correct as to what Dr Henry's role and duties were. So the letter was drafted in the department, not in the Prime Minister's office or at her direction.

Senator CORMANN: I did not ask whether it was drafted in the Prime Minister's office. It already says in the letter that it was in response to articles by Brian Toohey and John Kehoe, but can you absolutely guarantee that there was no communications between the Prime Minister's office and the Secretary of the Department of the Prime Minister and Cabinet about writing this letter in response to reports in the *Financial Review*?

Ms Leon: I can advise you that the idea of writing the letter originated in the department.

Senator CORMANN: How often does the secretary of the Prime Minister's department write letters to the editor?

Ms Leon: Whenever it is necessary to correct something at a high level. It is not unusual for a departmental secretary to write a letter to the editor of a newspaper.

Senator CORMANN: It is not unusual for the secretary of the Prime Minister's department to write letters to the editor of a newspaper? I would be interested to get—on notice, not now—examples of previous circumstances where secretaries of the Prime Minister's department have done that.

Ms Leon: I should say that the current Secretary of the Department of the Prime Minister and Cabinet has only been the secretary for a short time—

Senator CORMANN: I understand that.

Ms Leon: so I cannot comment on the practice of this particular secretary over a lengthy period.

Senator CORMANN: In that letter to the editor, the secretary of the Prime Minister's department said that Dr Henry's role:

... is a part-time role for which he will be paid on a pro rata basis.

Looking at the executive council minute formalising his appointment, section 4 says, 'The Prime Minister may agree that the duties of the special advisers are to be performed on a part-time basis,' which seems to suggest that the default position is that he would be expected to work on a full-time basis and that she may agree that he can work on a part-time basis from time to time. They do not seem to be consistent—what is in the letter to the editor and what is in the letter of appointment.

Ms Leon: I am not sure if you have yet received the letter that we were having copied. That was the letter that the then secretary of the department sent to Dr Henry advising him of his appointment. That letter—which was clearly the result of whatever discussions had happened between the Prime Minister, the department and Dr Henry prior to his appointment—indicates, 'I note that you are interested in undertaking your new duties on a

part-time basis,' so it was clearly envisaged by all of those involved that the intention was that he would do his work on a part-time basis. The reason the appointment is framed in that way is that one can specify what the rate of pay will be for a full-time position and it can then be pro rata, depending on the level of the part-time work.

Senator CORMANN: This is not the way it is written. I take you to section 3 of that executive council minute, which of course predates the letter to Dr Henry, where it says, 'For any period that the special adviser performs the duties of that office on a full-time basis'—which is said to be 40 hours per week—'the remuneration, other terms and conditions of employment for the special adviser be the same as those that apply to the person who holds the position of Secretary of the Department of the Treasury at the relevant time.' The next paragraph, of course, says, 'The Prime Minister may agree that the duties of the special advisers are to be performed on a part-time basis.' Are you saying that between the time of the executive council passing that minute and the Prime Minister writing a letter to Dr Henry confirming the appointment there was a change in the terms and conditions of—

CHAIR: Just before you answer, can I have a resolution of the Senate committee to table the document that has been referred to, which was to Dr Henry dated 4 May? It is so tabled.

Ms Leon: No, Senator Cormann, there was not a change in the expectations of the parties at the time that the instrument was being prepared. It was the stated desire of Dr Henry that he have available part-time work, and the instrument is drafted so as to facilitate that. But it is normally the practice, when specifying a rate of pay, to specify the full-time rate so that the amount that is paid on a part-time basis is pro rata as against that rate. That is simply the normal way of expressing a base pay point.

Senator CORMANN: But if he works for 40 hours per week he will be paid full-time, effectively.

Ms Leon: If he did.

Senator CORMANN: How does that work in practice? Does Dr Henry have to fill in time sheets like lawyers do and send them in to the department on a regular basis or is there some other arrangement?

Ms Leon: As I have indicated, Dr Henry has not commenced work in the department as yet. Before he does, the department and he will agree on what the required hours are, and Dr Henry, I am sure, will be dutiful about performing those hours.

Senator CORMANN: So you do not envisage that Dr Henry would have to fill in time sheets?

Ms Leon: I think that would be unlikely.

Senator CORMANN: It would be 'unlikely', but—

Senator Chris Evans: Senator, it is not unusual for the hours of chairs of committee inquiries and what have you to vary, and obviously those are agreed, resolved and confirmed between whoever is doing that role and the relevant department. It is a quite normal practice.

Senator CORMANN: Why did you appoint Dr Henry as a special adviser on 27 April 2011 when at this point in time you do not yet seem to know when he is to start work on the white paper? Other people who have chaired task forces of this nature have been appointed

through other methods at the time they are actually meant to start work. What is the reason for—

Ms Leon: I think we already canvassed those questions a short time ago.

Senator CORMANN: We might have canvassed them but I did not hear you provide an answer to them.

Ms Leon: I think what I said at the time was that the government was keen to retain the services of Dr Henry from the time that he finished his appointment as Secretary of the Treasury, so it immediately sought to appoint him to a role so that he would be available to them for work as soon as was mutually convenient.

Senator CORMANN: The government wanted to lock him in just in case.

Ms Leon: The government wanted to retain his services as a valued adviser.

Senator CORMANN: Dr Henry is an economist with a decade's experience as head of the Treasury. Back in June, when the Prime Minister announced the fact that he had been appointed, she said she was 'pleased that Dr Henry's extensive knowledge and experience remains available to the government'. Why is the government not using his economic expertise but rather has asked him to perform a role in an area where he has comparatively less knowledge and less experience?

Senator Chris Evans: He is a former Secretary of the Treasury with a wide set of interests. We have a very important white paper to develop and the government took the view that he was an appropriate person to conduct that. He will obviously have access to departmental staff and other expertise, but I think he is a perfectly appropriate appointment and I have not seen his competence for the job questioned anywhere.

Senator CORMANN: I am sure that if Dr Henry had been asked by the Prime Minister to chair a white paper process in relation to Australia's engagement with Asia he would have agreed to that outside of having been appointed a special adviser back on 27 April 2011. I do not think there is a satisfactory explanation as to why you would appoint him as a special adviser on 27 April without him effectively doing anything for five months and still not have a specified date on which he is supposed to start and then have him work in an area where he does not have direct expertise. I am just trying to understand what the government's—

Senator Chris Evans: I will take that as the expression of your opinion.

Senator CORMANN: I am trying to understand the government's thought processes in relation to that. So Dr Henry's involvement with the tax forum was entirely on his own time, was it? It had nothing to do with his role as a special adviser to the Prime Minister?

Dr de Brouwer: That is right.

Senator CORMANN: That was entirely on his own time—or was that part of his—

Ms Leon: That was on his own time.

Dr de Brouwer: was not related to his task as a special adviser to the Prime Minister.

Senator CORMANN: You have gone through the APS guidelines with my colleague. What you are saying is that here today you are not able to tell us what the pro rata basis is going to be—

Ms Leon: I have had a discussion with Dr Henry to the effect that both he and the department anticipate that the work required will be in the vicinity of one or two days per week, but whether that is one day every week or one day some weeks and three days another week it is not necessary to determine at this stage.

Senator Chris Evans: It stands to reason that there will be some travel to Asia required, and he will be full time while he is visiting Asian regions discussing their perspectives. So the hours will be variable. But you are aware of the arrangements which will apply.

Senator CORMANN: You say it will be variable. But he is not going to fill in any timesheets and there will be a set arrangement. Will it be averaged over a year on the basis of two days a week or will it be: 'You tell us every week how many days you've worked on this white paper process and then we'll pay you full-time or part-time'? Is it going to be ad hoc, or is it going to be—

Ms Leon: I anticipate that we will agree with Dr Henry, once the task force is up and running, the amount of days a week which he will be expected to average over the time of the task force.

Senator CORMANN: On average. So in practice you will effectively have a dollar amount per year that is going to be on the table?

Ms Leon: I anticipate that we will reach an agreement with Dr Henry about his average hours. As I said, he has not commenced work as yet so that has not been finalised.

Senator CORMANN: Just to finalise—

CHAIR: We are going to move on. This is your last question. I did warn you, Senator Cormann.

Senator CORMANN: Dr Henry is currently still on leave. You indicated before that he could have been available earlier if he had been required earlier. Is there an anticipated date of starting? For how long does Dr Henry's leave still run? What is the anticipated day that he would be expected to start in his role?

Ms Leon: I do not have an exact date yet but I imagine it would be in the near future.

Senator CORMANN: In the fullness of time!

Senator Chris Evans: He is expected to start shortly, Senator.

Senator CORMANN: In the fullness of time, when it is all said and done!

Senator Chris Evans: Shortly. You will be the first to know. I will give you a call.

CHAIR: Before we move on to Senator Rhiannon, there is a second document. It is to Mr Paul Bailey. It is a copy going to the *Australian Financial Review*. Is it acceptable to the committee to table that document? It is, so we will circulate that document.

Senator RHIANNON: Senator Evans, what role does the Department of Prime Minister and Cabinet play in the appointment of high commissioners?

Senator Chris Evans: You have got me, Senator! I will turn to the departmental officials to provide advice. I am not sure if they do play a role at all.

CHAIR: Could I just clarify, Senator Rhiannon. What we are doing is asking general questions at this point in time and then we will proceed to the outcomes. We are not going to jump around. I was under the understanding that you were going to ask a general question.

Senator RHIANNON: I see. No, it is not a general question. I have fairly specific questions.

CHAIR: They are dealing with the outcomes, so we will come back to you.

Senator Chris Evans: We would take a couple of minutes to get the right person. So we will come back to that if it is okay.

CHAIR: We have already made the decision that we will not be jumping around the program. Quite rightly that was pointed out to me. We are going back to Senator Ryan. We will come back to you, Senator Rhiannon, when we get to the appropriate outcome.

Senator RYAN: Just to clarify, Ms Leon, no payments have been made to Dr Henry yet?

Ms Leon: In relation to his role as special advisor, no.

Senator RYAN: And in relation to his payout from the Department of the Treasury, he has accrued long service leave?

Ms Leon: His leave was accrued during his time at the Treasury but his accrued leave entitlements have been transferred onto the books of the Department of the Prime Minister and Cabinet. So that is where it is coming from now.

Senator RYAN: So you are paying him at the moment, it is just as long service leave rather than for special advisor.

Ms Leon: That is right. We are paying him out of his accrued leave entitlements. That is correct.

Senator RYAN: If the Remuneration Tribunal increases the salary to the Secretary of the Department of the Treasury, that presumably means that the pro-rata salary, whatever it may be, for Dr Henry will also increase?

Ms Leon: His appointment links his pay to the Secretary of Treasury.

Senator RYAN: Okay. Just checking. Did Dr Henry consult with the Prime Minister about his appointment to the SMART Infrastructure group?

Ms Leon: He certainly consulted with the department. I just do not have with me whether he also consulted with the Prime Minister. I can take that on notice.

Senator RYAN: Within the terms of the letter that was just tabled, would it be normal for him to solely consult with the Secretary of the Department of the Prime Minister or does he have to consult with the Prime Minister on every occasion?

Ms Leon: It would normally be sufficient for him to consult with the secretary of the department. Obviously the secretary, if he thought that any proposed appointment raised some significant issue, might suggest that he discuss it with Prime Minister. That has not been occasioned by any of the appointments of which we have been advised to date.

Senator RYAN: I would appreciate any advice on whether any conditions have been imposed upon accepting any appointment, by the secretary of the department or the Prime Minister. I am not saying that there have been. If there have been conditions imposed—

Senator Chris Evans: We will take the question on notice.

Senator RYAN: Does this method of appointment of Dr Henry preclude him appearing before parliamentary committees in any way? Does a parliamentary committee have the

capacity to call Dr Henry to appear? He is not an officer of the APS but he is bound by the APS code of conduct. I am just trying to fit him in.

Senator CHRIS EVANS: You mean in his role as--

Senator RYAN: In his role as a special advisor to the Prime Minister.

Senator Chris Evans: advisor under section 67 of the Constitution? Do you have any advice on that Ms Leon?

Ms Leon: I would have to take that on notice.

Senator RYAN: I would appreciate it, if you have taken advice on that, who the advice was sought from and what the advice is.

Ms Leon: I can tell you now that I have not up until this point sought advice on it but I am happy to take the question on notice.

Senator RYAN: I would also be interested in whether the Prime Minister's office has sought advice on that point.

Ms Leon: I am not aware of any such advice having been sought but I am happy to take some advice and get back to the committee.

Senator RYAN: I referred to a parliamentary committee there. Also whether or not similar restrictions would apply to him appearing before estimates hearings if there was something to do with the white paper, which there may be next year, for example.

Ms Leon: I am happy to take that on notice.

Senator ABETZ: Continuing on the issue of Dr Henry's appointment, just so we do not go around in circles further, can you please table for us on notice the exact remuneration and other terms and conditions of employment for the position of the Secretary of the Department of Treasury, all of them, and then tell us how the appointment of Dr Henry varies from that?

Ms Leon: Yes, Senator. I should say if there are any conditions that the current occupant of the secretary position have that had been agreed with him personally but are not attached to the position then they would not be included in any such provision of information.

Senator ABETZ: I would accept that. I appreciate the government's use of individual flexibility agreements. In Dr Henry's situation they seem very flexible. The next issue I want to canvass is that one assumes that all departmental secretaries, especially the departmental secretary of Treasury, might just put in more than 40 hours per week.

Senator Chris Evans: I certainly hope so.

Senator ABETZ: Yes, one would hope so.

Ms Leon: That is certainly my experience.

Senator ABETZ: We are told in the instrument of appointment that the special adviser, Dr Henry, will be paid at the remuneration rate of the secretary on the basis of 40 hours per week, which suggests he will now be paid at an even higher remuneration per hour than he did whilst he was secretary of the department. How did we calculate that and why did we hit on 40 hours per week as being a full-time basis?

Senator Chris Evans: I think it is rather a long bow. They specified 40 hours representing a full-time appointment. You are right to say that senior public servants, despite technically being employed for 40 hours a week, work a lot more, like you and I and the other officers of

the department. But for the purpose of calculating salary that is obviously the basis on which it is done. I am sure the remuneration of Dr Henry will reflect the very significant workload he is used to working and the calculation will be based on probably the number of days a week. I suspect many days Dr Henry will be working more than a standard eight-hour day when he does that. But it is the normal arrangement made for chairs, people heading commissions of inquiry et cetera, just normal practice, as you well know.

Senator ABETZ: It is not normal practice to link somebody's salary or remuneration to that of the secretary of a department. If it is normal practice, Minister, possibly you could take on notice how many people have been so appointed. It is a nonsense, with respect, what you have said. Take that on notice and we will see who is right.

Senator Chris Evans: You can keep on pushing this but, quite frankly, you understand the basis on which Dr Henry is appointed. It has been made public. He will be remunerated for the hours he works under the normal circumstances.

Ms Leon: Senator, in relation to the question you asked me a moment ago on notice about terms and conditions, I can advise that the determination that sets secretaries' pay and conditions is on the Department of the Prime Minister and Cabinet website.

Senator ABETZ: Yes, and if you can set that out for us and then tell us how the appointment of Dr Henry is not the same. The instrument appointing him says it is the same, and when I tried to take you through the terms and conditions you told me it was not the same. So I want to know what aspects are not the same—like provision of a car, entitlement to a car and all those other terms and conditions.

Senator Chris Evans: We have taken it on notice, Senator.

Senator ABETZ: Thank you. In relation to the standard of ministerial ethics, we are told about post-ministerial employment. Ministers are required to undertake that, for an 18-month period after ceasing to be minister, they will not lobby, advocate or have business meetings with members—and so it goes on. I am just wondering: did it cross the government's mind that here we had somebody who was leaving the head of Treasury and was now embarking, within a matter of about six months, on a commercial venture with the National Australia Bank and that it might potentially be covered by the same considerations—albeit I accept he is not a minister of the crown. But one would imagine that all the reasons for this code being implemented for ministers might have applied also to heads of Treasury taking detailed financial advice for the benefit of commercial enterprises, namely a bank.

Senator Chris Evans: Senator, the question is totally hypothetical. You are asking us to answer the question, 'should the ministerial code of conduct be applied to senior public servants?' No, it is a ministerial code of conduct.

Senator ABETZ: We know that, but it is the question of the ethical considerations—

Senator Chris Evans: But you asked me whether—

Senator ABETZ: That is a very schoolboy debating tactic and I said—

Senator Chris Evans: The answer is no.

Senator ABETZ: and I said that I accepted that this was a ministerial code and that if this is an important matter of ethics and consideration, one wonders why it would not apply to

somebody who might get even more detailed knowledge on these matters by being department head as opposed to, let's say, the Treasurer himself.

Senator Chris Evans: The question is: do we think the ministerial code ought to be applied to senior public servants. The answer is no.

Senator ABETZ: No, I did not ask that. Do the principles apply?

Senator Chris Evans: That is a question of opinion about which principles ought to apply to a different set of people.

Senator ABETZ: No. Did it cross the government's mind, in its discussions with Dr Henry, that these matters might arise? There was clearly a discussion about him taking on this extra role with the National Australia Bank. That has been let in evidence. I just want to know whether it was canvassed with him that there might be a genuine conflict of interest which his Treasurer would not be allowed to do, yet the head of the Treasury would be allowed to do under these standards.

Senator Chris Evans: Senator, we have taken you through the arrangements in terms of the code of conduct and the way potential conflicts of interest will be dealt with. It has been set out in the terms of the letter confirming the appointment. We have been through that. Those are the conditions that apply to Dr Henry.

Senator ABETZ: So if you are a mate you are okay. If I may ask: where should I be raising questions about the intergovernmental agreement on forestry? If it is 'general' that is fine.

CHAIR: We will seek some advice for you and while we are doing that we will go to Senator Faulkner.

Senator Chris Evans: We will just find the relative section for you, Senator.

Senator FAULKNER: I wanted to ask some questions in relation to the Office of the Commonwealth Ombudsman. First of all would you, Minister, or one of the officers at the table explain the ministerial arrangements in relation to the Ombudsman. Who is the responsible minister?

Ms Leon: The Special Minister of State.

Senator FAULKNER: What portfolio is the Ombudsman's office within?

Ms Leon: This portfolio.

Senator FAULKNER: There has been quite a lot of publicity in the last week or so about the Ombudsman in relation to the provision of questions. You would be aware of this, would you not?

Ms Leon: Yes, Senator.

Senator FAULKNER: I wondered whether there had been any contact by any officer of the Department of the Prime Minister and Cabinet with the Ombudsman as a result of the publicity around those issues.

Ms Leon: There has been some contact between the Office of the Commonwealth Ombudsman and the department. The Office of the Ombudsman advised the department towards the end of September about the question on notice from the committee, the answers to which have led to the recent media publicity to which you refer. So the Office of the

Ombudsman contacted the department to advise us of the question and to provide us in advance with a copy of the documents that would be provided in answer to that question. The secretary of the department is due to meet the Ombudsman tomorrow. It is a meeting that had already been scheduled as part of the new secretary's round of meetings with statutory office holders and agency heads within his new portfolio.

Senator FAULKNER: Let us put Dr Watt's meeting with the Ombudsman aside for a moment. The Ombudsman himself, as a result of the question on notice, took the initiative of contacting PM&C in relation to the questions on notice and effectively how they were going to be responded to.

Ms Leon: I understand that the Ombudsman himself was overseas at the time but his office contacted the department.

Senator FAULKNER: The Office of the Ombudsman contacted PM&C.

Ms Leon: And I am also advised that the secretary of the department, Dr Watt, had a telephone conversation with the Ombudsman on Friday just passed.

Senator FAULKNER: About this matter?

Ms Leon: Yes.

Senator FAULKNER: So the Office of the Ombudsman contacted PM&C about questions that had been placed on notice. Were the draft answers to the questions on notice provided to the Department of the Prime Minister and Cabinet?

Ms Leon: The question on notice sought copies of communication, so in that sense they were not draft answers to questions; they were copies of the documents that the Office of the Ombudsman intended to provide to the committee in answer to the question. They were copies of all the documents that fell within the scope of that request. They provided us with copies of those.

Senator FAULKNER: I suppose that is a matter for interpretation, but I do appreciate the point that you make. Was all the material that was provided in answer to the question on notice provided to the Department of the Prime Minister and Cabinet?

Ms Leon: In advance, yes.

Senator FAULKNER: Can you say when, please? Let me be a little clearer: not when it was provided by the Ombudsman's office but when it was received by the Department of the Prime Minister and Cabinet. I think that is really all I can ask you.

Ms Leon: I think it was on 30 September—either the 29th or 30th. I can take that exact date on notice.

Senator FAULKNER: Are you aware—and you may not be—of when that same information was provided to the committee?

Ms Leon: I believe that it was provided later that same day, but I would not be certain of that since I was relying only on advice of the Office of the Ombudsman that it was their intention to provide it later that day.

Senator FAULKNER: Thank you for that. Did anyone in the department take any action as a result of receiving that documentation and/or prospective answer to the question on notice?

Ms Leon: I received the documentation and I informed the secretary of the department of the nature of the question and the documents that were to be tabled in response to the question.

Senator FAULKNER: Thank you for that, and are you aware that any other action apart from that was undertaken?

Ms Leon: The department provided a briefing about the matter to the Prime Minister early the following week—

Senator FAULKNER: Obviously, I was not aware of that but I would expect that to occur. I would be very disappointed if that—

Ms Leon: The normal processes of government applied. We also prepared question time briefs on the subject for the following week.

Senator FAULKNER: And the secretary of the department contacted the Ombudsman last Friday—what would that be—the 13th or 14th? The 14th.

Ms Leon: The week when the material was first provided to us was towards the end of the week immediately prior to the tax summit and the job summit, and so both the secretary and the Ombudsman were fairly unavailable in that following week.

Senator FAULKNER: Say that again, sorry:

Ms Leon: The week immediately after the initial information was the week of the tax summit and the job summit so the secretary of the department was—

Senator FAULKNER: Rather busy.

Ms Leon: rather unavailable—

Senator FAULKNER: Rather unavailable; sorry, I did not pick up the word.

Ms Leon: due to meetings in that week so he had a discussion with the Ombudsman by telephone in the following week, and I understand he is scheduled to meet the Ombudsman tomorrow.

Senator FAULKNER: Are you able to share at all with us—you may not be able to of course—anything in relation to the telephonic communication?

Ms Leon: No, I was not present for that conversation.

Senator FAULKNER: I think from this committee's perspective—I do not know about any other senators—if there are any senators other than myself who are keen to progress this issue we will probably do so directly with the Ombudsman. But what I would appreciate knowing and understanding, if you are able to assist me, as obviously reading this information in broad measure I think it is fair to describe these matters as going to resourcing issues or budget issues in relation to the Ombudsman's office. If I had to distil it and give it—

Ms Leon: The material that was provided in the documentation that the Ombudsman released in answer to the question on notice went partially to budgetary issues and partially to other issues of migration, defence and taxation.

Senator FAULKNER: My general question to PM&C is: did the Ombudsman or the Ombudsman's office raise any questions of that nature, including issues relating to budget issues with the Ombudsman's office or resource issues with the budget with the Ombudsman's office with the department of PM&C?

Ms Leon: I might get some advice on that but, while I am seeking that, I should perhaps take the opportunity to let you know about some of the budgetary measures that have affected the Ombudsman's office. Over the last few years, the Ombudsman has had increases in remuneration in resourcing for a wide range of additional responsibilities. In relation to the Palmer and Comrie reports, the Ombudsman received \$4 million a year roughly over a four-year period. Several years later the Ombudsman received additional resourcing in the vicinity of \$1.3 million a year over four years. When the additional functions of the Ombudsman having to undertake reviews of people who had been in detention for longer than two years were introduced, the Ombudsman received additional resourcing of about a million dollars a year over four years. The measures in the Northern Territory have led to a range of additional budget measures for the Ombudsman. Improvements to the non-statutory refugee assessment process also delivered additional resources to the Ombudsman over four years starting from 2008-09. Norfolk Island governance, which provided additional responsibilities to the Ombudsman, was also resourced over four years from 2009-10, and whistleblower legislation was resourced for half a million dollars a year starting from 2010-11. So the only year in which the Ombudsman had to absorb some additional work by finding offsets within the office of the Ombudsman was in the immediate past budget, a budget in which, I am sure, many areas of the Public Service experienced a similar requirement to offset their new spends with offsets from within their own portfolio. But I will just see if I can get you some advice about whether the concerns about the budget were raised directly with us.

Senator FAULKNER: I do appreciate you providing that information; it is helpful to know and I am pleased it is on the record. But it is not what I asked you.

Ms Leon: I am advised that the Ombudsman's office has raised budgetary pressures with PM&C from time to time. For instance, during the most recent 2010-11 budget process, which is the one in which I said the Ombudsman did have to find offsets for some additional resource requirements, there was a discussion with the Ombudsman's office during that process about what their resourcing requirements would be and the impact on their work of having to offset that.

Senator FAULKNER: Can you provide any more detail, other than that, for our information? In other words, what—

Ms Leon: What form the conversation took?

Senator FAULKNER: Yes.

Ms Leon: I would have to take that on notice, as to whether it was an oral or a written conversation.

Senator FAULKNER: But its timing? You said 'from time to time'; that is my recollection.

Ms Leon: We could provide details of the timing of the discussion with the department.

Senator FAULKNER: That would be of some help in trying to understand the background to these matters. Has the department taken the view that there has been any damage to the status or the effectiveness of the office of the Ombudsman or more broadly to the department or the portfolio as a result of this?

Ms Leon: I do not think it is up to the department to express a view about that. Obviously, we, in general, would say that the community is entitled to expect high standards of conduct

from all its statutory office holders, including the Ombudsman, and to be confident that there will be a demonstration of professionalism and integrity in all of their dealings with their constituents and with parliament.

Senator FAULKNER: I appreciate that most of the questions at this committee, as I have said before, will be directed to the Ombudsman, but I am trying to understand, as PM&C is the pre-eminent government department and does take a role in these matters—well, would you acknowledge that the Department of the Prime Minister and Cabinet has a crucial role in terms of ensuring that there are constructive and trusting relationships between agencies and departments?

Ms Leon: Yes, we certainly seek to set in place arrangements that would be conducive to that sort of relationship.

Senator FAULKNER: And that is the spirit in which I am asking that previous question, which I am sure you will appreciate.

Ms Leon: I understand that. It may well be that those matters are matters that are discussed with the Ombudsman in due course.

Senator FAULKNER: It may be, but—

Senator Chris Evans: I make the point that the Prime Minister has expressed concern to the Secretary of the Department of Prime Minister and Cabinet about this matter. I share that concern. I think it is a very serious matter and has the potential to undermine confidence in the office.

Senator FAULKNER: Yes. Senator Evans, while I had not been aware of your own attitude—I had not seen that in the media—I have certainly seen the Prime Minister's concerns represented. I am exploring here in general questions before this department, and I do not intend to do this at any length, trying to get an understanding of what, if any, action the Department of Prime Minister and Cabinet has taken. As a result of your intervention, particularly given the request that the Prime Minister has made of the department, which you have just outlined, I suppose I am really limiting my questions here to that aspect. I will be interested in asking some questions to the Ombudsman later and it is even possible some other senators will want to ask him some questions. I wonder if I am likely to get a response to that.

Ms Leon: What was the question, senator? I thought I had answered your question.

Senator FAULKNER: Given that the Prime Minister has raised these concerns with the department, and I was not specifically aware of that taking place, I was making the point that I was aware of the Prime Minister's concerns because that has been in the media. Is anyone able to indicate beyond what has been said whether there has been any follow-up to that request by the Prime Minister to her own department beyond what we know? I appreciate Dr Watt will be meeting the Ombudsman tomorrow. Effectively, is that the response?

Ms Leon: I do not have anything to add at this stage.

Senator CORMANN: I have a couple of quick questions in relation to the costing of Green and Independent policies. How much time has the department spent since September 2010 in dealing with the consideration of policies for the Independents and the Greens, as per

agreements made with them by the Prime Minister and the Treasurer in order to obtain their support to form government?

Mr Hazlehurst: I would have to take that question on notice.

Senator CORMANN: So you do not keep a running tally?

Mr Hazlehurst: I do not have information on that here today and I certainly do not have a running tally of the hours that it has taken.

Senator CORMANN: So it is that extensive that you do not know off the top of your head?

Mr Hazlehurst: No, I do not know off the top of my head.

Senator CORMANN: You are able to take it on notice. Are there people in the department whose role is to wholly or predominately deal with these sorts of interactions with the Independents and the Greens?

Mr Hazlehurst: The role of the Prime Minister's Department in this respect is more to liaise with the Treasury and the Department of Finance and Deregulation on those costing requests. They are carried out within the Treasury and the Department of Finance and Deregulation.

Senator CORMANN: Are there any people within the Prime Minister's Department whose job is either wholly or predominantly to do the liaison in relation to these sorts of requests?

Mr Hazlehurst: It is not their whole job, no. They are staff employed in the Fiscal and Taxation Policy branch.

Senator CORMANN: Would you be able on notice to tell us how many person-hours have been incurred since September last year and what the cost has been for your department since then?

Mr Hazlehurst: I am not certain I will be able to do it quite like that because I am not sure we will have kept an hourly record of the work that has been undertaken on those matters. It is not something that we keep a time sheet on.

Senator CORMANN: So you do not keep track of how much that particular liaison work is costing your department? You do not keep track of how much work is involved?

Mr Hazlehurst: No. It is part of the general business of the department, liaising with other central agencies on the operations of budget and other related matters.

Senator CORMANN: How many people are partly involved in dealing with this?

Mr Hazlehurst: It could be any one of the members of the Fiscal and Taxation Policy Branch, which is about 10 people.

Senator CORMANN: Who is the officer in the department who is primarily responsible for dealing with these sorts of interactions? Is it the head of that branch?

Mr Hazlehurst: Yes, and myself.

Senator CORMANN: And yourself?

Mr Hazlehurst: Being responsible for it, yes.

Senator CORMANN: Are there any protocols in relation to how the process operates? Can a staff member of Mr Oakeshott or Mr Windsor ring the Prime Minister's department?

Mr Hazlehurst: No, no, liaison does not occur directly with the department; the liaison occurs with the Prime Minister's office. Communications then occur between the department and the Department of Finance and Deregulation and Department of the Treasury, including also with the ministerial offices of those departments.

Senator CORMANN: But within the department you are the ultimate person responsible for the direct liaison?

Mr Hazlehurst: The liaison with the other departments?

Senator CORMANN: No, no, liaison with the Independents and Greens.

Mr Hazlehurst: No, that happens—

Senator CORMANN: It all goes straight back through the Prime Minister's office?

Mr Hazlehurst: That is correct.

Senator CORMANN: The liaison into the Prime Minister's Office goes through you or does that go through the secretary?

Mr Hazlehurst: It does not go through the secretary.

Senator CORMANN: So it goes through you?

Mr Hazlehurst: Yes.

Senator CORMANN: You are at assistant secretary level, is that right?

Mr Hazlehurst: First assistant secretary.

Senator CORMANN: First assistant secretary, sorry.

Senator Chris Evans: He was stolen from DEEWR, and we are very unhappy about it.

Senator CORMANN: Can you tell us how many policies have been considered or costed as part of this process so far?

Mr Hazlehurst: I do not have that information, but we should be able to get that by the end of the day.

Senator CORMANN: By the end of today?

Mr Hazlehurst: Yes.

Senator CORMANN: If you could get it to us by the end of the day, could you break it down for us between how many policies have been considered for each one of the Independents or the Greens, I would be very grateful.

Mr Hazlehurst: I will certainly see what we can do.

Senator ABETZ: Can you tell us in what policy area?

Mr Hazlehurst: I believe so. I will see what information we can get first.

Senator CORMANN: In terms of some of the other questions that you have taken notice today, to the extent that you can assist us by the end of the day, obviously that would be much appreciated. I am sure that you will make your best endeavours. Thank you.

CHAIR: We have a couple of minutes before we go to the afternoon break. Senator Ronaldson.

Senator RONALDSON: Very quickly, I just need to find out whether the Prime Minister has engaged the services of a company called Image Media Services and whether Mr Mike Macnamara has provided the Prime Minister with image coaching, as reported in the *Daily Telegraph* on 17 September. Is that correct?

Ms Leon: The department has not engaged any image media consulting, no.

Senator RONALDSON: Minister, has the Prime Minister or the Labor Party engaged Image Media Services and Mr Macnamara to provide the Prime Minister with some media training?

Senator Chris Evans: I am not sure it is within the purview of estimates, but I understand the ALP has contracted the party, that firm, for some services. But there has been no contract, as I understand it, with any—

Senator RONALDSON: So the Labor Party has actually paid for Image Media Services and Mike Macnamara to provide the Prime Minister with some media training? Is that what you are saying?

Senator Chris Evans: I am not sure what that arrangement is other than I understand there was some publicity around this matter and the advice I have received is that there was no public funds involved but that the Labor Party has had some contractual relationship with Image Media Services. I do not have the details.

Senator RONALDSON: What were the deficiencies that your polling showed up that needed to be addressed by Mr Macnamara?

Senator Chris Evans: Nice try, Senator!

Senator RONALDSON: So you just went and did it for the sake of it. It would not be that, on the back of one of your MPs I think you told the *Tele*, and I quote:

On TV and in the public she comes across as stilted and wooden when she gives speeches.

I mean, you just don't go and spend money on Mark Macnamara without any reason. What were they?

Senator Chris Evans: The difference between us and the Liberal Party is we actually declare it. But, as you know, in Victoria that is not a habit that the Victorian Liberal Party has got into.

Senator RYAN: We will get to that, Senator Evans.

CHAIR: I just remind everyone—

Senator Ryan interjecting—

CHAIR: Senator Ryan! I just remind people that we are due to go to a break, and I think now would be a good time to go for a break.

Proceedings suspended from 15:45 to 16:02

Senator RONALDSON: Minister, was there an amount paid by the Labor Party to Image Media Services?

Senator Chris Evans: I do not know and if I did I would not tell you.

Senator RONALDSON: What other image and/or media consultants has the Prime Minister engaged, either via the department or through the Labor Party?

Senator Chris Evans: At Senate estimates it is appropriate for PM&C to assist you if anyone has been engaged through PM&C. Obviously that is not true of any issue of the Labor Party, but I will ask officers to answer the question. We have established there were none for the firm called Image Media Services, but I will ask Ms Leon to advise whether any were contracted.

Ms Leon: There have not been any image or media consultants for the Prime Minister paid for by the department.

Senator RONALDSON: Have any other ministers been paid for by the department?

Ms Leon: Not that I am aware of, no.

Senator RONALDSON: Will you take that on notice?

Ms Leon: Yes.

Senator RYAN: All expenses for the Prime Minister's office are covered by the department, aren't they?

Ms Leon: The ministerial advisers are paid out of the Department of Finance and Deregulation.

Senator RYAN: And you are not aware of—

Ms Leon: We do not pay for those; we pay for the departmental liaison officers and for the running costs of the office stationery and the like.

Senator RYAN: So someone who is contracted as a speech writer would be paid for by you or by the department of finance?

Ms Leon: If they were contracted by the department they would be paid for by us. If they were contracted by the party, the Labor Party, they obviously would not be.

Senator RYAN: No. Do you have any external consultancies or personal services contracts provided to the Prime Minister by the Department of Prime Minister and Cabinet in the nature of stylists, a speech writer, a gag writer or some such to assist with speeches or any similar services? I would ask you to take the broadest possible definition of similar services.

Ms Leon: The department employs a number of people in the department who write a broad range of speeches and similar talking points for the purposes of speeches for the Prime Minister and for other portfolio members. We have two staff members whose specialty is as speech writers and from time to time we do, if we have a lot of speeches or speeches that we need some help with, get additional external speech writers in.

Senator RYAN: Could you provide on notice, if you do not have the information there, if any non-APS personnel have been contracted to perform speech-writing services over the past 12 months or at the moment?

Ms Leon: I would have to take that on notice.

Senator RYAN: So there is no one who is being contracted and paid for by the department in the nature of a gag writer, a less formal speech writer, or stylists or anything of that nature.

Ms Leon: I am not aware that we have ever employed a stylist.

Senator RYAN: I understand the employment but I am also checking up if there has been a contract for any of these services.

Ms Leon: I would have to take that on notice.

Senator Chris Evans: The officer will take on notice the contracts of people who assist in speech-making type functions and we will give you the list of contacts.

Senator RYAN: I am also interested in whether there are any other services of the nature that I mentioned.

Senator Chris Evans: I am not even sure what a stylist is—maybe that is reflected in the way I dress!

Senator RYAN: I clearly do not have one myself!

Senator Chris Evans: Do you mean a clothes stylist type thing?

Senator RYAN: A clothes stylist, hairdresser—presentation. Voice training is another service that might be utilised.

CHAIR: A wine adviser—like the former Prime Minister.

Senator BERNARDI: That is not a stylist.

Senator RYAN: No, that is not a stylist.

CHAIR: No, but it is a wine adviser.

Ms Leon: I will take that on notice.

Senator Chris Evans: We will take the question in the broadest possible terms.

Senator RYAN: That is what I am after.

Senator RONALDSON: I ask the officers at the table or the minister this question. I understand from an article in the *Australian* on 3 October, written by Peter Wilson, that the South Australian government's thinker-in-residence—probably one of the loneliest jobs, I would have thought—John McTernan, has been offered a job in the Prime Minister's office. Is that correct?

Ms Leon: I think I said that the employment of staff other than DLOs in the Prime Minister's office is paid for by the Department of Finance and Deregulation, so we do not employ the advisers.

Senator RONALDSON: Are you aware that John McTernan has been offered a job in the Prime Minister's office?

Senator Chris Evans: As I understand—this is on the public record—that he is going to take up a job in the Prime Minister's office in about a month, I think.

Senator RONALDSON: What will his title be?

Senator Chris Evans: I think it is director of communications.

Senator RONALDSON: Director of communications. That will be very interesting, given his past. Will he be employed under MOPS or the Public Service Act?

Ms Leon: He would be employed under MOPS.

Senator RONALDSON: What will his salary be?

Ms Leon: MOPS is administered by the Department of Finance and Deregulation.

Senator RONALDSON: Minister, do you know what his salary is?

Senator Chris Evans: No, I do not. We will take that on notice, or you can ask MOPS.

Senator RONALDSON: I want to highlight something that Mr McTernan said on Twitter, quoting a fictional character after he is given a job at the Prime Minister's office. He tweeted:

I'm sensing a change in management styles. From touchy-feely to smashy-testes.

Were you aware of that? This is the gentleman who also wrote in the London *Daily Telegraph*, in July:

... all governments need head-kickers: in their cabinets, on their backbenches, and in their offices.

Has Mr McTernan been brought in to be a headkicker?

Senator Chris Evans: I have never met him, so I cannot help you there. To the best of my knowledge I have never met him. Your contribution confirms for me the sense in not tweeting.

Senator RONALDSON: So who does the Prime Minister think needs head-kicking? Is it the foreign minister or the member for Dobell?

Senator Chris Evans: Maybe me, Senator! I do not know.

Senator RONALDSON: It is probably a bit late for you, regrettably, Minister, but there is still some hope for the other two. Is it likely to be them?

Senator Chris Evans: As I understand it, he will be employed as a director of communications.

Senator RONALDSON: Do you think it is appropriate for a director of communications in the Prime Minister's office to have been quoted in the London *Daily Telegraph* again where he said:

The key is to realise that you don't need to tell the whole truth ...

Is that going to be the bona fides that he brings to the Prime Minister's office in this new role?

Senator Chris Evans: I have never heard of that before. I do not know whether it is accurate and I do not know the context in which it was made, so I cannot help you.

Senator RONALDSON: Just quickly, what does Mr McTiernan bring to the job that was not available elsewhere, given that he was a thinker in residence in his previous employment? It is a significant step up from a thinker in residence in the South Australian government to the director of communications, isn't it?

Senator Chris Evans: Some people would regard it as a step down, I would have thought—from getting paid to think. Whoever is director of communications will be working damn hard. He has obviously had wide experience, including in communications, so he is employed in that capacity by the Prime Minister.

Senator RONALDSON: Has the Labor Party polling again shown that the Prime Minister needs to change her public approach that would require her to have image work done by Mark McNamara and bringing in someone who thinks that her management style is poor and she needs to go from touchy-feely to smashing testes? What is driving these appointments in the Prime Minister's office? Is it just complete and utter desperation? What is driving this?

Senator Chris Evans: Senator, that is one of your worst efforts for a while. I think you will need to fire up if you are going to get a grab out of that. This gentleman has been employed as a communications director. That is the job he will be doing.

Senator RONALDSON: Who has got that job at the moment?

Senator Chris Evans: I am not actually sure who is in that position. I will have to take that on notice.

Senator RONALDSON: Or is it a created job?

Senator Chris Evans: As I said, I will have to take that on notice. In terms of the title, I am not—

Senator RONALDSON: The officers at the table would surely know whether there is a director of communications in the Prime Minister's office. Is there someone there at the moment?

Ms Leon: The ministerial advisory staff are paid for by the Department of Finance and Deregulation, so it would probably be best to take that up with—

Senator RONALDSON: I made it quite clear: is there a person in the Prime Minister's office at the moment with the title: Director of Communications?

Ms Leon: I just do not have the structure chart with me at the moment, so we will have to take that on notice.

Senator RONALDSON: With the greatest respect, you must know. It is PM&C. You must know whether there is a director of communications in the Prime Minister's office, for goodness sake.

Ms Leon: There is a communications unit of the office, but I just do not have the structure chart with me to say what the title of the head of that unit is at the moment.

Senator RONALDSON: Is the answer that the taxpayers have been asked to stump up a new position in the Prime Minister's office to address her clear deficiencies? Is that what this is actually all about? If you do not know that there is someone there, I am assuming this is a new position. Why should the taxpayers stump up the cost for that?

Senator Chris Evans: Senator, you know these questions are best directed in the MOPS section. I do not believe it is a new position, but we will get that information for you.

Senator RONALDSON: Minister, with the greatest respect, I do not think it is a MOPS question. You are the Prime Minister's representative. The department cannot even tell me if there is someone called the director of communications existing at the moment. I am assuming there is not and I am assuming that this man has been put on to try and bolster the Prime Minister's faltering image. Why should the taxpayers stump up the cash for that? Why was it good enough for McTiernan to be paid by the Labor Party but not this apparent ex-thinker in residence from South Australia?

Senator Chris Evans: You ask whether or not there is someone currently in that role. I have offered to take that on notice for you. I do not know the answer to that. I do not think your assumption that it is an additional position is right but I actually do not know, so I will take that on notice and get the answer for you.

Senator RONALDSON: Senator Abetz has just said do the officials know. The answer to that is that the officials apparently do not know whether there is someone called the director of communications in the Prime Minister's office. I assume from that, Senator Abetz, that there is not and therefore it is a new position paid for by the taxpayer.

CHAIR: Senator Ronaldson, have you got a question? We are going very shortly to the agreed position.

Senator RONALDSON: No, that will do me, thank you.

Ms Leon: Chair, can I just correct the record on something I said just before the break. In response to questions about whether the Ombudsman's office had discussed budgetary issues with the department, I indicated that there was specific discussion during the 2010-11 budget process but I had actually meant to refer to the 2011-12 budget process.

CHAIR: Thank you. I remind the committee that we will be coming back to outcome 1 dealing with general issues after we hear from the National Security Adviser.

[16:15]

CHAIR: We will now move to outcome 1.2, National security and international policy. Thank you for appearing before us, Dr McCarthy.

Senator RYAN: Can I ask how many meetings of the National Security Committee of cabinet have taken place in the last six months?

Dr McCarthy: I do not have that detail in front of me, Senator. In any case we do not comment on meetings of cabinet.

Senator RYAN: No, but are you saying you cannot take on notice how many meetings have occurred?

Ms Leon: We do not comment on the timing of cabinet committee meetings.

Senator RYAN: In the past there has been a matter of public concern that the Prime Minister sent a staff member to meetings of the National Security Committee. Are you now saying you will not answer questions about this? This has been discussed in estimates before, who attended meetings of the National Security Committee.

Senator Chris Evans: And I handled those, Senator, and I made it clear to you then that we do not provide advice as to the attendance or the time scheduling of cabinet or cabinet subcommittee meetings.

Senator RYAN: I am not asking for scheduling or time, I am asking how many happened. I am not asking how many you plan to happen.

Ms Leon: We do not usually disclose when or how many meetings of cabinet or cabinet committees are held.

Senator RYAN: Will you tell us what the Prime Minister's attendance record was?

Senator Chris Evans: No, Senator.

Senator RYAN: Will you tell us whether or not she sent along junior staff, as has happened previously?

Senator Chris Evans: This is a longstanding practice under both the previous government and this government about not providing information about the details of cabinet or cabinet committee meetings and attendance. You refer to publicity around someone being sent representing the then Deputy Prime Minister, but there has been longstanding practice not to provide details of cabinet meetings or cabinet committee meetings under successive governments.

Senator RYAN: So you will not let us know whether or not the Prime Minister has done what was alleged previously and sent along a junior staffer in the place to the National Security Committee. You will not even deny that?

Senator Chris Evans: I am not going to play a game of what I will not deny. I have told you that we do not provide the information regarding the timing and occurrences of cabinet and cabinet committee meetings nor the attendance at them.

Senator RYAN: Can you detail the consultation with other departments that took place before the Prime Minister announced the white paper on Australia's engagement with Asia on 28 September?

Dr de Brouwer: Consultation took place with Treasury and the Department of Foreign Affairs before the announcement.

Senator RYAN: What was the nature of that consultation and what were the dates of that consultation?

Dr de Brouwer: I do not have the dates in front of me. The nature of the consultation was to talk about what would be in the Australia in the Asian Century white paper and to seek those departments' views on that material.

Senator RYAN: Can you take on notice when the Department of Foreign Affairs and Trade and who at the Department of Foreign Affairs and Trade—whether or not that happened to be the minister and/or the secretary of the department—was consulted prior to this announcement? Obviously it makes a big difference if they were consulted in August versus being consulted in late September.

Dr de Brouwer: I will take that on notice. The consultation did occur with the Secretary to the Department of Foreign Affairs and Trade. This is from the Department of the Prime Minister and Cabinet.

Senator RYAN: Was that consultation specifically about the proposal for a white paper on Australia's future engagement with Asia or was it more general in nature?

Dr de Brouwer: It was specifically to the white paper.

Senator RYAN: Did it include discussion of the terms of reference?

Dr de Brouwer: I believe so—in broad terms. I will come back with firm detail about that.

Senator RYAN: I would also appreciate as well as the nature of the consultation and the dates of the consultation whether that was simply discussions between officers over the phone, whether it constituted meetings of officials from both departments and the degree of involvement of people from the Office of the Prime Minister and the office of the foreign minister.

Dr de Brouwer: I will take on notice consultations from the department with other departments.

Senator RYAN: Sorry; could you restate that?

Dr de Brouwer: Departments talk among departments. Departments do not necessarily or would not ordinarily go to other ministerial officers. So the nature of our discussion would be with other departments.

Senator RYAN: The nature of your discussion, presumably, was with the Department of Foreign Affairs and Trade.

Dr de Brouwer: That is right.

Senator RYAN: I would appreciate some clarity around dates. Consultation could be you picking up the phone to your counterpart in DFAT the day before the announcement was made or consultation could be a series of weekly meetings between officials with expertise in this area between the two departments in the month leading up to it. I think you would appreciate that both would constitute consultation. It is a magic word.

Dr de Brouwer: I do not have the details of the times, so we will come back through questions on notice.

Senator RYAN: Was the Department of the Prime Minister and Cabinet at any point given an instruction to include or not the office of the foreign minister?

Dr de Brouwer: As I said, PM&C consults with other departments. It does not generally consult with ministerial offices.

Senator RYAN: You are a central agency; you consult with more departments than most, particularly in an area like this which presumably would involve the Department of Foreign Affairs and Trade and potentially also others given the scope of the project. Are you saying that your only consultations were with the Department of Foreign Affairs and Trade and the Office of the Prime Minister—you spoke to no-one else?

Dr de Brouwer: As departments of state, our consultations are with other departments of state.

Senator RYAN: Can you tell me which other departments of state you consulted with?

Dr de Brouwer: Yes. I mentioned the Department of the Treasury. So the Department of the Prime Minister and Cabinet consulted with the Department of the Treasury and with the Department of Foreign Affairs and Trade.

Senator RYAN: Did that consultation involve any discussion or the seeking of advice about the appointment of Dr Henry and the potential conflict given the wide scope of this project with his role now as a board member of the National Australia Bank?

Dr de Brouwer: My understanding is that the discussions included reference to Dr Henry leading the task force. I am not aware of any discussion around a conflict of interest as you suggest. I will take that question on notice.

Senator RYAN: Senator Evans, these are questions regarding the Prime Minister's office. Can you take on notice—given that I assume you will not be able to answer—whether the Prime Minister and what form the Office of the Prime Minister or the Prime Minister herself consulted with the office of the foreign minister?

Senator Chris Evans: I am happy to take it on notice. I am not sure that I would be answering questions regarding discussions between ministers or their officers, but I am happy to take the question on notice. Senator Ronaldson has just ducked out but he asked a question earlier and made the suggestion that perhaps there had been a new position created that Mr McTernan was taking up as Director of Communications. I just want to put on the record that there is an existing job of Director of Communications which he has been appointed. At this time there is an acting director—so he will take up an established position.

Senator ABETZ: So what is the acting director going to do?

Senator Chris Evans: I do not have that level of detail. As I understand it, there was someone from inside the office who was acting in the role and will revert, no doubt, to their other role.

Senator ABETZ: Could you take on notice when the role became vacant?

Senator Chris Evans: Yes. The key point is that the suggestion was made that there was a new job being created—and that is not right. Mr McTernan is being appointed to an existing office.

Senator ABETZ: Or clearly somebody has left and a replacement appointed.

Senator RYAN: Senator Evans, you say that you do not want to or are somehow reticent to look into discussions between ministers. I put to you that the consultation of a Prime Minister with the Minister for Foreign Affairs about the establishment of a white paper process outside of the department of foreign affairs that deals with foreign affairs is a matter of some public import. Will you commit to taking on notice and providing to the committee the detail of the consultation between the Prime Minister and the foreign minister not at a departmental level, given the department does not do that, regarding the establishment of this white paper process?

Senator Chris Evans: No.

Senator RYAN: Why not?

Senator Chris Evans: Because I do not and we traditionally do not, Senator, provide evidence to Senate committees of conversations or detailed discussions between—

Senator RYAN: I said consultation.

Senator Chris Evans: You are asking for information regarding a conversation or interaction between ministers about a policy decision of government. The answer is: we do not provide that.

Senator RYAN: If you do not want to ask that question because I appreciate it is probably a difficult one to ask, you could just say so. But, surely, the relationship—

Senator Chris Evans: I have made it clear to you what the policy is.

Senator RYAN: There is not a policy to say that you refuse to ask the question whether or not the Prime Minister consulted with the foreign minister about the establishment of a white paper into foreign policy.

Senator Chris Evans: You are asking me to provide the detail. I took on notice before the question, if you check the *Hansard*—

Senator RYAN: And I have restated the—

Senator Chris Evans: but I also made it clear to you that discussions between ministers—

Senator RYAN: I used the term 'consultation'.

Senator Chris Evans: And you used the word 'detail'. I am making it very clear to you so you are under no misapprehension: I will not be providing you with details of interactions between ministers in the lead-up to policy decisions by government. But I said I would take the question on notice. To the extent that I can be helpful, I will be, but in terms of describing who said what to whom and whether or not there were discussions—

Senator RYAN: I do not want a transcript; I want to know when—

CHAIR: Senator Ryan, you have asked your question. Will you allow the minister to complete his answer. It would help me and it would also help Hansard to record these proceedings. Minister, you have the call.

Senator Chris Evans: As I indicated to Senator Ryan at the start, I was happy to take the question on notice but I make the point: we will not be providing information regarding discussions, interactions, between ministers about policy decisions that are taken by the cabinet.

Senator RYAN: To clarify, Minister, I am not asking about a transcript of the conversation; I am asking if they took place and, if so, when the foreign minister was notified of the commencement of this process, neither of which I think is outside the ambit of this estimates committee.

Senator Chris Evans: I disagree, Senator.

Senator RYAN: You are saying you disagree that a question as to when the Prime Minister spoke to the foreign minister or consulted in another mechanism about the establishment of this white paper process is outside the scope of this estimates hearing?

Senator Chris Evans: You are asking me about a conversation between ministers—

Senator RYAN: I am not asking for the details of the conversation; I am asking when the conversation took place.

Senator Chris Evans: If you asked me whether there was a conversation with the Prime Minister in preparation for these estimates, I will tell you it is not your business. It has never been traditionally given to committees, and I will not be giving it to you.

Senator RYAN: So how are we allowed to know what consultation was undertaken between the Prime Minister and the foreign minister about the Prime Minister establishing a white paper process in his portfolio area?

Senator Chris Evans: The officer just took on notice the operation of the public service and the public policy matters in terms of the relationship between PM&C and Foreign Affairs. He took on notice those questions. You will get answers to those questions in accordance with normal practice. You do not get answers to questions about interactions between ministers.

Senator RYAN: This is about budget estimates and that has traditionally included not cabinet proceedings but what has been going on in the Prime Minister's office. You are here as her representative and you cannot simply say, 'I exclude everything that happens between two ministers. You can only find out about departments.' I can only imagine your outrage, being on this side of the table, if a similar statement had been made.

Senator Chris Evans: Senator, you asked me about discussions between ministers.

Senator RYAN: I am asking for consultation. When did Kevin Rudd find out—

Senator Chris Evans: I am not going to tell you about conversations between ministers.

Senator RYAN: When did Kevin Rudd find out this was going to be announced? You seem keen not to ask the question.

Senator Chris Evans: I have got no idea, Senator, but I took the question on notice. You can have it either way. I will take it on notice, but you will not be getting advice about

discussions between ministers; never have, never will. The same policies applied under the previous government.

Senator FIFIELD: It has always been the practice that committee members ask for a sequence of events, ask which date particular meetings took place, ask which date some conversations took place without actually going necessarily to—I am not saying that you should not—the subject matter or the substance of those discussions. So the sequencing of events is something which is very commonplace and appropriate for committee members to ask, and I think that is all that Senator Ryan is asking at this point.

Senator RYAN: You expressed it better than I did!

Senator Chris Evans: I have made my position clear. I have taken the question on notice.

Senator RYAN: I note that if the minister does not provide the sequence of events as described quite effectively by Senator Fifield—

CHAIR: Senator Ryan, you know—

Senator RYAN: There is a point of order here, Chair.

CHAIR: You did not say you were raising a point of order.

Senator RYAN: My apologies. I am raising a point of order. The minister will not answer now and he refuses to commit to answer the question about the sequence of events. If in his answer to the question he does not outline that then this will be a matter that is pursued further. We are not asking for the detail of conversation between ministers. We are simply asking for the formalities of consultation about a significant announcement that the government has been trumpeting for the last few weeks.

CHAIR: There is no point of order. The minister has taken it on notice to respond to your questioning. I cannot direct the minister on how to respond. You are at liberty to take up that issue when you receive the answer back. Have you any further questions?

Senator RYAN: Yes.

Ms Leon: Before we start another line of questioning I thought I might just provide some further information to Senator Ryan about a matter he asked about a little earlier. While I cannot provide information about when National Security Committee meetings occurred or who attended them I can draw your attention to—

Senator FIFIELD: You said you cannot provide information as to when national security meetings occurred. Is that because you do not know or is it because you will not provide it?

Ms Leon: It is because the timing of National Security Committee meetings is not ordinarily disclosed. I can, however, draw your attention to page 83 of the department's annual report, which provides details of the number of meetings held in the past financial year.

Senator RYAN: Thank you, Ms Leon, you have predictive abilities. I was going to address the point made by Senator Evans that these details are not provided and refer to questions that have been tabled recently by Senator Trood and Senator Abetz about the number of times the National Security Committee of Cabinet has met.

Ms Leon: I am happy to be able to provide that to you. I can read it into the record if you would like.

Senator RYAN: Okay.

Ms Leon: Is it the details for the last financial year that you would like?

Senator RYAN: As a start, yes please.

Ms Leon: There were 20 meetings of the National Security Committee in the 2010-11 financial year.

Senator RYAN: Only 20? How many have there been since then?

Ms Leon: I do not have that with me. We compile this and publish it on an annual basis. This report has just been tabled. I would have to take it on notice how many meetings there have been since then. But that was 20 meetings up until the end of June 2011.

Senator RYAN: So you can take on notice how many meetings have occurred?

Ms Leon: I will take it on notice.

Senator RYAN: Thank you. I just wanted to clarify the issue raised earlier. In December 2008 the then Prime Minister Rudd delivered the inaugural national security statement to parliament. He promised it would be the first of regular statements and I believe he also said it would become just as important as the annual budget statement. Am I correct in saying there has been no subsequent statement since December 2008?

Dr McCarthy: I think there has not been a statement since the inaugural statement.

Senator RYAN: Has that been due to the lack of a direction from the Prime Minister to the department to prepare a statement? That would be the normal course of events, wouldn't it—that the Prime Minister would direct the department to prepare a statement of that order?

Dr McCarthy: The timing of such statements is a matter for the Prime Minister.

Senator RYAN: So you have received no direction from the Prime Minister—from his or her office—since 4 December 2008 to prepare a subsequent national security statement to parliament?

Dr McCarthy: As you would appreciate, we would not normally go to the issues of either what advice the Prime Minister seeks or the advice that the department provides.

Senator RYAN: You might not wish to go there, Dr McCarthy, but the rules of Senate estimates do not preclude it unless someone is asserting it went to cabinet or has some other degree of public interest immunity. 'Advice to ministers' is not a catch-all phrase to protect or prevent the release of information.

Dr McCarthy: I have nothing further to add.

Senator RYAN: You have the choice to answer the question or to refer it to the minister, Dr McCarthy.

Senator Chris Evans: Perhaps to help you out: as I understand it, it is a matter of fact there has only been one national security statement, which was in December 2008, as you said—I think that is right. As to the questions about any advice between the Prime Minister and PM&C, we will take that on notice.

Senator RYAN: Do you have an answer as to why there has been no subsequent statement representing the Prime Minister here?

Senator Chris Evans: No. As you know, the former Prime Minister made a statement. I am not aware as to why his intention to continue that has not been pursued, but I point out that the Prime Minister has made a number of statements to parliament about our engagement in Afghanistan as a way of trying to share information about the progress of our engagement there with the parliament and the Australian people. But, as to the intentions regarding our national security statement more broadly, I will have to take that on notice.

Senator RYAN: The incoming government brief from the Department of Foreign Affairs and Trade of September last year which was released under FOI referred on page 90 to the fact that 'some elements of the government's national security framework have not worked very well.' It also refers to the 'need to revisit fundamentals, including the broad definition of national security, which has been adopted.' I would assume the Department of Prime Minister and Cabinet would have a view on such matters. What are the national security framework elements that have not worked well? Or do you contest the advice of the Department of Foreign Affairs and Trade in that regard?

Dr McCarthy: I think any questions on elements of the Department of Foreign Affairs and Trade's incoming government brief that have been released under FOI are best directed to the Department of Foreign Affairs and Trade.

Senator RYAN: The Department of Foreign Affairs and Trade cannot answer the question though, Dr McCarthy. What is your view of the comments by the Department of Foreign Affairs and Trade in this regard?

Dr McCarthy: The national security strategic policy framework, which goes to issues of prioritisation, a coordinated national security budget and performance evaluation, continues to develop. As I said, the views of the Department of Foreign Affairs and Trade are for the Department of Foreign Affairs and Trade. We are pleased with the way in which it is developing.

Senator RYAN: So you have not contested that view?

Dr McCarthy: I would probably categorise such a view as part of the ongoing healthy and creative tension between central agencies and line agencies. Line agencies are always free to have their own views on processes.

Senator RYAN: Sorry, can you restate that? I am losing my way here between certain phrases.

Dr McCarthy: The Department of Foreign Affairs and Trade is free to express its views about the processes that central agencies run.

Senator RYAN: It is all about freedom.

Senator Chris Evans: It is a healthy and constructive tension.

Senator RYAN: So healthy and constructive tension is an important thing?

Dr McCarthy: Creative tension.

Senator Chris Evans: Creative tension.

Senator RYAN: Sorry—creative tension, Dr McCarthy. Creative tension is an important thing, and I appreciate the need for that. My concern here is that we have one department fairly intimately involved and making some fairly damning comments about a basic role of

government—the national security framework. My apologies if I have got this wrong, Dr McCarthy—are you acting or are you the permanent National Security Adviser?

Dr McCarthy: I am the Acting National Security Adviser.

Senator RYAN: You are the National Security Adviser, and you are here just telling me about a process and telling the Australian people about the importance of creative tension. I am asking you for a pretty simple view: do you agree with the statement there of the Department of Foreign Affairs and Trade in its brief to the incoming government, or would you contest it?

Dr McCarthy: I do not know that I would agree with your characterisation of the Department of Foreign Affairs and Trade's statement as damning. It seems to me that their statement goes more to some improvements that they perhaps believe could be made. I do not know the exact nature of the improvements they are referring to, but part of the national security strategic policy framework is annual performance evaluation. That suggests that the framework itself is open to suggestions of where it can be improved.

Senator RYAN: Given the time, I am going to move on. Why has the post of National Security Adviser been left vacant for nearly two months? Do we have a timeline for a permanent replacement?

Ms Leon: The position is one that is subject to a merit recruitment process and so the position has been advertised. Applications closed on 17 September, I think—I will just get that date for you—and the recruitment process is on foot to fill it.

Senator RYAN: Do we have a timeline?

Ms Leon: That would depend on how many applicants there were and when they were available for interview. Ordinarily, senior positions take in the vicinity of three months to fill.

Senator RYAN: When was this process commenced?

Ms Leon: It was advertised on 1 September in the *Gazette*, on 2 September in the *Australian Financial Review*, and in the *Australian* on 3 September. Applications closed on 18 September. There is an executive search company that is managing the recruitment process and so I imagine they will be at this stage conducting screening processes for those who have applied, prior to formal interviews occurring.

Senator RYAN: I appreciate that. So there is no set date by which this will be announced, because you are waiting on the recruitment company to complete this process. The applications closed a month ago.

Ms Leon: That is right.

Senator RYAN: Dr McCarthy, I quickly have another question about my previous issue. Did the Department of Foreign Affairs and Trade write that advice to the incoming government without consulting the Department of Prime Minister and Cabinet, or was the Department of Prime Minister and Cabinet consulted about that advice?

Dr McCarthy: Not to my knowledge.

Senator RYAN: I would appreciate if someone could take on notice if you might not have been in the capacity—

Senator Chris Evans: Are you are really asking whether there is coordination across departments for incoming government briefs?

Senator RYAN: My understanding is that central agencies do have some influence over incoming government briefs from line agencies.

Senator Chris Evans: No, that is what you are after—the question is whether they were consulted about the brief.

Senator RYAN: Yes.

Dr McCarthy: I can take that on notice.

Senator RYAN: Sure. In the Prime Minister's address to Congress, there was a rather embarrassing mispronunciation of an important battle, particularly to Americans. I will do my best to pronounce it, noting that I am not addressing a joint sitting of Congress, when I refer to the battle of Pont Duoc. The Prime Minister pronounced it profoundly differently. Has the department undertaken some steps to make sure that does not happen again? If Barack Obama next week mispronounces Gallipoli then, quite frankly, this is the way many Americans would feel about what the Prime Minister said.

Senator Chris Evans: I know I always cringe when people like you come to Western Australia and refer to Albany and Derby, so there are often pronunciations. But I have to get information.

Senator RYAN: I am happy to be sledged by you but at least sledge me with some basis in reality, because I have never done that.

Senator Chris Evans: Maybe Dr McCarthy can advise whether there has been any follow-up?

Dr McCarthy: I can take on notice the question of whether there was any follow-up on that matter.

Senator RYAN: So you can take on notice whether or not you have put in place any steps to make sure that our Prime Minister does not profoundly mispronounce a key phrase in a major speech in the future?

Dr McCarthy: As I said, I can take on notice whether there was any follow-up on the matter.

Senator RYAN: Good luck.

Senator RHIANNON: Dr McCarthy, was the Australian government involved in giving advice to the Sri Lankan government or in any other way when the Sri Lankan security forces stopped a boat carrying 44 asylum seekers trying to leave Sri Lanka?

Dr McCarthy: I think that goes to a matter that might best be referred to Customs and Border Protection.

Senator RHIANNON: I asked the question because there are reports that the Australian high commissioner, Kathy Klugman, praised the Sri Lankan security forces for their work in stopping this boat. It has been linked with Australia's attempt to manage boats coming to Australia and its interest in Sri Lankan domestic politics. As the Australian Prime Minister has given a great deal of attention to this matter lately, that is the context in which I asked the

question. It is hard to believe that Department of the Prime Minister and Cabinet does not have some awareness of this issue.

Dr McCarthy: On the issue of engagement with other regional countries in deterrence of the people-smuggling trade, it is well known that we engage with regional partners, but we tend not to go into specific operational details.

Senator RHIANNON: Do you mean that you have the details but you are saying that you do not want to bring those details to this forum?

Dr McCarthy: I do not have to hand any details on the issue that you have referred to. There would be sensitivities around operational details, if that is the sort of information that you are seeking.

Senator RHIANNON: Could you inform the committee if the Australian Federal Police assisted Sri Lankan security forces in any of their operations in stopping the boats leaving Sri Lanka to come to Australia?

Dr McCarthy: I think questions about the Australian Federal Police activities are best directed to the Attorney-General portfolio.

Senator RHIANNON: What role does the Department of the Prime Minister and Cabinet play in the appointment of high commissioners?

Dr McCarthy: Are you referring to the appointment of Australian high commissioners to overseas posts?

Senator RHIANNON: No, sorry, the appointment of high commissioners to Australia. We have them from various countries. High commissioners—or ambassadors, for that matter?

Dr McCarthy: My understanding is that in relation to incoming high commissioners and ambassadors what is known as agrément is provided on the advice of the foreign minister.

Senator RHIANNON: What if the person to be appointed has been accused of serious war crimes? Do you undertake any special measures? How is this managed?

Dr McCarthy: As I said, these issues are managed on the basis of advice from the foreign minister to the Governor-General on the question of agrément.

Senator RHIANNON: That is advice to the department?

Dr McCarthy: No, on the advice of the foreign minister the Governor-General provides what is known as agrément to countries seeking to appoint high commissioners and ambassadors.

Senator RHIANNON: So you are saying that there is no actual involvement by the department?

Dr McCarthy: It would depend on the issue and on whether the department was required to provide advice.

Senator RHIANNON: I will ask the question again, because it seems as though from your last response that there can be occasions when the department is involved. If a person to be appointed as a high commissioner has been accused of being involved in war crimes would the department then become involved or at least seek some sort of advice?

Dr McCarthy: The issue would be coordinated and managed by the foreign minister.

Senator RHIANNON: With advice coming to the department?

Dr McCarthy: The foreign minister would provide that advice primarily on the basis of advice coming from his own department. We only advise the Prime Minister; we do not advise the foreign minister.

Senator RHIANNON: No, I obviously appreciate that. I am just trying to understand how the process works.

Senator Chris Evans: I think the answer is that primarily the responsibility is with the foreign minister and the Department of Foreign Affairs and Trade but that PM&C might provide advice to the PM if there was reason to them to get involved or matters were referred to them. But as a matter of normal procedure, carriage lies with the Department of Foreign Affairs and Trade. If you want to pursue specific appointments then officers could advise if they have been engaged in that. But if you keep with generalities we are not going to make any progress. So if you want to get to—

Senator RHIANNON: I appreciate that, but I guess I do want to understand the generalities to understand how the current situation may have unfolded.

I would like to now move to the current situation. There was a report on the front page of the *Sydney Morning Herald* today with regard to the current Sri Lankan High Commissioner to Australia. These allegations are now the subject of a submission from the International Commission of Jurists—Australian Section, and of the Federal Police. Those allegations had been made prior to the appointment. So I wish to understand what attention the department gave to this matter, considering it has been in the public domain for a long period, and what advice was provided to the Prime Minister.

Dr McCarthy: I can say that advice on that matter was provided, but we obviously do not go into the question of the advice that was provided.

Senator RHIANNON: So the advice was provided prior to the current Sri Lankan High Commissioner taking up the post?

Dr McCarthy: I do not have the detail with me.

Senator RHIANNON: That is what I understood your response indicated, but I just want to confirm that my understanding was correct.

Dr McCarthy: Advice has been provided on that matter.

Senator RHIANNON: I just want to get the time right. That was prior to the acceptance of the current Sri Lankan high commissioner in that role?

Dr McCarthy: I will take on notice questions about timing.

Senator RHIANNON: On what grounds could the Australian government withdraw the accreditation of an ambassador or high commissioner?

Dr McCarthy: That matter I think falls within the foreign minister's portfolio and is best put to the Department of Foreign Affairs and Trade.

Senator RHIANNON: Thank you, Dr McCarthy.

Senator ABETZ: I have a question in relation to Dr Henry's white paper, but I daresay other officials could deal with that.

CHAIR: Thank you very much for making yourself available, Dr McCarthy.

Senator Chris Evans: I thank the committee for their cooperation.

Senator ABETZ: As I understand it, a white paper in Australia is an official statement of policy by the national government. Is it the understanding of the Department of the Prime Minister and Cabinet that that has been the tradition?

Dr de Brouwer: Yes.

Senator ABETZ: Am I to understand that Dr Henry's paper *Australia in the Asian century* will in fact be a discussion document?

Dr de Brouwer: No, it is a white paper. It will go through normal cabinet processes, so it will be a government statement, but Dr Henry will consult widely in terms of getting the material provided to the government on that matter.

Senator ABETZ: In his wide consultations, will he perchance trip to the department of foreign affairs?

Dr de Brouwer: The department of foreign affairs is engaged as a member of the task force, so we will be a member of the task force supporting Dr Henry and—

Senator ABETZ: Have they been advised of that?

Dr de Brouwer: Yes.

Senator ABETZ: Do you know when?

Dr de Brouwer: No.

Senator ABETZ: If you could take that on notice for me, because it is of interest that as of—and I forget exactly which date—Mr Rudd and the department did not have this matter up on their website. So I might ask foreign affairs about it: if they have put it up on their website and, if so, when.

Dr de Brouwer: I add that the Department of Foreign Affairs and Trade is also represented on the advisory board supporting Dr Henry.

Senator ABETZ: Were they advised prior to the announcement by the Prime Minister?

Dr de Brouwer: As I answered earlier on—yes, the matter was discussed with both the Department of the Treasury and the Department of Foreign Affairs and Trade.

Senator ABETZ: Yes, but how many days before the announcement?

Dr de Brouwer: This question has been taken on notice.

Senator ABETZ: All right; thank you.

CHAIR: If that is all, we will now go back to general questions.

Senator RYAN: Is this the place where I should ask about that Prime Minister's travel expenses overseas, or would that be better in 1.1.4, official visits?

Senator Chris Evans: If it is under 1.1.4, then we will do it under 1.1.4.

Senator RYAN: I am just not sure where it would fit, that is all. I am asking—

Senator Chris Evans: Is that the correct—

Senator RYAN: Yes, it is.

Senator Chris Evans: We will work on that. If that is not right, we will come back to you.

CHAIR: We will turn to general questions.

Senator RYAN: Going back to general questions, how much does the department spend on behalf of the Prime Minister's office for each of the following: subscriptions to magazines and periodicals; media monitoring, including the provision of news clippings and transcripts; and other publications—that might be things that do not count as periodicals but are books or legislation or the like—on a monthly and an annual basis? Do you have those figures?

Ms Leon: I can tell you that for 2010-11 the cost for the whole communications spend, which included newspaper and media monitoring subscriptions but also the costs of telephones and postage—so it is a little bit broader than your question—was \$456,849.

Senator RYAN: Just go through what that includes—media monitoring, which includes news clips and transcripts?

Ms Leon: The material I have is that it includes telephones, postage and freight, newspapers and clippings—that is, media monitoring—and subscriptions. So it is all communications.

Senator RYAN: Could you break that down so that I have a cost for each of those?

Ms Leon: I will take that on notice and provide you with the information I can.

Senator RYAN: I would also be interested, as you said media monitoring clippings, in whether or not that includes the provision of transcripts or just clippings.

Ms Leon: I will take that on notice.

Senator RYAN: Could I also have as broad a definition as you have of communications and what else falls in there, unless you have a larger one at hand?

Ms Leon: I do not have a longer definition here.

Senator RYAN: How much is budgeted for this year, 2011-12?

Ms Leon: I can tell you the amount that has been spent this year so far, which is \$34,523. I would have to take on notice how much it has budgeted for this year.

Senator RYAN: To the end of what month would that represent?

Ms Leon: That is to the end of August.

Senator RYAN: So, roughly, one-sixth?

Ms Leon: That is right.

Senator RYAN: Do you have any information on, over the course of 2010-11, a monthly budgeted cost for that?

Ms Leon: I do not have it with me, but I can take that on notice.

Senator RYAN: I particularly ask for that breakdown along the lines of subscriptions, media monitoring and publications. Could I ask that for 2010-11 there be a monthly breakdown of those?

Ms Leon: To the extent that it is broken down by reference to the categories you refer to, I will—

Senator RYAN: Or by whatever your billing cycle might be. I will presume that you guys do not just pay a bill at the end of the financial year. These guys like to be paid—

Ms Leon: There will be a monthly breakdown, but I do not know whether it will be broken down in the level of detail that you have asked for, as to how much on subscriptions and how much on transcripts, but I will provide it at the level of breakdown that is available.

Senator RYAN: By phones, you basically mean mobile phones and things?

Ms Leon: That is correct.

Senator RYAN: I am not particularly interested in those, but I am interested in effectively every bill you paid, if that is the most you can break it down to: the media monitoring bills that were paid, the subscription bills you paid. If you cannot break it down yourself, that would be the format in which I could understand it.

Ms Leon: I will see what we can do for you. It may not be possible to break it down into categories, but I will see what is possible.

Senator RYAN: I just want to emphasise this point. I made the point about saying I would like to see what the department paid, because I presume that if you cannot break it down then at least I can see the bill for Media Monitors. You might not be able to break it down between news clippings and transcripts, but, presumably, you will have an invoice and a cheque that was written out for them, or whatever the electronic equivalent is.

Senator Chris Evans: Senator, I do not think you are cross purposes. I think you will get the material you want.

Ms Leon: I have taken it on notice.

Senator RYAN: That is all I have for general questions.

Senator FIFIELD: Back onto the issue that Senator Ryan raised before about people who are engaged by the department to write speeches and prepare that sort of material for the Prime Minister, I did see in the paper a few weeks back that a Ms Corinne Grant was presenting herself as a writer of lines for the Prime Minister. I think she is by profession a comedian. Is Ms Grant engaged by PM&C?

Ms Leon: She is not on our staff. I think I have taken on notice the question of whether we have engaged any other casual contractors for the purposes of input to speeches.

Senator RYAN: She is not on staff. You are not aware as to whether she has been contracted?

Ms Leon: I do not have any of the details of the casual contracts available.

Senator RYAN: Okay. Surely one of your officers here today would have that detail and will be able to confirm that Ms Grant is or is not contracted.

Ms Leon: We can see what we can get before the end of the hearing.

Senator RYAN: I just would be interested, particularly because it has been in the public domain and I know the department does monitor these sorts of clippings. I would appreciate it if you could check with officers.

CHAIR: Senator Ryan, do you have any further questions?

Senator RYAN: Again I am seeking guidance of the minister. I am happy to ask here if necessary the cost of the Prime Minister's domestic travel.

Senator Chris Evans: I think you ought to seek the guidance of the chair, Senator. We are happy to deal with things under items that they normally appear under. If you want to change

that, that is between you and the chair. I can check which item that is supposed to be under. I am advised that domestic travel is actually paid for by Finance.

Senator RYAN: So the cost of charters of the VIP fleet and cars are paid for by the Department of Finance rather than the Department of Prime Minister.

Ms Leon: Comcar in the Department of Finance.

Senator RYAN: I am talking about plane charters, which will probably be a larger amount.

Ms Leon: We do not do planes. That comes out of MAPS, the Department of Finance.

Senator RYAN: So the charters for the VIP fleet come out of MAPS. I am happy to ask them.

Senator FAULKNER: I raised an issue I have raised with the Department of Prime Minister and Cabinet and the Department of Defence on the issue of recognition of the Australian Women's Land Army. I did flag with senior officials of the department that I would ask and check. If you want to suggest that I ask this in another part, it will not take a moment but if you prefer me to ask at a later stage that is fine. I could not work out which program to ask it in; it seemed more like a general question, have there been any discussions with the Department of Defence. But if you would care to direct me to a later stage in the proceedings, I would be happy with that too.

Senator Chris Evans: I think we have got an official here who can help. We were aware that you would return to this issue.

Ms Noble: You asked have we discussed with the Department of Defence the issue of Australian Women's Land Army recognition.

Senator FAULKNER: That is right.

Ms Noble: Yes, we have.

Senator FAULKNER: What was the outcome of those discussions?

Ms Noble: I understand that it is PM&C's view that there may be an alternative non-medal avenues through which to enhance the Australian community's awareness and appreciation of the Australian Women's Land Army's contribution to the war effort.

Senator FAULKNER: You are aware of the question on notice that I asked in this portfolio, No 56 of 23 May?

Ms Noble: Yes, and I understand that, given the Australian Women's Land Army was never legally part of the defence forces, the Department of Prime Minister and Cabinet's view in response to that question on notice noted that former members of the Australian Women's Land Army are eligible for the Civilian Service Medal 1939-45 which recognises Australian civilians who served in arduous circumstances in support of the war effort as part of organisations with military-like arrangements and conditions of service. But it is the Department of Prime Minister and Cabinet's view that the Civilian Service Medal 1939-45 is appropriate recognition of the services rendered by the Australian Women's Land Army during World War II.

Senator FAULKNER: The suggestions that I have made, including in a recent speech in the Senate chamber, have fallen on deaf ears, have they, in the Department of the Prime Minister and Cabinet?

Ms Noble: As I said earlier, that is our position. We do believe that there may be alternative ways, non-medallic avenues, through which to enhance—

Senator FAULKNER: What would those alternative ways be?

Ms Noble: Two suggestions might be public awareness campaigns, similar to that delivered by the National Archives of Australia on the historic role the Australian patrol officers played in preparing Papua New Guinea for independence. That is one such option. A second may be that any other alternative methods might be organised and funded by the defence portfolio—and I guess that is the second part of our suggestion.

Senator FAULKNER: What I am trying to do is to stop the duck-shoving between departments. I am just trying to find a department that might take responsibility for this before all these ladies have passed away. There are not many of them left.

Ms Noble: I guess our suggestion is that that department is more appropriately the Department of Defence.

Senator FAULKNER: What I would like to know from PM&C is: when Defence appear before the Foreign Affairs, Defence and Trade Committee, am I going to be told by them that they think PM&C is the most appropriate department?

Ms Noble: I do not know what the Department of Defence will advise you, Senator.

Senator Chris Evans: Can I try to help you? If Defence are on later in the week, I will undertake to speak to the Minister for Defence and ask that they represent a whole-of-government response to you. It seems to me the point you make is one not uncommon when senators are dealing with these things. I think PM&C's view is that it is primarily a matter for Defence. But I understand the experience you have had and I think it is probably appropriate that at defence estimates this issue is aired. I will ask both PM&C and the Department of Defence to make sure they have a whole-of-government response for you there, and you will either have some joy or not dealing with them rather than arguments about whose responsibility this is.

Senator FAULKNER: The answer to a Prime Minister and Cabinet portfolio question provided to me in the budget estimates round was:

PM&C will engage with the Department of Defence on this issue to identify any further opportunities to recognise the members of the AWLA.

That is why it is not unreasonable—given that I have been told that they are going to engage—to ask whether they have engaged and who is going to step up to the plate and at least be willing to answer some questions.

Senator Chris Evans: I think Ms Noble has made clear what the engagement has been and the advice they have given of their view to Defence. It is not one I suspect you agree with but that is the advice they have prepared.

Senator FAULKNER: That is not the issue at all. What I do not want someone to tell me when I get to Defence is: 'We think it is Prime Minister and Cabinet.'

Senator Chris Evans: That is reasonable.

Senator FAULKNER: It is more than reasonable.

Senator Chris Evans: That is why I offered to contact the Minister for Defence and say that I expected them to have consulted with PM&C prior to that hearing and that they should provide a whole-of-government response. If you want to go argue the toss with them there, that is your prerogative.

Senator FAULKNER: I do not want to argue the toss with anyone; I just want to ask one or two questions. But it is a pretty poor effort when this has been going on for months and months and months. There has been a lot of effort on my part to draw attention to the fact that I was keen to follow it through, because there are very few of these ladies left. It is just a question of appropriate recognition. There is virtually no cost to the Commonwealth involved in this. The duck-shoving between PM&C and Defence is just, in my view, in these sorts of circumstances, not acceptable. It has nothing to do with partisan politics. I would be surprised if every senator did not agree with what I was saying. It is a pretty poor effort that I still have not got an appropriate answer. Anyway, we will try the Department of Defence. I do not think it is worth irritating senators to this degree on these sorts of things. I reckon it is a very poor effort from PM&C, particularly as I flagged it with the secretary of the department, amongst others, that I would be asking these questions.

Senator Chris Evans: All I can say is that that is the advice that I gave to PM&C too—that it was not worth aggravating senators in this regard.

Senator FAULKNER: Then I suggest that you suggest to them that they take a bit of notice of you.

Senator Chris Evans: I have had no luck with PM&C taking notice of me in the past, so I will not make any claims there.

Senator FAULKNER: Well, maybe it is about time it changed.

Senator Chris Evans: You are quite right. I appreciate the senator's frustration. PM&C have outlined to you their policy review today, and it is not one that seems to support the awarding of a medal. They have suggested alternatives. That is advice you do not think is appropriate.

Senator FAULKNER: I have never suggested a medal be awarded to anybody, at any time, and I would not. So it is a nonsensical non-answer to a question I have never asked.

Senator Chris Evans: What do you want from PM&C then, given they have told you the advice they provided to Defence?

Senator FAULKNER: I want them to do what they said they would do in answer to a question on notice: PM&C will engage with the Department of Defence on this issue to identify any further opportunity to recognise the members of the AWLA.

I would have hoped they would have taken account of what I felt was a very good speech I made in parliament on these matters recently, but clearly that is not the case.

Senator Chris Evans: I am not sure that is the evidence. I will let Ms Noble speak. I think what she told you was that they had.

Ms Noble: Yes. My understanding is that we have engaged with the Department of Defence and the advice has been that further formal recognition of the Australian Women's Land Army is not warranted.

Senator RONALDSON: That sounds like a question for Defence—at estimates.

Senator FAULKNER: Ms Noble, is that PM&C's position too?

Ms Noble: Yes, that is our position. But PM&C, as I said before, considers that the Civilian Service Medal, which was one option, is an appropriate recognition of the services rendered by the Australian Women's Land Army during World War II.

Senator FAULKNER: When did these discussions with Defence take place?

Ms Noble: Sorry, I do not have that information.

Senator FAULKNER: Who did they take place with? Can you help me with that?

Ms Noble: We can take those questions on notice.

Senator FAULKNER: I would like to know when they took place and who was involved. I would appreciate a pretty urgent response. Thank you.

Senator RONALDSON: I want to ask some questions of anyone at the table or anyone at the back of the room who may have knowledge of the Prime Minister's discussion with the young man in Bali last week. Is anyone at the table aware of these matters?

Dr de Brouwer: No.

Senator RONALDSON: So no-one is aware of this phone call?

Senator Chris Evans: Sorry, but I do not have any briefing on it.

Senator RONALDSON: There are lots of people leaving the room but not many coming to the front of it.

Dr de Brouwer: Dr McCarthy would have been the person to ask about that, but she had to go to another meeting. I apologise for that. We will see if we can get an answer.

Senator Chris Evans: Can I suggest to the chair that we come back to it after dinner. Dr McCarthy was excused on the basis that she had appointments—

CHAIR: And we had dealt with everything.

Senator Chris Evans: She is the acting national security adviser so I suspect that, in terms of PM&C, she is best placed to provide the answers. So we will find out what we can now but if it requires her attendance we will probably have to do that after dinner.

Senator RONALDSON: I did not ask in that section because I did not know whether it a national security issue. I hope it is not a national security issue.

Ms Leon: The international division is in her group.

Senator RONALDSON: So she will know about it, will she?

Senator Chris Evans: She is the most appropriate person to ask.

Senator RONALDSON: I presume someone knows about it.

Senator Chris Evans: We are happy to be cooperative, but we have excused her. If it is the decision of the committee to come back to it, we will endeavour to get Dr McCarthy back later on.

CHAIR: If she is the most likely person to have the ability to respond then the committee is happy with that.

Senator FIFIELD: I might pursue a medallic theme as well, although it will be more of a civilian nature. The Prime Minister indicated that the Emergency Services Medal would be inaugurated in the aftermath of the Queensland floods and cyclones, when she visited Toowoomba on Australia Day 2011. At the last estimates, in May, representatives of the department indicated that there was no budgetary allocation for these medals, that no award criteria had been developed and no design for the medal had been approved. I understand that this award was to be presented on Australia Day 2012. Given that we are a little more than 100 days away from Australia Day 2012, I was wondering where we are at.

Ms Leon: Her Majesty the Queen has provided in-principle approval for the National Emergency Medal. The department has consulted with all states and territories and relevant stakeholders, including releasing a discussion paper earlier this year to premiers' and chief ministers' departments. Submissions were received from the states and territories, and regulations have been drafted to inform further advice to Government House about the eligibility criteria for the medal and the proposed arrangements for the administration of the medal. We will need the Queen's approval for the design and details of the medal. When we have received the Queen's approval we will work with Government House to arrange for the administration of the awards and the manufacture of the medals as quickly as possible. Having not yet received the final stages of that, I cannot say exactly when that will occur, but we are hopeful it will be soon.

Senator FIFIELD: Will the first of these medals be presented on Australia Day 2012?

Ms Leon: That is still the government's intention. As I said, the timing will depend on when the final design of the medal is approved in order to have it manufactured and have in place a process to select the recipients.

Senator FIFIELD: Okay. The design has not been approved and no medals have been minted to date. The criteria for awarding the medals have not been determined or agreed to?

Ms Leon: The criteria are substantially developed.

Senator FIFIELD: But they have not yet been completely finalised?

Ms Leon: They have not been completely finalised but they are very substantially developed.

Senator FIFIELD: Well, they are either finalised or they are not finalised.

Ms Leon: They are very substantially developed.

Senator FIFIELD: They are close but they are not there yet, they have not been signed off on?

Ms Leon: Quite.

Senator FIFIELD: We do not have a medal, we do not have criteria, and therefore it follows that we do not have anyone to award them to as yet. Australia Day 2012 is very, very close. So it is not going to happen on Australia Day 2012, is it?

Ms Leon: I do not think we have reached the point of decision on that yet.

Senator FIFIELD: As to whether it will happen or not? Okay. The Prime Minister said on 8 February this year:

Next Australia day I am confident we will presenting our first awards to those who have performed heroic and selfless acts and volunteers across Australia.

Ms Leon: I did say it is still the government's intention. When I said I do not think we have reached a decision point yet, I was referring to your suggestion that it would not occur, and I said I do not think any such decision has been reached. It is still the government's intention.

Senator FIFIELD: So you are yet to take the decision that it will not occur?

Ms Leon: That is correct.

Senator FIFIELD: At what point will a decision that it will not occur be taken—one month before Australia Day, two months, three months?

Ms Leon: We will keep that under constant review.

Senator FIFIELD: Minister, this strikes me as looking like another example of where, in what might be seen as one of the more straightforward things for government to do, the government is finding difficulty in giving effect to what it said it would do.

Senator Chris Evans: Senator, I think the officer has taken you through the fact that there are a couple of key things that have to be resolved in order to put this in place, and, importantly, one is the approval of the Queen; until that is received, it cannot progress. But it is still the government's intention to try and have it in place for Australia Day. I do not think we would say anything more than that.

Senator FIFIELD: I will make a prediction that there will be no Emergency Services Medal awarded to anyone on Australia Day 2012.

Senator Chris Evans: If it was not for the fact that I am opposed to gambling, I would have a bet with you, but we will not do that.

Senator RYAN: You do not have to commit; you can just have a bet.

Senator FIFIELD: You can just say, 'I'm sure the Prime Minister's commitment will be honoured.' Okay, we do not have any confidence on that.

[17:20]

CHAIR: We are now dealing with outcome 1.1, Domestic Policy.

Senator PAYNE: I will start with some questions around the last COAG meeting on 19 August. Can you tell me, please, Ms Cross, what the cost of the 19 August COAG meeting was?

Ms Cross: The total cost of the COAG meeting was \$24,694.55

Senator PAYNE: On notice, can you provide a breakdown of that sum?

Ms Cross: Yes.

Senator PAYNE: Thank you very much. Can you tell me what the cost of the February COAG meeting was?

Ms Cross: We will have to take that on notice; it is not in the briefing.

Senator PAYNE: Do you know if it was comparable?

Ms Cross: I would imagine so.

Senator PAYNE: Is there another COAG meeting planned for 2011?

Ms Cross: The Prime Minister has indicated that the next COAG meeting is likely to be in early 2012.

Senator PAYNE: Can I ask a question about the workload of COAG. Even the COAG Reform Council Chairman, Paul McClintock, has made quite overt public statements about the progress of COAG reforms and has observed that one of the reasons for that is the previous delay of 10 months in a meeting of COAG. How is the department ensuring that that sort of problem does not occur again and slow down the reform process even further?

Ms Cross: It is normal in between meetings to progress items out of session wherever possible. You do not need to hold off agreement on reforms until a meeting; you can actually get premiers to sign off out of session and progress business that way. There will be a number of matters which we will endeavour to finalise out of session between now and the next COAG meeting.

Senator PAYNE: What impact does the reform of the COAG committees that was announced earlier in the year have on the workload?

Ms Cross: Again, the reform of the COAG councils is progressing well. Twenty of them have been established, and work from any of the councils that are not continuing has been moved to other fora or passed on to new councils, so we are not anticipating that the new council system should cause any delays in any of the major COAG reforms.

Senator PAYNE: What about the statement in the August communique which said: COAG has agreed to consider before the start of 2012 detailed options for further competition and regulatory reform, following consultation with business and other stakeholders.

Can you advise the committee what the timetable for the consultation of those further options is?

Ms Cross: That work is being taken forward by the Business Regulation and Competition Working Group. My understanding is that consultations are under way. The expectation is that they would report to COAG by the end of this year, and if there is agreement to the proposed new agenda for competition and regulatory reforms that would be a matter that could be progressed out of session.

Senator PAYNE: When you say consultations are under way, do you mean the consultations with business and other stakeholders?

Ms Cross: Yes, as well as with the state and territories obviously in coming up with a reform agenda.

Senator PAYNE: So, if I understood you correctly, Ms Cross, that was an indication that that discussion will take place in the months towards the end of this year with a view to considering at a COAG meeting early next year.

Ms Cross: The consultation process is already under way and it will be finalised over the next few months.

Dr de Brouwer: I might just say there that the BRCWG, that working group, has already issued a working paper for business as part of that consultation process.

Senator PAYNE: Thank you. I have a question to follow up on questions that I asked previously at the budget estimates around Indigenous issues. You indicated at the last estimates that all of the dedicated councils, rather than there being a dedicated council for Indigenous affairs, will be taking Indigenous outcomes into account in their work and that those arrangements would start from 1 July and that MCATSIA would finalise by the end of

June a process to hand over its work to the working group on Indigenous reform or to a ministerial council. I think, Ms Cross, you said previously in a response today that a number of the councils and groups under the restructure have commenced—or is it all of them?

Ms Cross: Twenty of the 22 have been formally established. I should point out that not all councils will have matters relevant to Indigenous policy within their terms of reference but a very large number do, and so that has been specifically looked at in establishing their terms of reference.

Senator PAYNE: When you say established, does that mean they have had their terms of reference finalised and their work plans established?

Ms Cross: It means they have been launched by the Prime Minister. We are in the process of finalising all of the terms of reference with a number of them already finalised and then the work plan, I think, will be formally agreed out of session in the next month or so.

Senator PAYNE: What does a launch by the Prime Minister of a council of COAG comprise; what happens?

Ms Cross: She writes to all of the relevant ministers to let them know that it has been formally established.

Senator PAYNE: So there is no cracking of champagne on the hull or anything like that.

Ms Cross: Not that I am aware of.

Senator PAYNE: How many have had their terms of reference finalised of the 20?

Ms Cross: I will just get that information for you—they have endorsed terms of reference for 20 councils and fora.

Senator PAYNE: Can you please provide on notice that list?

Ms Cross: Yes, Senator.

Senator PAYNE: Thank you. You said 20 of 22 of councils have been established. Which are the two that have not?

Ms Cross: Discussions are still continuing on the Select Council on Climate Change and the council for school education and early childhood.

Senator PAYNE: When you say discussions are still continuing, what is that in relation to? What are the issues that are delaying their establishment?

Ms Cross: The details of the terms of reference are still being worked through with state and territory officials.

Senator PAYNE: When do you expect those to be finalised?

Ms Cross: In the very near future.

Senator PAYNE: This year?

Ms Cross: Yes.

Senator PAYNE: Will they be established and launched by the end of the year?

Ms Cross: That is our intention. Again, it is dependent on reaching agreement with the states and territories.

Senator PAYNE: Just in relation to the Indigenous affairs aspect of these questions—and I expect you might need to take this on notice—can you outline for the committee the role

that Indigenous affairs will play specifically in each council group or fora under the new structure, including all the work that is transferred from MCATSIA?

Ms Cross: We will take that on notice. We will certainly be able to refer you to the relevant parts of the terms of reference for councils and any information and the work plans once they are signed off.

Senator PAYNE: At the last occasion we were discussing these matters, the minister very generously indicated that I could ask more specific questions on the status of progress around a number of issues here at these estimates rather than experience Senator Faulkner's Defence versus PM&C experience, so I have a few questions in that regard as well, if I may. In the February meeting there was an agreement to establish a working group which was to be led by senior officials from first ministers and treasury agencies—I think I am quoting from the communique here—to take forward the key and related recommendations arising from the heads of treasuries, charmingly known as HoTs, review of national agreements and national partnerships and implementation plans and reports from the CRC to reinforce COAG's commitment to performance and public accountability. As an initial step the working group will review the performance frameworks of a limited number of agreements including the NAHA consistent with CRC and HoTs review recommendations and so on. Can you tell the committee more about that review; what its scope is and what sort of consultation will take place to review, in this case, the NAHA?

Ms Cross: There are a number of different agreements and national partnerships that are being reviewed by that group and they are all at different stages of progress. A number of them have commenced; at least one is almost complete.

Senator PAYNE: Which one is almost complete?

Ms Cross: The review of the National Indigenous Reform Agreement, the NIRA. Some like the health agreement and the skills agreement will be reviewed as part of ongoing negotiations on those matters with states and territories. The NAHA is due to commence later this year. They were all on different timeframes and they are all proceeding on track.

Senator PAYNE: In cases such as the NIRA, which you have referred to as being almost complete, what would be the status of the review? At any stage do they become public?

Ms Cross: That is a matter for COAG. The general intention is that most of the reports would be made public but that would be decided on a case by case basis by COAG.

Senator PAYNE: Could you on notice provide detail around the status of each of the reviews of the national agreements.

Ms Cross: Yes.

Senator PAYNE: Thank you very much. Can you also indicate in relation to that review process for each of those whether there are recommendations from the CRC from either their 2008-09 or their 2009-10 reports which are not adopted as a result of the reviews or otherwise.

Ms Cross: Yes, I will take that on notice.

Senator PAYNE: Thank you. In view of the limited time, can you indicate perhaps on notice the status of the reforms to legal professional regulation.

Ms Cross: I can take that on notice or I can give you an update at the moment if you would like.

Senator PAYNE: An update if you have it available, thank you.

Ms Cross: With the legal profession reform, New South Wales, Victoria, Queensland and the Northern Territory have confirmed their participation in the arrangements and they represent around 80 per cent of legal practitioners. There are still negotiations underway as to who will be the host jurisdiction for the new national legislation and administration body, and we are expecting that to be sorted out quite soon. Once we have the host jurisdiction, progress will get underway with establishing those new arrangements.

Senator PAYNE: What is the status regarding the other jurisdictions' participation?

Ms Cross: Western Australia and South Australia have decided not to participate at this time, and at the COAG meeting Tasmania and the ACT also indicated their intention not to participate.

Senator PAYNE: What impact does that have on the concept of national legal professional regulation?

Ms Cross: As the states that are participating represent around 80 per cent of legal practitioners it is still a good outcome for COAG because it is picking up the bulk of the profession and making sure they come under nationally consistent arrangements.

Senator PAYNE: When will the reforms expect to be in place?

Ms Cross: That will be sometime next year. It really depends on how long it takes for the passage of legislation.

Senator PAYNE: Is it expected that any of the other four jurisdictions who have currently indicated they are not participating to change their position?

Ms Cross: I am not aware of that in the short term.

Senator PAYNE: I will place the rest of my questions on notice. Thank you very much to the officers.

CHAIR: Are there any other questions in relation to outcome 1.1.1 on domestic policy?

Senator SIEWERT: I wanted to ask about the reforms the government announced during the budget for the Australian Charities and Not-for-profits Commission and get an update about where things are up to. I would like to ask about the compact and also what involvement do you have with the tax reforms? In terms of the formation of the commission, can you give us a brief update on where we are up to?

Mr Ronalds: Certainly. The work is being done and is led by Treasury in relation to the new not-for-profit regulator. They have an interim group in place headed by Susan Pascoe and they are liaising closely with the reform council and a range of other stakeholders.

Senator SIEWERT: What resources and staff are being made available in the interim process of setting up the commission? Where are the staff located?

Mr Ronalds: They are located within Treasury so it is best to direct that question to them.

Senator SIEWERT: I will be asking them. I am not talking about the tax reform; I am talking about the setting up of the commission itself.

Mr Ronalds: The commission itself is also being managed by Treasury.

Senator SIEWERT: I know we traversed this a bit last time and it was a little unclear, but can you update me now as to what role you are taking in terms of the commission.

Mr Ronalds: We are working very closely with Treasury, as part of the interdepartmental committee that has been established to provide overall oversight of the not-for-profit reform agenda. Treasury are also working very closely with the reform council. The secretariat for the reform council is managed out of the office of the not-for-profit sector so it liaises very closely with Treasury in relation to those matters as well.

Senator SIEWERT: What role do you play? How is the role of the office itself different to the role the commission is playing?

Mr Ronalds: The office's role is the overall management of the not-for-profit reform agenda. Various elements of the reform agenda are being managed by different departments. The regulator is being managed by Treasury. Our role is to ensure that the overall reform agenda is aligned and consistent with each of the elements.

Senator SIEWERT: Do you have a schema or a map for this showing who is doing what?

Mr Ronalds: Not one that I can table here, but I am certain we can provide that on notice for you.

Senator SIEWERT: What I am after is the overall schema showing how every bit of this reform is rolling out, the timelines and whether the timelines are being met. Is the commission going to be established and fully functional by 1 July 2012?

Mr Ronalds: That is correct.

Senator SIEWERT: Then all the tax reforms by 2013?

Mr Ronalds: Essentially the reform agenda is progressing in three broad parts. The first part looks at those elements that relate to the relationship between the sector and government. There is a range of different initiatives that are progressing under that, such as the Compact. That is the first part. The second part relates to the regulation of the sector—parts such as the new regulator and a range of reforms to laws associated with the not-for-profit sector. For the most part, those are being managed by Treasury. There is a third element of the reform agenda which is really about the long-term sustainability of the sector. They are primarily being taken forward by the office of the not-for-profit sector.

Senator SIEWERT: You are doing that and the Compact?

Mr Ronalds: Yes.

Senator SIEWERT: That is the relationship. So the first bit is about the government relationship with the sector.

Mr Ronalds: Exactly.

Senator SIEWERT: I will leave out the taxation staff. The third bit is about long-term sustainability.

Mr Ronalds: Exactly.

Senator SIEWERT: That is very dependent on a lot of the taxation reform processes, so how do you relate to that taxation reform process?

Mr Ronalds: Again, you are correct in that they relate very closely. As Treasury are developing reform options in relation to that regulation as they are beginning their work

establishing the regulator, we are working very closely with them to ensure that it is aligned with the long-term sustainability of the sector. That is how we relate to them.

Senator SIEWERT: If you could provide me with a schema that shows those parts, who is doing what and how they relate, that would be appreciated.

Mr Ronalds: We will take that on notice.

Senator SIEWERT: Thank you. In terms of any of the taxation issues, I will need to ask Treasury about that. Is that right?

Mr Ronalds: That is most appropriate.

Senator SIEWERT: You may be able to answer one area before I move off that one. On 23 April, the then Prime Minister granted an exceptional circumstances exemption for the government's taxation reform agenda in response to Australia's future tax system, which included better targeting of not-for-profit tax concessions in a measure to reform the taxation concessions provided to the not-for-profit sector. Did you have anything to do with that or do you not look at any of the taxation issues?

Mr Ronalds: We do not have primary carriage for any of the tax issues. From the details that you have provided, I am not aware of what you are referring to.

Senator SIEWERT: For example, in terms of when you are trying to determine exceptional circumstances, whether they should be granted to development and publication of a regulatory impact statement. Are you involved in that process?

Ms Cross: We certainly have an area of the department that is involved with regulatory impact statements, in a general sense across government. That is not specifically us, but there is part of the department that looks at all RISs.

Dr de Brouwer: Questions around regulatory impact statements are really the responsibility of the Department of Finance and Deregulation.

Senator SIEWERT: Another mob I have to ask. I just need to be clear.

Senator Chris Evans: Senator, as always, if what you are after is general information, I am sure we can organise a briefing.

Senator SIEWERT: If you could, that would be appreciated.

Senator Chris Evans: If senators are after the vibe of the thing, as it were, about a new agency, we could certainly do that.

Senator SIEWERT: Could we perhaps get a briefing on that for the committee. I think Senator Moore was suggesting that the community affairs committee could get a briefing. It sits under a lot of what we—

Senator Chris Evans: Sure. There are various other departments and I know the committee is short on time, so I am sure we could organise a briefing on that.

Senator SIEWERT: That would be very much appreciated. Thank you.

Senator Chris Evans: That might allow you to get answers to some of the things that would otherwise have to go to other departments.

Senator SIEWERT: Yes.

Senator FIFIELD: Are the questions—

Senator SIEWERT: A lot of the issues relate to this particular issue and the tax issues that I have been asking about. I will still be asking some more urgent ones of Treasury, but if we could get a briefing on where things are up to that would be appreciated. That would be good. I will go to the Compact in terms of getting an update on where it is up to. How many new partners are there now under the Compact? Have there been any new ones since we were last updated?

Mr Ronalds: From memory, the figure is 598. As at 16 September 2011, 598 organisations have signed up as National Compact partners and 24 individuals have been appointed as National Compact champions. Of course, of those 598, some are themselves peak bodies. So there is a large number that sits underneath that.

Senator SIEWERT: The Compact is supposed to be about improving the relationship, as you have spoken about, between the sector and the government. Do you audit that process? What is the process for ensuring that the Compact is actually achieving that goal of improving the relationship? Do you have an example of how it has paid off?

Senator FIFIELD: Good question.

Mr Ronalds: In terms of the evaluation of the Compact, it is still too early to give any details in relation to that. Certainly, on an anecdotal basis, there is very significant positive feedback from the sector. The work of the reform council continues. They have a subgroup that deals with the National Compact and they are developing codes that sit underneath the Compact to operationalise the Compact. That is something that has been a high priority for the reform council.

Senator SIEWERT: Can we go back to the question about auditing? Is there a formal process for doing that?

Mr Ronalds: Sorry?

Senator SIEWERT: Is there a formal process for auditing the Compact to see if it is achieving? Are there milestones that have been set?

Mr Ronalds: We have not established one as yet.

Senator SIEWERT: The Compact was signed 18 months ago.

Senator FIFIELD: We should also ask where is that Compact that was signed? It did go missing for a while.

Mr Ronalds: It did, Senator. I understand it is still in Senator Stephens' office. I have not been around to check.

Senator SIEWERT: It has been signed for 18 months. Is there a plan to do some sort of audit to ensure that it is actually delivering, besides developing up the codes et cetera?

Mr Ronalds: There is no current plan.

Senator SIEWERT: In terms of the codes that are being developed—and maybe this will come up in the briefing—how does that relate across to all the other reforms that are going on in this space? We have already got the three things happening. There is the reform council and we have already been through the other bits. How are those codes relating to, for example—and I asked this last time—report once, use often, the gateway et cetera?

Mr Ronalds: To further operationalise the Compact, there have been at the deputy secretary level champions of the Compact appointed by each department. They are listed on the not-for-profit website. They provide a point of contact for any not-for-profit dealing with an agency to follow up issues if they are concerns about the relationship between that department and the not-for-profit. So that is an example, if you like, of ways that it is being operationalised. Then, as I said, there are these other codes that sit underneath the Compact that will also do that. All of those sit under that first head of reform, which is looking to reform the way that government and sector work with one another. There is other work under that as well.

Ms Cross: One of the goals of the office in PM&C is to make sure that those different bits do fit together as an integrated package rather than becoming separate or not reinforcing each other. That is part of the role of the Office for the Not-for-Profit Sector in PM&C.

Senator SIEWERT: Okay, but we do not have a process for auditing the Compact and how then it relates to all those. I would have thought that some of the issues around the Compact and the relationship between the sector and the government will very much depend on the other sections of the reform process. If there is no auditing process, how do we know whether it is delivering?

Ms Cross: In the initial states, we are focusing on getting those new arrangements in place and getting the different bits of work that we referred to in the PC report underway. There will then be monitoring of progress against each of those commitments. Once they are fully implemented, we would look to consider how we look at the effectiveness of them. But, at this point in time, we are still very much in the early stages of getting the work underway and getting the different pieces of reform in place.

Senator SIEWERT: We have been going for 18 months now—what is your time frame?

Ms Cross: Again, each element of the reform is operating on a different time frame. Some bits, like getting codes established and putting in place the advocates in each department, have been done. Other bits will take longer. But, again, when we give you the schema, we can give you some sense of the different pieces of work that are underway and any that have already been completed.

Senator SIEWERT: I would appreciate the outline before we get the briefing, because I imagine the briefing is going to take place a little bit down the track, but could the discussion of that be included in the briefing?

Ms Cross: Yes.

Senator SIEWERT: Thank you. In terms of the ongoing work with long-term sustainability, the third arm that you were talking about, have you got a plan for that—have you got a framework for how that is going to work?

Mr Ronalds: There are a range of different elements that sit underneath that. For example, there is work being undertaken in relation to volunteering, the office has been involved in work in relation to capital markets for the not-for-profit sector and there is work going on in relation to workforce issues and those sorts of things.

Senator SIEWERT: Are there time lines for each of those?

Mr Ronalds: There are, although that section by its nature has the longest time lines. We can provide that as part of the briefing.

Senator SIEWERT: If you could provide that as well, I would appreciate it. How are you progressing on establishing the commission and making sure that it is functional by 2012? Are you going to meet the 1 July deadline?

Mr Ronalds: I understand it is all on track.

Senator SIEWERT: I will follow you up in terms of getting the briefing because I would prefer to have it sooner rather than later.

CHAIR: We are now going back to the Domestic Policy group.

Senator FIERRAVANTI-WELLS: I would like to ask some questions in relation to the National Mental Health Commission. At the last estimates, I asked some questions of Mr Rimmer in relation to the commission, and at that stage he was unable to tell me the number of commissioners. Shortly thereafter, on 1 June, Minister Butler issued a release talking about the appointment of Ms Robyn Kruk as the CEO designate of the new commission. I will ask up-front: who is actually driving this? It has been put in the Prime Minister's department. Who has been responsible for these appointments?

Mr Eccles: The Department of the Prime Minister and Cabinet is responsible for setting up the agency, and it will be an agency within the portfolio.

Senator FIERRAVANTI-WELLS: So the Prime Minister's department was responsible, or the Prime Minister was responsible, for the appointment of Monsignor Cappo as the first national mental health commissioner?

Mr Eccles: Yes, it was a government appointment.

Senator FIERRAVANTI-WELLS: Driven out of the Prime Minister's office. Did the Prime Minister herself or the Prime Minister's office contact Monsignor Cappo about the appointment?

Mr Eccles: I do not know the answer to that. I will have to take that on notice. I believe the answer is yes, but I will need to confirm that.

Senator FIERRAVANTI-WELLS: I would have thought that it would be foremost in your mind, given the publicity that it has had. Was there a shortlist of suitable candidates?

Mr Eccles: No, the appointment process was much as is the case with appointment processes for other agencies. The government decided in the first instance that Monsignor Cappo was an appropriate chair.

Senator FIERRAVANTI-WELLS: So there was no consultation with the sector in relation to possible appointments?

Mr Eccles: No. The minister, as you know, meets quite regularly with stakeholders. Those discussions, his knowledge of the sector and advice that he sought certainly would have influenced the considerations leading to the government decision around the chair.

Senator FIERRAVANTI-WELLS: So Minister Butler recommended, or suggested, Monsignor Cappo?

Mr Eccles: There were discussions between the Prime Minister and Minister Butler. It was a decision of the government—a cabinet decision, essentially. These are significant appointments and, as you understand, these matters go before cabinet.

Senator FIERRAVANTI-WELLS: Okay. So the process for selecting him was simply as a consequence of a discussion between the Prime Minister and Minister Butler. That is how, as I understand it, it came about.

Mr Eccles: No, I did not say that, Senator. I think a fair characterisation of this is much like any significant appointment that government makes. There are discussions within government—soundings are no doubt taken through the stakeholders and the broader community that is impacted by these things—and a whole range of factors influence the decision that is then taken to cabinet.

Senator FIERRAVANTI-WELLS: In making the announcement on 7 September Minister Butler refers to 'greater transparency and accountability'. I am looking for some transparency in relation to this appointment in particular, given the various issues that have now emerged about Monsignor Cappelletti and issues that were already in the public arena before his appointment. So I ask you again: what was the basis upon which Monsignor Cappelletti was deemed to be 'the obvious choice' both in comments that appeared in the media by a spokesperson for Minister Butler, and by comment made by Minister Butler himself? Why was Monsignor Cappelletti the obvious choice, given the history that Monsignor Cappelletti has had—even leaving aside the comments that Senator Xenophon made in the Senate?

Senator Chris Evans: Can I ask you to show some restraint? I do not know what you are suggesting but I am not sure that blackguarding people's names with unspecified criticism is appropriate.

Senator FIERRAVANTI-WELLS: I am simply quoting the minister.

Senator Chris Evans: I am happy to let you know that this is a decision of government. The appointment was made by government. Minister Butler supported that decision in his press release referring to the appointee's credentials. I do not know quite what you are alleging or saying now but the government takes responsibility for the appointment. It was a government appointment that was supported and announced by the minister. That is correct.

Senator FIERRAVANTI-WELLS: I am just questioning the process by which Monsignor Cappelletti was appointed, in light of the history surrounding Monsignor Cappelletti.

Senator Chris Evans: I think you are not questioning the process; you are questioning the man. The process was the normal government process.

Senator FIERRAVANTI-WELLS: I am questioning, Minister, that he has been described in both Minister Butler's words, and in the words of his office, as 'the obvious choice'. My question is: why was he the obvious choice and why was there not some sort of consultation to look at other alternatives to Monsignor Cappelletti?

Senator Chris Evans: As the officer indicated, the normal processes applied for government decision-making. The minister is heavily engaged in the sector and talks to all the interest groups on a regular basis. This is a decision of cabinet which recognised Monsignor Cappelletti's long engagement and interest in the field. The minister rightly supported the announcement of the appointment. That is just a matter of fact. If you want to make

allegations about the person I guess that is up to you, but the appointment was made in the normal way.

Senator FIERRAVANTI-WELLS: Was the Prime Minister aware, when the decision was made, that Monsignor Cappelletti—this was well documented in media reports over quite some period of time—had quite some controversy attaching to him? Was the government aware when it made that appointment?

Mr Eccles: I do not quite understand it. What in particular? There were significant controversies that came to light after the appointment. I am not sure what you are referring to concerning controversies before his appointment. Maybe you could give me a little bit more information?

Senator FIERRAVANTI-WELLS: Perhaps in the avalanche of media reports after his appointment, there had been a whole series—time precludes me from going through each of those media reports—of constant criticism of Monsignor Cappelletti across a whole range of different areas, in particular associated with his work in South Australia. My question is: was the government not aware of any negative commentary about Monsignor Cappelletti, such as to dissuade it from appointing him?

Mr Eccles: I do not know the answer to that. What I do know is that a lot of the publicity that surrounded Monsignor Cappelletti came to the fore after his appointment, so I am not exactly sure what you are talking about. I am not trying to be difficult. I think the minister mentioned that Monsignor Cappelletti was recognised as having a very strong track record in social policy. He was a member of the Mental Health Expert Working Group and the National Advisory Council on Mental Health. These were the reasons behind the consideration that he was a suitable appointment.

Senator FIERRAVANTI-WELLS: He was also somebody who Minister Butler worked for, I understand, during his time in South Australia, if records are correct in that respect. Was that a feature?

Mr Eccles: No, not in my understanding. I do not understand that he did.

Senator FIERRAVANTI-WELLS: But we do not know who suggested him, that it was Minister Butler or the Prime Minister herself. There is a suggestion here that he seems to have caught the Prime Minister's eye at one of the—

Senator Chris Evans: I would not rely on everything you read in the papers.

Senator FIERRAVANTI-WELLS: I am relying on what Mr Butler has said about Monsignor Cappelletti and I am questioning the appointment of Monsignor Cappelletti in light of his history.

Senator Chris Evans: His history includes being chair of the Social Inclusion Board of South Australia, a qualified social worker and his experience on the Mental Health Expert Working Group and the National Advisory Council on Mental Health. It was those qualifications and experiences that led to him being appointed by government to the role.

Senator FIERRAVANTI-WELLS: I will put further questions on notice and in particular Mr Eccles I will detail the various media reports that I was referring to. I trust that will be dealt with.

Senator Chris Evans: I can get the clips myself, senator. Do not bother. I can get the clips myself if it saves you research time.

Senator FIERRAVANTI-WELLS: I am happy to put them on the record for the department. When did Monsignor Cappo formally accept the position as the Mental Health Commissioner?

Mr Eccles: On 7 September.

Senator FIERRAVANTI-WELLS: And was he informed by the minister or the Prime Minister's office?

Mr Eccles: I would need to check but I have a feeling that he was informed by the minister. I will check on that.

Senator FIERRAVANTI-WELLS: What was the process for selecting Professor Fels. As much as I respect Professor Fels, was he just a second-string candidate for this position?

Mr Eccles: I am sorry, are you asking me if Professor Fels was a second-string candidate?

Senator FIERRAVANTI-WELLS: How did you come across his name?

Mr Eccles: Professor Fels has a very strong track record in working with government on a whole range of issues. As you know, he is currently Dean of the Australia and New Zealand School of Government; he was Chairman of the Australian Competition and Consumer Commission from 1995 to 2003; he has a good understanding, a strong background and a deep interest in mental health issues. Professor Fels is obviously very well qualified for the position. The process around his appointment is, as I outlined earlier, not dissimilar to any other significant appointments that governments make. It was a decision of the cabinet.

Senator FIERRAVANTI-WELLS: Can you tell me what the remuneration is for Ms Kruk, and for the position of the National Mental Health Commissioner?

Mr Eccles: Ms Kruk will commence her role as CEO on 1 January and we are currently going through discussions with the Remuneration Tribunal around the salary and the conditions.

Senator FIERRAVANTI-WELLS: Will it be based here in Canberra?

Mr Eccles: No, it will be based in Sydney.

Senator FIERRAVANTI-WELLS: I see. So she will be based in Sydney, will she?

Mr Eccles: Yes.

Senator FIERRAVANTI-WELLS: What was the selection process surrounding Ms Kruk? Will you take that on notice? Was the position advertised?

Mr Eccles: No, Senator. Ms Kruk was appointed in a manner consistent with the merit processes of the Australian Public Service.

Senator FIERRAVANTI-WELLS: Perhaps you would like to detail what that process was.

Mr Eccles: Of course.

Senator FIERRAVANTI-WELLS: Could you also tell me when the position was offered to her. I am conscious of time, so I will put the rest of my questions on notice.

Senator FIFIELD: I have a quick follow-up on Monsignor Cappelletti—this may actually be a question for the Not for Profit Office—in relation to Monsignor Cappelletti's membership I think as Deputy Chair of the Commonwealth Social Inclusion Board. Are you able to answer that?

Ms Cross: I can answer those questions.

Senator FIFIELD: I understand Monsignor Cappelletti has resigned from the Social Inclusion Board: is that correct?

Ms Cross: That is correct.

Senator FIFIELD: When did the government receive his resignation?

Ms Cross: It was at the same time as he resigned from the Mental Health Commission. It was 15 September.

Senator FIFIELD: So it took effect immediately?

Ms Cross: Yes.

Senator FIFIELD: Okay, thank you for that. The last I checked the website of the Social Inclusion Board Monsignor Cappelletti was still listed. Mind you, it was probably a week ago that I last had a look.

Ms Cross: We will undertake to have that updated.

Senator FIFIELD: You might want to check that. Has the government found a replacement for Monsignor Cappelletti?

Ms Cross: Not at this point in time.

Senator FIFIELD: What is the process for that: is it a matter of ministerial or cabinet appointment? Will it be advertised?

Ms Cross: It is more likely to be an internal appointment process for the government; much the same as the process Mr Eccles outlined for the Mental Health Commissioner.

Senator FIFIELD: Thank you for that. Could you take on notice any travel expenses by Monsignor Cappelletti during his time on the Australian Social Inclusion Board, and provide a breakdown of domestic, international, hospitality, accommodation?

Ms Cross: Yes.

Senator FIFIELD: Thank you.

Senator ABETZ: Has a Mr Jack Lake been appointed to the Prime Minister's office in recent times to assist in the area of the live export issue?

Dr de Brouwer: This is really a matter for the Prime Minister's office. He worked in the Prime Minister's office and I think that appointment is now finished.

Senator ABETZ: It was for a short-term contract, was it?

Dr de Brouwer: That is my understanding.

Senator ABETZ: For how long?

Dr de Brouwer: I do not know those details. I could take it on notice.

Senator ABETZ: You can confirm that he was appointed; we do not know for how long, but that it was for the live export situation?

Dr de Brouwer: For a range of matters.

Senator Chris Evans: I think he is actually working somewhere in the public service.

Dr de Brouwer: He is working now in the department of regional Australia.

Senator Chris Evans: I assume it would have been a secondment.

Senator ABETZ: So he was seconded out of a department into the Prime Minister's office?

Senator Chris Evans: I am just guessing; I am trying to be helpful. I suspect he was seconded but we will take it on notice.

Dr de Brouwer: As a MOPS officer, though. As a member of parliament staff, not as a departmental liaison officer.

Senator ABETZ: Yes, so he was a department official and then he got seconded onto the personal staff of the Prime Minister. Is that correct?

Dr de Brouwer: I believe so.

Senator ABETZ: His main task was to deal with the issue of the live export?

Dr de Brouwer: I believe so.

Senator ABETZ: All right. Thank you for that. Any other issues on that I will put on notice. Can I then move to the intergovernmental agreement on forestry in Tasmania. Who was in charge of the negotiations: was it you, Mr Shevlin?

Mr Shevlin: Which negotiations are you referring to, please?

Senator ABETZ: That saw Ms Gillard and Ms Giddings sign an intergovernmental agreement.

Mr Shevlin: The intergovernmental agreement was preceded by heads of agreement between the Prime Minister and the Premier.

Senator ABETZ: Were you involved in both?

Mr Shevlin: Not the heads of agreement directly, no.

Senator ABETZ: So you came in after the heads of agreement were signed.

Mr Shevlin: I was doing some work—a number of departments were doing work in advance of the heads of agreement looking at possible measures that could be used to assist the process in Tasmania.

Senator ABETZ: So was your task to liaise with various interested parties?

Mr Shevlin: As part of the development of the intergovernmental agreement?

Senator ABETZ: Yes.

Mr Shevlin: Developing that was largely a process working with the Tasmanian government, because it was an agreement between the two governments.

Senator ABETZ: Did the Commonwealth check out for itself the terms of the heads of agreement and then the intergovernmental agreement as to whether it was good policy or bad policy, whether it was what people wanted or did not want?

Mr Shevlin: The job of developing the intergovernmental agreement was to give effect to the heads of agreement, which had included a number of commitments by the two governments. So we worked together with senior officials of the Tasmanian government to develop an intergovernmental agreement to give effect to those measures.

Senator ABETZ: Did you have any discussions with interest groups, such as forestry union, forestry industry association, contractors, Timber Communities Australia, the Tarkine coalition?

Mr Shevlin: The one discussion we had directly with a number of groups was when during the negotiation of the intergovernmental agreement all of the various signatory parties were brought together and provided with a draft of the intergovernmental agreement and were talked through some of those issues. That to my recollection was the main time that we actually spoke to any others as officials. I am not aware of any other discussions that might have happened by officers.

Senator ABETZ: Rather than particular interest groups, what about particular parliamentarians, such as Senator Bob Brown?

Mr Shevlin: That is not something that officials would have been involved in.

Senator ABETZ: In relation to the heads of agreement that were signed up, was there a substantial difference between the heads of agreement and the actual intergovernmental agreement?

Mr Shevlin: I do not believe so. The intergovernmental agreement was really putting the flesh around the bones of the heads of agreement, which made certain commitments to work together, and the intergovernmental agreement sought to put the details around those and some of the implementation arrangements. But I believe the job we had was to make sure that they were consistent. We certainly did our best to achieve that.

Senator ABETZ: If officials were not involved in discussions with any parliamentarians, Minister, can you take notice whether the Prime Minister was involved in a discussions with any parliamentarians, in particular one who may have been advocating on behalf of a donor to his political party of \$1.6 million who was anxious for this intergovernmental agreement to go through so that they could be a bargain priced purchases of the Triabunna woodchip mill?

Senator Chris Evans: Without responding to what is clearly a loaded question, I can say that I will take on notice the question about whether there are any negotiations involving other members of parliament. I assume you mean the Commonwealth parliament. Obviously they are in negotiations with the Premier of Tasmania. I will take it as being members of the Commonwealth parliament. I will take on notice the question and see whether there is any information we can give you.

Senator ABETZ: I know you have all-pervasive influence, Minister, but I thought we could assume it would be just a Commonwealth parliament.

Senator Chris Evans: I was just double-checking. I do not know whether there was a COAG process you are interested in.

Senator ABETZ: No. You would have heard the questions asked by Senator Brown of Senator Ludwig during question time in relation to this particular matter, ensuring that no Commonwealth money would go to certain interested parties in relation to the purchase of the Triabunna woodchip mill, which was predicated on the intergovernmental agreement being finalised to the satisfaction of Gunns and wanting to see off the field another competitor for that woodchip mill. If you could take that on notice I would be much obliged.

Mr Shevlin are you saying that, with this intergovernmental agreement, you basically followed, or responded to, requests and suggestions from the Tasmanian government, as opposed to putting proposals on the table from the Commonwealth perspective?

Mr Shevlin: No, I did not mean to suggest that. It was a negotiation between two governments to work out the detail of giving effect to a high-level commitment which was in the heads of agreement. There are a whole range of issues that we negotiated. There were a number of issues we did not immediately agree on, and we had to work through those over a period of a couple of weeks.

Senator ABETZ: Would you agree with me that the heads of agreement started off as a document, I think, known as the statement of principles being submitted to the Commonwealth for its consideration. It was not that the Commonwealth had a document headed statement of principles that it submitted to the state for its consideration. Are we agreed that these discussions were state initiated?

Mr Shevlin: No, the statement of principles was a document developed by the various parties in Tasmania. When I say parties, I mean the environment groups—

Senator ABETZ: Interest groups.

Mr Shevlin: Interest groups. So the statement of principles emerged from that process. After that process had run some way, the signatories to the process actually requested that governments become actively involved in supporting the implementation of the statement of principles. That led to the heads of agreement initially and then, two weeks later, to the intergovernmental agreement.

Senator ABETZ: So when did the Commonwealth first become involved in this issue?

Mr Shevlin: The Commonwealth had been supportive of the statement of principles process, had provided some assistance in terms of facilitation for the signatories to that process to continue their work together and had actually provided some support.

Senator ABETZ: What of sort of assistance?

Mr Shevlin: Mr Bill Kelty assisted in facilitation on a pro bono—

Senator ABETZ: He was paid by the Commonwealth?

Mr Shevlin: No, he did his work on a pro bono basis. We did provide some support for his secretariat, so we provided some assistance for—

Senator ABETZ: How much did that cost? Take it on notice; I do not need to know now.

Mr Shevlin: I do have the figure here. I believe it was just over \$69,000.

Senator ABETZ: Are you aware that a number of the parties have since walked away from the intergovernmental agreement, because they believe it does not reflect the statement of principles and the discussions that were held prior to the intergovernmental agreement being announced?

Mr Shevlin: In fact all of the parties, the signatories to the statement of principles, are still actively engaged in the process. They are all members of a reference group of signatories that we meet with regularly. In fact, we met with them as recently as last Thursday. So all those signatories are still very much part of the process in continuing to work towards the

implementation of the intergovernmental agreement and various elements within that. I do not think it would be accurate to say they have walked away from it.

Senator ABETZ: I believe that, for example, FIAT—the Forest Industries Association of Tasmania—say that they have been betrayed in relation to the intergovernmental agreement. I believe that Timber Communities Australia and other organisations are similarly saying that the intergovernmental agreement does not represent that which they believed would be signed up. Were you involved in any discussions with state members of parliament in relation to the negotiations when Ms Gillard was in Hobart trying to finalise the issues?

Mr Shevlin: I believe that was in the lead up to the heads of agreement, and I was not.

Senator ABETZ: Was there somebody from the department there?

Dr de Brouwer: Not that I am aware of. I will take that one on notice.

Senator ABETZ: Yes, take it on notice, because there is the suggestion that the leader of the Greens in Tasmania, Mr McKim, partook and things got changed. What is the Commonwealth's view in relation to any moneys that it might pay? Will those monies be only payable if the 500-and-something-thousand hectares is locked up?

Mr Shevlin: No; there are a range of payments within the intergovernmental agreement. There are amounts set out within that to the total of \$277 million. Some of those payments are being made immediately. For example, assistance-to-workers payments started to be available and made as soon as the intergovernmental agreement was signed—that is, from 7 August. There was other money—for example, \$43 million to the Tasmanian government to assist in the facilitation of the agreement which was paid and transferred on 7 October. There are, though, some payments which are contingent upon the Tasmanian government ultimately putting in place legislation to protect those areas of forest which are found to be compatible with guaranteed wood supply, and that legislation is required to be introduced by 30 June 2012. If it is not passed by three months later, then some payments will not be made.

Senator ABETZ: The legislative council has already indicated a particular stance. Time is short—Minister, could you take on notice whether any direct representations were made to the Prime Minister in relation to the intergovernmental agreement by the member for Lyons, the member for Bass, the member for Franklin or the member for Braddon?

Senator Chris Evans: I will take that on notice. I am not sure whether I regard conversations or representations between a member of the House of Representatives and the Prime Minister as something that one would necessarily report at estimates, but I will take the question on notice.

Senator RYAN: Can I turn to the issue of Prime Minister's exemptions from OBPR processes. I questioned the department of finance about this at budget estimates, and I am wondering if I could be provided with or have explained to me the criteria for the granting of a Prime Minister's exemption, if indeed there are any.

Dr de Brouwer: Sorry, Senator—the question was: what are the grounds for the granting of Prime Minister's—

Senator RYAN: What are the criteria for a Prime Minister's exemption being applied to the normal processes of the OBPR.

Dr de Brouwer: My understanding is that there are no formal criteria, but I will come back to provide the answer on notice. It is usually if there are matters of urgency that that is the standard rubric under which those exemptions are granted. I will come back if there are specific legislative—

Senator RYAN: I will place some questions on notice about this with respect to whether or not any criteria were applied to a number of things that do not appear to have met the criterion you have just mentioned, which is urgency, including the response to Australia's future tax system—the Henry review—and the government's response to the NBN implementation study. I understand the criterion of urgency has its place, but neither of these seemed to strike me as a case of particular urgency. How is an exemption effectively applied for and requested? Is it from the minister to the Prime Minister? Is it from the minister through the OBPR to the Prime Minister?

Dr de Brouwer: It is from the minister to the Prime Minister—directly by correspondence from the minister to the Prime Minister.

Senator RYAN: And that is something that presumably goes via the department, in the sense that you are the relevant department?

Dr de Brouwer: Yes.

Senator RYAN: And that is something you provide advice to the Prime Minister about—whether your view on the request is a valid one or not?

Dr de Brouwer: Yes.

Senator RYAN: So what criteria do you use to determine whether or not a request has sufficient grounding?

Dr de Brouwer: That would depend on the specifics of the particular case. But in general it is a matter of the urgency around that particular form of legislation or the confidentiality or the ability to publicly communicate—

Senator RYAN: Do you have anything that would provide a less subjective guide to what criteria the department applies with respect to making a recommendation to the Prime Minister about a ministerial request?

Dr de Brouwer: I think those things are generally based on principles, but they are always applied on a subjective basis.

Senator RYAN: What are the principles? Do you have something in writing—some principles that I could refer to?

Dr de Brouwer: No, it is really on a case-by-case basis.

Senator RYAN: To be fair, we have talked about that and you have said that there were criteria upon which you made a decision but that it was done on a case-by-case basis. Then you said that there are principles. What I am after is: what are those principles? Presumably you do not look at every request without a reference to another particular request, without reference to previous requests and whether they have been granted, or without reference to whether it is consistent with good regulatory practice. Presumably the department has a view on that as well.

Dr de Brouwer: The basis is that in general we are a strong supporter of the regulatory impact statement process. That is an important public policy tool, so there has to be a strong case for overruling that.

Senator RYAN: So these are not decisions of cabinet, are they? They are a Prime Minister's personal decisions in his or her capacity as Prime Minister.

Dr de Brouwer: Yes.

Senator RYAN: To pick one of the various exemptions that have been granted—the Australian government's response to the super system, the Cooper review—why was an exemption to that granted?

Dr de Brouwer: We do not disclose our advice to the Prime Minister on particular issues. I am happy to talk in general about how we frame our response and our advice.

Senator RYAN: On what particular ground are you asserting immunity? We all know that advice to ministers is not a claim—

Senator Chris Evans: To be fair to the officer, he does not know on which grounds the cabinet made the decision.

Senator RYAN: We had that clarified a second ago.

Senator Chris Evans: Sorry, I meant the grounds on which the Prime Minister made the decision. I am just saying that it was not Dr de Brouwer's decision. He is happy to talk to you about the general way they frame advice.

Senator RYAN: But it has been made clear to us that the department comes up with a recommendation.

Dr de Brouwer: We do not provide the details of our advice to the Prime Minister.

Senator RYAN: Says who? Says you, but that is not grounds on which advice cannot be provided. We go over this every estimates, and I am sure we will be going over it for as long as I am here. But the mere fact that it is advice to a minister—in this case the Prime Minister—is not sufficient grounds for something to not be discussed or otherwise aired at this committee.

Dr de Brouwer: I am happy to go through the general framing of how we provide our advice, but on specific issues that would reveal what our specific advice to the Prime Minister is. We do not entertain, in this way, talking about our particular advice to the Prime Minister on an issue.

CHAIR: Senator Ryan, do you have much more on outcome 1.1.1?

Senator RYAN: We will have more on 1.1.1 after the break.

CHAIR: Before we go to a break, this committee has asked on a number of occasions at other estimates if—some of us are obviously ageing faster than others!—the printing on the nameplates can be larger. I strongly urge that, for the next estimates, the Department of the Prime Minister and Cabinet come back with larger fonts on their nameplates.

Proceedings suspended from 18:31 to 19:48

Senator RYAN: Continuing the line of questioning I was on earlier, in regard to any of the exemptions granted by the Prime Minister, does the department as a matter of course

undertake any impact assessment, cost-benefit analysis or stakeholder consultation before a Prime Minister's exemption is granted?

Dr de Brouwer: Not the department. There are processes designed to do—

Senator RYAN: I appreciate that; I was just wondering—

Dr de Brouwer: We do not do anything apart from having our normal contact when we are getting information around a topic from relevant departments.

Senator RYAN: So, if there has been a request to the Prime Minister in writing, you effectively just process that request and provide advice to the Prime Minister, as opposed to undertaking any—

Dr de Brouwer: Particular new process—that is right.

Senator RYAN: I have got some questions now which I assume are for here but they might be in 1.1.2. They relate to the Prime Minister's telephone conversation with the Ambassador to Indonesia that was in the media a few weeks ago.

Senator Chris Evans: We appreciate the cooperation of the officer back with us.

Senator RYAN: Could you take me through, Dr McCarthy, if it is appropriate to ask you, what steps were taken by the department to arrange that phone call? Was there any contact from the Prime Minister's office to the department regarding making an arrangement for that phone call?

Dr McCarthy: No, Senator.

Senator RYAN: So there was no communications at all between the Prime Minister's office and the Department of the Prime Minister and Cabinet about a potential phone call being made to the ambassador?

Dr McCarthy: We have provided advice on this particular issue but not in respect of the particular phone call.

Senator RYAN: Did that advice provide a phone number on which to call the ambassador? What I am trying to get at here is—

Dr McCarthy: We would not have needed to provide that advice.

Senator RYAN: I am not as familiar with the internal operations of our Department of Foreign Affairs and Trade. So how would the Prime Minister go about getting hold of the phone number for the Ambassador to Indonesia?

Dr McCarthy: The Prime Minister's office would have access to those details—her international adviser, for example.

Senator RYAN: And they would be obtained through the department or through the Department of Foreign Affairs and Trade?

Dr McCarthy: They could be obtained through the Department of Foreign Affairs and Trade.

Senator RYAN: What you are saying now because this is going to be pursued later in the week is that—

Senator Chris Evans: Senator, I would be very surprised if the Prime Minister's international affairs adviser did not have the phone numbers of every ambassador certainly in key posts like Indonesia.

Senator RYAN: I appreciate that.

Senator Chris Evans: I am just saying: I do not think they need to go looking for them. It would be part of that person's regular duties.

Senator RYAN: You said you provided some advice to the Prime Minister on this issue which I do not find surprising. But you provided no advice with respect to the telephone call that was made from the Prime Minister to the ambassador. Advice might include the availability of the ambassador to receive a phone call, the location of the ambassador when a phone call was to be made. No advice was provided about this phone call.

Dr McCarthy: Not this particular phone call, but it is not at all unusual for the Prime Minister to make phone calls to ambassadors, particularly in relation to sensitive consular cases, and they do not necessarily need to be arranged through the department.

Senator RYAN: I am just wondering because there seems to have been some timing to this phone call—it could be accidental, it could be pot luck—and whether or not advice was provided with respect to a time to call the ambassador when he was dealing with the Australian in consular distress, if I could put it that way.

Dr McCarthy: As I said, there was no specific advice provided on this call but I understand that the Prime Minister had a schedule to call with the ambassador.

Senator RYAN: When was that scheduled call arranged?

Dr McCarthy: As I have indicated, the department was not part of arranging the phone call, so I do not have those details.

Senator RYAN: That is handy to know. Minister, can you take on notice when that scheduled phone call was arranged from the Prime Minister to the ambassador?

Senator Chris Evans: Yes, Senator.

Senator RYAN: Thank you. That is all I have on 1.1.2.

CHAIR: So 1.1.1 we have finished with.

Senator RYAN: I had that under 1.1.2 as well.

[19:53]

CHAIR: As we have finished with that area now and we will move to 1.1.2? We have the capacity to deal with the whole-of-government cyber policy. Anything there? Anything with the national counter-terrorism committee secretariat? Nothing there. We can move onto 1.1.3, strategic policy implementation—anything there? If not, 1.1.4: support services for government operations, cabinet support—is there anything there?

Senator RHIANNON: I wanted to move onto health privacy. Health privacy rules promised as part of the first tranche of the Privacy Act amendments are some of the issues that I want to cover. Why has the government proceeded with the introduction of individual health identifiers and electronic health records without ensuring that an appropriate health privacy framework was in place first; and also what stage has been reached in the government's consideration of health privacy rules?

Ms Leon: The question is one that partly will be able to be answered here and partly will need to be addressed to the Department of Health and Ageing, which has carriage of the health issues that you have raised.

In relation to where the privacy reforms are up to, as you would be aware the government has provided two exposure drafts on aspects of the privacy reforms to the relevant Senate committee, which has reported on both of those. Those drafts will now be subject to some amendments in response to the committee recommendations. In relation to health reform, it is likely that the health reforms will be drafted subsequent to the reforms that are currently the subject of committee consideration and redrafting in response to those committee reports.

Senator RHIANNON: Can you tell us when that will happen, please?

Ms Leon: We do not have an exact date for that yet.

Senator RHIANNON: When will you determine that date? As you know, these things so often fall by the wayside. Do you have some framework for it?

Ms Leon: It certainly is not falling by the wayside; it is receiving very active consideration. But exactly when it will be drafted will depend on the range of other legislative drafting priorities that are with the Office of Parliamentary Counsel.

Senator RHIANNON: When you say 'other legislative drafting priorities' you do not mean in this area; you mean—

Ms Leon: No, I mean legislation generally. Getting a slot in the parliamentary drafting program does depend on the legislative priorities across the whole—

Senator RHIANNON: Is that the only thing holding it up?

Ms Leon: Certainly getting it drafted will depend upon resources in the Office of Parliamentary Counsel.

Senator RHIANNON: Are there other matters holding it up, though? You have shifted it over to the drafting office, but are there other matters internal that are holding it up?

Ms Leon: There is work proceeding, as I indicated, on the response to the committee reports on the two exposure draft bills that have already been considered, and that is certainly taking the bulk of the attention of the relevant people.

Senator RHIANNON: Can you confirm that the privacy and FOI branch of your department is being moved back to the Attorney-General's Department and could you explain why this is happening?

Ms Leon: Yes, that is the case. As you may be aware, both privacy policy and FOI policy were in the Attorney-General's portfolio originally. They came to the Department of the Prime Minister and Cabinet principally because the government had made a commitment to do broad reform to freedom of information laws. In the context of that being a significant whole-of-government activity that affects every portfolio, it was thought appropriate that that should be moved to the Department of the Prime Minister and Cabinet while those reforms were undertaken. The reforms to freedom of information have now been completed and are embedded in the implementation stages, and now it is an appropriate time for the implementation function to go back to the Attorney-General's Department.

Senator RHIANNON: Is that work that has been done the justification for the cut in staffing levels?

Ms Leon: No. The entire branch is moving across to the Attorney-General's Department.

Senator RHIANNON: Could you tell me the numbers that are currently in that section?

Ms Leon: Seven.

Senator RHIANNON: Seven?

Ms Leon: And seven will move back to Attorney-General's.

Senator RHIANNON: Was it seven when it came over?

Ms Leon: No, it was 10 when it came over.

Senator RHIANNON: So why was the cut? There has been a cut in the time that it has been in the Department of the Prime Minister and Cabinet.

Ms Leon: The reforms to FOI, as I said, have been completed now, and that was a significant body of work that that branch was doing.

Senator RHIANNON: So that is why the cut has occurred?

Ms Leon: It has not been a cut so much as over time priorities shift and staff are either moved around or not replaced as positions fall vacant. So over a period of four years a reduction of two or three people is not unusual in an area with changing priorities.

Senator RHIANNON: But, considering commitments such as the consultation on a private right of action, shouldn't the government be at least retaining the staffing levels or even supplementing the resources of the branch rather than this cutback? There has been a reduction, whatever the reason.

Ms Leon: Within those existing resources of the branch, the branch has successfully produced a comprehensive discussion paper on the statutory course of action. So the numbers in the branch are adequate to enable them to perform their duties.

Senator RHIANNON: Earlier this month the Minister for Privacy and Freedom of Information announced a review of the freedom of information fees and charges by the Australian Information Commissioner. The wording was interesting and talks about a review to consider 'the financial costs to the taxpayer of processing these requests'. I think a lot of people interpreted that as code for an increase in costs. Can you comment on what is going to happen to the fees and, if it is an increase, what do you understand the impact will be?

Ms Leon: The terms of reference for the review are designed to cover the whole range of issues that need to be considered. There is no predisposition as to a particular outcome. The review is being conducted by the Information Commissioner and the government has not received his report yet, obviously, so has not made any decision as to what the outcome of that review will be.

Senator RHIANNON: You are saying that you do not have a view about whether these fees will go up or down.

Ms Leon: We are awaiting the report of the commissioner.

Senator RHIANNON: Would you acknowledge that increased fees can deter people from using this important service?

Ms Leon: I am sure that all those issues will be taken into account by the Information Commissioner in conducting the review.

Senator RHIANNON: I would like to talk about the exemptions from freedom of information. I imagine that you are aware that many other jurisdictions do cover their intelligence services. The CIA is covered by FOI, and the British Secret Service is. In Australia, ASIO is exempt. Why is ASIO exempt?

Ms Leon: Both the existing and the previous government have taken the view that the nature of intelligence information is such that it ought not to be exposed to public scrutiny.

Senator RHIANNON: Is not the best practice within FOI that one should exempt documents not departments?

Ms Leon: The government has taken the view that I spoke of, and I do not know that I can add any more to that.

Senator RHIANNON: Parliamentarians and parliament are also exempt. Is it your understanding that that is unusual within the common practice that is developing as FOI is improving in many democratic jurisdictions?

Senator Chris Evans: Senator, I suggest that it is not fair on the officer to have a policy debate. She has the job of implementing government policy. The question of the appropriateness of FOI laws is a question for the parliament and, obviously, the government has to defend its position. The officer can help you with information regarding how the policy has been applied but you are putting her in a difficult position by asking her to express opinions about alternative policy options.

Senator RHIANNON: I would be happy to hear from you, Minister. You are obviously party to these decisions. It would be disappointing to use the excuse of policy as a reason not to comment on it, considering Australia is in quite an exceptional situation, which is clearly holding back an improvement in FOI standards in this country compared to other Western democracies.

Senator Chris Evans: That is a policy debate for the parliament. You put an argument about what your view is; it is not necessarily one I share. I think there are issues now with the burden of FOI in terms of government functioning. But these are obviously debates we can have in the parliament regarding appropriate policy responses. I am not sure it is a matter for estimates.

Senator RHIANNON: I would like to ask about the lobbying code of conduct. Are reports kept of approaches made by unregistered lobbyists?

Ms Leon: Approaches to whom?

Senator RHIANNON: To the Prime Minister or to any ministers. How is that handled?

Senator Chris Evans: But isn't anyone in Australia who is not a lobbyist a non-lobbyist and therefore that would be everybody who ever approached a minister? Definitionally I think we have a problem here.

Senator RHIANNON: Minister, you are probably aware that in-house lobbyists are not covered in any way. I am just trying to see if there are any records at all kept on those people, because it is an unfortunate double standard that we have here.

Ms Leon: I think the issue is that we do not count people as a lobbyist unless they are a lobbyist registered on the register of lobbyists. So it would be difficult to record someone as being in that category if they are not on the register.

Senator RHIANNON: Could you explain why it is difficult? If an in-house lobbyist from any company rings up and wants to have a meeting, how is that different from a lobbyist who has been hired by a company? Let us take BHP Billiton. They have in-house lobbyists. They might choose to also use a lobbying company. What is the difference between a representative of the in-house grouping or a representative of the external hire company? Why would you differentiate in the records that you keep?

Senator Chris Evans: Senator, what is an in-house lobbyist? If the chair of Universities Australia. Mr Glyn Davis, comes to see me, is he an in-house lobbyist or is he chairman of the organisation?

Senator RHIANNON: I am not actually answering the questions. I recognising that there is a complexity here but there is certainly double standards in terms of how the lobbying rules are applied. All my question was addressing was the information you collate on who the Prime Minister and ministers meet with.

Senator Chris Evans: One aspect is a policy debate; the other is a question of fact, which the officer can answer. I think the answer would be that we do not collect information on non-lobbyists, whoever they are.

Senator RHIANNON: So anybody who is an in-house lobbyist you do not actually call them lobbyist?

Senator FAULKNER: A third-party lobbyist.

Senator RHIANNON: Thank you for that, Senator Faulkner. My question is—and you may have actually helped—whether there is any information collected on the descriptor that Senator Faulkner has just used?

Ms Leon: Third-party lobbyists are the people we deal with. They are people who are lobbying on behalf of somebody else.

Senator RHIANNON: Sorry, I thought he was using it in another sense.

Senator FAULKNER: It is known as a third-party lobbyist code.

Senator RHIANNON: But clearly people come in here and lobby in exactly the same way as hired lobbyists lobby. So you are saying that no information at all is collected on them?

Ms Leon: Information is not collected on them as lobbyists. If an organisation were to meet with the Prime Minister about a matter of interest to that organisation, the minister may seek a meeting brief from the department for that meeting. So, in that sense, we would know about the meeting but we would not treat that as an instance of lobbying, because members of the public and members of organisations meet with ministers all the time about issues that are of relevance to their interests and their stakeholders.

Senator RHIANNON: So, in terms of those types of meetings, there are no public records kept?

Ms Leon: No.

Senator FAULKNER: Within the code, Senator, the critical thing is that the lobbyist is defined in the code. It does not mean the definition is not open to debate and so forth, but clause 3 of the code defines a lobbyist in the purposes of the code.

Senator RHIANNON: In the administration of the lobbying code of conduct, are reports kept—

Senator FAULKNER: I am interjecting; I am not answering questions. I am trying to help.

Senator RHIANNON: We wish you were.

Senator Chris Evans: He is engaging as a proud parent.

Senator RHIANNON: Are reports kept of approaches made by unregistered lobbyists and their subsequent referrals to the registration process?

Ms Leon: A lobbyist is defined for the purposes of the code as:

... any person, company or organisation who conducts lobbying activities on behalf of a third party client...

So if by unregistered lobbyists you mean a category of people who are not covered by that definition then, no, we do not keep a category of records about lobbying conducted by people other than third-party lobbyists.

CHAIR: Senator Rhiannon, I am going to have to ask you to wind up.

Senator FAULKNER: So if you go to lobbyists.pmc.gov.au—I am showing my great skill here on—

Senator RHIANNON: What evidence has been gathered to show that *The Lobbying Code of Conduct* is adequate to achieve its aims?

Ms Leon: *The Lobbying Code of Conduct* and the register have been the subject of two reports by Senate committees, and so there has been extensive both public and internal consultation about the operation of the code. The most recent of those in July 2010 gave rise to changes that were announced in August this year. There is a process for breaches of the code being reported to the Secretary of the Department of the Prime Minister and Cabinet. To date, there has only been one such breach that has been reported, which gives us some indication that the code is working well. In that instance, the company involved realised that they had been in error about how they were engaging with the code and have updated their procedures accordingly. So I think the fact that breaches have been few and the one breach that has been reported led to a rectification of practices is evidence of the code working well.

Senator RHIANNON: So you see the code as working well?

Ms Leon: I think that the evidence of there being only one failure to comply is a good sign about the effectiveness of the code.

CHAIR: How many questions, Senator Rhiannon?

Senator RHIANNON: Can I just ask my last one?

CHAIR: Senator Rhiannon, it is your final question.

Senator RHIANNON: Have any government representatives been found to have breached section 4 of the code, which deals with government representatives knowingly and intentionally being a party to lobbying activities by an unregistered lobbyist?

Ms Leon: So far as I am aware the only failure to comply with the code is the one which I referred to which did not concern that circumstance.

Senator RHIANNON: Could you take it on notice to see if there have been other breaches, please.

Ms Leon: There has only been one failure to comply with the code that has been reported.

Senator RHIANNON: I thought you just said as far as you knew—that is why I asked.

Ms Leon: No, that is the circumstance to date: only one breach has been reported.

Senator RHIANNON: So it is not as far as you know; that is absolute.

Ms Leon: That is right.

CHAIR: There are no further questions in that output. We are moving to 1.1.5, which is the Commonwealth Heads of Government Meeting as I understand it. Do you want to flag your question, Senator Abetz and we will see whether it is in the right place.

Senator ABETZ: The Australian Men's Shed Association received \$3 million in federal funding, and I understand that with that funding they appointed a marketing fundraising and communications manager, one Mr—

CHAIR: If we can just clarify if this is in the right area. We are just seek—

Senator Chris Evans: The funding, Senator, what portfolio was that?

Senator ABETZ: That is what I do not know, but I understand the Prime Minister's office may have been involved because the person that was appointed was the one that was involved in some political controversy during the 2010 election with the—

CHAIR: Before you go on any further, Senator Abetz, we are just seeking some clarification whether it comes within this area of 1.1.4.

Ms Leon: I do not believe it is funded in this portfolio.

CHAIR: The officers do not believe it is funded in this portfolio, so they are unable to help.

Senator ABETZ: I will look elsewhere.

[20:14]

CHAIR: We will move onto 1.1.5 and Senator Rhiannon.

Senator RHIANNON: What steps has the Australian government taken or is the government taking to investigate whether Sri Lankan officials seeking to attend CHOGM may be implicated in war crimes?

Dr McCarthy: I will need to take that question on notice.

Senator RHIANNON: Can the minister detail who has applied for a visa to attend the Commonwealth Heads of Government Meeting in Perth this October as part of the delegation from Sri Lanka?

Dr McCarthy: I do not have that detail with me. I would need to check whether questions on visas are for the Department of Immigration and Citizenship. I can take that on notice.

Senator RHIANNON: Even for this event? I thought that for these types of events there was a role for the department.

Ms Leon: Although I do not have them with me, we would have the details of who has registered to attend. I thought your question was about visas which would be a question for the Department of Immigration and Citizenship. If your question is about the names of

delegates who have registered to attend then this department would have those. There are over 3,000 delegates and we do not have all of those names with us.

Senator RHIANNON: That was my next question.

Senator CHRIS EVANS: To be helpful, the question of visas is primarily with the Department of Immigration and Citizenship, but there is also a role in certain circumstances for the Minister for Foreign Affairs, in consultation with DIAC, and I am not sure whether PM&C has a particular role in those matters.

Dr McCarthy: Not that I am aware of in respect of visas.

Senator CHRIS EVANS: There are some issues where they engage the foreign affairs department. I do not want to go any further because off the top of my head I cannot recall the circumstances. There are things such as suggestions of war crimes et cetera where there is some formal engagement with foreign affairs under the act.

Senator RHIANNON: I was going to go on to who is coming as part of the Sri Lankan delegation. Please take that question on notice as I believe the names are not before you. I ask specifically whether those people who are travelling with President Rajapaksa have sought certificates from the Australian government confirming immunity from any possible legal proceedings in Australia.

Ms Leon: I will have to take that on notice.

Senator MOORE: Is this exclusive to Sri Lanka or is it a general principle? Is there a concept that it should apply to any people coming to international conferences in Australia? Is it something we look at?

Senator CHRIS EVANS: Yes. I answer with my old hat on, but DIAC has responsibility for monitoring people who appear on lists of various types for concerns about terrorist activity, Interpol, criminal activities and issues such as war crimes. We have had issues with people applying for visas to this country. An assessment is made about their fitness to be granted a visa which is part of the normal day-to-day operations of DIAC. That would apply to people coming to conferences, on private visits or on entertainment visas. Those normal processes apply.

Senator MOORE: So diplomatic immunity does not apply? The reason I am asking this is because I wonder whether the same scrutiny is applied to people who come in a government delegation as is applied to those coming for a holiday or conference.

Dr McCarthy: Those will be questions for the Department of Immigration and Citizenship.

Senator CHRIS EVANS: I ought not to flash outside the off stump, but I do not think there is any immunity per se.

Senator MOORE: I was just thinking about some of all the other countries attending.

Senator RHIANNON: That is fine. It is useful to consider it. I did want to ask about the character test. Before you say, 'That comes under DIAC', I would like to be able to ask the question, because considering that these are prominent government people within their country, I would have thought the department would have had some say in this. My question is: will you apply the character test under section 501 of the Migration Act 1958 and the

public interest criteria under the Migration Regulations 1994 to assess visa applications for the delegation from Sri Lanka?

Senator THISTLETHWAITE: Chair, could I interrupt. This is an immigration matter. We have got limited time. Perhaps Senator Rhiannon might be directed to move on from this.

CHAIR: Senator Rhiannon, just continue your question to the minister to respond.

Senator Chris Evans: Senator, in your own question you answered the question. These are powers under the Migration Act, exercised by the minister for immigration and the department of immigration. They are not powers exercised by PM&C.

Senator RHIANNON: So you are saying that PM&C had no say in a matter—and we have had this very interesting case and it was revealed by Dr McCarthy before, although she said she would take it on notice, that we were left with the impression that the department had given advice about the admiral who is now the high commissioner and that there were already allegations about possible war crimes prior to him getting the post into Australia. So surely a delegation coming from Sri Lanka, where people could be in a similar situation, would not be just handled by DIAC.

Senator Chris Evans: I think the answer from the officer, and they might like to correct me if I am wrong, was to the effect that they provide briefings to the Prime Minister. But if you are asking about the application of the character test and the Migration Act, that is carried out by the Department of Immigration and Citizenship and the responsible minister is the minister for immigration. PM&C may well, where there are cases that have come to public attention, provide advice to the minister, and I think that is the advice that was given earlier. Correct me if I am wrong.

Dr McCarthy: You have characterised that correctly, Minister.

Senator RHIANNON: Thank you, Madam Chair.

Senator Chris Evans: These matters are properly pursued at immigration estimates—which I think was today. It is probably on now. You are probably in the wrong room.

CHAIR: It is my understanding that there are no further questions on 1.1.5.

Senator BERNARDI: I had a question about state occasions and official visits, which comes under that section.

Ms Leon: No, 1.1.5 is only Commonwealth heads of government.

CHAIR: Nice try. My understanding is that there is nothing further in 1.1.5. We are dealing with 1.2—official and ceremonial support.

Senator ABETZ: Under Commonwealth heads of government, does that include Her Majesty?

Ms Leon: No, 1.1.5 deals only with the Commonwealth heads of government meeting in Perth. Her Majesty is under 1.2.

Senator Chris Evans: As are her carriages.

CHAIR: We are now moving on to 1.2—official ceremonial support, Prime Minister's official residence. Senator Ryan.

Senator RYAN: Do you have a budget for the works being undertaken at the Lodge, that is a whole of activity budget—so not just the works being undertaken but the ancillary costs?

Ms Leon: Do you mean the works to undertake essential repairs to the Lodge, to manage the refurbishment of the roof and the electrical systems and so on—the works that have been recently the subject of some publicity?

Senator RYAN: Yes.

Ms Leon: They are all being managed by the Department of Finance and Deregulation.

Senator RYAN: Are costs for alternative accommodation under the Department of Finance and Deregulation?

Senator Chris Evans: Senator, it is my understanding that this is for repairs that will occur sometime later next year, so we are not in a position where some of those matters have been determined. The officer will answer any specific questions but I think some of the reporting led people to think that it was imminent. It is planned for the second half of next year, is it?

Ms Leon: In that vicinity.

Senator Chris Evans: Certainly not for a while. I do not think the work has been put out to contract or anything like that yet. I just wanted to put it in context.

Senator RYAN: Are the costs of managing the project, as in the actual physical refurbishment work, something that we should pursue with the department of finance at the relevant time?

Ms Leon: That is correct.

Senator RYAN: What about the costs of relocating the Prime Minister to an alternative residence. Are they Department of the Prime Minister and Cabinet or the Department of Finance and Deregulation?

Ms Leon: They are likely to be the Department of the Prime Minister and Cabinet but, as the minister has flagged, it is too far in the future for us to yet have any indication of the cost of that. It will depend on the length of time that the Prime Minister needs to vacate the Lodge and on what accommodation options are identified.

Senator RYAN: You have not identified the accommodation options yet?

Ms Leon: It is too far away to be identifying what accommodation is available. As yet we do not know the exact time the accommodation will be required.

Senator RYAN: So you have done no scoping work, for a lack of a better way of putting it, on the requirements of the accommodation, potential costs, relocating staff presumably to that accommodation and the security costs associated with it?

Ms Leon: To the extent that security considerations come into it, there has been consideration about the nature of the accommodation that would be required but it is too early to say what the costs will be.

Senator RYAN: Do you have a budget at this point roughly drawn up?

Ms Leon: There has not been any detailed development of costs as yet.

Senator RYAN: For everything associated with this from the physical works to the relocation?

Ms Leon: The physical works are a matter for the department of finance so I cannot comment on the state of the budget that the department of finance is working with other than

to say that obviously it has not gone out to tender yet. There is inevitably some uncertainty about total cost until the matter has gone to the market. In relation to the matters that are within the Department of the Prime Minister and Cabinet there is not a detailed costing of those as yet.

Senator KROGER: On that, I understand that it is a matter for PM&C, but has it been determined what the works are? Your points are quite nebulous. Did you actually find out what is being done?

Ms Leon: Those questions would need to be directed to the department of finance which is the owner of the building. They are responsible for determining what works need to be done and for contracting those works to be done.

Senator FAULKNER: Is the Official Establishments Trust now with the Department of Finance and Deregulation?

Ms Leon: The Official Establishments Trust still remains with PM&C, but we are responsible for the management of the buildings, not their ownership. The buildings are owned by the Department of Finance and Deregulation as the landlord and they are managed and occupied by the Department of the Prime Minister and Cabinet in the sense of their day-to-day operation.

Senator FAULKNER: The Official Establishments Trust is still serviced by officers of the Department of the Prime Minister and Cabinet.

Ms Leon: That is correct.

Senator FAULKNER: I think it is useful for you to say that, Ms Leon, so that senators get the full picture of what I understand the administrative orders are.

Ms Leon: That is correct.

Senator RYAN: Finally on this point, do you have a timeline or are you dependent upon the department of finance coming up with the schedule of work required as to when you will make these decisions around budgeting?

Ms Leon: The principle carriage of the project is with the Department of Finance and Deregulation. The exact timeframe will depend upon the approach to the market and what is able to be arranged through the normal procurement processes.

Senator RYAN: By that you are referring to alternative accommodation? I am interested in understanding that there are Finance costs. There are PM&C costs around relocation, alternative accommodation, security and staff relocation. When do you expect to be able to answer questions about those costs?

Ms Leon: The Department of Finance and Deregulation has put out to the market for tender for the works, as I understand, and after that tender closes only then will the Department of Finance and Deregulation be able to settle the timeframe. It will depend upon what offers they get from the market about the staging of it. Then we will be in a position to know what period of vacation of the Lodge will be required.

Senator RYAN: That is at the point that PM&C will be able to deal with costs and come up with budgeting costs. I have some questions about the use of the Lodge and Kirribilli House. How many private or public functions have been held at the Lodge and/or Kirribilli without the Prime Minister present?

Ms Leon: The material I have is since we last dealt with this matter at budget estimates in May. Since that time there have been three official functions held at the Lodge. Those were a dinner in honour of the Prime Minister of New Zealand, the Prime Minister's dinner the evening before COAG—attended by the premiers, chief ministers and the president of the local government association—and an informal occasion for a President of the European Commission.

Senator RYAN: Those three functions presumably had the Prime Minister present.

Ms Leon: I believe so.

Senator RYAN: Have there been any functions held at the Lodge or Kirribilli without the Prime Minister present?

Ms Leon: They are the only official functions that have been held at the Lodge since May 2011.

Senator RYAN: What about non-official functions?

Ms Leon: The department does not keep any information about private functions.

Senator RYAN: So there is nowhere in the department that keeps information about that—even if, for example, there was a security cost involved.

Ms Leon: The normal practice for occupants of the Lodge or Kirribilli House is that if there is a major function held which will involve additional costs then, ordinarily, the occupants of the Lodge or Kirribilli House have in the past contributed for those types of events. But there have not been any private functions of sufficient significance to need to involve those arrangements.

Senator RYAN: Who makes the determination as to significance?

Ms Leon: These matters are some questions of judgment but obviously if you are having a couple of people over for dinner it does not require any additional security costs and so there is no need to ask for additional security to be provided.

Senator RYAN: They are judgments made by the occupants of the Lodge, presumably, rather than by the Department of Prime Minister and Cabinet.

Ms Leon: I think if there was to be any function of significant size there then, necessarily, it would be brought to the attention of the staff of the Lodge or Kirribilli House, who are employees of the Department of Prime Minister and Cabinet.

Senator RYAN: But presumably you do not rely on staff of the Lodge to tell you, 'We think this function is over the line' of what is significant and what is not. You rely on the occupants of the Lodge to volunteer that information, do you not?

Ms Leon: That has been the practice over many years.

Senator RYAN: Do you have any arrangements in place or have you ever had to ask about a function at the Lodge?

Ms Leon: That has not been volunteered, no.

Senator RYAN: The reason I ask is that there was an article in *Adelaide Now* on 10 July, with Geoff Raines. I will read the few short lines of the article?

GEOFF Raines, former poster boy at Richmond, is a close friend of PM Julia Gillard's bloke Tim Mathieson.

And Raines was happy to tell Triple M about the pleasure of a boy's night in at The Lodge.

"I haven't done Kiribilli, but I've done The Lodge," Raines said.

"Julia was away too ... we had a good weekend.

"He (Mathieson) entertained me well, we looked after The Lodge and we did it in reasonable style."

Mathieson, Shepparton's most famous hairdressing export, is a massive Tigers fan.

I would not have characterised such a thing as a 'boys' night' but given that was in the press I will use that. Are any events like that brought to the department's attention, or do you consider those to be of a private nature?

Ms Leon: If a small number of visitors is present that is a private matter for the occupants of the Lodge or of Kirribilli House who are not ordinarily required to inform the department if they are having a visitor.

Senator RYAN: Are there records kept of who enters and exits the Lodge or Kirribilli House?

Ms Leon: I would have to take that on notice.

Senator RYAN: I have to admit my knowledge of the Lodge and Kirribilli is based more on a recent ABC television show than personal experience.

Senator Chris Evans: I will see if I can get you an invite, Senator.

Senator RYAN: I might get one sooner than you would hope for, Senator Evans.

Senator Chris Evans: It does not work like that. Trust me.

Senator RYAN: Touche. You can take on notice whether or not there are logs kept of who enters and exits the Lodge and Kirribilli?

Ms Leon: I will take that on notice.

Senator KROGER: On that point, surely security has to be advised at the gate when a non-resident is expected at the Lodge or Kirribilli House.

Ms Leon: Quite possibly. I said I will take that on notice.

Senator KROGER: One would presume that there would be a log of visitors, given that security would have to be advised.

Senator CHRIS EVANS: The question went to whether a register is kept et cetera. The officer does not know and I do not know. We will take it on notice. Clearly, one would have to get entry to the Lodge and therefore would have to be authorised. The guard would have to have the name of who to let it, yes. Whether or not that is kept in some sort of register and made available, we do not know.

Ms Leon: Security there is provided by the AFP.

Senator RYAN: As security at the Lodge is provided by the AFP, if the staff of the department do not keep the register, please find out as part of taking that question on notice whether the AFP, which provide security to the Lodge on the department's behalf, keeps a register.

Ms Leon: We may be able to, or it may need to be directed to the Attorney-General's portfolio where the AFP appears.

Senator CHRIS EVANS: We can consult with them before providing an answer on notice.

Senator RYAN: That is exactly what I am seeking. The AFP is acting on your behalf providing security. I think it would be entirely reasonable that you could note whether or not they do rather than coming back and saying the department does not keep a log.

[20:36]

CHAIR: We have finished dealing with the Prime Minister's official residences. As there are no questions relating to support for former Governors-General, we move on to state occasions and official visits.

Senator BERNARDI: I am not sure specifically who to address this question to. This morning I asked about invitations to formal events during the Queen's visit. In particular I was drawn by comments by Professor David Flint who heads the Australians for Constitutional Monarchy which were reported in the papers. He indicated that he had not received an invitation to any official event during Her Majesty's visit. This struck me as surprising given that Professor Flint is a person of significance who also heads up one of the organisations that most supports our existing constitutional arrangements. Was this an oversight or what are the criteria for people being invited to specific events? Is consideration given to the conveners or heads of organisations that are significant to the existing constitutional arrangements and support of the Queen?

Mr Leverett: For an event like the reception hosted by the Prime Minister for the Queen on Friday night, my branch routinely prepares suggested guest lists. Those guest lists have a number of what I would describe as nondiscretionary categories, like all members and senators, and some other smaller categories. These categories are described as discretionary and by that I mean, for an event like this or any other events we do, there are always more worthy people than can be accommodated. Value judgments have to be made and we make such judgments. We then prepare and forward that list to the Prime Minister's office for final decision. The Prime Minister, as the host, has the final say on who attends her events. As is always the case, when that list of discretionary categories goes to the office, some names are added to it and some names are deleted from it. We then get presented with a final list. That is the process not just for this particular event but for any event hosted by the Prime Minister.

Senator ABETZ: So, you are the man with the red pen?

Mr Leverett: Not me, Senator.

Senator BERNARDI: I specifically do not want to embarrass either Professor Flint or others that may have been on the list at one point and been declined or not featured on it at all, but I am interested in this. It strikes me as unusual and significant that neither of the two organisations that are about defending the constitutional monarchy in Australia, both headed by individuals who have quite a high public profile, were included in an official reception for the Queen. That is a comment but I do not know how to pursue it further without embarrassing either of the people or other people who may have been on it and your suggestion that they have been struck off by the Prime Minister's office.

Mr Leverett: I did not say they were on the list.

Senator BERNARDI: I know you didn't.

Mr Leverett: I would not go to the advice that was given to the Prime Minister. That is not for me to disclose to this committee. My comments do not imply anything one way or the other about the individuals other than to say that we prepare a draft and it is finalised within the Prime Minister's office.

Senator BERNARDI: Mr Leverett, I was not assuming anything from your comments. Please do not get me wrong in that respect. I am just concerned for the dignity of the other individuals. Is the final guest list made public for this event?

Mr Leverett: It is not published in any format but there is no secret about it. If it was sought we could make it available in due course.

Senator BERNARDI: I will seek it, and will you be able to make it available tonight, for example?

Mr Leverett: No, not tonight because it is not final yet. There are still names, as I understand, being added and so on. When there is a final list I am sure it can be made available.

Senator BERNARDI: So there is still hope for Professor Flint. He may well be added. He deserves to, I think.

Senator ABETZ: Absolutely.

Senator BERNARDI: Is there any dissent from that around the table; I am not sure. So, it is not finalised.

Mr Leverett: No, not yet.

Senator BERNARDI: When will it be finalised? When will the final invitations go out?

Mr Leverett: The reality of these things is that they are often not finalised until the day they actually happen.

Senator BERNARDI: So, people could still be invited on the day?

Mr Leverett: Potentially, yes.

Senator BERNARDI: How special. Would you be able to provide me with a final list of the attendees and those who have received an invitation?

Mr Leverett: Senator, as I indicated earlier in my answer, the final list is at the PM's discretion, so it is not for me to say to you now that I can give you that list.

Senator Chris Evans: We will take the provision of the final invitation list on notice. This is for the function in Canberra, because there are a range of functions.

Senator BERNARDI: Specifically it was about the one here, but then the question goes to the invitational arrangements for any other events for Her Majesty. Are they at the responsibility of this department and your office within it or are they the responsibility of the state governments?

Mr Leverett: It varies on this occasion. Generally speaking a function is hosted by state office holders, governors or premiers and the guest list is at the discretion of those individuals. That is the case with this visit as well. There is the added complication with the factor in Perth of CHOGM itself and there are guest lists around CHOGM as opposed to the state government. The CHOGM events are not my responsibility, so I cannot speak to the guest lists there.

Senator BERNARDI: Whose are they?

Mr Leverett: The CHOGM task force.

Senator ABETZ: It is one thing we were told not to ask about the Queen's visit.

Senator BERNARDI: We would go back in time. It is quite serious. We did flag that we wanted to ask these questions.

Senator RYAN: We were told that this was the place to ask all the questions about Her Majesty's visit.

Senator BERNARDI: Can we re-open it?

Mr Leverett: All but one issue, this is the place.

Senator Chris Evans: Provided the chair is happy, we will do what we can to assist the committee.

Senator BERNARDI: I have nearly finished. What about in respect of the Governor-General's hosting of a function for the Queen, does that come under your purview as well?

Mr Leverett: That is the responsibility of the Governor-General and the office of Governor-General.

Senator BERNARDI: Thank you for clarifying that for me. I do think there are some things to ask about CHOGM but I think Senator Abetz might have something.

CHAIR: At 9.15 we are going to have a private meeting to assess the remainder of the day. I have been guided by the opposition in terms of the program. We were going to let the agencies know. We will allocate appropriate amounts of time so that we can get through the program.

Senator RYAN: If we have a meeting at 9.15, given we are so tight for time, we will be going the same number of minutes after 11 o'clock. If you are going to take up time with a private meeting—

CHAIR: I have sought your guidance, Senator Ryan.

Senator RYAN: And we have been giving you advice.

CHAIR: The reality is that we have asked for these agencies to be here—

Senator RYAN: Let's move on.

CHAIR: and we need some clarification about the time. Senator Bernardi, if you have finished in this area, we will go to Senator Faulkner.

Senator BERNARDI: For the moment I have.

Senator FAULKNER: I have a very quick question. Have you found the coach?

Mr Leverett: I do not think the coach was ever lost.

Senator ABETZ: Despite your best endeavours!

Mr Leverett: My answer implied that I personally have not seen it. I read the press like other people and I understand that it is in a warehouse at Manly but I have not seen it.

Senator FAULKNER: As you know the Department of Prime Minister and Cabinet provided \$245,000 to the gentlemen concerned—Mr Frecklington I think his name is. That is correct isn't it?

Mr Leverett: That is correct.

Senator FAULKNER: But you cannot give me an update about what has happened with the thing?

Mr Leverett: I cannot, no. It was made clear during the Howard government when the money was made available that this was not to purchase or buy into the gift in any way. It was just a financial contribution. The coach itself was not an official gift and was a matter between the palace and Mr Frecklington. That advice has been reaffirmed by both the Rudd government and the Gillard government.

Senator FAULKNER: You say it is a matter between the palace and Mr Frecklington but the press secretary to the Queen said in late September:

The Australian carriage Britannia is not an official coach and has not been commissioned by the royal household. This is a private initiative ... undertaken and financed by Mr Frecklington.

I interpolate there that that is not true.

I therefore cannot give you an official response on its future use, as it is entirely a matter for Mr Frecklington.

You might say that it is a matter for the palace and Mr Frecklington but that is not what the palace is saying.

Mr Leverett: I think your quote is exactly what I said. It is a private initiative between the two parties.

Senator FAULKNER: The point is the palace was saying that it is not a matter that they are involved in at all. That is completely different to what you said, with respect.

Mr Leverett: I do not think it is. We will have to disagree.

Senator FAULKNER: Do you want me to quote it again?

The Australian carriage Britannia is not an official coach and has not been commissioned by the royal household. This is a private initiative ... undertaken and financed by Mr Frecklington. I therefore cannot give you an official response on its future use, as it is entirely a matter for Mr Frecklington.

Which means that it is not a matter for the palace at all.

Mr Leverett: That is an interpretation. It could be interpreted that they are waiting on Mr Frecklington to contact them to determine the future use.

Senator FAULKNER: That is a very courageous interpretation. Anyway, you still have not sighted it, you do not know whether the \$245,000 was well spent or not.

Mr Leverett: We do know a bit about the money. When the cabinet decided to make the money available it was not handed over initially. It was on the basis of Mr Frecklington, who had indicated that he had spent up to \$1 million on the coach, presenting invoices and evidence of what he actually spent. He ultimately submitted a whole lot of paperwork which was gone through and much of it was accepted. Some of it was not accepted and the final figure of \$245,000 was arrived at on the basis of proven expenditure.

Senator FAULKNER: And no-one from PM&C has seen the coach, is that correct?

Mr Leverett: That is correct.

Senator FAULKNER: As far as you know, however, it is on North Head.

Mr Leverett: That is correct. The coach was seen by members of Prime Minister Howard's office. The relationship with Mr Frecklington—

Senator FAULKNER: Mr Howard has not been the Prime Minister for four years now.

Mr Leverett: I am trying to make the point that the relationship with Mr Frecklington was between the Howard office and Mr Frecklington, not with the department. The only time we had contact with him—

Senator FAULKNER: You cannot say that. The department paid the money.

Mr Leverett: That is correct. I was about to say: the only contact we had was to pay the money.

Senator FAULKNER: That is substantial. It is \$245,000 of taxpayers' money.

Mr Leverett: The amount of money is substantial but the contact was minimal.

Senator FAULKNER: I gathered that. Anyway, as far as you know, even though no-one from PM&C has seen the thing, you think it is at North Head.

Mr Leverett: I believe it is, yes.

Senator FAULKNER: Why do you believe that?

Mr Leverett: I have seen press reports and photographs in the newspapers.

Senator FAULKNER: I have always worked on the basis of: don't believe everything you read in the newspaper. But I will leave it at that.

Ms Leon: Madam Chair, prior to the dinner break I said that I would endeavour to come back with further information about the conversations that may have been had between the department and the Ombudsman about resourcing issues. I can now provide some more information if it would be convenient to do that now.

CHAIR: Yes.

Ms Leon: The department and the office of the Ombudsman had a number of discussions in the lead-up to the 2011-12 budget. While I cannot disclose all the details of those because they are part of the budget process and could reveal budget-in-confidence material, I can say that the office of the Commonwealth Ombudsman did provide the department with advice on the pressures that the office was facing in the area of the oversight of immigration detention and in other areas and on the scope for the office to provide offsets for the increased activity in the detention oversight area for which they were seeking funding. There were two discussions between the Ombudsman personally and my predecessor in this role, Acting Deputy Secretary Barry Sterland, about those resource issues which occurred in March and April 2011.

CHAIR: Thank you. Are we now in a position to deal with Senator Bernardi's questions?

Senator BERNARDI: I do not have any specifically in terms of CHOGM, but the point is one of principle. We did ask and then we were told later on that no, it was not right. So if we wanted to continue to explore—

Senator Chris Evans: I think we have sorted that out, Senator, so it is your chance.

CHAIR: You do not want to ask any further questions?

Senator BERNARDI: Not specifically, no.

CHAIR: Are there any further questions in relation to state occasions and official visits?

Senator RYAN: I was told I could ask about the Prime Minister's hotel costs while overseas. I am happy for these questions to be on notice, if I could quickly read them. I would be interested in knowing where the Prime Minister stayed on her overseas trips since the last financial year and the current financial year and whether consideration was given to staying at the ambassador's residence and if not, why not. We can do that on notice.

Mr Leverett: We can take that on notice.

CHAIR: Before we move on to the Australian National Audit Office, it might be timely if we have our break now, with the indulgence of the committee. We are going to have a private meeting now which will be included in our break.

Proceedings suspended from 20:53 to 21:10

Australian National Audit Office

CHAIR: Before I welcome Mr McPhee, I will put on record for the benefit of the *Hansard* that departmental officers dealing with the Department of the Prime Minister and Cabinet outcome 3, program 3.1 Sport and recreation, will not be required tonight, nor will the Australian Sports Commission. Those officers have an early mark.

I now welcome Mr Ian McPhee, Auditor-General, and officers. Officers called upon for the first time to answer a question should state their name and position for the *Hansard* record and should speak clearly into the microphone. Welcome back, Mr McPhee. Do you have an opening statement?

Mr McPhee: No, Chair, thank you.

Senator RYAN: The bill that was discussed in the chamber last week, the Auditor-General Amendment Bill 2011, which is still under consideration, gives new powers to you to audit private sector organisations that have contracts with the federal government or anyone in what you might call the 'money chain' from Commonwealth appropriation. The reason I ask about this is that a statement was read out on your behalf by Senator Bishop, I understand, in the chamber, which was with respect to a commitment regarding the audit of private sector contractors. There might be two or three sets of hands removed from a Commonwealth appropriation. Have you undertaken any scoping work as to how your workload might change if this bill were to pass, given the debacle of the BER which has provoked it?

Mr McPhee: Should we get these powers, I have said to the public accounts committee that we would not seek additional resources but would substitute other performance audit work that we currently do to allow us to follow the money audits where that was considered necessary.

Senator RYAN: So it would be fair to say then that there will be less audit work undertaken on Commonwealth government activity to facilitate your audit work on private sector activity?

Mr McPhee: Perhaps I could provide a bit of context. Our current audit focus is on Commonwealth entities, as you will appreciate. We have the powers to do performance audits of most Commonwealth entities. We often consult with the private sector on those audits. It is not unusual because, as you would appreciate, we want to get the private sector perspective, or third-party perspective, on the delivery of a Commonwealth program or some of the issues

in dealing with the Commonwealth administration of programs. So the issue of being in touch with the private sector, or the non-government sector, is not uncommon. But what we have noticed across the years, of course, is that the nature of public administration has changed.

Senator RYAN: Could I interrupt. I am very cognisant of the bill and very cognisant of the reasons behind it, but we are particularly pressed for time. I understand you deal with the private sector. This, however, gives you the power to audit private sector contractors—a power you currently do not have. Making it clear you do not wish to ask for extra resources effectively means there will be a substitution effect, doesn't it—that if you undertake work on private sector contractors, you will necessarily be doing less work with respect to your public sector audits?

Mr McPhee: The very quick point I want to make is that the Commonwealth now works in partnership with private sector providers to deliver Commonwealth government outcomes. In the past our focus has been on the delivery by the Commonwealth entity, but in some cases the performance of the private sector entity impacts on the administration of the program and the delivery of the outcomes. So to get a more robust perspective on Commonwealth administration, which can include working in partnership with the private sector, you do need to have a wider perspective than we may have historically done and that would then require additional resources—your point—but it would also allow for a more comprehensive report on the way the Commonwealth is delivering on its outcomes.

Senator RYAN: We understood that with the BER it stopped at the Commonwealth shovelling the money out the door. We have had that discussion in this committee before. How far down the money chain do you intend to go? You may be aware of concerns that I and others have expressed with respect to an electrical subcontractor doing, say, \$10,000 worth of work on a school hall suddenly being subjected to the might of the auditor's office. Under the powers of this legislation they could be subjected to an audit by the ANAO. What safeguards do you have in place to protect small business from an audit of that nature?

Mr McPhee: I would say as an auditor we tend to focus on the significant elements that go to the delivery of Commonwealth programs. We do not have the resources to look at incidental considerations but where, for instance, a private sector contract had a significant role in the delivery of a government program that potentially would be considered by an Auditor-General for audit coverage. It would need to be significant because, as you will appreciate from your background, if I can take the financial statement context, auditors focus on material or significant issues not the relatively minor matters. To translate that across to a performance audit involving a private sector contractor it would need to be a significant role or an important element of a particular audit.

Senator RYAN: Given the time, Chair, I am happy to end my questions there and put others on notice.

Senator BOB BROWN: I want to ask questions about the audit done through the Tasmanian Audit Office of Forestry Tasmania. Firstly, is there some reason why the National Audit Office acceded to that being done by the Tasmanian Audit Office and was there any need for review by the national office when the Tasmanian audit became available?

Mr McPhee: The Tasmanian Auditor-General is quite separate from my office, as you will appreciate. He has his own legislation and own responsibilities and can determine his

own audit program. So there was in fact no liaison that I am aware of between his office and mine in terms of him deciding his program.

Senator BOB BROWN: Forestry Tasmania, which is to be a substantial beneficiary of the current intergovernmental agreement between Canberra and Hobart on forests, ran at an \$8 million loss last year according to this audit but it is an agency that sells millions of tonnes of a publicly owned resourced—that is, the forests—which it receives for nothing and yet ran at a loss. Do you think that is not a matter that should have been investigated more carefully in an audit like this with a view to the trajectory into the future and what is the underlying failure of strategy that a resource, which is free to that agency, is sold at a loss while recipient companies are running at a profit?

Mr McPhee: I do not have enough information to be able to give you an authoritative comment on that. I am not across the details of the audit. I have seen it come through, but I have not read it in detail. These are matters, of course, for the Tasmanian Auditor-General to decide.

Senator BOB BROWN: But the federal moneys—some \$276 million—are now following some \$240 million that were sent to the industry after the 2004 elections and that follows even larger amounts in previous times, so it is a matter of interest to the federal taxpayer. I wonder if you would be kind enough to look at that \$8 million dollar loss for last year and see whether you corroborate the statements of the Tasmanian Auditor and whether or not there should be a review of that audit in the interests of the expenditure now coming from Canberra to Forestry Tasmania and the people associated with it.

Mr McPhee: I am happy to take that on notice and provide a response back to the committee.

Senator BOB BROWN: Thank you.

Senator ABETZ: How would you feel, Mr McPhee, if the Tasmanian Auditor-General thought it appropriate to have a review of one of your audits? That is basically what is being suggested to you and I am surprised that you have taken it on notice. I would have thought you would have rejected it as being not within your domain.

Senator BOB BROWN: The problem is you are not the auditor; you are a senator.

CHAIR: Senator Brown, Senator Abetz has put the question. We will allow Mr McPhee to respond.

Mr McPhee: I receive correspondence and questions on a range of issues from time to time from citizens and from others in the community. In some cases it may not be directly within my mandate or it may not be a priority for my office, but I will always endeavour to see if we can assist in some way. Sometimes it will be a case of raising the matter with the responsible Commonwealth department, seeking some information and providing that information to the person who has raised the matter with me. We do try to be helpful and it is in that sort of vein that I have said to Senator Brown that I am more than happy to see what we can do. The point that Senator Brown was making was that Commonwealth funds have been involved at some stage during the process here. I am not across the detail of that, so I am happy to take it on notice and understand further.

Senator ABETZ: I would just hate to see a headline saying that the Commonwealth Auditor-General is now going to be re-examining the work of the Tasmanian Auditor-General and other cheap headlines being obtained by certain senators.

Senator BOB BROWN: Why would you? What have you got to hide?

CHAIR: Do you have a question, Senator Abetz?

Senator ABETZ: No.

Senator RHIANNON: Mr McPhee, I have some questions about procurement. For the period 2010-15, a whole-of-government policy has been developed known as the Australian Government ICT Sustainability Plan, with ICT standing for information and communications technology. I understand it sets mandatory standards for the purchase of recycled copy paper. I understand the plan established the target that, by July 2011, agencies were required to source office copy paper for general use with a minimum of 50 per cent post-consumer recycled content. Has that target been met?

Mr McPhee: I am not aware of whether or not that target has been met. We are doing some audits in the procurements space, but we have not focused specifically on the ICT Sustainability Plan to this point.

Senator RHIANNON: So you do not have any audit or assessment reports associated with this?

Mr McPhee: No. I assume, without knowing the details, that the Department of Finance and Deregulation would be the responsible agency for assisting you on this matter.

Senator RHIANNON: I will go to some general questions about procurement and you may have similar advice. I am noticing that procurement is coming forward in different ways from different departments. We are not getting a whole-of-government approach. Are you able to quantify the additional costs and inefficiencies that having multiple procurement policies brings?

Mr McPhee: We encourage the finance department to have another look at some of the Commonwealth procurement guidelines. I am conscious from our own work that sometimes agencies lose sight of the forest for the trees, and we think some greater clarification could be made to the Commonwealth procurement guidelines. The other dimension here is that there is an attempt to get a whole-of-government approach to procurement activity. I am conscious of a number of departments who are working on panels in that respect. I do not know the details, but I do appreciate that work is going on, and any feedback you have would be most welcome on that.

Senator RHIANNON: Thank you.

CHAIR: There are no further questions, Mr McPhee. Thank you very much.

Australian Public Service Commission

[21:25]

CHAIR: I would like to welcome Mr Stephen Sedgwick, the Public Service Commissioner, and officers. Officers called upon for the first time to answer a question should state their name and position for the *Hansard* record and witnesses should speak clearly into the microphone. Mr Sedgwick, do you have any opening comments?

Mr Sedgwick: No, I do not have an opening statement.

Senator ABETZ: Could I have confirmed to me that the Public Service Act 1999 also applies to agency heads, in relation to the values that are to be upheld?

Mr Sedgwick: Yes, the Public Service Act 1999 applies to agency heads who are employed under that act and the code of conduct applies to statutory officers.

Senator ABETZ: Have you had occasion at all to discuss with the Ombudsman certain events that have been in the media of recent times in relation to his activities in obtaining questions for certain Senate hearings? Have there been any discussions about that between you and the Ombudsman?

Mr Sedgwick: Not in any substantive way.

Senator ABETZ: All right, tell us about insubstantive ways.

Mr Sedgwick: We were sitting out there for the last 45 minutes so we had the odd chat but, no, I have not—

Senator ABETZ: Prior to that you had not.

Mr Sedgwick: No. I have not had any in-depth conversation with the Ombudsman about those matters.

Senator ABETZ: That was prior to today. Since the story broke has there been any discussion between you and the Ombudsman, other than earlier this evening?

Mr Sedgwick: No.

Senator ABETZ: Normally, if there was a relatively highly published suggestion that there had been such a breach, would you initiate contact to pursue that matter or would you wait for a complaint to come to you?

Mr Sedgwick: In framing your question you made reference to a breach and that is not a matter that has been determined either by me or by anybody else and it is not a matter that I would be willing to speculate about in a forum such as this. As you know, under the act I have statutory responsibilities—

Senator ABETZ: I think that is a very fair point you make. If I may interrupt you and talk about a potential breach or a perceived breach that is drawn to your attention, without casting judgment upon whether or not an actual breach has occurred, do you then of your own volition investigate to see whether an actual breach has occurred or do you wait for a complaint to be made asserting that there has been a breach or a potential breach?

Mr Sedgwick: I think in the history it has been rare for the commissioner to do an own motion inquiry, if you like, into a matter of that kind. I stand to be corrected on that if necessary by the technical experts. It is not impossible to do and I guess if there were a serious issue that was clear-cut then there may be circumstances in which the commissioner would seek to exercise an own motion power in that respect. Typically, though, the commissioner would be responding to an allegation or a claim, and in those circumstances would make a judgment about whether the claim was vexatious or frivolous, or had sufficient weight to warrant an investigation. If there were an investigation then the law has certain procedures that follow as a consequence of that. Once an investigation begins it is quite a formal matter and therefore is not one that will be entertained lightly.

Senator ABETZ: Given that there is such a potential, you would not wish to discuss matters in a hypothetical situation, so I will leave it at that.

Senator RYAN: Mr Sedgwick, has advice been sought from you about the appointment of Dr Henry as a special adviser to the Prime Minister under section 67 of the Constitution with regard to managing real or perceived conflicts of interest, given that the government has stated he will be bound by the APS code of conduct?

Mr Sedgwick: No.

Senator RYAN: Have you provided any advice or suggestion to the Prime Minister regarding that?

Mr Sedgwick: No.

Senator RYAN: In your view, under the APS code of conduct would it be possible for a member of the staff of the Treasury to serve on the board of a major bank?

Mr Sedgwick: The code of conduct says that an individual may have employment outside of their work, and it is for agency heads to establish arrangements to assess the circumstances in which there may be a conflict of interest. It is for an individual to manage and identify conflicts of interest.

Senator RYAN: So as the relevant agency head in this case is the Prime Minister—

Mr Sedgwick: The relevant agency head is the Secretary of PM&C.

Senator RYAN: I was going to say, 'and acting on her behalf the Secretary of the Department of the Prime Minister and Cabinet'—it is completely within their discretion as to whether or not components of this white paper project he has been tasked with would involve a real or perceived conflict of interest with his duties as a director of NAB?

Mr Sedgwick: Yes.

Senator RYAN: There is nothing to involve you here; it is purely up to the Secretary of PM&C?

Mr Sedgwick: The obligation is on the individual to ensure that they do not have a conflict, or if they do that they manage it appropriately. The agency head has responsibilities to ensure that the code of conduct and the values are appropriately reflected in the activities of the officers of their department.

Senator RYAN: This is an uncommon employment arrangement—we understand it is the seventh person since 1975.

Mr Sedgwick: Yes, it is an uncommon arrangement.

Senator RYAN: Does it not warrant something more than the common reliance upon an agency head, given the uncommon nature of the employment arrangement and the breadth of the task with which that person has been tasked?

Mr Sedgwick: I know the individuals involved in this and I also know that they take their responsibilities quite seriously. I would not characterise it as a common arrangement in the sense of being something which is lightly imposed or lightly discharged.

Senator RYAN: It is not lightly asked, either.

Mr Sedgwick: I do understand that, but our system is a devolved one where the powers of the employer are devolved to the secretary or the head of the agency concerned.

Senator RYAN: This person is not employed by an agency; they are personally employed by, in effect, the Governor-General on the advice of the Prime Minister. They are not an employee in that classic sense.

Mr Sedgwick: They have accepted as part of their terms of engagement to be bound by the APS code of conduct.

Senator RYAN: So if anyone had an issue about a real or perceived conflict of interest as this project develops and expands, or indeed is finalised, should they take that concern up with you as the Public Service Commissioner? Or should they take it up with the Secretary of Prime Minister and Cabinet?

Mr Sedgwick: In the first instance, they should take it up with the Secretary of the Department of the Prime Minister and Cabinet.

Senator RYAN: If the result or answer they receive was not to their satisfaction, do you have a role in reviewing or otherwise—even in an advisory capacity—looking at it again?

Mr Sedgwick: They are entitled to raise matters with us, and we deal with them as the law and the circumstances require. So there would be times, for example, where we would have a conversation with the agency head or we would refer a matter back to an agency head.

Senator RYAN: To this date—just to confirm—you have had no discussions whatever with the agency head or the Prime Minister about this particular arrangement?

Mr Sedgwick: I have had no discussions with the Prime Minister. The secretary of PM&C and I have had conversations from time to time but not, I think, in the terms you are referring to.

Senator RYAN: Not regarding a potential conflict of interest, since the appointment to the NAB board?

Mr Sedgwick: In circumstances in which the arrangements have been explained.

Senator RYAN: Sorry, you have had the arrangement explained to you?

Mr Sedgwick: Yes.

Senator RYAN: Was your advice sought as to whether—

Mr Sedgwick: No.

Senator RYAN: It was a courtesy to let you know what had been determined by the agency head?

Mr Sedgwick: And that was appropriate in the circumstances where the arrangement had been put in place.

Senator RYAN: I am just checking. Thank you.

Senator XENOPHON: I have some questions in respect of the secretary of the Remuneration Tribunal, Mr Gillespie's. Mr Gillespie, I note that recently the Remuneration and Other Legislation Amendment Bill 2011 was passed. It gives the tribunal additional powers; it enhances their independence, particularly in the setting of politicians' pay. I note that there has been a process whereby members of parliament had been interviewed by the tribunal and I think you have taken on a consultancy, Egan Associates to assist. I also note that the tribunal is now required to publicise its decisions and to provide reasons for its decisions. How does the tribunal interpret that additional power, that requirement in terms of

publicising decisions? What will the details be on the part of the tribunal to set out why it has made a particular decision? Is it going to be a couple of lines or a couple of hundred pages or somewhere in between?

Mr Gillespie: I agree entirely with your earlier observations about the process, the role of the legislation et cetera. Can I just emphasise that I am not a member of the tribunal; I am just an official who is in the secretariat to the tribunal. So it is very difficult for me to answer how the tribunal might deal with particular matters. I can cite a couple of examples. I think it has published two statements to date. One statement deals with a decision on charter and resettlement allowances. That was published—I think it went up on the website today. Similarly, reasons for determination concerning the salaries additional to the basic parliamentary salary, which was also published today.

Senator XENOPHON: I have a statement of 30 September 2011; that is quite different?

Mr Gillespie: That is a different statement. That is the one that gives a general view about the tribunal's new powers, a general picture about the two strands; is that the statement we are talking about?

Senator XENOPHON: Yes.

Mr Gillespie: But two statements were published today on its website which might give you an indication—I am happy to give them to you—of the sorts of factors that the tribunal has in mind in dealing with a couple of matters. Can I pass those to you—

Senator XENOPHON: Perhaps through the secretariat; I do not want to get into trouble with the Chair.

Mr Gillespie: Sorry, Chair.

Senator XENOPHON: I have very limited time. I only have a minute or two.

Mr Gillespie: Okay. Let me say this. The statements themselves I think are fairly simple. They state the powers the tribunal is exercising, and, in the case of the additional salaries, since there is no change to the additional salaries determination, it is a fairly simple statement; let me just put it that way.

Senator XENOPHON: Is it anticipated, given the tribunal's new powers and responsibilities and the transparency requirements of published decisions, that the tribunal will, for instance, hold public hearings, consult with stakeholders, consult in a broader sense—including having public hearings in the same way that, for instance, Fair Work Australia has a public process in setting determinations?

Mr Gillespie: I think the tribunal is conscious of the observations that you made along these lines on 23 June. I have no doubt the tribunal will take them into account in the circumstances of the particular matters it is going to decide. But as you also know and was also relayed at that time, the tribunal, in the exercise of its powers, has a fairly wide discretion about how it goes about the exercise of those powers. I think that is in the Remuneration Tribunal Act 1973. However, it has not yet issued a definitive statement about how it is going to proceed in relation to the matters that you have raised. It is open to it to do so, let us put it that way.

Senator XENOPHON: What is the time frame for this?

Mr Gillespie: It said in its 30 September statement that:

On present indications, the Tribunal expects to make an initial report on parliamentary remuneration towards the end of 2011.

I cannot go beyond that.

Senator XENOPHON: But an initial report will not necessarily mean a final determination on politicians' pay?

Mr Gillespie: I cannot answer that. It will be an initial report taking into account the outcomes of the surveys, the consultation et cetera.

Senator XENOPHON: I do not know whether you will need to take this on notice, but if there was a legislative requirement for the tribunal to undertake public hearings to have a prescriptive approach—not as to the decision made but as to the sorts of matters that need to be considered, the consultation to take place and the level of transparency of those consultations—would the tribunal see that as fettering its independence in any way?

Mr Gillespie: The best answer I can give to that is that it abides by the legislative framework within which it works and which establishes it. You know the legislative framework as it stands at the moment. I think on 23 June you foreshadowed your intention to write to the tribunal. The tribunal is anticipating that correspondence, if I may say so. You also foreshadowed the opportunity to look at the circumstances, see how the tribunal operates and then you may take some initiatives yourself. That is paraphrasing what you said.

Senator XENOPHON: Thank you, Mr Gillespie.

Senator MOORE: My question is about Aboriginal and Torres Strait Islander employment strategies. There have been statements about increasing Aboriginal and Islander employment in the public sector. I know that every agency has the independence to develop their own strategies and keep their own figures. I want to know what the commissioner is doing in terms of service-wide initiatives, training and development in that area.

Mr Sedgwick: There are quite a number and I will ask Ms Page to take you through them. As a general principle, we have been reasonably successful in lifting recruitment, particularly of graduates, trainees and cadets. We have had less success in retaining Indigenous employees. The separation rate of Indigenous employees is still twice that of the rest. It is a mixed bag.

Ms Page: Under the banner of the employment strategy, the commission on behalf of government agencies recruits Indigenous graduates, cadets and trainees. We support career development through the Indigenous career trek program. We partner with agencies to provide targeted development opportunities for high-performing Indigenous staff. At the moment we are also working with agencies to ensure enhanced skills recognition for Indigenous staff to try and bridge the gap in the qualification levels of our Indigenous employees compared to their non-Indigenous colleagues. We conduct an annual Indigenous employee conference. We provide advice to agencies on the development of agency-specific Indigenous employment strategies. That is done through our Indigenous liaison officer. We run a support network for Indigenous staff. Through networks and through chairs of those networks, there is an informal opportunity for Indigenous staff to get together and talk about particular issues they may be having in the workplace.

We do a lot of work around marketing the Public Service as an employer of choice to Indigenous Australians. We are currently conducting, in partnership with agencies, a

campaign to try and encourage Indigenous Australians to identify their Indigenous status to us if they have chosen not to do so. We coordinate various activities and events for Indigenous Australian public servants.

Senator MOORE: How do you report on that in terms of your Aboriginal and Islander strategy? I see it in the annual report, but it is quite a short section. I want to know how you assess the success, or otherwise, of your process. Chair, I have a number of questions that feed out of that, so I will put them on notice.

CHAIR: There are no further questions because we have run out of time. I thank the Australian Public Service Commissioner.

Mr Sedgwick: Chair, can I just make a clarification. My colleagues have pointed out to me that, when I was talking about the relationship between agency heads and employees and obligations to disclose outside employment opportunities and all of that, I made reference to the Code of Conduct. But the relevant material is in our guidance in support of the Code of Conduct, not directly in the Code of Conduct itself. I just wanted to be clear on that. Senator Abetz, when we are dealing with Code of Conduct issues as they apply to statutory agency heads it is no means straightforward. The interaction between their statutory responsibilities under their own statute, and the Public Service Act, is very complex.

CHAIR: Thank you very much to you and your officers for appearing before us.

Office of the Commonwealth Ombudsman

[21:46]

CHAIR: I welcome Mr Allan Asher, the Commonwealth Ombudsman. Mr Asher, do you have an opening statement?

Mr Asher: Yes, I do. Prior to my last appearance before this committee at the May budget estimates I provided some suggested questions to Senator Sarah Hanson-Young. This was an error of judgement and it was a mistake. I wish to, firstly, apologise to the committee for that. I wish to explain my actions in the context of, firstly, my concerns about the financial state of the Office of the Ombudsman and, secondly, the absence of any specialist parliamentary committee through which the Ombudsman's performance can be assessed or concerns heard.

The Ombudsman has responsibility for the oversight of around 250 Commonwealth agencies. Without the capacity in the current budget system to ensure that resources for my office are at an appropriate level, in my view the mechanisms that were available to me for drawing to the attention of the parliament, as opposed to the government, through this committee, which is the prime budget committee, our current financial situation were very limited. I was not called to appear before this committee in October last year. Earlier I had a brief conversation with John McMillan, the former Ombudsman. He thinks it might be two years since the Ombudsman was called to appear. And in February this year I attended but was dismissed without appearing.

The key point I would like to make is that one of the key priorities for the Office of the Ombudsman relates to complaint handling and oversight in the immigration detention network. My investigations over a period had revealed serious problems with the administration of the centres. There were improvements that could be made, and still could be made, to the lives of thousands of people—improvements that can be made through our office

in conjunction with those of the department of immigration. But my office needs appropriate funds to be able to do that.

In 2010-11 the Ombudsman's office received 2,137 approaches and complaints about immigration matters. That was a 34 per cent increase on the previous year. Under statute my office is required to do a specific investigation of every individual who has been in immigration detention for more than two years. That report is also required to be tabled in parliament. In addition, we have an arrangement with the government to undertake similar reviews for detainees after six, 18 and 24 months. Funding provided to my office for the work in relation to irregular maritime arrivals was agreed back in 2008. At that time it was expected that there would be about 100 arrivals a year. Apparently, there are 4,762 irregular maritime arrivals in detention and more than 3,200 detainees who have been in immigration detention for more than six months. We have an agreement to do individual assessments of the circumstances of these people. I just have to say that it is an extremely expensive—even impossible—task. The resources that were planned initially were quite adequate for those much lower numbers but it has just become something that is using up vast proportions of our office resources.

It was in that context that I sought an invitation to speak at this budget committee of the parliament. When we were not invited in appear I approached Senator Hanson-Young and briefed her on some of these key issues. If I might say, all of the information that I provided were our public reports. There was no information relating to any cases that we were investigating and nothing that was of a confidential nature, but just that. I have to say that the briefing was neither partisan nor political. But, as I said, I did write the questions for her. They were not written in normal public service language. I accept that and that they were airing concerns I had already raised with the government. Without adequate funding the really good work that the department and our officers were doing together was in great danger. I have to say that that remains the case just now.

I would like to point out that across the whole of our office over the last five years there has been a year-on-year average increase in our workload—that is a crude measure taken by adding together formal in-jurisdiction complaints plus inquiries to us—by five per cent. So the work volume has gone up by 25 per cent in the last five years. In fact, the trend is accelerating. So for all of that underlying work we have never been able to attract extra resources. In fact, the resources that we have had—in common with all government agencies—is subject to the efficiency dividend.

In this last year we have investigated 4,400 separate complaints. I will not go into all the details. I will table a statement that will point out that the huge numbers of changes—

CHAIR: Can I ask you to conclude your remarks because we have limited time tonight and I am sure there will be lots of questions. So if you could wind up your statement—

Mr Asher: I am sure there will. I would just like to go on to say that, having made a number of approaches over a number of years to the government through various channels for additional funding, typically we would, in the current budget arrangement, need to make some arrangement with another government department, whose work we were overseeing and invite them to give us the money to do it. That just does not happen anymore. So we are really stuck with no form of raising extra money. I will just conclude by saying that this issue has come up a number of times over the years, before this committee, and indeed the committee, a

long 21 years ago, published an extensive report after an investigation, and it spoke of the desirability of establishing a special committee of parliament to deal with issues of concern to the Ombudsman in much the same way that the National Audit Office has a committee, ACLEI has a committee and some others have a committee—so that there is a performance review but also a forum where issues can be raised. Our office is statutorily independent from the executive and from the parliament, so we do not have a minister in the normal sense. There is a minister responsible for appointments, but he does not have any role in the work that we do or even in our accountability. So I would argue that perhaps this committee might consider that role or at least make a recommendation that such a committee be set up so that this issue that was raised then, by Professor Pearce and by several previous ombudsmen, can be addressed. I will leave it there, but if I could just return to my opening point—that it was an error of judgment.

CHAIR: Mr Asher, I will have to ask you to conclude your remarks.

Mr Asher: I have.

CHAIR: Thank you. Senator Faulkner.

Senator FAULKNER: Thank you for your opening statement, Mr Asher. You did indicate to the committee that you consider your actions to be an error of judgment and a mistake, and you have apologised to the committee for them. What has led you to the conclusion that they were an error of judgment and a mistake?

Mr Asher: There are two aspects to that. One is the reaction of, I guess, the media, which showed that, and the other is the reaction of members of parliament. I had a great deal of introspection since the publicity that came after the release of these documents—although, if I do get a chance, I would like to distinguish between the briefing of Senator Hanson-Young and the writing of questions.

Senator FAULKNER: Do you consider that your actions have impacted negatively the independence of the Ombudsman's office?

Mr Asher: No, I do not believe it affects the independence in any way. The information provided, and the questions, were clearly of an administrative character, about the funding and our continued capacity to undertake the work. In that way, I think that the questions were, in an independent sense, quite neutral.

Senator FAULKNER: Do you consider approaching one senator from one political party as opposed to all the membership of a parliamentary committee as something that might raise questions about, firstly, your impartiality and, secondly, the need for you to act in a manner that is unquestionably apolitical?

Mr Asher: I am apolitical, and our office is. I did approach an individual senator. If anything of that character was considered in future, I would consider writing to all senators. In fact, my preferred approach is that there be a committee that might look at our performance and be available for the raising of concerns so that such a thing would not be necessary.

Senator FAULKNER: But that option was available to you on this occasion, wasn't it?

Mr Asher: Yes, it was.

Senator FAULKNER: You could have written to all senators, but you decided not to—or you did not do that.

Mr Asher: Well, I did not.

Senator FAULKNER: You could have put your case to ministers.

Mr Asher: I certainly put the case to ministers.

Senator FAULKNER: When you say you put the case to ministers, did you raise the issues that you raised with Senator Hanson-Young with ministers?

Mr Asher: The issues that I raised were concerns about the funding of the office. The issues raised with Senator Hanson-Young were also conveyed to ministers and departmental officials through numerous reports.

Senator FAULKNER: You could have put the issues to ministers. Did you raise the issues with ministers that you raised with Senator Hanson-Young?

Mr Asher: Yes.

Senator FAULKNER: Do you believe that you could have issued a press release or made a speech about these matters instead of approaching an individual senator?

Mr Asher: Sure, and I have done those things as well. In February of this year, following the sending of eight separate reports to the department of immigration about visits to Christmas Island and our observations there, I compiled all of those together and submitted those to the minister and to the department secretary in September 2010. Then in February 2011 I released those publicly and made a series of speeches that were extensively covered in the media.

Senator FAULKNER: Minister Gray has formal responsibility for your office, I believe.

Mr Asher: That is correct.

Senator FAULKNER: Did you raise these issues with him?

Mr Asher: I have certainly sent him copies of the same reports. On a number of occasions we have met to discuss aspects of our work in immigration.

Senator FAULKNER: Did you raise these issues with Mr Gray?

Mr Asher: I cannot say that I discussed in detail some of the points from those questions about the way in which we were dealing with the six-month, 12-month and 18-month detention individuals, but again through the budget processes I put cases a number of times across the field of our work.

Senator FAULKNER: Could you have made it clear to your clients that you were resource-constrained? People you were engaged with on these matters?

Mr Asher: That necessarily is the case. A lot of the individuals involved here are people in detention centres on Christmas Island and at the other detention centres around Australia. I regard it as a high priority for our work to help implement and administer the detention values agreed on by the government just three years ago.

Senator FAULKNER: Could you have raised these issues in your annual report?

Mr Asher: The context of this was the budget estimates in May, and our annual report for that period was more or less done. I am just about to table the next one, which covers that period as well, from July last year to June this year.

Senator FAULKNER: Do you think that an integrity agency such as the Ombudsman should set an example, should have the highest standards in government?

Mr Asher: Yes, it should.

Senator FAULKNER: Have you met those highest standards?

Mr Asher: I think this was clearly an error in judgment. It was clearly a mistake.

Senator FAULKNER: Do you think that engaging with an individual senator is meeting the highest standards possible?

Mr Asher: I do not believe that meeting an individual senator is any problem at all. The problem, in my view, occurred in the writing of the questions.

Senator FAULKNER: I did not say 'meeting', Mr Asher, I said 'engaging'. Let me make it more complete then: 'engaging with a senator in the manner which you engaged with Senator Hanson-Young', in this instance.

Mr Asher: I would just like to qualify that. I met with Senator Hanson-Young on a single occasion and sent by email some questions to her. The week after, she asked me two or three question at this committee. So there was no pattern of engagement there at all but a single meeting.

Senator FAULKNER: What has been the reaction of the staff in the Ombudsman's office to this publicity?

Mr Asher: Slightly mixed. A number are concerned that our relationships with some departments might be strained. Some others have asked how we might show people that we are able to continue doing our work and what they should do. I have said to them that what they should do is exactly what they have been doing—that is, working impartially and fairly to resolve individuals' complaints against the administration of Commonwealth policies.

Senator FAULKNER: If your office is to function properly, have the full confidence of citizens and the parliament, do you think it is essential that your office is seen to be above the political process and above politics?

Mr Asher: I think it certainly should be above politics and the political process and I argue that we are.

Senator FAULKNER: Do you see any irony in you as the Ombudsman, an official established by the parliament to enhance its scrutiny of the executive government and its accountability, engaging in behaviour which many see as absolutely at odds to the fundamental responsibilities of your office.

Mr Asher: Again I would like to separate the concept of meeting with a member of parliament and the admitted error of writing the questions. Our act quite expressly permits us to make statements and to deal with people on any matter of public interest. Even in these last few weeks I have met and spoken with half-a-dozen individual members of parliament from pretty well all parties. That is just something that we do all the time. I have attended 18 committee meetings—I will have to check that figure—in the last year and I am and my office is politically colourblind.

Senator FAULKNER: But you see what people inevitably will conclude is that if you are willing to act in the way you acted in relation to your engagement with an individual senator then with others whether they more broadly be the citizenry, members of parliament, the

government or government agencies you might not bring the same sort of approach, to use the political terminology if you like, the same sorts of tactics to the consideration of complaints that are formally made to you. Isn't that a pretty fundamental problem for you now?

Mr Asher: I would agree that if there were a pattern of conduct, a pattern of dealing with a single political party, that would be a risk. However, the evidence quite plainly and we are very open about this is that—and I say this every time I am at a public speaking engagement—we remain ready, willing and able to work with anyone who wants to promote fair and open public administration.

Senator FAULKNER: Is there any example in the history of the Australian Public Service of an agency or departmental head behaving in this way?

Mr Asher: I do not know of others. I have not made inquiries.

Senator FAULKNER: I might come back if there is time.

Senator ABETZ: I want to commence my questioning by asking specifically whether you asked Mr Gray for more funding?

Mr Asher: Yes, on a number of occasions, but that is through the budget processes. I would have to seek guidance from the minister as to how much one can speak about the NPP process and things.

Senator ABETZ: You released a statement on 13 October, which, if I have read it correctly, does not include an acknowledgement of error of judgment or an apology. Is that correct?

Mr Asher: I do not recall. I think the statement that I released was one that responded to a series of questions put to me by a number of journalists. I wrote out all of the answers to the questions that the journalists had sent, compiled those and released those as a statement.

Senator ABETZ: It is headed 'Media release' and is dated 13 October.

Mr Asher: I certainly accept that we put one out. I thought I noted in that that it was an unwise thing to do.

Senator ABETZ: Possibly you did. I cannot and I have not—

Mr Asher: Nonetheless, I think it—

Senator ABETZ: I think you said it was an 'unorthodox approach' and 'not a wise route to take'.

Mr Asher: And it was a very unwise thing to do.

Senator ABETZ: Which is stronger language than that which was employed on Thursday, 13 October. So is it fair to say that on further reflection you have now seen and acknowledged that your actions were less than unwise but substantially unwise?

Mr Asher: They were an error of judgment and a mistake that occurred once and will not occur again. I really am deeply sorry in so many ways.

Senator ABETZ: The purpose of the question was clearly to gain more funds for an agency that was under financial stress.

Mr Asher: That is correct.

Senator ABETZ: And by making a direct appeal to the minister you had not been successful.

Mr Asher: I wonder if I could seek guidance.

Senator Chris Evans: I am not sure that Senator Abetz wants you to take him through the NPPs—that is not my decision as a minister but just because of the time. I think it is fair for you to make the general point if you want about you sought funding through the normal budgetary process.

Mr Asher: Over several years we put forward four or even five what you might call applications for funding for various parts of our work, all of which were not supported by the minister and the department.

Senator ABETZ: So the purpose of these questions was not benign; it was basically to embarrass the government into providing you—

Mr Asher: No.

Senator ABETZ: The idea of the exercise was to get more money for the agency. A direct approach had not worked. Why this indirect approach, other than to embarrass?

Mr Asher: Because our agency does not really have a minister in the way that most departments do. The Special Minister of State if ever asked about our work will always say, quite properly, that we are a statutory authority independent of the executive and independent of the parliament. That is the design, but there is a flaw in that design because in the budget process you need a minister to take forward proposals for you. Where you do not have that relationship with the minister—and in our case in the Department of the Prime Minister and Cabinet—it means we have no substantial voice to put those things forward. It seemed to me that this very budget committee was one where there could be an airing of those issues.

Senator ABETZ: You started with an apology and acknowledging it was unwise. You then went on, with great respect, for some considerable time justifying your actions, as you seem to have done in the media release of 13 October, so I am still in some dilemma as to what the Ombudsman's position is in relation to this. Do you characterise it as a misjudgment and ill-advised and say it should not have occurred or was it justified because you are an agency under pressure et cetera requiring more support and funding?

Mr Asher: It was not justified. It will not occur again and it should not have occurred then.

Senator ABETZ: In your evidence earlier this evening you indicated that you had spoken with about six parliamentarians in the last week or fortnight. Is that right?

Mr Asher: Yes, I would say so.

Senator ABETZ: In this statement, four paragraphs down, you said, 'I have only infrequent and limited opportunities to engage with the parliament,' yet here in the past week you have had six parliamentarians with whom you could have raised, 'I've got some financial limitations.' So I suggest to you that you did have opportunities.

Mr Asher: Yes. The comment you were referring to was 'engaging with the parliament' with the committees of the parliament not just individuals. I need to correct the impression that they were all in the last week. It was over, say, the last two weeks—since the tax forum and things like that.

Senator ABETZ: Two weeks, all right.

Mr Asher: Those contacts are in relation to particular issues—Mr Oakeshott, for example, in relation to the tax forum. I have spoken to Mr Wilkie in relation to proposed public interest disclosure laws and a range of MPs on areas of interest—some that they have initiated and some that I have—but they are all quite open and I think it is perfectly justified for us to do that. What is not justified and what would never happen again is the writing of questions for a committee.

Senator FAULKNER: But you have never written to a parliamentary committee, have you?

Mr Asher: I have not written a letter saying 'Can I appear to speak about problem matters?'

Senator FAULKNER: No.

Mr Asher: But I have written—

Senator FAULKNER: You have never raised these issues with a parliamentary committee.

Mr Asher: I would have to check our submissions but yes, I have, in relation to at least several committees. There is the joint public accounts committee. I have given evidence twice there about the Australian tax office and I have pointed out that our tax complaints have gone up 83 per cent over just the last three years and that we are finding it really hard to deal with that. I raised with that committee the recommendation of the Henry committee that the funding provided to both the Ombudsman's office and the inspector-general be made adequate.

Senator FAULKNER: Yes, but not the matters you have raised with Senator Hanson-Young.

CHAIR: I am afraid we have run our course of time for tonight. As you did tonight, Mr Asher, each time you appear before the Senate estimates you have the opportunity to make an opening statement, which you did not take up on 24 May, according to *Hansard*. If there are any further questions, they will have to be placed on notice. We thank you for appearing before us tonight.

Mr Asher: Thank you. I wonder if I could invite any individual senators who would like to pursue any of these questions further to make them.

CHAIR: The process is, Mr Asher—for your benefit and for the *Hansard* record—is that if there are any outstanding questions from tonight they will be placed on notice to you.

Senator FAULKNER: I think if you did that, Mr Asher, people would think you had not learnt very many lessons. I will ask some questions on notice, which is appropriate, so everyone can see them—the questions I ask, and your responses to them. That would be a better way for us to act in relation to these matters.

Mr Asher: Okay.

Senator BOB BROWN: If I may—

CHAIR: I am sorry, we have run out of time. If you want to put—

Senator BOB BROWN: It is part of the committee's business that you cannot run out of.

CHAIR: You can put it on notice.

Senator BOB BROWN: The Ombudsman has asked if he may table a document. That request has not been taken up by you but I think it should be dealt with by you.

CHAIR: Could you say that again?

Senator BOB BROWN: At the outset, the Ombudsman indicated that he may wish to table a document. Are you going to ask him if that is the case?

CHAIR: He said he was going to table his opening statement.

Senator BOB BROWN: Yes. May he do that?

CHAIR: We will make a decision when he presents that to us as to whether or not the committee will accept that.

Senator BOB BROWN: It is just a courtesy.

CHAIR: Any other further questions will be placed on notice and we thank you—

Senator BOB BROWN: Are we going to or not?

Senator ABETZ: It has been read into the *Hansard*.

Senator BOB BROWN: No, he did not finish it.

Senator Chris Evans: I think the Ombudsman had some more material that he might have used but for shortness of time, but also, looking over there, it is a bit rough-and-ready hand notes so perhaps the officer might like to ask to table the documents later tonight or tomorrow for the committee.

CHAIR: The process is: opening statements. As you would be aware, Minister, they are normally short opening statements to allow the fullness of questioning by the committee to the witnesses.

Senator BOB BROWN: But it is not a normal situation, Chair.

CHAIR: The process of estimates is well documented.

Senator BOB BROWN: It requires flexibility.

CHAIR: Unfortunately, we are running out of time. I thank the officers very much for appearing before us. I now invite the Office of the Australian Information Commissioner to come forward.

Office of the Australian Information Commissioner

[22:20]

CHAIR: I welcome Professor John McMillan, Australian Information Commissioner, and officers. Professor McMillan, do you wish to make an opening statement?

Prof. McMillan: No, thank you.

Senator RHIANNON: Professor, you have not got to your first year in the job yet; I think your anniversary is coming up in November?

Prof. McMillan: Yes, that is correct.

Senator RHIANNON: I would be interested to hear how you have seen the first year; any positives and negatives, any disappointments. Anecdotally, I hear that more significant

disclosures have occurred in this first year than previously. I would be interested to hear how you would sum it up, considering we do not have a report yet.

Senator Chris Evans: That sounds a bit like a Dorothy Dixier.

Senator RHIANNON: I am just getting ready.

Prof. McMillan: You can judge by my answer. There are really three aspects of the reform with which I have been engaged. One is the merging of privacy, freedom of information and information policy in a single scheme. The second has been the substantial reform of the Freedom of Information Act. The third has been the introduction of independent advice to government on information policy as a distinct and independent function. My office has been busily engaged in all three areas. We are very pleased at the integration of those three areas. We think Australia has an excellent model for dealing comprehensively with information management policy.

As to the reforms on freedom of information, there is no doubt that the reforms of the Freedom of Information Act have had a substantial impact on government. It is fairly obvious, I think, from stories in the press, that there is quite an increase in applications for policy related material. Indeed, our statistics indicate an increase of 48.6 per cent in that area.

Another aspect of the open government reforms was to add an additional and distinct shift towards a proactive publication stance on behalf of government, and my impression is that that is going very well. You can visit, for example, most agency websites and see icons for the information publication scheme disclosure log there.

That is a brief summary of how it is going. Our annual report on FOI and a separate one on the OAIC will be out in the next couple of weeks.

Senator RHIANNON: Thanks for that run-down. I notice how positive you were, so I will be interested in your comments on that report that came out last week in which the Commonwealth Freedom of Information Act has been rated in an international survey as 39th out of 89, putting Australia in an embarrassing position. To what do you attribute that, and is it changing?

Prof. McMillan: I was not involved at all in that review. I was not consulted. My comments were not sought by the group that was doing it. It was an independent non-government civil society group, as I understand it. There is not a lot of information available, from my initial search on the website, about how the evaluation was done. It looks only at the design of the law and not at the implementation of the law, so it does not look at transparency practice in government.

As to the design of the law, there are aspects of it in which Australia scored very low which I would not have thought were weaknesses in our law, for example, the fact that the FOI Act does not apply to the parliament or the judiciary. We have a clear, constitutional separation of functions in Australia which I think makes this inappropriate. Some other nations do not have that clear separation and so they do go down that path. We have a stable, constitutional democracy in which we can essentially rely on the public service to uphold the law, so we do not have penalties in our FOI Act. Some other countries, against a backdrop of corruption and maladministration, do have penalties in the FOI Act, and they have scored higher on this analysis.

My comment, and I have commented at international fora, is that I think these analyses are valuable and useful—we get some advantage from them—but there is some bias by reason of the fact that it is essentially designed by civil society organisations working primarily with developing countries in designing a new integrity framework. I do not think Australia's ranking really reflects where we are—

Senator RHIANNON: So you do not think that ranking was fair?

Prof. McMillan: It only evaluates the law, and it is the opinion of those who designed it, but if one was after an evaluation of transparency practice in government and a commitment to open government then I do not think this is at all indicative. There are issues in Australia and there are challenges, but we have a good system and a strong commitment.

Senator RHIANNON: Which leads onto my next question about the design of the law. You will be aware that there was a Senate inquiry into the draft FOI bill that left it to the commissioner to make decisions about what was in and what was out. It sounds like you have come to the conclusion that the balance is right. Is it correct that you think that parliament, ASIO and parliamentarians should not be covered by FOI?

Prof. McMillan: No, I have not come to a conclusion on any of those issues. Indeed, one of the features of the reform program is that my office would, starting in the first year, undertake a review of FOI charges. That review has just commenced. I have an open mind and will invite submissions from within government, from the parliament, from journalists and from the community about the role of charges in FOI.

Another feature, which is stated in the act, is that the government, in consultation with me, is to undertake a review of the FOI Act, commencing within the first two years. It is certain that one of the issues in that review will be whether the act should apply to security intelligence agencies. It does, for example, in the United States with the CIA and in the United Kingdom with MI5, but it does not apply in Australia. Clearly it is an important policy issue. I expect it will be one of the issues that we will examine and on which we will get many submissions, and I have an open mind.

Senator RHIANNON: We have just seen the launch, by President Obama, of the Open Government Partnership in New York, at which Australia was a notable absentee. I was surprised about this, considering the Open Government Partnership is quite an impressive multilateral initiative that aims to secure some commitments from governments to promote transparency and all of the fine aspects of FOI, including all the spin-offs that go with it in fighting corruption and particularly harnessing new technologies to strengthen governance. Given your comments, I am interested in why Australia passed up the opportunity to be part of this partnership with 46 other countries. Will we be participating in 2012? Do you have any recommendations?

Prof. McMillan: A criterion for membership of the open government partnership is that the decision is made at the highest levels of executive government. So, clearly, it is not for me to make any decision on that, or really to express an opinion. I did attend an initial meeting in Washington in July prior to the launch of the open government partnership in September. I have made a submission to government analysing all of the issues.

Government will make a decision on whether to join but I must say that we did not have a lot of advance notice of this issue. The meeting in July was really the first that my office and

many others knew about it. Certainly, I came back with a lot of questions in my mind about the way the partnership would be conducted. There had been a steering committee forming it but we were not part of that. For example, the open government declaration that was made by the foundation partners was only released about two to three weeks before the open government partnership was formally launched.

So at this stage I think all one can fairly say is that there is an issue of timing. Many other countries have not joined at this stage. I suspect government will address that issue.

CHAIR: I am very sorry, Senator Rhiannon. Because of the lateness of the hour you will have to put any further questions on notice.

Senator RHIANNON: Thank you very much.

CHAIR: Mr McMillan, officers, thank you for appearing before us tonight.

Office for the Arts

[22:30]

CHAIR: I would like to call back officers from the Department of Prime Minister and Cabinet and welcome the Senator the Hon. Mark Arbib, Minister for Indigenous Employment and Economic Development, Minister for Social Housing and Homelessness, Minister for Sport and the minister representing the Minister for the Arts.

We are now moving onto outcome 2, arts and culture. Officers and senators are familiar with the rules of the Senate governing estimates hearings. If you need assistance the secretariat has copies of the rules. I particularly draw the attention of witnesses to an order of Senate of 13 May 2009 specifying the process by which a claim of public interest immunity should be raised. The committee has set Friday, 2 December 2011 as a date by which answers to questions on notice are to be returned.

Senator BRANDIS: The national cultural policy discussion paper was released on 11 August. Submissions in respect of that paper close, I believe, on Friday. Is that right?

Mr Eccles: This week. Yes, certainly that is right.

Senator BRANDIS: I want to ask you a number of specific questions about the funding priorities revealed by that discussion paper but before I do can I briefly go to the goals stated. There are four goals specified in the discussion paper. Because we do not have very much time I will not read each of them but I just ask you: where were those four goals derived? Why are those the four goals?

Mr Eccles: The goals were derived by the Office for the Arts obviously in consultation with the government. It is important to note that the principal purpose of this document is to act as a seed for discussion and to prompt debate.

Senator BRANDIS: Yes.

Mr Eccles: Those goals were developed with that basis in mind.

Senator BRANDIS: When you say 'to prompt debate' the identification of these four particular goals rather than other goals, and the way in which they are expressed, shapes the terms of the debate, doesn't it? As you are aware, the pro forma on your website which invites commentary on the goals does ask responders to say how these particular goals might be

achieved. That is why I am wondering why it is that these goals, rather than other goals for example, have been the goals arrived at.

Mr Eccles: On the basis that, for the purposes of engaging in broad consultation, it was deemed that these goals were the most appropriate.

Senator BRANDIS: But by who, and why?

Mr Eccles: As I said, by the government based on advice from—

Senator BRANDIS: By the minister?

Mr Eccles: By the government, I think.

Senator BRANDIS: Does that mean by the minister or somebody else?

Mr Eccles: By the minister and more broadly.

Senator BRANDIS: I am a little alarmed to see that the first goal in your cultural policy discussion paper is not the pursuit of excellence in the arts.

Mr Eccles: I think you are assuming that these are rated in particular order of priority.

Senator BRANDIS: Goal 1 is:

To ensure that what the Government supports—and how this support is provided—reflects the diversity of a 21st century Australia, and protects and supports Indigenous culture.

I am bound to say that I am astonished that the first goal of the arts policy of this nation is not to promote excellence in the arts.

Mr Eccles: Goal 3, as you would be aware, is to support excellence and world-class endeavour.

Senator BRANDIS: Why is it a third-tier goal?

Mr Eccles: It is not a third-tier goal.

Senator BRANDIS: Why wasn't it put first?

Mr Eccles: I will give you a bit of background also based on the consultations to date. We have asked people, as you would be aware, through the online survey to identify the extent to which they believe that these goals are particularly important. Goal 1 is proving to be—

Senator BRANDIS: I did not ask you about that, Mr Eccles. We do not have a lot of time, so please limit yourself to responding to my questions.

Senator ARBIB: It is a consultation process.

Senator BRANDIS: Yes, but I am asking questions about it.

Senator ARBIB: I know, but I am making the point it is a consultation process. Some people may say it should be moved forward. I do not think it should. This is a paper that is going to be considered for the future.

Senator BRANDIS: I do not want to waste the precious little time we have. I want to record the point that I myself, if I might respectfully suggest, would have thought that the ultimate objective of a cultural policy is to promote excellence in the arts. The next objective of a cultural policy would be to make the arts as accessible as possible to all Australians. Those are mentioned in other objectives, but they are not the first goals to be identified which strikes me as curious. Mr Eccles, do you have a copy of the discussion paper in front of you?

Mr Eccles: Yes, I do.

Senator BRANDIS: On page 8 there is a table of funding under the self-advertising heading, key components of Australian government investment in a strong and creative culture in Australia. The explanatory words follow in a sentence in parentheses below that these are expenditures for the 2011-12 year. The message I take is that the expenditure priorities recorded in the table that follows are meant to proclaim that the current Australian government does have a commitment to investment in a strong and creative culture in Australia, as the self-advertising headline says. That is what the reader would glean from that.

Mr Eccles: That is what the document says. It is important to note that these particular pages were designed to provide context to readers who may not be familiar with the role of the Commonwealth in supporting arts and cultural activities. It was certainly seen to be an important part of setting the scene to ensure that the debate was based on as much information as possible.

Senator BRANDIS: I am very glad you have said that, Mr Eccles. Let us add a bit more information to this debate, if we may. In the left-hand column on page 8, there is tabulated the Commonwealth's commitment to investment in various key arts agencies in the 2011-12 financial year. Do you have a copy of the PM&C portfolio budget statement for 2011-12 with you?

Mr Eccles: Yes.

Senator BRANDIS: Again, because of the pressure of time, I want to get this down for the record, but may I assure you that I have checked each of these figures and each of these figures marries up with the line item, total annual appropriations for the nominated agency in table 1.2—that is, agency resource statement—

Mr Eccles: Can you give me a page reference?

Senator BRANDIS: for the relevant agency—for example, the Australia Council, page 87; the Australian Film, Television and Radio School, page 108; the Australian National Maritime Museum, page 127; the National Gallery of Australia, page 195; the National Library, page 216; the National Museum of Australia, page 238; and the Archives, page 387. If we had unlimited time, I would take you through them item by item, but may I assure you that I have checked these, and those figures for the agencies I have identified, which you list, are the figures coming from the PBS for 2011-12. Okay?

Mr Eccles: I have not had time to look at this, but I obviously accept—

Senator BRANDIS: Please check them at your leisure and, if I have made a mistake, please correct them on notice—

Senator Arbib: We are happy to come back to you on this.

Mr Eccles: I am not sure—

Senator BRANDIS: I can let you know that those figures marry up, and the PBS, as you would expect, seems to be the source from which this table is derived. Okay? All right.

Senator Arbib: We will need to check that, Senator.

Senator BRANDIS: By all means, check it. Now, Mr Eccles, for the purposes of these questions, I have taken the trouble to compare that line item in the PBS for 2011-12—which is the basis of the boast in the 'National cultural policy discussion paper' on page 8—with both the portfolio budget statement for 2007-08 in respect of each of those agencies, which was the

last coalition government arts budget, and the PBS for 2008-09, which, if you are familiar with the structure of these documents, reports the outcome from the previous year's budget. Again, for completeness—I assume you do not have the 2008-09 PBS in front of you—

Mr Eccles: No, I do not.

Senator BRANDIS: but, just for the record, in the 2008-09 PBS for the Environment, Water, Heritage and the Arts portfolio, the figures for the Australia Council appear on page 203, the Australian Film, Television and Radio School on page 224, the Australian National Maritime Museum on page 240, the National Gallery on page 274, the Australian National Library on page 291 and the Australian National Museum on page 314. I point out to you, Mr Eccles, that in each agency I have mentioned, there has been between 2007-08, which was the last coalition government arts budget, and 2011-12, which is the current Labor arts budget, a reduction in real terms and, in many cases, nominal terms as well of the Commonwealth investment in each of those core arts agencies. For example, if I can take you to the current PBS for the Australia Council, page 87 of the document you have in front of you, the total annual appropriations in table 1.2—which marry up with the figure you have given on page 8 of your 'National cultural policy discussion paper'—indicate a Commonwealth investment in the 2011-12 year of \$167,681,000. Do you see that?

Mr Eccles: Sorry, Senator; you are on page 87?

Senator BRANDIS: Page 87, table 1.2, the line item about five points down, 'Total annual appropriations'.

Mr Eccles: Yes, 176—

Senator BRANDIS: \$176,681,000, which is the figure that has been chosen by the authors of your discussion paper, which is rounded up to \$177 million. That is the same figure, isn't it?

Mr Eccles: Yes, Senator.

Senator BRANDIS: Right. So we are comparing apples with apples here. Now, you do not have it in front of you but I can tell you that, in the 2008-09 PBS, in the same table, which summarises the amount that was in fact spent in the 2008-09 budget, the figure was \$160,640,000. That means that over four years there has been an increase in the funding to the Australia Council of 9.98 per cent, which on an annualised basis suggests an average annual increase of a shade under 2.5 per cent. I also tell you, Mr Eccles, that over those four years the average annual rate of inflation was 3.225 per cent, so there has been a reduction in real terms of funding to the Australia Council of about three-quarters of a per cent on average each year.

I want to get this onto the record and I will go through these figures and invite you to make a generic comment at the end—

Senator THISTLETHWAITE: Chair, is Senator Brandis going to ask a question? He has been going for 10 minutes now and there has not been a question asked. There are others who wish to ask questions and we have got 14 minutes to go.

Senator BRANDIS: Please understand that as the shadow minister I think I am entitled to have the lion's share of this time.

Senator THISTLETHWAITE: Then ask a question.

CHAIR: I do not need to remind Senator Brandis of how estimates proceeds. I will draw his attention to the fact that we have got less than 15 minutes and we have got a number of agencies. Senator Brandis, please come to your question.

Senator BRANDIS: It will be a long preamble but I will come to my question. In respect of the other cultural agencies of which the government boasts a strong investment in the national cultural policy working paper, the comparative figures for the Australian Film, Television and Radio School, which you can identify by reference to the tables I have already mentioned, indicate an average annual increase over the last five years of 0.65 per cent at a time when the average annual rate of inflation has been 3.225 per cent. The average annual increase in Commonwealth investment in the Australian National Maritime Museum has been 0.0375 per cent. That is a reduction in real terms. The investment in the National Archives indicates an average annual reduction in nominal terms of 1.18 per cent, which is a reduction in real terms each year of about 4 per cent. The average annual investment in the National Gallery of Australia, the premier visual arts institution of this country, has been a reduction of 5.33 per cent per annum, which is a reduction in real terms of some 7.5 per cent. The investment of the Commonwealth government in the National Library of Australia, the principal collecting institution of the written word in this country, has been reduced by 2.53 per cent in nominal terms or some 5.5 per cent in real terms per annum. The reduction in expenditure on the National Museum, the principal custodian of Australian heritage, has been 2.02 per cent on average in nominal terms, which in real terms is a reduction of more than 5.25 per cent.

By all means check those figures against the tables to which I have directed your attention. You will find that the propositions I put to you are arithmetically correct. It amounts to this, Mr Eccles, does it not, that notwithstanding the boast in the national cultural policy discussion paper that the government which you serve has made a strong investment in a creative Australia, in every single instance there has been a very substantial reduction, in most cases in nominal terms and in all cases in real terms, compared with the amount the Commonwealth of Australia invested in those institutions four years ago during the last coalition government arts budget. Would you care to comment on that?

Senator Arbib: Chair, I do not know how anyone could actually comment on that. Senator Brandis has just made a number of statements that witnesses at the table cannot actually—

Senator BRANDIS: I have got the documents here. I—

CHAIR: Senator Brandis, we listened to the preamble to your question, now allow the minister to respond.

Senator Arbib: It is impossible for any official to actually analyse the information that Senator Brandis has just provided—and he is asking for an opinion, so I do not think there is any need or reason for Mr Eccles to respond. Senator Brandis, I have been coming to estimates for 12 months now. You are the shadow minister and this is the first time you have attended. We have had numerous discussions with Senator Humphries about arts funding and also about the efficiency dividend. I hope Senator Brandis is coming here to tell us the arts would be quarantined under Liberal Party policy because my understanding of the Liberal Party policy at the moment is a two per cent efficiency dividend cut which would take more

money out of this portfolio area. On top of that there is a \$70 billion black hole from the Liberal Party. And we know where the money will go. They will be cutting services.

Senator BRANDIS: Chair, are you going to allow the minister to make political propaganda statements?

CHAIR: Are you taking a point of order, Senator Brandis?

Senator BRANDIS: Yes, I am. This is not a response to the question I asked of Mr Eccles.

Senator Arbib: It is a response to the question, chair.

CHAIR: Senator Brandis, you have raised a point of order. I was very patient in allowing you to ramble through your preamble without coming to a question.

Senator BRANDIS: I had given the witness a reference, by page and line item and number, to particular portfolio budget statements. Nobody can suggest the witness has not been given sufficient information.

CHAIR: You did. But you started the preamble to your question at 10.33 and went through to 10.50. I think I gave you a lot of leeway in your preamble to get to your question. You know very well that under the standing orders I cannot direct the minister or any witness on how to respond. You put the question and the minister is responding.

Senator Arbib: And you asked for an opinion.

Senator BRANDIS: Mr Eccles, could you please take on notice this question. Would you explain to me how the figures I have quoted to you by reference to page number, table number and line item of the portfolio budget statements in respect of the each of the agencies I have identified can be regarded as anything other than a reduction in the Commonwealth's investment in these core cultural agencies?

Mr Eccles: Yes, I will take that on notice.

CHAIR: The question has been taken notice. Do you have any further questions, Senator Brandis?

Senator BRANDIS: No, I think I will yield to Senator Humphries.

CHAIR: I take it that we are still dealing with outcome 2. Given the time, will we have time to get onto the Australia Council, Screen Australia and the National Film and Sound Archive?

Senator BRANDIS: In relation to Screen Australia I do not have any questions. I have asked a question about the Australia Council through the department. Because we have six minutes left—and it would be nice if we had a lot more time—I think the answer to that question is no. But I know Senator Humphries has questions of two particular agencies.

CHAIR: Senator Humphries, are you going to be dealing with outcome 2, or do you want to move on to one of the agencies?

Senator HUMPHRIES: The agencies, please.

CHAIR: Do you need the Australia Council, Senator Humphries?

Senator HUMPHRIES: Can I call the National Museum and the National Archives.

CHAIR: And the others can go?

Senator HUMPHRIES: Yes.

Mr Eccles: I would like to make a point of clarification. The archives are not part of the arts portfolio.

Senator HUMPHRIES: Oh, they are not? Before the others go then, can I have—

Senator BRANDIS: They are actually in the PBS for this year, you know.

Mr Eccles: They are in the Prime Minister and Cabinet portfolio but they are not part of the arts outcome.

Senator HUMPHRIES: Are they here?

Mr Eccles: No. I think they were here earlier in the day. But they are not part of the arts group of agencies.

Senator HUMPHRIES: Can we have the National Gallery instead of the National Archives?

CHAIR: We will have the National Museum of Australia first and then we will have the Australian National Gallery. You have got five minutes, Senator Humphries.

National Museum of Australia

[22:55]

Senator HUMPHRIES: On the previous occasion that you appeared, Mr Sayers, I drew to your attention the announcement by Minister Wong, as Minister for Finance and Deregulation, on 21 April, that the government was introducing a measure to apply the efficiency dividend at portfolio level, which would mean that portfolios would be provided more flexibility in applying the efficiency dividend, including smaller agencies. I gather that the idea here is that a mother agency can absorb some of the efficiency dividend imposed on the smaller agency. When I raised this issue I believe you were unaware of the specifics of this particular proposal that was outlined by the minister on 21 April. Have you now apprised yourself of this arrangement, and have you made any steps to apply to your mother agency—which I assume is the Department of Regional Australia, Regional Development and Local Government—to take advantage of the arrangement the minister announced on 21 April?

Mr Eccles: Senator, it is the Department of the Prime Minister and Cabinet, not regional Australia.

Senator HUMPHRIES: Okay. Have you applied through the Department of the Prime Minister and Cabinet?

Mr Sayers: I was aware at the last hearing of this committee of the arrangement or the principle that the efficiency dividend would be applied to portfolio level. But we have not been in a position to seek any particular relief for the National Museum of Australia.

Senator HUMPHRIES: Why not?

Mr Sayers: I think this is probably a question that is better directed at the Office for the Arts, simply because there has been no mechanism that has been—

Senator HUMPHRIES: Why do you need a mechanism to take advantage of an offer that a minister has established with a policy announcement of the government, that agencies would be able to collaboratively, with a lead agency, rearrange the burden of the efficiency dividend?

Mr Sayers: Because the decision would then be a decision for the lead agency at the portfolio level.

Senator HUMPHRIES: All right. Could I direct my question to Mr Eccles. How has the department handled the possibility—

CHAIR: You have got one minute, Senator Humphries.

Senator HUMPHRIES: How have you dealt with this issue? What have you said to the agencies that you are responsible for?

Mr Eccles: I have spoken to all the agencies and have explained to them that the decision of government is to apply the efficiency dividend on the basis of the 1.5 per cent to each of the agencies equally rather than having some winners and some losers.

Senator HUMPHRIES: So you decided, on behalf of all the agencies in your portfolio, not to allow them to take advantage of the arrangement that Minister Wong announced on 21 April.

Mr Eccles: No, I advised them that the government's decision was that the efficiency dividend would be applied equally across the agencies and that we would, as I mentioned to you at the last hearings, work with them to identify a whole series of options for efficiencies, through shared services and other things, to try and identify opportunities for—

Senator HUMPHRIES: Are any agencies in this portfolio—

CHAIR: This is your final question, Senator Humphries.

Senator HUMPHRIES: going to be able to take advantage of the arrangement that Minister Wong announced on 21 April?

Mr Eccles: All agencies, I expect, will be responding to the opportunity to make a submission in terms of the National Cultural Policy—

Senator HUMPHRIES: But that does not mention the efficiency dividend.

CHAIR: That was your final question, Senator Humphries.

Mr Eccles: Senator Humphries, you were asking whether or not there is an opportunity for agencies to bring forward ideas—

Senator HUMPHRIES: No, not ideas—to share the burden of the efficiency dividend as outlined by Minister Wong on 21 April.

Mr Eccles: So what is the question?

Senator HUMPHRIES: The question is as follows. A mechanism was created by Minister Wong in that media release for the efficiency dividend to be shared differently between individual agencies and the lead agency. On the last occasion, not one agency that came before this committee knew anything about this mechanism. You have since had several months in which to apprise them of this mechanism. Have you done so and have you invited any to take advantage of this mechanism to share the efficiency dividend?

CHAIR: That is your final question, Senator Humphries.

Mr Eccles: As I mentioned at the last hearings, the decision of government is to apply the efficiency dividend equally across the agencies and—

Senator HUMPHRIES: But it is not; she said you had the option—

CHAIR: Senator Humphries, you put the question—

Mr Eccles: No, in terms of the specific agencies—

CHAIR: Mr Eccles, the question has been put to you. It is now past 11 o'clock. I am asking you to answer the question—

Senator BRANDIS: Madam Chair, I have a point of order.

CHAIR: I have not finished speaking, Senator Brandis. I am in the process of asking Mr Eccles to continue without interruption from committee members. If you could, please answer the question, Mr Eccles—and I ask committee members not to interrupt.

Mr Eccles: I just want to paraphrase the question. It is: have any of the agencies been provided with an opportunity to avail themselves of making a case as to why the efficiency dividend should not be applied on the equal basis?

Senator HUMPHRIES: Yes, given what Mr Sayers just said.

CHAIR: That is the conclusion of the hearings for today. The question was put; it was answered—

Senator HUMPHRIES: He has asked me to clarify a question.

CHAIR: He just answered the question.

Senator RYAN: No, he paraphrased the question prior to his answering it.

Mr Eccles: Yes, and the answer remains that the government's decision is that it will be applied equally across each of the agencies and that we are engaging with the agencies on a whole range of options and opportunities to create efficiencies within them. The chairs and CEOs of every agency have been invited to make submissions in the context of the National Cultural Policy about their ongoing work program.

Senator ARBIB: Just remember that the efficiency dividend that applies is—

Senator BRANDIS: Like every other—

CHAIR: Senator Brandis—

Senator BRANDIS: It is completely subjective. The policy of this government is to put the national cultural agency on the same footing as any other citizen—

CHAIR: Senator Brandis, you do not have the call. I now conclude today's hearings.

Committee adjourned at 23:02