

## Chapter 4

### Finance and Administration Portfolio

4.1 The committee took evidence from the Department of Finance and Administration, the Commonwealth Grants Commission, Comsuper, CSS and PSS Boards on Wednesday, 25 May and the Department of Human Services, Centrelink, the Health Insurance Commission, Australian Hearing, the Department of Finance and Administration (in continuation), the Australian Electoral Commission and the Australian Government Information Management Office on Thursday, 26 May.

#### Department of Finance and Administration (DoFA)

4.2 Issues raised by members of the committee and other senators in attendance included:

- The appointment process for the new Australian Electoral Commissioner;
- The internal security review and unauthorised disclosure investigations;
- A significant rise in staff numbers—mostly due to machinery of government changes;
- The publication of a list of Australian government bodies;
- Transfer of management of the Commonwealth asbestos liability to DEWR;
- The budget contingency reserve;
- Special accounts;
- Unreported expenditure on advertising for the recruitment of senators' and members' staff;
- Monitoring of agencies' expenditure against programs and appropriations;
- The process for estimating the long-term costs of policy proposals;
- The pre-budget costing process;
- Updating and monitoring agency information in the accrual information management system (AIMS);
- The Medicare safety net program;
- Resources devoted to estimates preparation;
- The quality of the budget papers and the inclusion of a statement of risks;
- The tsunami aid package;
- Incorrect statements by ministers regarding the government's financial status;
- Departmental accommodation;
- The Telstra scoping study task force;

- The Future Fund;
- Cost of unfunded superannuation liabilities;
- Audit responsibilities for Indigenous programs;
- The process for compiling the pre-election economic and fiscal outlook (PEFO) report;
- Use of behavioural assumptions when costing budget proposals;
- The purpose of Appropriation Bills Nos 5 and 6—depreciation funding for some cultural and heritage assets, funding for ANZSOG and additional funding for some ATO programs;
- Evaluation of Australian Public Service (APS) travel procurement policy and expenditure;
- Net appropriations under section 31 of the *Financial Management and Accountability Act 1997*;
- Features and trusteeship of the forthcoming Public Sector Superannuation Scheme (PSS) accumulation plan;
- The time lag between agencies providing answers to questions on notice to ministers' offices and the answers being provided to the committee;
- A dispute between the Commonwealth Superannuation Scheme (CSS) and members regarding eligibility for payouts and progress of the subsequent review;
- Australian Workplace Agreements (AWAs) and certified agreements overriding general choice of fund arrangements;
- The introduction of transition to retirement legislation on 1 July 2005; and
- The investment earning rate for CSS and PSS for this financial year and the expense ratio for funds under management;
- Members of Parliament staffing numbers and allocations
- The Government Members' Secretariat
- Parliamentarians' newspaper entitlements
- Statements of private interests of MOP(S) staff
- Security clearances for MOP(S) staff
- Transfer of the Australian Government Information Management Office (AGIMO) from the Department of Communications, Information Technology and the Arts (DCITA);
- Government response to recommendations in the Joint Committee of Public Accounts and Audit report on the management and integrity of electronic information in the Commonwealth;
- AGIMO's role in electronic security measures; and

- IT outsourcing.

### *Unwillingness to provide information*

4.3 The committee was disappointed with the increased tendency of DoFA witnesses to take questions on notice or refuse to provide information without sufficient explanation. One unacceptable ground cited for refusing to provide reports was that 'they are government documents'.<sup>1</sup> More commonly, witnesses declined to answer questions on the ground that the information constitutes advice to government. Withholding information on this basis, however, has not been accepted by the Senate in the past:

As with legal advice, the mere fact that information consists of advice to government is not a ground for refusing to disclose it. Again, some harm to the public interest must be established, such as prejudice to legal proceedings, disclosure of cabinet deliberations or prejudice to the Commonwealth's position in negotiations. Any general claim that advice should not be disclosed is defeated by the frequency with which governments disclose advice when they choose to do so.<sup>2</sup>

4.4 Several examples of insufficiently substantiated refusals to disclose information are discussed below, particularly in relation to DoFA's contribution to cabinet submissions, the assumptions underpinning policy proposal costings and the date advice was provided to the government. A further example is discussed in relation to AGIMO at the end of this chapter.

### *Australian Electoral Commissioner selection process*

4.5 Committee members raised concerns about perceived executive influence on the process for selecting the new Australian Electoral Commissioner. The committee heard that Mr Paul McClintock, a former member of the Prime Minister's personal staff, was part of the selection panel tasked with recommending the appointment of an electoral commissioner. Discussion ensued about the importance of public perception of a tainted selection process, particularly given the electoral commissioner's role as an independent statutory officer of the parliament.<sup>3</sup>

4.6 DoFA Secretary Dr Ian Watt, chair of the selection panel, told the committee that he had selected Mr McClintock without suggestion or interference from any other person. He did, however, advise the Minister for Finance and Administration, Senator Minchin, of the people he proposed to appoint to the panel—the APS Commissioner, the Secretary of the Department of Human Services, and Mr McClintock. Senator Minchin informed the committee that he believed he had told Dr Watt that 'I thought

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1 *Committee Hansard*, 26 May 2005, F&PA 129

2 Evans, H. Clerk of the Senate, *The Senate—Grounds for public interest immunity claims*, 19 May 2005, p 5

3 *Committee Hansard*, 25 May 2005, F&PA 4-5

that was a sensible decision by the secretary; it seemed a good committee'.<sup>4</sup> Dr Watt also stated that the presence of three senior public servants on the selection panel ensured its independence.<sup>5</sup>

#### *DoFA security review and leak investigations*

4.7 The committee's interest in the current DoFA internal security review and unauthorised disclosure investigations continued from previous estimates hearings.<sup>6</sup> Members heard that Mr Len Early, a former deputy secretary of the Department of Finance, is continuing a review of the business processes and corporate aspects of security in DoFA. Mr Early's daily contractual rate, which DoFA witnesses refused to disclose at the previous estimates hearings, was this time provided to the committee.<sup>7</sup>

4.8 Senator Faulkner suggested the many security reviews and investigations were creating a culture of intimidation in the department. He also raised the broader issue of a double standard between ministers' and senior public servants' opposition to leaks by public servants, and their apparent tolerance of unauthorised disclosures by members of the government or their staffers.<sup>8</sup> This led to Dr Watt defending DoFA's approach to leaks:

When departmental information is disclosed to people outside the department you have to take that seriously, and I do. I take it seriously for two reasons: firstly...I think it is very sad and very hurtful for the officers of the department...Secondly, it is corrosive for relations with the government of the day if it sees its information, which it properly regards as being safeguarded when it is in the hands of the APS, revealed to people to whom it should not be.<sup>9</sup>

#### *List of Australian government bodies*

4.9 Members commended DoFA for its publication of a list of all Australian government bodies<sup>10</sup> and suggested that future updates include analysis of the growth in the number of government bodies over time. Dr Watt told the committee that now there was a current baseline, DoFA could make useful comparisons from year to year

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4 *Committee Hansard*, 25 May 2005, F&PA 6

5 *Committee Hansard*, 25 May 2005, F&PA 5-6

6 See Finance and Public Administration Legislation Committee, *Additional Estimates 2004-05 Report*, March 2005, pp 33-34

7 *Committee Hansard*, 25 May 2005, F&PA 6-9

8 *Committee Hansard*, 25 May 2005, F&PA 10-13

9 *Committee Hansard*, 25 May 2005, F&PA 11

10 Department of Finance and Administration, *List of Australian Government Bodies 2002-2003*, Financial Management Reference Material No. 1, 2004.

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when updating the document. A revised list current to 1 January 2005 is due to be completed before the end of this financial year.<sup>11</sup>

### *Budget contingency reserve*

4.10 The committee asked about the purpose of the budget contingency reserve, and Mr Phil Bowen, General Manager of the Budget Group, gave the following explanation:

The contingency reserve is a mechanism in the budget to ensure that the budget bottom line is as accurate as possible...It has been longstanding practice to have the contingency reserve contain estimates of expenses that cannot be explicitly reported within portfolio estimates. The reasons for that include reasons of sensitivity, such as commercial-in-confidence data or national security information, and timing, such as late decisions and late changes to economic parameters.<sup>12</sup>

4.11 The committee heard that the largest component of the contingency reserve, the allowance for conservative bias, is not attributable to an individual program. Dr Watt described this component as 'an expenses-wide allowance to allow for the perceived tendency, with the best estimates in the world, for each year's budget estimates to drift upwards'.<sup>13</sup>

4.12 Committee members asked for the program identity of those contingency reserve funds not disclosed in the budget papers, but witnesses would only agree to take the question on notice. Senator Sherry queried the grounds for refusal when some programs had been disclosed as having a provision in the contingency reserve:

Mr Bowen, we have specifically identified that the private health insurance rebate is in the contingency reserve. That is a government program. I understand the reason why you will not identify the figures—they are commercial-in-confidence—and I accept that. But I do not accept why you cannot identify what other programs are in that contingency reserve. The private health insurance rebate is quite specifically identified.<sup>14</sup>

### *DoFA's monitoring role*

4.13 The committee asked about DoFA's role in monitoring the expenditure and budget processes of other government agencies. Issues canvassed include DoFA's lack of involvement in Defence inventory remediation issues, achievement of the efficiency dividend, monitoring agencies' expenditure through AIMS, and DoFA's role in coordinating APS travel procurement policy and expenditure.<sup>15</sup> The committee

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11 *Committee Hansard*, 25 May 2005, F&PA 16-17

12 *Committee Hansard*, 25 May 2005, F&PA 18

13 *Committee Hansard*, 25 May 2005, F&PA 19

14 *Committee Hansard*, 25 May 2005, F&PA 20

15 See, for example, *Committee Hansard*, 25 May 2005, F&PA 13-15, 28-29, 35-36, 102-107

heard that DoFA monitors expenditure on an agreed list of programs (including the Medicare Safety Net).<sup>16</sup> Most questions, however, were answered along the lines that DoFA provides advice when requested, but agencies have their own monitoring processes in place and 'are responsible for their own budgets and expenditure, which the chief executive would oversee'.<sup>17</sup>

### *The efficiency dividend*

4.14 Continuing the monitoring theme, committee members asked whether DoFA had a role in checking and enforcing compliance with the efficiency dividend across portfolios. The committee heard that while the department's budget group assists agencies to adjust their forward estimates to meet the dividend, DoFA does not monitor whether the savings are subsequently achieved.<sup>18</sup> Senator Sherry said that this lack of overall accountability was an important matter, because agencies have an 'escape clause'—they can receive allocations of additional funds.<sup>19</sup>

4.15 The committee expressed some reservations about agencies' ability to meet the efficiency dividend, which is to increase from 1 per cent to 1.25 per cent in the 2005-06 financial year. Dr Watt, however, claimed the efficiency dividend was reasonable, and outlined the methods DoFA would use to make the savings:

We will find better ways of doing things...For example, we have been going through a process of market testing our outsourced functions or our corporate functions—most of which are outsourced—and that sort of thing has yielded us significant savings. That is one way you meet an efficiency dividend. We have changed our outsourced IT provider, and we have gone to a process of selective insourcing and getting a new series of providers. That has also produced some significant savings for us. We find better ways of doing our basic core functions. We have stopped doing some things, as a way of achieving that. It is not unreasonable for managers of public sector entities to find ongoing efficiency dividends each year—and you can find them—and for them to be shared with the budget.<sup>20</sup>

### *DoFA's role in costing budget policy proposals*

4.16 The committee asked about the department's role in costing policy proposals to reach the budget. The committee was advised that DoFA costs the list of proposals agreed at the senior minister's review stage to go forward to the Expenditure Review Committee (ERC), a cabinet committee that makes the final decision about policies to include in the budget. However, witnesses refused to answer most questions about DoFA's role in relation to the ERC on the grounds that it was not for departmental

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16 *Committee Hansard*, 25 May 2005, F&PA 35-36

17 *Committee Hansard*, 25 May 2005, F&PA 103

18 *Committee Hansard*, 25 May 2005, F&PA 23-24

19 *Committee Hansard*, 25 May 2005, F&PA 24

20 *Committee Hansard*, 25 May 2005, F&PA 23

officers to 'speculate about the proceedings of a cabinet committee'.<sup>21</sup> In the past, the Senate has only accepted this ground as it relates to disclosure of cabinet *deliberations*.<sup>22</sup> In providing this explanation, it appeared that departmental officers were attempting to blur the distinction between processes internal to the department or between it and other departments, and the processes of the cabinet.

4.17 For example, Senator Sherry tried to elicit information about the number of late policy proposals that were submitted to DoFA during the two weeks before the 2005/06 budget, but was again rebuffed:

Senator SHERRY—How many decisions were communicated to the department in the final two weeks before the budget?

Dr Watt—I do not think that I can comment on that.

Senator SHERRY—Why not? I am asking for a number.

Dr Watt—I do not think it is relevant for me to comment on that. You are talking about the processes of government decision making. I do not think I should comment on that.

Senator SHERRY—I think you can give a number. I think it would be wrong for me to ask for the details of any of those but I do not see that a number—its workload, its expenditure and so on—is a question that you should not answer.

Dr Watt—Suppose I take it on notice for you and see what we can find.

Senator SHERRY—Taking a question on notice is a dodge in some circumstances; you may or may not get the information.<sup>23</sup>

4.18 The committee asked about DoFA's role in costing several policies announced in the budget, including the Medicare Safety Net, the Job Network funding changes, and aspects of the Welfare to Work package. The committee observed that in general, questions about the assumptions underpinning the costing were not answered. For example, Senator Wong's questions about DoFA's role in developing the Welfare to Work package were repeatedly referred to other departments such as Treasury and DEWR or not answered on the ground that they constituted 'advice to government'. At times, the avoidance of answering questions by departmental officers bordered on the absurd:

Senator WONG—I concede that it is not appropriate for me to ask you what the advice to government was; it is entirely appropriate for me to ask you timing questions. When were the costings finalised?

Dr Watt—I really do not think we can answer that.

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21 *Committee Hansard*, 25 May 2005, F&PA 32

22 Evans, H. Clerk of the Senate, *The Senate—Grounds for public interest immunity claims*, 19 May 2005, p. 3

23 *Committee Hansard*, 25 May 2005, F&PA 33

Senator WONG—Perhaps you can find the person in the department who knows.

Dr Watt—I really do not think we can answer that. It is not an issue about knowledge. This goes to the advice of our interaction with government on policy issues.

Senator WONG—No, it does not.

Dr Watt—I am sorry, it does.

Senator WONG—It is perfectly normal in estimates hearings for senators to ask when advice—not what advice—went to government. I am asking: when were the costings finalised?<sup>24</sup>

4.19 On a related matter, the Minister said he was not prepared to provide information about the breakdown of a net policy proposal costing to the committee, stating, 'We are just not going to set a precedent. We do not detail the formulation that goes into reaching a net figure'.<sup>25</sup>

#### *DoFA's role in relation to the Medicare Safety Net*

4.20 The committee again spent time on the Medicare Safety Net issue, focusing on DoFA's involvement in the several rounds of costing of the program and the assumptions underpinning the costing. DoFA witnesses took many of the questions on notice, saying they did not have the information at hand.<sup>26</sup> The committee was concerned to note the witnesses' apparent lack of preparation for questions about this topical issue (which the committee discussed at length with PM&C the previous day):

Senator SHERRY—In that costing, was allowance made for the possibility that people would increase their expenditure? Was any allowance made for that?

Mr Weiss—I do not recall; I would have to take that on notice.

Senator SHERRY—Were you involved in the—

Mr Weiss—Yes, I was.

Senator SHERRY—It was a pretty important criterion, as it subsequently turned out. I am just surprised that you cannot recall that.

Mr Weiss—It was a while ago. I do not recall it at the moment.

Senator SHERRY—I know it is a while ago, but you were specifically involved and this has been a major matter of public contention.<sup>27</sup>

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24 *Committee Hansard*, 25 May 2005, F&PA 56

25 *Committee Hansard*, 25 May 2005, F&PA 54

26 *Committee Hansard*, 25 May 2005, F&PA 36-39

27 *Committee Hansard*, 25 May 2005, F&PA 37-38

4.21 Committee members asked when the department formally advised the Minister that the costs of the program had exceeded projections, and whether he had advised other ministers of this prior to the election.<sup>28</sup> Although it emerged that Senator Minchin was made aware before the election that the safety net costs were exceeding estimates, he refused to answer the committee's questions, stating 'I am not prepared to go into any detail about what, if any, communication occurs internally within the government on this or any other matter, I am sorry'.<sup>29</sup>

*Quality of budget documentation and inclusion of a statement of risks*

4.22 Senator Murray praised the quality of the budget documentation as follows:

Our job as a committee is to critique budget papers and the thinking that lies behind them. However, when you read the papers and see the way in which they are put together and presented, I think every now and again we should remind ourselves what a professional outfit the department and the government as a whole is in terms of the presentation of material and the attempts to make sure that information is well presented. Despite the fact that I have some criticisms in areas, I think the quality of your work should not go unnoticed.<sup>30</sup>

4.23 The committee also noted the inclusion of a statement of risks to the budget (Statement 11, Budget Paper No.1.). Risks include variations to economic and other parameters, fiscal risks and contingent liabilities. Although he made some suggestions for improvement of the risk statement, Senator Murray observed that it is a useful reminder that the apparent solidity of the Commonwealth and its finances cannot be taken for granted.<sup>31</sup>

*Incorrect announcements about the government's financial position*

4.24 Senator Murray commented on the credibility gap that arises when ministerial announcements about the government's financial status made before the budget are found to differ on budget day—for example, the Minister made the following statement two months before the Treasurer announced an \$8.9 billion budget surplus:

I would reject the story this week that we've got a \$10 billion surplus coming down the track. We have no evidence of that. We are sticking by the forecasts in our mid-year economic and fiscal outlook and we'll update that in the budget itself.<sup>32</sup>

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28 *Committee Hansard*, 25 May 2005, F&PA 58-65, 96-100

29 *Committee Hansard*, 25 May 2005, F&PA 62

30 *Committee Hansard*, 25 May 2005, F&PA 43

31 *Committee Hansard*, 25 May 2005, F&PA 43-44

32 *Meet the Press*, 13 March 2005

4.25 Senator Murray asked whether this reflected poorly on DoFA's forecasting and costing capabilities as the department responsible for providing the Minister with advice upon which he makes his remarks to the public.<sup>33</sup> The committee, however, was told that the standards for such statements were set by the government and that revenue estimates were the responsibility of Treasury. In explaining the respective roles of DoFA and Treasury, Dr Watt said:

...we brief the minister on the expense picture in the budget. That is our responsibility. We are not responsible for revenue estimates. They are the responsibility of the Department of the Treasury. Therefore we do not brief the minister on revenue expenses, nor do we try to predict for him where the bottom line is going to be over the forward estimates or whatever.<sup>34</sup>

### *The Future Fund*

4.26 The committee spent time examining the details of the forthcoming Future Fund, the Future Fund Management Agency (FFMA) and the Commonwealth's unfunded superannuation liabilities. The committee was told that the FFMA would come into existence during the 2005/06 financial year and would be a separate agency within the finance portfolio.<sup>35</sup> The committee heard that—despite some claims in the media—the Future Fund's investment mandate had not yet been determined, but it would be unlikely to invest directly in infrastructure.<sup>36</sup> The committee was also told that the implementation team was located within Treasury but included some DoFA staff.

4.27 Dr Watt told the committee of the estimated funds that would be transferred into the Future Fund in the 2005/06 financial year:

The government said that it will do two things...firstly, it will transfer part of this year's budget surplus into the future fund and, secondly, it will transfer part of its existing balance with the Reserve Bank into the future fund. I think the figure that was used in the budget papers...is \$16 billion.<sup>37</sup>

4.28 Ms Doran, Division Manager, Superannuation and Governance Division, advised the committee that the unfunded superannuation scheme liabilities to be covered by the Future Fund would include the CSS and PSS, the two military schemes, and the Governor-General's scheme, judges' scheme and parliamentarian's scheme.<sup>38</sup>

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33 *Committee Hansard*, 25 May 2005, F&PA 47

34 *Committee Hansard*, 25 May 2005, F&PA 45

35 *Committee Hansard*, 25 May 2005, F&PA 65

36 *Committee Hansard*, 25 May 2005, F&PA 74-74

37 *Committee Hansard*, 25 May 2005, F&PA 66

38 *Committee Hansard*, 25 May 2005, F&PA 67

4.29 The committee questioned why the CSS/PSS Boards had not been given responsibility for the Future Fund, and why the Future Fund board would not include employee representation. The committee heard that the government had chosen to set up a separate, statutorily independent body because it would have a different investment mandate, be substantially larger than the other funds and would be managing a government asset rather than members' own funds. The Minister said this decision did not reflect on the excellent performance of the CSS and PSS Boards.<sup>39</sup>

4.30 Senator Murray asked the broader question of whether the government had considered alternatives to using future surpluses or the proceeds of the possible sale of assets such as Telstra to meet unfunded public superannuation liabilities, such as using that money to generate productive growth through investment in infrastructure, training, research, innovation and universities.<sup>40</sup> In response, Senator Minchin said that the government was committed to meeting the liabilities, but remained mindful of the 'ongoing responsibility for appropriate investment through the budget—as we have in this budget—into roads, education and everything else'.<sup>41</sup>

#### *Evaluation of Indigenous programs*

4.31 A brief examination of the Office of Evaluation and Audit (OEA) provided information about the division of program audit and monitoring responsibilities between the OEA and the Office of Indigenous Policy Coordination. Mr Rod Alfredson, Director of the OEA, told the committee that the OEA had developed an interim evaluation program and a three year rolling program in conjunction with the eighteen Australian government agencies that run indigenous specific programs.<sup>42</sup>

#### *Staff employed under the Members of Parliament (Staff) Act 1984*

4.32 As is now its usual practice, DoFA submitted tabulations of the numbers of personal staff employed under the *Members of Parliament (Staff) Act 1984* (the MOPS Act). The tables show that as at 1 May 2005, personal positions in ministers' and other government offices numbered 407.6, an increase of 16 or 4 percent from 1 May 2004. There were 86 Opposition personal staff positions, compared with 83 a year earlier, and 15 Australian Democrats personal staff, the same number as at 1 May 2004. Personal staff of independent members and senators numbered nine, one fewer than on 1 May 2004. The number of positions in the offices of former Prime Ministers remained at 12.

4.33 Senator Carr asked a number of questions about increased numbers of personal staff positions in the Prime Minister's and Treasurer's offices and the reallocation of staff in other ministers' offices. The Minister, Senator Abetz,

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39 *Committee Hansard*, 25 May 2005, F&PA 75-77

40 *Committee Hansard*, 25 May 2005, F&PA 87

41 *Committee Hansard*, 25 May 2005, F&PA 89

42 *Committee Hansard*, 25 May 2005, F&PA 90

responded that changes were made on the basis of need, that he did not know exactly the reasons why there had been a reallocation of some staff numbers, and that ultimately the Prime Minister decides the perceived needs.<sup>43</sup>

4.34 Senator Carr was also interested in obtaining an explanation of the reasons for the establishment in 2004 of four new senior advisor classifications in the offices of the Prime Minister, the Deputy Prime Minister, the Treasurer and the cabinet policy unit. He also asked about reclassification of media advisers' positions, and received the following answer:

The classifications that appear in the tables are the staffing allocations that have been approved by the Prime Minister as suitable and applicable to the ministers concerned. The task of the department is to administer the decisions that have been taken.<sup>44</sup>

4.35 The department was asked and took on notice a number of additional questions regarding changes in the classification of positions and the salaries paid to personal staff, including the total cost of the salaries of government personal staff.

#### *Government Members Secretariat (GMS)*

4.36 Questions were asked about individuals employed, or formerly employed, in the Government Members Secretariat and about their employment status during the 2004 federal elections and during recent State elections. The Minister took the questions on notice.

4.37 Senator Carr requested an updated figure for the cost of running the GMS and for the same costs over a period of years. He also asked the cost of purchases of equipment for the secretariat. Those questions also were taken on notice.

#### *Parliamentarians' newspaper allowances*

4.38 Senators discussed with the Minister and department the questions of whether Parliamentarians' newspaper allowances extended to purchasing subscriptions to online publications that might not qualify as newspapers or periodicals. Ms Mason, General Manager, Ministerial and Parliamentary Services (MaPS), responded that this was the first time that the matter had been raised. The Minister stated that the question would be taken on notice for a definitive answer.<sup>45</sup> In the ensuing discussion Ms Mason suggested that parliamentarians would need to be satisfied that the online publication was for parliamentary or electorate business, and Dr Watt stated:

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43 *Committee Hansard*, 26 May 2005, F&PA 96

44 *Committee Hansard*, 26 May 2005, F&PA 98

45 *Committee Hansard*, 26 May 2005, F&PA 107

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That is an important distinction: I think Ms Mason is saying that MaPS will not be the one doing the defining; it will be the senator or member.<sup>46</sup>

*Statements of private interests of MOP(S) staff*

4.39 The Minister reported that 414 of 517 staff had advised MaPS that they had submitted statements of private interests to their employer. This contrasts with only 77 of 520 who had provided that advice as at 1 October 2004.

4.40 Ms Mason in response to a question from Senator Faulkner stated that following the last estimates hearings MaPS had followed up with ministers and parliamentary secretaries the committee's request that such statements should be made and notified to MaPS.<sup>47</sup> The Minister informed the committee that steps were being taken to follow up on those offices where the notifications had not been given to MaPS.<sup>48</sup>

*Security clearances for MOP(S) staff*

4.41 Senator Faulkner asked about other information MOP(S) staff are required to give on commencement of their employment and in particular asked whether all ministerial offices require that personal staff obtain security clearances. Ms Mason stated that all offices require staff to be cleared and that MaPS keeps a record of compliance levels in relation to completed security clearances.<sup>49</sup>

4.42 MaPS took on notice a question from Senator Faulkner which asked for the compliance rate, the longest period of non-compliance and the longest acceptable period for compliance.<sup>50</sup>

*Other issues*

4.43 A final matter pursued by senators related to a particular case raised privately by Senator Faulkner at the hearings on the additional estimates 2004-05. The Senator thanked MaPS for its resolution of the case, which apparently involved salary for superannuation purposes. The Minister and officers informed the committee that, as a result of investigating that case, four other similar cases were identified and were receiving attention.<sup>51</sup>

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46 *Committee Hansard*, 26 May 2005, F&PA 108

47 *Committee Hansard*, 26 May 2005, F&PA 108

48 *Committee Hansard*, 26 May 2005, F&PA 108

49 *Committee Hansard*, 26 May 2005, F&PA 110

50 *Committee Hansard*, 26 May 2005, F&PA 110

51 *Committee Hansard*, 26 May 2005, F&PA 110-111

### **Commonwealth Grants Commission (CGC)**

4.44 Senators Brandis and Sherry asked several questions about the Commission's methodology for making recommendations on the allocation of moneys, and in particular GST moneys, to the states and territories. Mr Nicholas, the Commission's Assistant Secretary, provided information on the methods and information used and also made an interesting observation that the CGC 'may be getting to the stage where its assessments may be pushing the reliability and the tolerances of that information'.<sup>52</sup>

4.45 In response to further questions Mr Nicholas informed the committee that the Commission's methods are reviewed on a five year cycle and that these reviews are done in an open and consultative fashion involving submissions and feedback from the states.<sup>53</sup>

### **Australian Electoral Commission (AEC)**

4.46 Issues raised by members of the committee and other senators in attendance included:

- AEC investigations into funding and disclosure matters;
- The government's proposal to increase the threshold for non-disclosure of political donations;
- A complaint received by the Reserve Bank of Australia (RBA) and subsequently forwarded to the AEC; and
- Consultancies: engagement of Minter Ellison to investigate issues in relation to postal voting at the past federal election.

#### *Funding and disclosure inquiries*

4.47 Following the custom of past hearings, the AEC briefed the committee on its progress with investigations into non-disclosure of political donations. Ms Mitchell, Director, Funding and Disclosure, told the committee that the following matters have been finalised and that the AEC's advice and conclusions are available on its web site:

- whether Australians for Honest Politics was an associated entity;
- whether certain organisations that gave money to The Nationals were associated entities; and
- whether the Fair Go Alliance is an associated entity.

In all three cases, Ms Mitchell stated that its investigations showed that 'the answer was no'.<sup>54</sup>

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52 *Committee Hansard*, 25 May 2005, F&PA 94

53 *Committee Hansard*, 25 May 2005, F&PA 95

54 *Committee Hansard*, 26 May 2005, F&PA 113

4.48 In addition, Ms Mitchell said that the AEC had finalised its advice in relation to investigations into the Liberal Party's federal electorate councils (FECs) in Ryan and Bowman and that these advices are available on the AEC's web site. However, the committee heard that some peripheral issues had to be resolved before these two investigations were finalised and that two other investigations had yet to be completed. Ms Mitchell stated that:

In both cases the updated disclosure returns have been received and have been placed on the returns part of the web site as well. In relation to the matters that in short hand I will describe as Minister Ruddock and donations to the Liberal Party and Senator Bolkus and donations to the South Australian ALP, in both cases we still have some outstanding issues to resolve. I will reiterate advice from the last Senate estimates that at this stage in time none of those matters that are outstanding directly involve either the minister or the senator. The Liberal Party Ryan FEC matter in relation to the dinner and Mr Ricky Ponting is being looked at in terms of our standard compliance review process. But at this stage all funds appear to have been disclosed in the relevant annual return.<sup>55</sup>

Ms Mitchell informed the committee that the AEC anticipated that all these matters would be concluded by the end of July 2005.

4.49 The committee was also informed that there were no new inquiries as of May 2005.

*Government proposal to increase the threshold for non-disclosure of political donations*

4.50 The committee asked the AEC for its view on the Government's proposal to increase the non-disclosure threshold for individuals from \$1,500 to \$5,000. The AEC said that it had not undertaken any research on the proposed increase and explained that it would be difficult to provide a conclusive assessment given the limited information available to it. To this end, Ms Mitchell stated:

It is a bit difficult to do [an assessment], because at this stage in time some of the information we do not know. We do not know the number of people who already are not disclosing because they do not have a requirement to disclose. Some of the research that we could do would be of limited use. At this stage in time we can certainly look at some statistics, but obviously parties are not required to disclose amounts under \$1,500, and from the donor returns you will only get amounts under \$1,500 where they gave a sufficient number of donations [to a single branch or division of a party] under \$1,500 to reach a \$1,500 threshold in a financial year.<sup>56</sup>

4.51 In a 1996 submission to the Joint Standing Committee on Electoral Matters the AEC's view was that the \$1,500 threshold should stand unchanged. Asked whether

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55 *Committee Hansard*, 26 May 2005, F&PA 113

56 *Committee Hansard*, 26 May 2005, F&PA 115

the AEC's view had changed since then, Mr Becker, Electoral Commissioner, said that it had not. Mr Becker said that he thought that the issue 'was now about what is a reasonable level to set', noting that consideration needs to be given to the impact a higher threshold would have on the AEC's workload. He also suggested that there is an ethical issue to consider, suggesting that by 'raising it too much you get to [a] point where you are providing a mechanism to avoid disclosure'.<sup>57</sup>

4.52 When pressed to place his personal view of the matter before the committee, Mr Becker said that he thought the current threshold should remain but noted that he was unsure if this remained the view of the 'full commission', given that it had not been discussed within AEC lately. Mr Becker added that he was not planning to consider this issue formally in his final weeks before retiring as Commissioner.

### *Consultancies*

4.53 The committee discussed the engagement of Minter Ellison to investigate issues in relation to postal voting at the past federal election. Since the substantive issues around this matter are currently before the Joint Committee on Electoral Matters (JCEM), the estimates committee sought only information relating to the cost of, and process leading to, the engagement of Minter Ellison.

4.54 Mr Orr, Assistant Commissioner, Elections, told the committee that Minter Ellison had been tasked for a cost of \$83,791.93.<sup>58</sup> He also stated that the contract had not gone to open tender but that Minter Ellison had been selected from an AEC panel of consultants, which had been established through open tender.

4.55 Senators Brandis and Faulkner queried the need to engage lawyers as it appeared that auditors may have been more appropriate for the task. Mr Becker and Mr Dacey, Deputy Electoral Commissioner, said that one reason for selecting Minter Ellison was because one of its employees 'had had many years of experience with electoral matters and electoral law' and had 'the skills necessary to conduct this review'.<sup>59</sup>

4.56 Mr Dacey informed the committee that the AEC had initially approached the ANAO to perform the review but the ANAO declined on the basis that there might be a potential for a conflict of interest if the government or the parliament later asked it to review the matter.<sup>60</sup> Further questions from Senator Murray also revealed that since urgency was an important factor, the panel system provided a quicker turn-around

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57 *Committee Hansard*, 26 May 2005, F&PA 115

58 *Committee Hansard*, 26 May 2005, F&PA 117

59 *Committee Hansard*, 26 May 2005, F&PA 118

60 *Committee Hansard*, 26 May 2005, F&PA 119

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than would otherwise have been the case if a traditional tender process had been followed.<sup>61</sup>

4.57 Senator Faulkner also asked about the AEC's request to the JCEM that the Minter Ellison report remain confidential. Mr Dacey told the committee that 'there is certain commercial-in-confidence material concerning contracts in the report' and that the request for confidentiality was not related to the 'nature of the findings'.<sup>62</sup> Mr Dacey noted that an executive summary containing the findings and recommendations is publicly available on the AEC's web site.

### **Australian Government Information Management Office (AGIMO)**

#### *AGIMO's move to DoFA*

4.58 The committee heard that the announcement to incorporate AGIMO within DoFA was made by the Prime Minister on 22 October 2004; on 29 October AGIMO was made formally a part of DoFA; and on 4 November AGIMO was abolished as a stand-alone executive agency.

4.59 The committee also heard that although there were no initial plans to relocate, AGIMO subsequently moved from the Burns Centre to the Minter Ellison Building, both located in Barton and only a small distance away from one another. Mr Grant, Acting General Manager, explained that a number of coinciding factors, not least to 'co-locate with other parts of the department', influenced the decision to relocate. Mr Suur, General Manager, Corporate Group, added that:

...with the acquisition of AGIMO [DoFA] found itself spread across five buildings within the parliamentary precinct. We wanted to consolidate to as few buildings as possible. Minter Ellison is an A-grade building and it allowed AGIMO to be co-located with other finance staff, which meant that from the point of view of security and the point of view of synergy between different groups within the organisation we were able to achieve what we wanted.<sup>63</sup>

4.60 Questions relating to the costs of the move were taken on notice as the witnesses did not have the information at hand.

#### *Electronic security measures*

4.61 Responding to questions about AGIMO's responsibilities for electronic security across the Commonwealth and suggestions that its role might have been downgraded, Mr Grant informed the committee that AGIMO's role had not changed. Mr Grant went on to say that security matters are, and always have been, the purview

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61 *Committee Hansard*, 26 May 2005, F&PA 119

62 *Committee Hansard*, 26 May 2005, F&PA 119

63 *Committee Hansard*, 26 May 2005, F&PA 121

of security agencies, for example, the Defence Signals Directorate, and that AGIMO 'assist[s] those agencies' by providing expert advice on information technology matters.<sup>64</sup>

4.62 Senator Lundy sought an update on the review of Gatekeeper (Australian Government online authentication system). Mr Grant told the committee that the review began in early 2005 and that it was expected to be completed in July. The committee heard that the review is primarily looking at the cost and effectiveness of Gatekeeper, but that it is also examining possible improvements. When asked whether the review findings would be made public, Mr Grant said that he expected they would, especially considering that 'Gatekeeper is a public strategy'.<sup>65</sup>

### *IT outsourcing*

4.63 Senator Lundy asked if there was a single figure that identified savings arising from the government's information technology procurement practices (for example outsourcing). Mr Bowen, General Manager, Budget Group, stated that there is no 'overarching figure' but that the details would be available through individual agencies.<sup>66</sup> Further questioning sought to clarify whether AGIMO or another area within DoFA monitors the ongoing information and communication technology (ICT) costs to the Commonwealth. Mr Bowen told the committee that in the devolved environment DoFA did not monitor all agencies' expenditure on IT. He added, however, that 'where a particular amount of new policy money might be provided for a large IT investment then it may well be monitored'.<sup>67</sup>

4.64 The committee attempted to obtain information about the reports on information technology outsourcing projects monitored by DoFA. This was met with resistance that flouted long standing Senate procedures relating to the limited grounds on which information can be withheld from the Senate and its committees. Senator Lundy made repeated requests to departmental officers to both identify the major IT projects that DoFA monitors and undertake to provide reports it makes to government on these projects to the committee.

4.65 Mr Bowen indicated that he would provide on notice some examples of the projects that are monitored but refused (but for one exception) to identify at the hearing the names of those projects. Nor would he agree to take on notice to provide the reports to the committee, citing variously that the reports are 'internal to the management of government', 'government documents' or constituted 'advice to government'.<sup>68</sup> The following exchange took place:

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64 *Committee Hansard*, 26 May 2005, F&PA 122

65 *Committee Hansard*, 26 May 2005, F&PA 124

66 *Committee Hansard*, 26 May 2005, F&PA 128

67 *Committee Hansard*, 26 May 2005, F&PA 128

68 *Committee Hansard*, 26 May 2005, F&PA 129

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Senator LUNDY—...Mr Bowen has said that he will not take on notice providing the reports.

Mr Bowen—I did.

Senator LUNDY—I am asking you to give the grounds.

Mr Bowen—I cannot do that.

Senator LUNDY—Is it not just a report showing how effectively taxpayers' money is being spent? That is a lot to do with the budget, and it has a lot to do with accountability.

Mr Bowen—These reports have been requested by government and provided to government; they are not public reports.

Senator LUNDY—So they are cabinet documents?

Mr Bowen—They are government documents.

Senator LUNDY—I would like to formally place my request on the record and ask that you state in writing your grounds for refusing to provide that information to the committee.

Mr Bowen—It is your prerogative to put a question on the record.

Senator LUNDY—And it is your obligation to answer it, unless you provide an excuse that is within the bounds of parliamentary procedures

Mr Bowen—We are aware of our responsibilities.<sup>69</sup>

4.66 The committee notes here—as it has had to do in other parts of this report—its grave concern that, contrary to Mr Bowen's assertion in this case, officers are *not* aware of their responsibilities in relation to providing answers to committees. None of the grounds that Mr Bowen cited is acceptable to the Senate for withholding information on the expenditure of public funds to the Senate and its committees. Claims that the requested reports in this instance are advice to government or government working documents are not satisfactory grounds in their own right for refusing to answer questions. At the very least, claims of this sort must also establish the harm to the public interest that might result from the information being disclosed. In this regard, the committee finds it highly unlikely that disclosure of the identity of the IT projects that DoFA monitors could in any way cause harm to the public interest.

4.67 Moreover, the committee also notes that claims to withhold information held by government must be made by *ministers*, not departmental officers. This principle has not only been articulated by the Senate but is also emphasised in the government's guidelines for public servants appearing before parliamentary committees. The committee expects that the procedural points made above, and elsewhere in the committee's report, will be heeded by departmental and agency executives, disseminated to officers appearing before estimates committees and result in a greater awareness and observation of the relevant procedural principles on the part of departmental witnesses at future estimates hearings.

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69 *Committee Hansard*, 26 May 2005, F&PA 128-129

