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SENATE
FINANCE AND PUBLIC ADMINISTRATION LEGISLATION COMMITTEE

Monday, 18 February 2019

Members in attendance: Senators Bernardi, Cameron, Dodson, Kitching, Leyonhjelm, Lines, McAllister, Moore, Paterson, Patrick, Polley, Dean Smith, Stoker, Waters, Wong.
CHAIR (Senator Paterson): I declare open this meeting of the Senate Finance and Public Administration Legislation Committee. Today the committee will begin its examination of the
additional budget estimates for 2018-19 for the parliamentary departments, the Prime Minister and Cabinet portfolio, the Finance portfolio and the cross-portfolio Indigenous matters. The committee may also examine the annual reports of the departments and agencies appearing before it. The committee has fixed 29 March 2019 as the date for the return of answers to questions taken on notice. The committee's proceedings today will begin with the parliamentary departments. The committee will then examine the Australian Public Service Commission and outcome 1 of the Department of the Prime Minister and Cabinet before moving on to the Workplace Gender Equality Agency and the Office for Women. The committee will then return to its examination of the Department of the Prime Minister and Cabinet, followed by the Digital Transformation Agency, the Australian National Audit Office and the Office of the Official Secretary Of the Governor-General. Tomorrow the committee will commence its examination of agencies within the Finance portfolio. The committee will examine outcome 2 of the Prime Minister and Cabinet portfolio and the Department of Health on Friday, at the cross-portfolio Indigenous matters hearing.

Under standing order 26, the committee must take all evidence in public session. This includes answers to questions on notice. I remind all witnesses that, in giving evidence to the committee, they are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee, and such action may be treated by the Senate as a contempt. It is also a contempt to give false or misleading evidence to a committee. The Senate, by resolution in 1999, endorsed the following test of relevance for questions at estimates hearings. Any questions going to the operations or financial positions of the departments and agencies which are seeking funds in the estimates are relevant questions for the purposes of estimates hearings. I remind officers that the Senate has resolved that there are no areas in connection with the expenditure of public funds where any person has a discretion to withhold details or explanations from the parliament or its committees, unless the parliament has expressly provided otherwise. The Senate has resolved also that an officer of a department of the Commonwealth shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. This resolution prohibits only questions asking for opinions on matters of policy and does not preclude questions asking for explanations of policies or factual questions about when and how policies were adopted. 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 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).

(d) requires the Procedure Committee to review the operation of this order and report to the Senate by 20 August 2009.

(13 May 2009 J.1941)

(Extract, Senate Standing Orders)

CHAIR: Witnesses are specifically reminded that a statement that information or a document is confidential or consists of advice to government is not a statement that meets the requirements of the 2009 order. Instead, witnesses are required to provide some specific indication of the harm to the public interest that could result from the disclosure of the information or the document. Officers are requested to keep opening statements brief or seek to incorporate longer statements into the Hansard.
CHAIR: I welcome the President of the Senate, Senator the Hon. Scott Ryan; the Parliamentary Budget Officer, Ms Jenny Wilkinson; and officers of the Parliamentary Budget Office. I think the PBO for providing updated information on PBO activity, which has been circulated to the committee. Mr President, I understand you will have an opening statement when DPS is called.

The PRESIDENT: I will.

CHAIR: Ms Wilkinson, do you wish to make an opening statement?

Ms Wilkinson: No, I don't.

CHAIR: I'm interested in having a bit of a discussion about the Post-election report of election commitments. Can you just outline what the PBO's role is in this?

Ms Wilkinson: One of the statutory responsibilities of the PBO is to produce a Post-election report of election commitments of the major parties. We have recently released guidance material which provides for minor parties, if they wish to opt into being included in the Post-election report, to do so. The Post-election report has to contain all of the announced election commitments of major parties. The PBO has to determine what are the election commitments of the major parties, and we release guidance material, which we will do at the beginning of the caretaker process, which will make it clear to parties exactly how we will gather that information and how we will discuss that information with them in the process of agreeing what the election commitments are.

We cost those election commitments and then we need to publish the report of the election commitments of major parties. Originally it was within 30 days of the end of the caretaker period, but last week an amendment to legislation was passed which provides for us releasing the Post-election report of election commitments either 30 days after the end of caretaker or seven days before the first sitting of the new parliament, whichever is the longer. That amendment was recommended by the most recent external independent review of the PBO, which was conducted in 2016. There were essentially two reasons that it was suggested that the PBO could have a bit more flexibility in producing this report. One of them was that that review also recommended that we would include in the next post-election report the medium-term impacts of election commitments of major parties and an estimate of what the net impact of the party platforms would be over the medium term. We would also allow minor parties to opt in. More generally, there was a view that providing us with a bit more flexibility to produce that report close to the first sitting day of the new parliament could potentially bring more attention to the content of that report.

CHAIR: I was going to ask you what was different about this time, but you've hinted at that, or answered that already, by saying that it's going to be medium-term projections the first time. What's the difference from the projections previously?

Ms Wilkinson: Previously the post-election report had to include an assessment of the impact of election commitments over the forward estimates, and it could provide an indication of what some of the medium-term impacts were for individual policies if there was a sense that the medium-term impact was going to be markedly different from the impact over the forward estimates. In the last post-election report we did provide some estimates of the
medium-term impact of some policies, but in this report we will be providing a number of things. We will be providing the medium-term impact of the top 10 policy proposals for each of the major parties. We'll be providing the medium-term impacts of any policy that has an impact in any year of more than $1 billion—so, any major policy announcement. We will obviously be providing the medium-term impact of policies that have a materially different impact over the medium term. So, we'll be providing some individual estimates for individual measures and we'll be stepping back and providing an estimate of what, in net terms, the impact in the medium term of the election platforms will be—or is expected to be, I should say.

CHAIR: Okay. I'm interested in exploring the issue of tax receipts and the way in which they're capped or otherwise. What assumptions does the PBO make, when doing these medium-term projections, about parties and having a tax-to-GDP cap?

Ms Wilkinson: Whenever the PBO costs any policy we cost that policy against what the current government's policy is in that particular area. For example, the current government has an announced and committed policy to cap tax receipts at 23.9 per cent. That means that that's the current policy baseline. That means that other parties are going to have to provide some indication of what their tax policy is—whether they're going to have a cap or not have a cap. If you like, the default assumption is government policies—that means the default assumption in doing the medium-term estimates—would be that there is a cap on tax receipts, unless there was some other indication that was provided by parties. We released a guidance note on 3 October last year where we outlined to parties how this new aspect of the post-election report would operate. In that guidance note we included information about things like the fact that we would need clarity from parties on whether any program was continuing or terminating beyond the forward estimates and that we would also need from parties an assessment of what, if any, medium term policy they have around, for example, limits on tax receipts. But there's a range of different ways in which you could announce what your tax policy is.

CHAIR: And I think it's in that same guidance note the PBO observed that a limit on tax receipts has been a well-established feature of medium- and longer-term budget projections in Australia for many years. It's something that the Howard government had and at different times the Rudd-Gillard government had and the Hawke-Keating government had. It's a fairly routine feature of budget planning.

Ms Wilkinson: Yes and no. Certainly, for the purposes of projections, Treasury has assumed a tax cap of different levels over all of that time. I think it has been reasonably unusual for there actually to be a firm policy commitment that there is a tax cap. There is a distinction between having a policy commitment and, if you like, it just being a background assumption that you use for medium-term or longer term projections. But, for doing things like the long-term projections for the Intergenerational report, in a system like ours, where we have tax scales that are not indexed to inflation, you certainly have to have clarity over what you're assuming around tax receipts to GDP in order to make those sorts of projections make sense.

CHAIR: Although it's generally been a feature of at least Treasury's projections in the past, and it's certainly a policy of the current government, you'd be aware that it's no longer a bipartisan issue; it's now politically contentious. The Labor Party has said: 'The tax-to-GDP
ratio of 23.9 per cent serves no useful economic purpose.' What kind of indication will you need from the opposition or any other parties to factor into your medium-term projections that there will be no tax-to-GDP cap in their policies?

Ms Wilkinson: We will be looking at the statements that parties make as part of their election campaigns and we will be looking for clarity around what, if any, policy they have around tax-to-GDP ratio. That will be the case for all parties.

CHAIR: If a party said that the tax-to-GDP ratio serves no useful economic purpose, is that a sufficient indicator that that party will have no cap?

Ms Wilkinson: I don't think it's reasonable for me to make a statement here about exactly what statement will or won't be appropriate. We will certainly be looking carefully at the commitments provided by parties. In releasing the guidance note back in October, the objective was to make it clear to parties that this is something that we're just going to need to get clarity around, as much as anything else because the government has announced a firm policy, and so that would be our policy baseline in the absence of anything else.

CHAIR: So it's incumbent on parties to make it clear in their policy documents or directly to the PBO whether they'll have a policy such as a cap of tax-to-GDP ratio, and, if they don't make that clear, your assumption is that that party will be matching the government's 23.9 per cent policy?

Ms Wilkinson: As I said, the policy baseline is, across all of our costings, what has been announced by government.

CHAIR: Finally, what do you understand the objectives of the government's policy to be? Why has it set 23.9 per cent as the tax-to-GDP ceiling?

Ms Wilkinson: That's a matter for the government; it's not really for me to speak about what their objectives are. It's a policy announcement that they made some time ago, as I said. It converted what had been, if you like, a medium-term costings practice into a firmer cap. The government has been clear in the last several economic statements about when the tax-to-GDP ratio binds. That's changed over time. I don't think I'm in a position to speak to the government's objectives in setting that cap.

CHAIR: Fair enough. Thank you.

Senator DEAN SMITH: I have a question that actually goes to the subject of my opinion piece in the Financial Review this morning, where I highlight the fact that Labor's yet to give the community any certainty about when its negative-gearing changes might come into force. How would you begin the costing and calculations around that particular policy in the absence of a start date?

Ms Wilkinson: With all costings—with all policy commitments that we cost confidentially or that we cost as part of the post-election report—we need to have them properly specified. One element of the specification is always when the policy is going to come into effect. That's the sort of information which has to be provided to us to enable us to cost a policy, otherwise we're not in a position to assess what the impact would be in particular years.
Senator DEAN SMITH: So, if a policy proposal was submitted to you without a start date, does that mean you proceed with a costing and then qualify the costing, or you don't proceed with a costing?

Ms Wilkinson: No, we would not proceed with a costing if we didn't have a start date for a policy.

Senator DEAN SMITH: Thank you.

CHAIR: As there are no further questions for the PBO, I thank witnesses for their time and their evidence this morning. The committee will now move to the Department of Parliamentary Services.

**Department of Parliamentary Services**

[09:16]

CHAIR: I welcome Mr Robert Stefanic, Secretary of the Department of Parliamentary Services; Dr Dianne Heriot, the Parliamentary Librarian; and officers of the department. I thank DPS for providing the information pursuant to the committee's recommendations in the DPS inquiry, which has been circulated to the committee. Do you wish to make an opening statement?

Mr Stefanic: No, thank you.

CHAIR: Mr President, I understand you have an opening statement.

The PRESIDENT: Thank you, Chair. There are several issues I would like to deal with in my opening statement. I apologise in advance for its length, but there are a number of matters that have arisen in recent months.

Senator McALLISTER: Before you go on, Mr President, may I ask if that means you intend to table your statement?

The PRESIDENT: My problem is my statement has—I don't, because it's all scribbled. It's got marks all over it. My apologies.

Senator McALLISTER: That's all right. We will just take more notes than we might otherwise.

The PRESIDENT: First, I'll talk about the security incident regarding the parliamentary computer network that users were alerted to on Friday 8 February. The Australian Signals Directorate and DPS continue to work side by side to investigate and resolve the issue. Since the remediation undertaken on 8 February, there has been no further detection of successful intrusion into the network. I understand the sensitivity of this issue for senators, and DPS will continue investigations with ASD to provide assurance of the safety and integrity of data. Significant improvements in cybersecurity controls have been made by DPS over recent years, and these improvements have been successful in limiting the impact of this recent incident. DPS is working closely with ASD Cyber Security Centre to implement the lessons learnt from this incident to strengthen the cyberresilience of the network even further.

Within the context of the upcoming election, DPS has plans underway to provide parliamentarians and their staff with additional information to improve cybersecurity awareness. I would ask that all senators and their staff engage with this process. Cybersecurity is no longer the domain of technocrats and it is now everyone's responsibility to ensure the security of information. I'd also like to thank all involved who cooperated unreservedly with
DPS to address this incident. This collaboration greatly accelerated detection and remediation activities. Importantly, I'm also confident that steps taken have preserved parliamentary privilege. I have no further information I can outline at this time. I'll provide further updates to senators as is appropriate. I would also ask for senators' understanding that discussion of specific or detailed and sensitive information regarding this incident in a public forum is not desirable and may undermine recovery efforts and place the parliament at greater risk.

Second, I'll talk about the building works. Our security capital works have continued around the building and much of it is nearing completion. However, as senators will no doubt be aware, as they arrived at the building last week the Senate and House entrances are two elements that are far from complete. I'm now able to advise senators the full extent of the issue following recent events and media reports. The background is that Department of Parliamentary Services engaged Lendlease Building as the managing contractor for most of the recent tranche of security capital works. Lendlease in turn engaged a series of subcontractors to perform work on their behalf. The subcontractor responsible for the steel and glass components of the entrances, including the main public entrance, was Steelvision Pty Ltd.

The work on the entrances to the House of Representatives and the Senate was originally due for completion in July 2018. It was obvious early on that this was an ambitious timeline. I can honestly say that I was sceptical when briefed on it; maybe I should have been more so. The first warning this deadline was not going to be met was a warning of a slight delay in June, and announcements were made accordingly. In July and August, DPS became aware of significant difficulties with Steelvision, leading to the first major delay. DPS has continued to apply pressure to Lendlease, particularly since then, as the program continued to fall behind.

Steelvision was frequently delivering defective work on site, did not manage its supply chain effectively and was unable to meet its contracted program schedule. DPS also took a specific interest in reports of payments not flowing through to those who had contracted with Steelvision, as it became evident that Steelvision was failing to pay suppliers, despite Steelvision providing monthly statutory declarations to Lendlease that all amounts due and payable to suppliers had been made. Lendlease made consistent efforts to assist Steelvision to deliver on their contracted commitments but with limited success and, finally, they terminated the contract with Steelvision on 7 January 2019.

Steelvision was the subject of at least two wind-up notices in the second half of 2018 in the Supreme Court of Victoria and the Federal Court. Prior to these events, Lendlease and DPS undertook scoping work to locate alternative contractors to minimise the delays that would obviously result from a wind-up or administration of Steelvision or if its work was to be descope or the contract terminated. On 22 January this year, Steelvision went into voluntary administration immediately prior to a Supreme Court of Victoria appearance on 25 January. Media reports have indicated that a creditors’ claim summary report shows 412 creditors are owed $10.1 million, excluding many Latrobe Valley businesses which are owed more than $1 million collectively by Steelvision. I have recently met with one of the suppliers who indicated that larger amounts are owed to creditors. Let me explicitly state that I am saddened by the many people and businesses that have been impacted by this unfortunate situation. As I said, I have met with one supplier and I understand the impact this has on small business. I
note, however, that the supplier I recently met with was particularly complimentary about the efforts undertaken by the Department of Parliamentary Services.

With respect to the time lines for work on the entrances, DPS has worked closely with Lendlease to expedite works, given Lendlease’s contractual commitment. Lendlease is finalising details with another subcontractor and site work is scheduled to resume next month, while work may have already commenced offsite on materials to be delivered.

Now, for the bad news. Given that Steelvision has now moved into administration, there is likely to be some additional cost to taxpayers associated with the new subcontractor taking on Steelvision’s works. I have been advised that any additional cost will still be within 10 per cent of the budget allocated for the work element and within five per cent of the security capital works budget, and that it certainly can be managed within the overall DPS capital works budget. I cannot be specific at this stage, but I have been advised that it will likely be less than $1.5 million. Some of the additional cost relates to risk that a new subcontractor will bear in taking on the incomplete works and providing a warranty for the overall works.

I also want to talk about timing. The Senate and House of Representatives entrances may not be completed before October. This estimate of time is based on the current published sitting calendar with no work being undertaken on sitting days, the time taken to develop new shop drawings and the risk of latent conditions that the new subcontractor has not anticipated. I accept that delays in this project not only represent an inconvenience to occupants and visitors and now potential extra cost, but they are quite frankly embarrassing. I can offer no further reasons than the explanation above. They directly relate to the performance of the subcontractor Steelvision.

I will conclude with an apology to all senators, members, staff and visitors to the building. I realise this is an inconvenience, particularly for those less mobile than others. Rest assured, this issue continues to engage every attention and oversight from the Speaker, myself and the leadership of DPS. Despite these delays, they remain necessary for the security of staff and the building.

The next two issues are substantially shorter. Third, I would like to take this opportunity to briefly update the committee about issues relating to parliamentary privilege. Following the Senate adopting the resolution noting and affirming parliamentary privilege on 6 December last year, I took the opportunity to write to a range of authorities and agencies, as well as ministers, to communicate this resolution. I will table a list of those to whom I wrote and a copy of the letter I sent them. The list to whom this resolution was communicated was developed with the Department of the Senate. I can also outline that work is underway between the Senate and House Privileges Committees to develop the basis for the Speaker and I to commence negotiations about updating the memorandum of understanding as has been previously outlined.

Fourth and finally, I must address the issues that arose last week regarding access to the building and behaviour. Last week I exercised my power to revoke the pass of a staff member to a senator for the time being given evidence available to me at the time and the seriousness of the conduct involved. There has been some commentary since regarding the application of rules to senators and others in the building and my conduct of investigations. I won’t restate everything I said in the chamber last Thursday, but a few points are important to emphasise. The laws of the ACT apply to this building. Therefore, any claim or allegation or concern
about a breach of the law needs to be referred to the police or other appropriate authority. The Presiding Officers have no police-like jurisdiction over matters simply because an alleged offence may occur in the building. Just as I do not have the power to suspend or expel someone from the chamber, I do not have such a power to expel or suspend a senator from the building or precinct. I do not have the power to discipline or apply another sanction to a senator for their conduct inside the chamber or inside the building. As President, I do not have a plenary power to conduct official or police-like investigations, make findings and apply sanctions into alleged office or staff management or the conduct of senators.

Staffing matters for senators are not overseen or managed by the Department of the Senate, the Department of Parliamentary Services or either of the Presiding Officers as applicable to each chamber. They are managed by the Department of Finance, and the Special Minister of State is the responsible minister. I have no authority over such matters, whether investigative or managerial. If I'm approached about any of the matters above, as a matter of course I provide advice as to where a complaint should be taken or a matter of concern raised.

With respect to claims of varying standards applying to senators and staff, I strongly reject this claim. All those who access this building other than members or senators do so on specific conditions. One of these goes to allowing senators and members to go about their work. When this provision is breached, a condition of entry is breached.

With respect to the events I outlined to the chamber last Thursday afternoon, as I said on the day, I encourage anyone with relevant information to bring it to me. I have yet to conclude my consideration of the matter. But I will say that, just as I have on these matters for several months, I will continue to seek a resolution to any conflict between senators that impinges on the ability of all to work in this building.

I must also mention that in recent times I've had to speak to a number of people about the conduct of those invited into the building and signed in with passes, both sponsored and escorted passes. I remind everyone that the ability to sponsor passes and sign in guests is a privilege. Those who sign in guests are responsible for their conduct. Sign-in privileges will be removed if these are used carelessly or irresponsibly, such as with guests interrupting the business of the parliament, including public access to the building or the work of other members and senators.

I thank the committee for its time.

CHAIR: Thank you, Mr President.

The PRESIDENT: I've got those things to table.

CHAIR: That would be helpful. Sorry, Dr Heriot. I should have asked you if you wished to make an opening statement.

Dr Heriot: No, thank you, Chair.

CHAIR: Thank you.

Senator KITCHING: Thank you, Senator Ryan, for that statement. Could I just go to some of the issues around the building works. Has the AFP or any other security agency expressed a view in relation to the half-completed works?

Mr Stefanic: Not that I'm aware.

Senator KITCHING: Have you asked?
Mr Cooper: The AFP are aware of the status of the building works. They're kept up to date in regular briefings.

Senator KITCHING: Are these the monthly meetings?

Mr Cooper: They're more frequent than that. I think they're at least weekly. Can I just clarify that: that's not to say that every single week the AFP will discuss it, but there's an opportunity to ensure that they remain abreast of the arrangements.

Senator KITCHING: What was the date of the contract with Lendlease?

Mr Cooper: Do you mean the commencement date?

Senator KITCHING: Yes.

Mr Cooper: I'll just confirm that for you, Senator. Senator, I'll have to get the date of the original contract. I can advise you that the contract between Lendlease and Steelvision was executed in August 2017.

Senator KITCHING: There's an Austender notice for Lendlease—the contract period says 10 June 2016. Would that be around about when you commenced or entered into legal relations—

Mr Cooper: I am checking; that sounds like it's in the ballpark.

Senator KITCHING: This is the contract value for $75,444,540.70. That now is additionally going to cost another $1.5 million?

The PRESIDENT: No I said—very carefully qualified—this is a process that is ongoing. The current advice is that it can be managed within the budget, and the additional cost is not likely to be 'any more than', so it's not a—

Senator KITCHING: Sorry?

The PRESIDENT: It is not likely to be 'any more than'. It wasn't a number.

Senator KITCHING: But it won't be more than an additional $1.5 million?

The PRESIDENT: The current advice, because it is a work in progress, is that it can be managed within the existing budget and it won't be any more than an additional $1.5 million.

Senator KITCHING: It could be up to $1.5 million?

The PRESIDENT: Exactly what I said. It shouldn't be any more based on the current advice, and I'll correct that if that changes in the future.

Senator KITCHING: Who's giving the legal advice? Is it AGD or is it—

Mr Stefanic: In which respect are you asking about?

Senator KITCHING: In respect to both the initial contract with Lendlease and then with the legal advice about—it's call it a variation to the contract.

Mr Stefanic: I might ask Mr Healy to help you.

Mr Healy: Clayton Utz are the adviser to DPS for the security works contracts.

Senator KITCHING: The reason I ask is: why was it done as a fee-for-best-endeavours contract rather than as a design-and-construct or a construct-only contract?

Mr Healy: It is a form of design-and-construct contract. That covers a variety of different options. Lendlease Building have responsibility for both the design of the works and the delivery of the works. Their engagement was in two phases—a planning phase, at the end of
which there is a pause, followed by a delivery phase. The managing contractor form of contract is a form of contract that started with this building 30 years ago and then was refined primarily by Department of Defence and formed this contract that is now used commonly by many government departments and other organisations. The managing contractor form of contract is an appropriate form of contract to use where the scope of work is not entirely clear and also a good contract to use when you want a great deal of flexibility about the delivery so that you can turn things on and off and adapt as you move forward.

**Senator KITCHING:** Why wasn't there enough certainty—for example, so you could append the work, as a schedule, let's say, to the contract—given it's $75 million? Why didn't you do it that way? Why wasn't there certainty at the beginning?

**Mr Cooper:** Senator, notwithstanding none of us were here when the project commenced, I believe the answer to your question is that there was a lot of design and it's a very complex piece of work, a very large piece of work. To provide a brand-new overlay of protective security across this precinct requires a lot of planning and a lot of considerations for a number of elements.

**Senator KITCHING:** But you didn't want to do that before you spent $75 million?

**Mr Stefanic:** There are various components to it. I guess one is achieving the level of protected security required. Another is the design of the building itself. Ensuring that—

**Senator KITCHING:** But these are not new things, Mr Stefanic. You knew the design of the building.

**Mr Stefanic:** The building itself often throws up interesting design scenarios for us. Partly it's to achieve the design integrity of the original intent of the building, but also balancing what that design intent was with what is to be achieved. If I can just use one example without going into too much detail: with the much-discussed fences, there were many options that were modelled before a final decision was made on the option that we built, and Lendlease was involved in the modelling and the optioning for those.

**Senator KITCHING:** How much is the Clayton Utz legal work costing? Can you tell me that to the current date and any estimate going forward?

**Mr Cooper:** We will have to take that on notice.

**Senator KITCHING:** Is there someone sitting behind you who can answer that?

**The PRESIDENT:** To be fair—

**Senator KITCHING:** You're telling me that—

**The PRESIDENT:** I just want to say that a question like, 'How much is legal advice costing up to the present moment?'—if someone has it handy, that's one thing, but I don't want to inadvertently mislead. It's a legitimate thing to take on notice—how much legal advice—but it's not the sort of thing that we certainly have on hand.

**Senator KITCHING:** Can I take it to 1 November last year—

**The PRESIDENT:** I'm just saying—

**Senator KITCHING:** because Mr Creagh is sitting next to you. He might know.

**The PRESIDENT:** I understand. If someone's got a number, fine, but I'm just saying it's not unreasonable for a question like that to be taken on notice given it is quite specific.
Senator KITCHING: I'd also like to know, firstly: is the department a model litigant under the model litigant rules? Does anyone know?

Mr Healy: I'm advised by Director of Legal that the department is a model litigant.

Senator KITCHING: Did it appear in any of the Supreme Court action as outlined by the President?

Mr Stefanic: No.

Senator KITCHING: I'd like a cost on the legals and how much you've spent. So I'm not going to contain that just to Clayton Utz; I want to know the timing and the costs for any legal work or any advice that was also passed on to AGDs. Let's not leave it at AGDs. If there is any other government agency or department from whom you might have sought legal advice or advice, I would like some costings on that—a general cost and then a breakdown of any cost that has occurred. My understanding is that Steelvision has an administrator.

Mr Stefanic: It's under voluntary administration at the moment.

Senator KITCHING: Okay. And I'd like to know the cost of any correspondence you might have had with the administrator—with Hamilton Murphy, I think it is.

Mr Stefanic: We have had no direct communication with the administrator. So, for clarity, you are seeking legal costs in relation to dealings with Steelvision, in association with Steelvision?

 Senator KITCHING: No, I'd like to know the legal costs of the contract from the beginning, so Clayton Utz. I think either Mr Healy or Mr Cooper said that Clayton Utz was doing—have they always been the solicitors on the record in relation to this matter?

Mr Healy: Yes.

Senator KITCHING: So you haven't gone to anyone else?

Mr Healy: No.

Senator KITCHING: Just checking. Were they the ones who gave you the advice about the form of the contract? Was it the construction division at Clayton Utz?

Mr Healy: As Mr Cooper said, none of us were here at the time, but another company, RPS, who were a project management company—they were known as Point Project Management at the time; they've changed the name of the company since then—were engaged to give advice on the best form of contract back in 2015.

Senator KITCHING: They're a construction project management company, are they?

Mr Healy: That's correct.

Senator KITCHING: Did you run their advice by Clayton Utz?

Mr Healy: I would have to take that on notice.

Senator KITCHING: Can we get the cost of that engagement for RPS—or what was it?

Mr Healy: They were known as Point Project Management when they were engaged, but they changed their name to RPS during the engagement.

Senator KITCHING: My understanding is this was a best-endeavours style contract. Usually you don't need a defined scope of works in that kind of contract, and completion time
lines can be left undefined in those contracts. Is that true of this contract? For example, were timelines not defined?

Mr Healy: You have a scope of work—it's not fair to say that there's no scope of work, but when you want flexibility with that scope of work, it's a good form of contract to use. As far as time lines are concerned, yes, there is a time line for the project and that's part of the engagement of the managing contractor. They are engaged on a firm time line.

Senator KITCHING: Given that the current time line bears no relation to the time line as it was defined in the contract, has there been any remediation, any penalties, sought?

Mr Healy: The contract does not provide for liquidated damages between the principal and the contractor. There are liquidated damages between the contractor and the subcontractor. But you need to bear in mind that the relationship between the principal and the contractor, that is DPS and Lendlease building, is for a fixed sum. Therefore, they get paid for their staff in accordance with the original time line. Now that the project is extending its time line, they don't get any additional fees to cover the staff that they still need to pay to deliver the work.

Senator KITCHING: But Lendlease is receiving a fixed fee?

Mr Healy: Lendlease is receiving a fixed fee.

Senator KITCHING: But there are no damages, okay. It doesn't face any penalties under the contract per se?

Mr Healy: It doesn't face a liquidated damage-type penalty but it does incur additional costs that are borne entirely by Lendlease.

Senator KITCHING: But they could take the people who would be working on this site to somewhere else, for example? They can mitigate their own loss, if you know what I mean?

Mr Healy: Not really. It would be difficult to take away the key people who are managing this project and still meet their obligation to deliver the project. So the key project managers, the foreman et cetera, are still here and still being paid by Lendlease.

Senator KITCHING: The up to $1.5 million that's being borne by the department, how is that related to—isn't the department really bearing those costs or some of those costs?

Mr Healy: When Lendlease engaged Steelvision they went to tender and received multiple bids from different companies to do the work. We are now going to a fourth company—sorry, three companies originally responded. We've gone to a fourth company. The cost of what we've paid Steelvision plus the cost of what we have to pay the current subcontractor that we are engaging—when you add those costs together it is more than what the original Steelvision bid was. But I might say that it is less than what other bidders bid in the original tendering process.

Senator McALLISTER: Mr Healy, can I just clarify, can I infer from your answer that there are no additional payments being made to Lendlease as part of this additional $1.5 million?

Mr Healy: Lendlease itself will receive no additional payments out of that $1.5 million. This is additional money that will flow to a new subcontractor.

Senator McALLISTER: May I just check that you're channelling that through Lendlease, so Lendlease will continue to administer the subcontracting arrangement?
Mr Healy: The model uses a trust account. The Commonwealth never pays Lendlease. Lendlease send us an invoice summary every month which lists out all the amounts of money that are due and payable to the subcontractors. The Commonwealth then puts that exact amount of money into the trust account and then Lendlease authorise the release of that money from the trust account to the subcontractors. We don't pay per se—

Senator McALLISTER: Thanks, Mr Healy, I understand.

Senator KITCHING: You knew that there were issues with Steelvision in what July 2017, did you?

Mr Healy: In June, July 2018—

The PRESIDENT: The first issue was 2018. I know because on taking this role I was briefed on the issue when the project was about to start in November 2017. I think it was March, or April it might have been, that there was a Victorian government court case after the Victorian government gave Steelvision a grant and then another part of the Victorian government decided to take it to court in the same month but that didn't go anywhere. The issue with the delivery of this project, I would say early June was the time which I indicated in my statement. But the delay at that point looked short.

Senator KITCHING: Of the $75 million for this contract, how much have you paid so far?

Mr Cooper: I will have to get that figure for you, Senator, if we have it.

Senator KITCHING: How many people work in DPS?

Mr Stefanic: 1,014 at last count.

Senator KITCHING: Given there are 1,014 people, can we please get an answer to that? How much have you paid Lendlease so far?

The PRESIDENT: Senator Kitching, that's not necessary.

Senator KITCHING: Come on!

CHAIR: Senator Kitching, it's not necessary to reflect on DPS like that.

The PRESIDENT: That is an unfair characterisation.

Senator KITCHING: Chair, can I clarify something: the department obviously knew this was going to come up. The President has given a statement. I think even the question asking about all of the additional costs that might have been borne out of the incompetency around the managing of this might have been considered. Some of the information might have been here—

The PRESIDENT: Can I speak in response to Senator Kitching. It is inappropriate—

Senator POLLEY: Let her finish first!

The PRESIDENT: Hang on, I was speaking, and now I'm being spoken over—

CHAIR: Senator Polley, that's not assisting.

Senator POLLEY: On a point of order, Chair.

CHAIR: We already have the President on a point of order; you can't interrupt him.

The PRESIDENT: I was speaking earlier, Senator Polley, and I stopped when I was interrupted. It is inappropriate to say that because 1,000 people work in a department,
somehow, an answer to a question of how much has been paid up until this moment should automatically be at the desk. Unless you are going to start counting the security guards, the people that deliver mail and the like, that's inappropriate. It's also inappropriate in a point of order, while we are exploring something, to, effectively, use pejorative terms, as Senator Kitching just did. If information can be provided now, it will. If it can't, it will be provided on notice. But it is not unreasonable to say that the information about the money spent up until today is not necessarily available.

CHAIR: Senator McAllister.

Senator McALLISTER: On the same point of order, I think opposition senators do expect that easily-anticipated questions might be answered. The most up-to-date information about expenditure in relation to a key and controversial project is a reasonable thing to ask officers to have at the table. I think Senator Kitching has offered a fallback position, which is that perhaps the department seek to retrieve it over the course of the hearings. I'd ask you to consider that that may be a reasonable thing to direct officers to undertake. They are, of course, free to take anything on notice, but it is not necessarily a helpful way to assist senators in this process.

CHAIR: I'm in complete agreement, Senator McAllister. I note the department had about 15 seconds after Senator Kitching asked her question in order to provide the answer. I think it's reasonable to give them a minute or two, if it's possible to get it here and bring it back to the committee, and if not, it would be appropriate for them to advise us.

Senator KITCHING: Is it going to be a minute or two?

Mr Healy: Mr Healy has summoned for the information and hopefully it will arrive.

Senator KITCHING: Is 'shortly' in this session?

Mr Healy: I've just received a number but I don't trust that number, Senator. There is a problem with doing things on the run that it might be incorrect. I need my team to check more thoroughly, please.

Senator KITCHING: While they're checking, maybe they could also check whether any payments have been withheld from Lendlease due to non-performance of the contract.

Mr Healy: Senator, I know the answer to that: there have been no payments withheld from Lendlease.

Senator KITCHING: You knew that Steelvision hadn't been paying its own subcontractors—that is, the sub-subcontractors. What steps did the department take to limit the damage to those sub-subcontractors? Did you speak with Lendlease? What happened?

Mr Healy: Lendlease became aware and DPS became aware, from suppliers to Steelvision, that they may not have been being paid. So we returned the additional information we had to Lendlease and said: 'Please check whether the sub-subcontractors are being paid.' They applied additional pressure on Steelvision to confirm that was the case. We queried a number of their statutory declarations, because we were not comfortable that they were correct. Lendlease, in turn, engaged one of the main accounting advisory companies to go and do a review of Steelvision's documentation at their premises in Victoria.
Senator KITCHING: Who was that?

Mr Healy: That was KPMG. They were engaged to go and review Steelvision's documentation. It was still unclear whether they were absolutely paying everything that was due and payable, which is different to every invoice that they've ever received. It was also clear that there were other projects; it was not just this project that was causing them problems. And this all becomes intermingled in Steelvision's accounts.

Senator McALLISTER: Just returning to that evidence, can we step through it again but with the associated time lines? When did DPS first become aware that there were irregularities, or at least discrepancies, between Steelvision's statutory declarations about things being paid when due and payable and your realisation that that wasn't actually happening?

Mr Healy: It was around June 2018 that we became concerned that the subcontractors weren’t being paid. I'll just have to check to see if we can find the time line of when KPMG were engaged.

Senator McALLISTER: While Mr Cooper's doing that, Mr Healy, can you tell me what the means were by which DPS were alerted to that problem?

The PRESIDENT: Can I say that on some occasions I forwarded issues that had been raised with me by other senators and people in the building, where rumours abound—it's a place that talks a lot. I know on some occasions they were forwarded from myself. I think other senators may have done so as well, but I think DPS, as Mr Healy's going to go on to, had their own sources as well.

Mr Healy: We also had a minister from the House of Representatives raise the issue. We also had the issue raised directly to us by a number of the suppliers to Steelvision, including the company that came to speak with the President last Friday.

Senator McALLISTER: On how many occasions did DPS raise queries with Lendlease about Steelvision's supplier payment arrangements?

Mr Healy: On quite a few occasions. This was the subject of meetings, which were happening every few days, where we had concern about the payments.

Senator McALLISTER: Can you document on how many occasions you raised the issue with Lendlease?

Mr Healy: I would need to take that on notice, and that's not something I could respond to quickly.

Senator McALLISTER: I understand. Were they raised exclusively in those management meetings, or were they raised in writing?

Mr Healy: I'll take that on notice. I believe they were in writing—some of them. Some of them were in meetings. But I'll take that on notice.

Senator KITCHING: Did you get the legal advisers to do those letters? Did you get Clayton Utz?

Mr Healy: The letters to Lendlease?

Senator KITCHING: Yes.

Mr Healy: No.
Senator KITCHING: Okay, the department did.

Senator McALLISTER: When was KPMG engaged?

Mr Colvin: It was November.

Senator KITCHING: November '18?

Mr Colvin: That's correct.

Senator KITCHING: What has Steelvision been paid to do but has actually not delivered? And do you have an idea of the value of that?

The PRESIDENT: Can I preface this by saying: part of this is a matter now for relations between contractors and the administrator, if I'm correct. As a general rule, as Mr Healy outlined, payments were made when invoices were submitted and signed off for work that had been done. As I indicated in my statement—and I'm not using legal terminology—there were contested elements of work that was either delivered or not delivered or delivered that was subpar. I will let the officials speak, but I think, because of the fact that there are some ongoing issues with contractors and administrators, there is some reluctance to specify specific numbers because they are a matter of ongoing discussions, because administrators, of course, can make claims on contractors for money they believe should be paid, and that may not reflect the attitude of the person that contracted with the contractor and DPS. Is that a fair description?

Mr Healy: Yes.

The PRESIDENT: I'm happy to be corrected if I've got the terminology wrong.

Mr Stefanic: Yes, Mr President.

The PRESIDENT: So, in essence, some of it's still in contest.

Mr Stefanic: We can't talk details of cost, but the outstanding items of work—and Mr Healy can correct me if there's anything I've left out—are the Senate and House of Representatives entrances; the first-floor public-private interface, which is partially complete; and works that have not yet commenced, which are the front ceremonial entry doors and some component of the second entrance currently being constructed.

Mr Healy: And there's an additional small component, which is glazing along the windows down the side of the building.

Senator KITCHING: Did the department pay for KPMG?

Mr Stefanic: No.

Senator KITCHING: So, that was a Lendlease cost?

Mr Stefanic: Yes.

Senator KITCHING: I think you mentioned, Senator Ryan, that there were subpar elements. What needs to be done again? Do any of those subpar materials or work need to be redone? And is that in the up to 1.5?

The PRESIDENT: This has been an evolving feast over the last week, in the sense that as the new contractors have looked at things—I'll let the officials speak—it was mainly about delivery of material that wasn't appropriate by Steelvision. That was the main problem that led to the glaze, if I'm correct, Mr Healy?
Senator KITCHING:  Sorry—it was the glaze?

The PRESIDENT:  Material being prepared offsite for the entrances when it was delivered was not to the required standard, or it was not at the required standard when we inspected it offsite.

Mr Healy:  That's correct. There were materials that were substandard before they were delivered, and there were materials and work that were substandard when was installed. The vast majority of that has not been paid for, so that has defected in each monthly inspection. Lendlease conduct a monthly inspection as part of the progress claim process. They also have the architect come to site monthly as part of that process. Also, in the later cycles, because of the difficulty of the quantum of the funding, Lendlease engaged a quantity surveyor—a cost planner, independent—to come and help them with that assessment of what work was satisfactory and should be paid for and what work in the claim was unsatisfactory and therefore not payable.

Senator KITCHING:  How much was unsatisfactory work? What was the quantum of that?

Mr Healy:  Of the total amount that has been invoiced by Steelvision, approximately 25 per cent was unpaid because the work was defective.

Senator KITCHING:  How many months did this go on for?

Mr Healy:  This was really evident in June/July, with a target completion in July that slipped out to a number of different dates with the completion in August/November, and it went on until 7 January 2019, when they were terminated.

Senator KITCHING:  Has Lendlease been open with you—I mean, have you had good relations with Lendlease in that they are disclosing issues?

Mr Healy:  Lendlease are very cooperative in the management of this project. They have a senior onsite manager and staff. The ACT manager of Lendlease, who has a much bigger portfolio than this project, attends monthly and also ad hoc on top of that. The CEO of Lendlease Building nationwide has been to see the secretary twice, I believe, and takes the matter very seriously as well. So, it's being considered at the highest levels of Lendlease. Even yesterday the ACT manager was working with me on aspects of the project, on the Sunday afternoon.

Senator KITCHING:  When these questions were asked at previous estimates there weren't a lot of forthright answers. Why was that?

The PRESIDENT:  June 2018 was when, with what was meant to have been a lot of material to be delivered to be installed, it became apparent there was going to be a delay. Over the course of that winter recess the delay became, in my view, catastrophic in the sense that it went from potentially a month to six weeks to multiple months because of the obvious failure of Steelvision to fabricate and deliver material to be installed.

There was, in my view, a legitimate and reasonable view that we did not want to damage the reputation of the firm, given the number of rumours going around about its failure to pay suppliers, which we didn't have direct visibility over. I received those from colleagues, as did DPS. Part of it was about being fair and reasonable. Part of it was also uncertainty about whether or not this could be remedied by Steelvision—that is, was it within their capacity to
remedy. Then there was also the issue that, as mitigating efforts were being undertaken by people to ensure that if Steelvision couldn't deliver someone else could, there were often sensitivities about that going into the public domain, with respect to it occurring because of various contractual obligations and also with respect to not wanting to expose the parliament to further additional costs by letting people know what's going on. That's my perspective. I'm happy to have the officials answer anything else, because I'm not technical on the nature of the building contract.

Mr Stefanic: I think you covered it quite well, Mr President.

Senator KITCHING: The entrances were first scheduled to be closed in September 2017. That was delayed by six months. Was that—

The PRESIDENT: About six. I can't remember.

Senator KITCHING: Let's say approximately six months. Was that the first warning, or should that have perhaps been the first warning?

The PRESIDENT: I can't attest to that, because I took this job in November. We did then schedule it with the ambitious tile of having it done within six months, which, as I said, I thought was ambitious, but I can't speak to what occurred before that.

Senator KITCHING: I want to move on to another topic. Can I put some questions on notice on the internal doors? How many internal doors have required maintenance or repair in the last six months.

The PRESIDENT: Just to clarify, do you mean between the linkways and things?

Senator KITCHING: No, I mean parliamentarian suite doors. Can the department indicate the nature of each fault? How many could be classified as wear and tear and how many faults have been associated with the installation of the new security swipe-card system? Is it true that one of the doors leading to the ministerial courtyard has been inoperative since October 2018? How many doors are presently non-functional? The operation of the doors is critical for security purposes, so is the fact that some may be non-functional a security issue? Can the department explain the delays in having the doors repaired? And is the contractor, in this case BAE, at fault?

The PRESIDENT: Sure.

Senator KITCHING: And what's the quantum around that? I want you to take those questions on notice. I would like them back—you've 30 days, but faster would be appreciated. Could I go back, because I think you said that you had an imminent answer on the costs to date.

Mr Healy: The planning and delivery phase of the security works—I do have a number for the total amount of expenditure to date—is $44.59 million.

Senator KITCHING: Of the 75?

The PRESIDENT: What I'll do is, if there is further information from DPS about that question, like if something had to be changed, added, altered or clarified, and it comes through after DPS has appeared, if it occurs today—because I'm not available tomorrow—I'll write or send an email to the chair so it can be passed onto committee members today or this evening. I'm just not available tomorrow. I will give that commitment.

Senator KITCHING: I really do appreciate that.
CHAIR: We might go to Senator Bernardi, since you're moving onto other topics.

Senator BERNARDI: I'll try and mix through a few topics. Mr President, first to you. You mentioned, in your opening statement, the security data breach of parliamentarians' IT. Are you in a position to tell me what was actually taken? We were prompted to change our passwords, but, did they gain access to our personal emails or other things? I don't want to compromise security.

The PRESIDENT: On this, there is work being undertaken, as I and the Speaker have made very clear, with the Cyber Security Centre and the Australian Signals Directorate. That work is not yet complete, so on two grounds I'm not in a position to answer any questions along those lines. One is that the work is not yet complete. The second one is that I would respectfully suggest to colleagues that there are fora that are not open and public where some of these questions might be answered. Estimates committees cannot go in camera. Depending on what the inquiry presents, I would consider some of that information not to be appropriate for the public domain.

Senator BERNARDI: I accept that.

The PRESIDENT: It's not completed.

Senator BERNARDI: Hence my caution. When it is completed, should there be deemed to be a need to advise parliamentarians or to perhaps implement more secure browsing or whatever else, will we be receiving briefings?

The PRESIDENT: Yes. Whether or not it's done confidentially to a committee or whether or not the Senate wanted to have a reference to do so, as it's previously done, is obviously always a matter for the Senate. I, in my view, would, in consultation with the Speaker and the relevant security agencies that are involved, undertake to brief senators. The challenge with the network is a larger one, and that is that, despite the fact that major gains have been made since the reported incident of nearly a decade ago, this is not a network that is controlled to the extent that some other government networks are. Members of parliament do not want a network that is locked down in the way some departments are. So there is a tension, to use lay terms, between a network that is open, accessible and flexible for members and senators and a network that might be much more locked down, as with certain government departments or such as ministers have experience of, and that provides more security. So the balance has been struck at the moment with the network that we have. I think the words I used last week were that the relevant agencies view the handling of this incident as representing best practice, and they have expressed their confidence to both the Speaker and me in the way this has been handled, the way DPS is interacting and the various protocols it has, given that the need for a network is different for members and senators from what it is for networks that might be less flexible.

Senator BERNARDI: Mr President, I'm not sure whether this is a hopeful question or not: are you able to advise us as whether it was a state based actor or a rogue independent?

The PRESIDENT: I think the words I used last week—and they are still valid—were:

I'm not in a position to provide any information regarding attribution of responsibility for this intrusion. It is also likely to be some time before the investigation into this incident is concluded. I have not been provided with any further advice.
Senator BERNARDI: Thanks. I have a few more topics to whiz through if I may. Dr Heriot, what's the responsibility within the Parliamentary Library for members of staff who may be members of political parties or involved politically? Is there a standard process you go through for declarations of interest and so on?

Dr Heriot: There is a DPS conflict of interest process that library staff go through.

Senator BERNARDI: The reason I ask is that I received some information. I simply don't know whether it's true or not, and I'm not interested in naming the individuals, but the information that was provided to me suggests that a number of Parliamentary Library staff have been seconded to political offices or to work for political parties. Are you able to advise me of whether that is correct or not?

Dr Heriot: I am aware that over many years from time to time staff have worked in political offices.

Senator BERNARDI: Do you feel—I shouldn't ask about how you feel—or is there a risk that that may compromise or be seen to compromise the integrity of the parliamentary librarians' impartiality?

Dr Heriot: It is something that we regard seriously in terms of a potential perceived conflict. For example, when someone has been seconded, we take steps around their reintegration so that they would, for example, work in a different policy area to the one they had been working in when seconded. That's to create an assurance, for example, that they're not dealing on specialist knowledge that they have acquired in that regard. Also, a staff member was once seconded to support a senator but in their committee duties rather than in broad duties. We try to handle it dextrously. It doesn't happen a great deal, but I'm aware, in terms of my tenure and that of my predecessors, that it has happened from time to time. We try to put careful measures around it.

Senator BERNARDI: Would you be able to provide me, on notice, with a list? I don't need the individual names, but the list of staff from the Parliamentary Library who have been seconded into either political parties or political offices and the nature of those—meaning: are they Liberal, Labor, Greens, National, Independent?

Dr Heriot: Do you have a time frame for that, Senator?

Senator BERNARDI: On notice; I don't need it today. I beg your pardon—I'm not going to say, 'Go back through the whole history.' Let's just deal with the last few years. Is that all right?

Dr Heriot: Okay. I'll make best endeavours.

Senator BERNARDI: Thank you. Similarly, what's the policy about recruiting staff from political offices into the Parliamentary Library?

Dr Heriot: I'm just trying to think as to whether we have done that. We've had staff return. We have a whole range of questions in our interview processes about impartiality, the parliamentary service values and the code of conduct, and that sort of thing. I can't give you a global answer, I'm afraid, but we do take very seriously the impartiality of the Library—not only the Library's actual integrity but its perceived integrity.

Senator BERNARDI: I understand that. That's why I'm intrigued as to these claims. They include some casual staffers. Statements have been made that have been directed to work for
political organisations and so forth—people who have been taken in by the Parliamentary Library who have worked for ministerial offices. It's the perception that I'd like to have cleared up.

**Dr Heriot:** Yes, Senator.

**Senator BERNARDI:** Thank you. Mr Stefanic, hello. How are you? The President mentioned that rumours fly around in this place all the time and sometimes information comes our way and we don't know whether it is correct or not. Firstly, let me start with some praise. The DPS catering is excellent. I'm very happy with it. I have heard a rumour, though, that it's requiring quite a significant amount of money to maintain that level of excellence. Have you been required to inject any more capital or funds into the provision of the catering services here in Parliament House?

**Mr Stefanic:** In terms of capital, a couple of projects are currently in progress that will look at upgrading the remaining kitchens. There was a project before my time which involved renovations to the main production kitchen and some other work, but that work was not completed. This kitchen project will endeavour to update the remaining kitchens so that they meet the requirements for work, health and safety, and for food safety regulation purposes. There are also some venues that haven't been refurbished for quite some years. So, one of the other projects is focusing more on the spaces that patrons of parliamentary catering use to eat.

**Senator BERNARDI:** What's the estimated cost of those capital investments?

**Mr Stefanic:** Mr Healy is probably a better person to answer that question. The design work is still continuing, I believe, and hasn't yet been completed.

**Mr Healy:** The catering facilities have been delivered in two phases. The first phase is the Great Hall kitchen and bar, schools and hospitality, and work to the loading dock. There are a number of things associated with catering that aren't specifically kitchen. In the loading dock there's X-ray equipment to get the food in and out and be able to take the waste out. That first phase has been designed and is out to tender, and tenders close this afternoon—

**Senator BERNARDI:** But you can't tell me how much it's going to cost.

**Mr Healy:** I can't tell you exactly how much that's going to cost. Then there's the second phase, which has work in Queen's Terrace cafe, members and guests, a limited amount of work in the main production kitchen—the main components of that. And when you add the entire scope of work together, which includes a fair bit of work in services—gas, electricity, air conditioning—the total bill probably comes to between $30 million and $40 million.

**Senator BERNARDI:** Mr Healy, are you responsible for the food contracts as well?

**Mr Healy:** No.

**Senator BERNARDI:** Then Mr Stefanic, I'll go back to you. Is the provision of catering services making any money for DPS?

**Mr Stefanic:** Catering services, even under the previous model, were costing something in the realm of $1 million a year. That included administration of the contract. The vision that we launched the operation with was to achieve cost neutrality. So, if it was going to cost us $1 million to run the operation, that would be our ultimate goal. Having said that, the quality of service and food on offer was cause for complaint for a long time, and our occupant surveys indicated consistently something between 50 and 60 per cent satisfaction rating before DPS
assumed responsibility for catering. So, obviously providing a level of service and a level of quality was always going to cost more than a service provided in bulk by an international hotel chain. At this stage it is costing more than that. I don't have the immediate figures before me.

**Senator BERNARDI:** Mr Creagh, can you tell me?

**Mr Stefanic:** Sorry—just to complete, and I'll let Mr Creagh provide some detail—importantly, the catering is being managed within DPS's funding envelope, so we've received no additional appropriation to operate the catering service. It's being managed globally within our funding.

**Mr Creagh:** As at the end of January, the operating result for the catering function was an operating loss of $1.139 million.

**Senator BERNARDI:** For the six months?

**Mr Creagh:** Seven months.

**Senator BERNARDI:** Seven months—end of January.

**Mr Creagh:** That fluctuates significantly throughout the year depending on sitting patterns and also events, calendar and those sorts of things.

**Senator BERNARDI:** Sure. In respect, is all the food prepared within Parliament House?

**Mr Stefanic:** I would have to take—are you talking percentage terms?

**Senator BERNARDI:** Well, I'll tell you about a specific. This is what was suggested to me—that, for example, meat is brought into Parliament House, it is cooked here and then it's shipped to Sydney to make pies, which then come back here. Would that be correct?

**Mr Stefanic:** It's my understanding that all our pastries are made in-house. That is why I was talking percentage terms. A large proportion of our product is made in-house. But I'll get some clarity—

**Senator BERNARDI:** Perhaps you can give me the percentage terms—I'm intrigued to know this.

**Mr Stefanic:** Somebody is sourcing that for you, so hopefully we'll be able to give you an answer shortly.

**Senator BERNARDI:** Good. We'll move on to something else outside of that for the moment. Once again, I will go to you Mr Stefanic. I'm sure you may want to pass this off. Is it true there've been a couple of suspensions within parliamentary security?

**Mr Stefanic:** There are two code of conduct investigations currently. The two officers are suspended on full pay currently.

**Senator BERNARDI:** Are you able to detail what the concerns are in the conduct?

**Mr Stefanic:** I would prefer not to, given the investigations are ongoing. It could compromise the investigation and would be unfair to the individuals involved.

**Senator BERNARDI:** Have the individuals been informed of the complaints against them?

**Mr Stefanic:** I believe so.
Senator BERNARDI: And what is the process for managing that code of conduct complaint?

Mr Stefanic: I might defer to Ms Saunders, who might be able to provide some detail.

Ms Saunders: Both of those investigations are being undertaken by external investigators.

Senator BERNARDI: Are you able to tell me who's undertaking them, which firm?

Ms Saunders: I will have to take one on notice, because I can't remember the name. One is being undertaken by Ashurst, a legal firm. They also have an investigation area.

Senator BERNARDI: Are the individuals provided with any legal support through DPS or through their union or organisation?

Ms Saunders: I couldn't answer that. They're not provided with legal support provided by DPS.

Senator BERNARDI: But they're entitled to it, to deal with their code of conduct complaints?

Ms Saunders: I will take that on notice. I think that would be unusual, but—

The PRESIDENT: Are you asking whether they are entitled to have DPS provide—

Senator BERNARDI: Are they entitled to have representation in dealing with this? That's my primary question.

Ms Saunders: I'll ask Rob Brigden to answer that for you.

Mr Brigden: To answer your question, Senator, both employees are being represented by their union, the CPSU.

Senator BERNARDI: Okay. And how long does the code of conduct tribunal or investigation normally take?

Mr Brigden: It will depend on the nature of the investigation, and we're anticipating the investigation component of the matter will be finalised very shortly.

Ms Saunders: Can I add that it also depends on the availability of all witnesses as well.

Senator BERNARDI: How long has this been going so far? When were these individuals suspended?

Mr Brigden: The individuals were suspended, I think, in around October last year. And we've been involved in investigating the matter since then.

Senator BERNARDI: It's been more or less five months?

Mr Brigden: That's correct, yes.

Ms Saunders: I think it's important to emphasise that it also depends on the availability of all witnesses to meet with the investigators.

Senator BERNARDI: What are you saying there, Ms Saunders? You're saying that some people have not been available or not made themselves as available as you'd perhaps like them to be?

Mr Stefanic: In one example I can think of, the person under investigation went on an extended holiday for a period of time and was unable to meet with the investigator.

Senator BERNARDI: I understand also that there is a new roster system that's been implemented for parliamentary security.
Mr Stefanic: Yes.

Senator BERNARDI: What's the nature of the change, to the roster system, from where it was previously?

Mr Stefanic: I might ask Mr Creagh to step you through that.

Mr Creagh: The Department of Parliamentary Services uses a rostering system called Kronos. We have spent the vast majority of the last calendar year working on the upgrade. It's probably not fair to just call it an upgrade of the version. This was a full implementation of the system that has required a significant amount of testing, incorporating programming, UAT, user acceptance testing, and pre- and post-implementation independent audits by our independent internal auditors. Testings also included three parallel pay runs. That's where we used data from Kronos version 7 and ran it in the test system in Kronos version 8 to see whether we got the same outcome. By the third parallel pay run, Kronos 8 was providing us with the right outcome—that is, using those processes to test that you've got all the pay codes right and all the examples correct.

The implementation's been part of a broader program of business strategy change that's involved creating a new centralised co-locator team. That includes the central rosters unit, the pay team and the Kronos system's administration team, which sit under my branch and in the same office space. This has created independence from security branch. The point there is that the intent is for the central rosters unit to provide rostering functionality to the entire department, including the catering function and the visitor services offices. I think that's it, at the moment.

So that's where we're up to. Having those teams co-located has been a significant benefit, in terms of resolving some of the teething issues that we've encountered in the implementation.

Senator BERNARDI: 'Co-located'—is that within the parliamentary building?

Mr Creagh: No, it isn't. It's in the MinterEllison building, which is down on National Circuit.

Senator BERNARDI: That's the Finance one, is it?

Mr Creagh: No, not Finance.

Senator BERNARDI: In that precinct, is it?

Mr Creagh: Yes, it is.

CHAIR: Senator, we're coming up to the scheduled morning-tea break.

Senator BERNARDI: I'll finish in a couple of minutes, if that's all right.

CHAIR: Yes.

Senator BERNARDI: But it is still being managed by DPS. It hasn't been outsourced to anyone else.

Mr Creagh: Absolutely.

Senator BERNARDI: How many people are in that unit now?

Mr Creagh: The central rosters unit, at the moment, has four people—

Senator BERNARDI: That's doing pays and everything, is it?
Mr Creagh: No, just the central rosters unit. Let me correct that.

Senator Bernardi: I'm thinking about your whole co-located—

Mr Creagh: My whole co-located team, because it's payroll for the entire department—I'd have to take that on notice because I can't do a headcount in my head right now.

Senator Bernardi: Sure. I might put another few questions on notice for you, Mr Creagh. Thank you.

Proceedings suspended from 10:28 to 10:45

Chair: The committee will now resume.

Senator Kitching: Could we just go back to the mishandled white powder incident? Could the department inform the committee of the method by which Comcare learned of the mishandled white powder incident?

Mr Stefanic: From the media coverage.

Senator Kitching: That's as the AFP gave evidence in their estimates in May last year, isn't it? They learnt about it from the media as well.

The President: You'd need to ask the AFP about that.

Senator Kitching: Yes, and I did. I said, 'Is it suboptimal for you to learn of a white powder incident from media reports?' Ms Close, from the AFP: 'Yes.' When were you aware? Comcare learned of the white powder incident from the media. When was that?

Mr Stefanic: From the report on 22 November 2017.

Senator Kitching: They say, in answer to a QON, that they learned about it on 17 January because you hadn't informed them. So they learned about it from the media article.

Mr Stefanic: That may well have been when the article came to their attention.

Senator Kitching: Can the department explain to the committee the reason Commonwealth enforcement agencies—for example, the Australian Federal Police, Comcare—continue to learn of serious failings of this department from media reports?

The President: Can I ask Senator Kitching: it would be helpful to be specific about individual events. That's a partly rhetorical question. If there's a specific event, by all means officials should answer.

Senator Kitching: What I might do, Mr President, is ask Mr Cooper, who I think spoke in response to questions in relation to the security works—the building works. I asked: is it a monthly meeting that the AFP attends? And I think he said, 'No, no. It's much more frequent than that. It's weekly.' You don't choose to discuss some things with people who might be interested—for example, the Australian Federal Police and Comcare?

Mr Cooper: I'll let Mr Anderson speak to that.

Senator Kitching: Thank you, Mr Anderson.

Mr Anderson: DPS, along with the AFP, the chamber departments and the Department of Finance, meet regularly, once a week, at the joint management group, where security incidents and security breaches are raised. As previously provided, in terms of the management of this particular incident—I think you're referring to the November 2017
incident—in terms of the way that incident was handled, I turned up, I made an assessment, and no further action was required.

Senator KITCHING: Okay. But Comcare did decide, once they learned of it from the media—not from DPS—once they saw the newspaper article, they thought, 'Hang on a sec, this isn't very good.' Dare I say, they probably thought it was suboptimal. They then decided to attend Parliament House to conduct inspections in connection with its investigations on nine occasions. Does that gel with your understanding?

Mr Anderson: That's broadly consistent with my understanding.

Senator KITCHING: That's the answer they've given to a QON.

Mr Anderson: Yes.

Senator KITCHING: On how many occasions did Comcare attend Parliament House to conduct inspections in relation to this matter? Nine.

Mr Stefanic: Part of those visits by Comcare were to assess progress against an improvement notice that had subsequently been issued to us.

Senator KITCHING: Yes, they issued you with an improvement notice. Yet Mr Anderson and Mr Cooper would say, 'Nothing to see here, move it along.' But Comcare decided that it was worth investigating and, in fact, then issued an improvement notice on you. It's not really ideal, is it, Mr Stefanic?

Mr Stefanic: It was a matter of public interest. That's why Comcare decided to investigate. I do know, however—

Senator KITCHING: Are you suggesting Comcare only investigates matters that are of public interest? Because that would be—

The PRESIDENT: I understand that this is a very passionate issue that has been going on for multiple estimates. Can we allow the secretary to finish his answer and then by all means ask further questions. Mr Stefanic was in the middle of his answer.

Mr Stefanic: Thank you, Mr President. It should be noted that Comcare found there was no discernible risk present during the incidents in question. They had validated that there was no risk in relation to that incident, the November incident, and also the one that was reported in May of 2018. What the improvement notice did speak to, however, was DPS's operating policies, procedures and training, and ensuring that our protocols and documentation in place was of the required standard. They also confirmed it was not a notifiable incident, so they weren't matters that we needed to report.

Senator KITCHING: The nine inspections that Comcare had come to do, was that because there was some misleading of Comcare in relation to the location of the incident?

Mr Stefanic: My understanding is that at least four of the visits I can see were to assess progress against the improvement notice. So against the list of recommendations, they would, as a matter of course, come on site to view the changes that had been made.

Senator KITCHING: Has the department been formally sanctioned by Comcare following on from the taste testing incident?
Mr Stefanic: No. The improvement notice was the only action taken by Comcare. There was not a corrective action—sorry, we developed corrective action plan following the improvement notice.

Senator KITCHING: You submitted that to Comcare?

Mr Stefanic: Correct.

Senator KITCHING: The improvement notice was directed to you to update policies, procedures, risk assessments—I will come back to that—training, provision of information to workers and other persons at this workplace. Did the risk assessment indicate that perhaps taste testing an unknown substance might not be appropriate?

Mr Anderson: No. Again, I would point out that the tasting of the sugar was immaterial to the actual incident itself. It was only done after the assessment was made.

Senator KITCHING: I will read a short extract from Comcare's website:

If an inspector encounters a situation that amounts to, or may amount to, a contravention of the Commonwealth Work Health and Safety Act 2011… or the Commonwealth Work Health and Safety Regulations 2011… the inspector may decide to issue an improvement notice.

The issuance of the improvement notice formally confirms and records the contravention of the Commonwealth Work Health and Safety Act, so the department has actually not followed the law. Are you able to produce a copy of that improvement notice?

Mr Anderson: Yes, we can produce a copy.

Senator KITCHING: Are you able to produce it now?

Mr Anderson: I don't have it with me at the moment.

Senator KITCHING: But your officers are in the building, so we could have it shortly?

Mr Anderson: I can give you a brief summary of what the—

Senator KITCHING: No, I'd like to see the notice as well.

Mr Anderson: No worries.

Mr Stefanic: We'll take that on notice

Senator KITCHING: I'm running short of time. What's the maximum monetary penalty, for exposing the taxpayer, for the department being issued with an improvement notice?

Mr Stefanic: There is no monetary penalty involved.

Senator KITCHING: You told also then had to undertake training for senior executive officers, is that correct? Comcare provided due diligence training for SES-level officers, is that correct?

Ms Saunders: Yes. We requested that of Comcare.

Senator KITCHING: And 16 DPS officers attended?

Ms Saunders: I couldn't give you the exact number but it would be around that, yes.

Senator KITCHING: I might put some questions on notice, but do you think that Comcare got it right? Was the improvement notice helpful to you?

Mr Stefanic: Yes, of course it was.

Senator KITCHING: You didn't express any disagreement with their assessment?
Mr Stefanic: I think as a matter of course we should always be reviewing our processes and policies. What it did was helpfully shine a light on that. I'm happy to report that we complied against everything that was requested within the minimum time possible.

Senator KITCHING: Has anyone faced any disciplinary action?

Mr Stefanic: No, Senator. I will restate what I'd said: that Comcare found there was no discernible risk present during the incidents in question.

Senator KITCHING: I will put some further questions on notice on that. I just want to go to one quick question which I think might be for you, Ms Saunders, or Mr Creagh: I think on 22 October, at the last estimates, you confirmed to the committee that you were satisfied all leave entitlement balances were now accurate. Mr Stefanic, you also provided this confirmation. Can the department confirm there have not been any further issues affecting employee leave entitlement balances since 22 October?

Ms Saunders: Senator, I'll pass to Mr Creagh, but before I do that I'll just explain that the final review that we undertook, that was conducted by Synergy—we've provided information in relation to that on questions on notice as well—did identify two final and very minor adjustments that needed to be made within the system. I will pass over to Mr Creagh now, because he has more detail on that and he can explain it to you more fully.

Mr Creagh: The two issues that the Synergy audit identified were: as part of the corrective action from the original SAP-Kronos leave audit work undertaken by KPMG, we developed a file extract that took information from Kronos version 7 and passed that to SAP. Unfortunately for sessional employees, whose leave is calculated on a slightly different basis—it is based on the number of hours that they work—the leave was calculated to two decimal places, whereas SAP calculates leave to five decimal places. The other issue that was identified is that, for part-day, unauthorised absences—so that's where an unauthorised absence is recorded for a small amount of time—no accrual of leave was undertaken for employees in that case. The total impact of these issues, over the course from February 2015 to February 2017, for all employees affected at that point in time, is that—there are five decimal places, but I'll just go to one—22½ hours of annual leave was owed to employees; 17.9 hours of personal leave was owed to employees; and the leave balances that were owed to the department—there were some ups and downs, which we decided not to pursue because it was not economical—were 2.4 hours of annual leave and 2.4 hours of personal leave. It's important to note that the value of leave owed by employees added up to $87.03, which is why we determined that it was not financially economical to pursue.

Senator KITCHING: I am happy for you to take this on notice, because I want to go very quickly to another topic: I think an error occurred in the payroll systems on or about 7 November 2018. Is that correct?

Mr Creagh: I'm not aware, Senator.

Senator KITCHING: Would you mind taking that on notice?

Mr Creagh: Senator, without specific details, it's very difficult for me to—

Senator KITCHING: 'An upload of information to one of the payroll systems caused another miscalculation of the leave balances on or around 7 November last.'

Mr Creagh: I can take that on notice, but I'm not aware of anything.
Senator KITCHING: Mr Stefanic, we've discussed this before. I think, in the past, after estimates you might have sent out an invitation to your office for drinks, and I understand that that email reads something like, 'Subject: post-estimates reflections. Hi, everyone. I am convening a convivial and quiet de-stress in my meeting room from 4.15 pm. Quality beverages will be supplied. See you there if you can make it. Cheers, Rob.' Are you planning on having a drink session this afternoon after estimates? And who is paying for the quality beverages?

Mr Stefanic: The first answer to your question is: I paid for all the beverages that were supplied—there was no cost to the Commonwealth. And I have not yet made an assessment about whether there'll be drinks after this estimates.

Senator KITCHING: For a quiet de-stress that's convivial.

Mr Stefanic: Correct.

Senator BERNARDI: Are we all invited?

Mr Stefanic: You're welcome to attend, Senator Bernardi.

CHAIR: It might not be as convivial or de-stressing if senators are present. As there are no further questions for DPS, I thank you very much for your time and your evidence this morning.
PRIME MINISTER AND CABINET PORTFOLIO

In Attendance

Senator Cormann, Minister for Finance and the Public Service

Department of the Prime Minister and Cabinet

Outcome 1

Overview

Ms Stephanie Foster, Deputy Secretary, Governance Group
Dr David Gruen, Deputy Secretary, Economic Group and G20 Sherpa
Mr David Williamson, Deputy Secretary, Australian Public Service Review Taskforce
Mr Simon Duggan, Deputy Secretary, Industry and Jobs Group
Ms Caroline Millar, Deputy Secretary, National Security Group
Dr Roslyn Baxter, Acting Deputy Secretary, Social Policy Group

Australian Public Service Review Taskforce

Mr William Story, First Assistant Secretary, Australian Public Service Review Taskforce
Ms Callie Zorzi, Acting Assistant Secretary, Australian Public Service Review Taskforce

Corporate Division

Ms Charlotte Tressler, First Assistant Secretary – Chief Financial Officer, Corporate Division

Drought Taskforce

Ms Sachi Wimmer, First Assistant Secretary, Joint Agency Drought Taskforce
Mr Neil Williams, Assistant Secretary, Policy Branch, Joint Agency Drought Taskforce

Economic Division

Mr Jason Lange, Executive Director, Office of Best Practice Regulation, Economic Division
Mr Adam Sheppard, Adviser, Microeconomic Reform and Consumer Law

Government Division

Mr John Reid, First Assistant Secretary, Government Division
Ms Celeste Moran, Assistant Secretary, Legal Services Branch, Government Division
Mr Peter Rush, Assistant Secretary, Parliamentary and Government Branch, Government Division

Protocol and International Visits Division

Mr Mark Fraser, First Assistance Secretary, Protocol and International Visits Division
Ms Alison Green, Assistant Secretary, Protocol and International Visits Branch

Ministerial Support Division

Mr Gerard Martin, First Assistant Secretary, Ministerial Support Division
Mr Brendan MacDowell, Assistant Secretary, Ministerial and Parliamentary Support Branch
Cabinet Division
Ms Yael Cass, First Assistant Secretary, Cabinet Division
Ms Megan Edwards, Assistant Secretary, Strategic Coordination and Implementation Taskforce Branch, Cabinet Division
Ms Lee Steel, Assistant Secretary, National Security and Cabinet Systems Branch, Cabinet Division
Ms Michele Graham, Assistant Secretary, Cabinet Secretariat, Cabinet Division

Industry, Infrastructure and Environment Division
Ms Helen Wilson, First Assistant Secretary, Industry, Infrastructure and Environment Division
Ms Paula Stagg, Assistant Secretary, Environment, Energy and Climate Change Branch

International Division
Mr Justin Hayhurst, First Assistant Secretary, International Division

National Security Division
Ms Cath Patterson, First Assistant Secretary, National Security Division
Mr Trevor Jones, Assistant Secretary, Home Affairs Branch, National Security Division

Policy Innovation and Projects Division
Ms Tanja Cvijanovic, First Assistant Secretary, Policy Innovation and Projects Division
Mr Andrew Lalor, Assistant Secretary, Data and Digital Branch
Ms Katrina Di Marco, Assistant Secretary, Project Office
Ms Terri Dreyer, Acting Assistant Secretary, Project Office
Mr Simon Gordon, Acting Assistant Secretary, Behavioural Economics Team of Australia (BETA)

Social Policy Division
Mrs Tara Oliver, Acting First Assistant Secretary, Social Policy Division
Ms Kathryn Mandla, Head of the National Office for Child Safety
Mrs Megan Leahy, Acting Assistant Secretary, Immigration and Aged Care Branch
Mr Cain Beckett, Assistant Secretary, Social Services, Human Services and Veterans Affairs Branch
Mr David Michell, Acting Assistant Secretary, Health and Sport Branch
Mr Matthew Roper, Assistant Secretary, Settlement Services Review Taskforce

Vocational Education and Training Review
Ms Peta Furnell, First Assistant Secretary, VET Review Taskforce

Office for Women
Ms Trish Bergin, First Assistant Secretary, Office for Women
Ms Rachel Livingston, Assistant Secretary, Office for Women
Ms Esther Bogaart, Assistant Secretary, Office for Women
Workplace Gender Equality Agency
Ms Libby Lyons, Agency Head
Ms Janin Bredehoeft, Executive Manager Research and Analytics
Ms Kate Lee, Executive Manager Engagement
Ms Anne Beath, Executive Manager Operations

Australian Public Service Commission
Outcome 1
Mr Peter Woolcott AO, Australian Public Service Commissioner
Ms Mary Wiley-Smith, Deputy Australian Public Service Commissioner
Ms Kerren Crosthwaite, Group Manager, Employment Policy
Ms Catherine Seaberg, Group Manager, Australian Public Service Reform
Mr Marco Spaccavento, Group Manager, Workplace Relations
Ms Caroline Walsh, Group Manager, Strategic Projects
Ms Helen Bull, Group Manager, Workforce Information
Ms Liz Quinn, Group Manager, Centre for Leadership and Learning
Ms Donna Tait, Acting Group Manager, Corporate
Ms Michelle Black, Chief Information Officer

Australian National Audit Office
Program 1.1 and 1.2
Mr Grant Hehir, Auditor-General
Ms Rona Mellor PSM, Deputy Auditor-General
Ms Lisa Rauter PSM, Group Executive Director, Performance Audit Services Group
Dr Tom Ioannou, Group Executive Director, Performance Audit Services Group
Ms Michael White, Senior Executive Director, Performance Audit Services Group
Mr Brian Boyd, Executive Director, Performance Audit Services Group
Ms Deborah Rollings, Senior Executive Director, Corporate Management Group

Digital Transformation Agency
Mr Randall Bruegaud, Chief Executive Officer
Ms Joanne Hutchinson, Chief Portfolio Officer
Mr Peter Alexander, Chief Digital Officer
Dr Anthony Vlasic, Chief Strategy Officer
Mr George-Philip de Wet, Chief Operating Officer

Observers
Ms Kathleen McGovern, Chief of Staff
Ms Brianna Elms, Director of Communications and Media
Ms Alys Buchtmann, Director of Content and Brand
Mr David Donovan, Chief Finance Officer
Mr Tobias Wright, Director of Business Services
Ms Jo Cantle, Director of Human Services
Ms Julia Wells, Head of Portfolio Management
Mr Anselm Cox, Director, Sourcing Centre of Excellence
Mr Matt Goonan, Chief Technology Officer

Office of the Official Secretary to the Governor-General (OOSGG)

Outcome 1 – Program 1
Mr Paul Singer, Acting Official Secretary to the Governor-General
Mr Steve Murtagh, Acting Deputy Official Secretary to the Governor-General

Australian Public Service Commission

[11:02]

CHAIR (Senator Paterson): I welcome the Minister for Finance and the Public Service, Senator Hon. Mathias Cormann, representing the Prime Minister, and Mr Peter Woolcott, Australian Public Service Commissioner. The committee has set 29 March 2019 as the date by which answers to questions on notice are to be returned. Minister, do you wish to make an opening statement?

Senator Cormann: No, thank you.

CHAIR: Mr Woolcott, do you wish to make an opening statement?

Mr Woolcott: No, thank you.

Senator McALLISTER: The Prime Minister announced on 29 January in Brisbane that, as part of the ‘Stronger Economy. Secure Future’ plan the government would create 1.25 million jobs over the next five years. How many of those jobs will be public sector jobs?

Senator Cormann: I'll take that on notice.

Senator McALLISTER: You don't know?

Senator Cormann: What I can say to you, if you look at the ABS data, is that across the economy nine out of 10 jobs are private sector jobs—jobs where Australians work either for themselves or for a private sector business—and that just over one out of 10 jobs are public sector jobs. That is across the Australian economy as a whole. So I don't have any reason to believe that the proportions across the country as a whole are going to fundamentally alter, but what I can say is that, having promised back in 2013 to deliver one million jobs in the first five years of our period in government, it is a matter of public record that we have exceeded that. Indeed, more than 1.1 million jobs were created over the first five years and we have, of course, now passed 1.2 million additional jobs.

Senator McALLISTER: I understand your answer relates to the total proportion of jobs in the public and private sectors. The rate of jobs growth, though, has been different to that. The ratio hasn't been one in 10 new jobs created being in the public sector.

Senator Cormann: If you're talking about the federal Public Service, you're right. Given that when we came into government we inherited a deteriorating budget position and there was a need for budget repair, we made a decision—
Senator McALLISTER: Minister, I'm asking about the ABS statistics.

Senator Cormann: Well, I—

Senator McALLISTER: My question is—and you may not know the answer: what does the ABS tell us about the rate of growth?

Senator Cormann: Please, you've asked me a question, so I would like to answer it.

Senator McALLISTER: You're answering a different question. You are not answering the question I asked you.

CHAIR: It's five minutes past 11. Let's start on a better note than that, if we can. We have two days together.

Senator McALLISTER: We do.

Senator Cormann: Let's at least start somewhat constructively. As I've indicated, the proportions are roughly just under nine out of 10. Nine out of 10 jobs are private sector jobs across the economy. That is ABS data. Just over one out of ten jobs are public sector jobs. What I understood you're asking me is whether jobs growth in the public sector had been the same as jobs growth in the private sector. The answer is no on the basis that we have made a decision to first, on coming into government, reduce the size of the federal Public Service back down to 06-07 levels and to maintain it at that level while the budget is in deficit. In 2019-20, the budget is forecast to return to surplus. If you refer to budget paper 4 what it'll show is that it continues to be our intention to maintain the size of the federal public sector at 06-07 levels until such time as the budget is back in surplus, which is expected to be 2019-20.

Senator McALLISTER: Minister, the AFR on 8 January this year published an article by Tim Boyd saying:
The 2018 jobs boom in Australia was almost entirely driven by growth in public sector jobs, with private sector employment contracting through the year, analysis of ABS data has shown.

So the question I'm asking you is—you've released a strategy to create 1.25 million jobs—how do you consider the role of public sector employment in that strategy?

Senator Cormann: It depends on how much the public sector can afford to pay for additional public servants. When we came into government we inherited from the Labor Party a rapidly deteriorating budget position. It was a budget that was about three per cent as a share of GDP and deficit. This financial year we are at 0.3 per cent as a share of GDP and deficit, but we're projected to return to surplus. Obviously, our capacity to grow federal public sector employment was somewhat constrained by our difficult fiscal position, but, of course, across the economy it's a matter of public record and it's also consistent with ABS statistics that more than 1.2 million new jobs were created across the economy since September 2013.

Senator McALLISTER: Mr Woolcott, the previous APSC Commissioner once said that he believed the public sector should neither lead nor lag the private sector's wages and conditions. Do you agree?

Mr Woolcott: Yes, I think that's a fair comment.

Senator McALLISTER: Do you think the Commonwealth's wages policy has any macro effect in terms of overall demand in the economy?

Mr Woolcott: Are you asking my opinion?
Senator McALLISTER: I'm asking: have you sought advice about that as a matter of analysis?

Mr Woolcott: No, I haven't.

Senator McALLISTER: It's not an opinion. It's a question of economic—

Mr Woolcott: No, I have not sought advice on that.

Senator McALLISTER: Your predecessor didn't seek advice on that either. Do you intend to seek advice?

Mr Woolcott: I'll take that on notice.

Senator McALLISTER: Do you think the Commonwealth has a role as a model employer?

Mr Woolcott: Yes.

Senator McALLISTER: To the best of your knowledge, are these issues around the Commonwealth's role as a model employer, the impact of the Commonwealth on employment growth generally and the impact of Commonwealth employment on overall demand in the economy being considered as part of the ongoing review of the Public Service—

Mr Woolcott: As part of the ongoing—

Senator McALLISTER: Review of the Public Service being undertaken by Mr Thodey.

Mr Woolcott: That question might better be put to the Department of the Prime Minister and Cabinet and the review team secretariat. They will have a better sense of that.

Senator McALLISTER: Sure. Has the review team raised any of these issues with you?

Mr Woolcott: Not with me.

Senator McALLISTER: Mr Woolcott, do you have any concerns about the use of contractors in the Public Service and the impact of that on the capability and capacity of the Public Service?

Mr Woolcott: Contractors do provide an important degree of flexibility in terms of the employment practice of the Public Service. They are an important element in terms of the efficiency of the Public Service. They do jobs which may be temporary in nature or which the Public Service may not have the skills for. Used wisely and sensibly, I think they're an important part of the overall composition of the workforce in the public sector.

Senator McALLISTER: I asked you if you had any concerns. Your answer hasn't provided any indication of concerns. Can I ask you again: do you have any concerns about the impact of contractors on the capability and capacity of the Public Service?

Mr Woolcott: It is a matter for each agency head to determine how he sets up his composition of the—

Senator McALLISTER: He or she.

Mr Woolcott: He or she, obviously. I apologise for that. It is a matter for the agency head how he or she determines the workforce composition. I'm not aware of any particular concerns having been brought to my attention in relation to the composition of that workforce.
Senator McALLISTER: That is truly remarkable. Can I ask a final question before I cede to Senator Dodson, or perhaps another senator. Have you asked commission staff to prepare materials to provide to the IPAA in your time in the role?

Mr Woolcott: No.

Senator McALLISTER: Thank you. Chair, Senator Dodson has some questions.

CHAIR: Sure. Senator Dodson.

Senator DODSON: Thank you. I have two questions about Indigenous jobs in the Australian Public Service. How has the rate and number of Indigenous employment changed over the term of the Abbott-Turnbull-Morrison government?

Mr Woolcott: I can answer those questions in relation to the Australian Public Service.

Senator DODSON: Yes.

Mr Woolcott: I don't have the figures for the wider employment community.

Senator DODSON: I'm asking them in relation to the Australian Public Service over those periods of previous governments and the current government.

Mr Woolcott: Okay. Indigenous representation in 2015 was 2.2 per cent in terms of the Commonwealth. In 2018, it was 2.9 per cent in terms of the Commonwealth. In terms of the APS itself, under the act, it was 2.6 per cent in 2015, and in 2018 it was 3.3 per cent. You will recall that under the Commonwealth Aboriginal and Torres Strait Islander Employment Strategy we announced a target of some three per cent Indigenous representation in the Commonwealth public sector by 2018. We are not there yet in terms of the overall Commonwealth public sector, but in terms of the APS we have gone ahead of that. My strong sense is that, in looking at the strategy for the future—and obviously we are still giving consideration to what we replace the current strategy with—we'll need to look at issues around retention and we'll need to look at issues around the seniority of Indigenous public servants, because I think at the most senior levels it is still way too low.

Senator DODSON: That was my second question: what level in the APS are First Nations peoples employed, and has that changed over the time?

Mr Woolcott: I don't have the figures to that degree of specificity. I could take that on notice.

Senator DODSON: Thank you.

Mr Woolcott: As I say, I think the number is about 24 Indigenous employees at the SES level, and that has not grown significantly in the last few years and that is an issue, as you say.

Senator DODSON: Thank you.

CHAIR: As there are no further questions for the APSC, I thank witnesses for their time and their evidence here this morning.

Department of the Prime Minister and Cabinet

[11:15]

CHAIR: I welcome witnesses from the Department of the Prime Minister and Cabinet. Ms Foster, I invite you to make an opening statement.
Ms Foster: I have a very short one. We have five members of the executive present today: David Gruen, Roslyn Baxter, Simon Duggan, Caroline Millar and David Williamson. Other senior officers are here, available to assist as required. Ray Griggs, associate secretary, and Ian Anderson, deputy secretary, will attend the Indigenous affairs group of the committee’s hearing on Friday, the 22nd. There have been a couple of changes since we last appeared before you. On 11 February this year, Roslyn Baxter commenced as acting deputy secretary, social policy group, in place of Lin Hatfield Dodds, who is on secondment to the Australia and New Zealand School of Government. On 3 December 2018, Simon Duggan commenced as deputy secretary, industry and jobs group, in place of Barry Sterland, who is on secondment to head up the review of the Commonwealth food regulation systems. An organisation chart is available here for the committee.

CHAIR: Thank you. I assume, Minister, you don't have an opening statement?

Senator Cormann: No.

CHAIR: Senator Wong.

Senator WONG: Thank you. I want to go to the discussion of the proposed medevac bill—for want of a better title—the legislation that passed the House and the Senate in relation to medical care of the existing cohort of asylum seekers. I don't propose to go through details of that with you, but I do want to ask you about the way in which security advice found its way into the media. So, just in terms of stepping out the chronology, the Prime Minister went on Mr Jones on 5 February. There was a discussion about this legislation. He said that the government would be ignoring it—that is, the bill—and it would get on with business. Then, I think a day or two after that, the front page of The Australian contained this: 'The Australian understands that the briefing from the Department of Home Affairs, based on advice from ASIO and ABF,' and then went on to talk about the content of that. The next paragraph said, 'The classified briefing is understood to have provided detailed advice' et cetera. I don't propose to canvass any of the ostensible content of the advice in this forum, for obvious reasons. But you would agree, wouldn't you, Ms Foster, that—if this report is correct—the provision of classified material to a journalist and putting it into the public domain is a very serious matter?

Ms Foster: Senator, as you say, if the report is correct then it is a serious matter for classified material to be released.

Senator WONG: In fact, isn't it an offence?

Ms Foster: Senator, I'll get Mr Reid up here to help me, but my understanding is that the deliberate release of classified material is an offence.

Senator WONG: Mr Reid?

Mr Reid: That's right.

Senator WONG: Remind us what breach of which legislation it is.

Mr Reid: There is a relevant provision in the Criminal Code. I don't have the provision to hand.

Senator WONG: It was amended by the foreign interference legislation last year, from memory. That is applicable to all, isn't it—ministers, ministerial staff as well as public servants?
Mr Reid: The amendment or the provision?
Senator WONG: Sorry. The provision that means it is a criminal offence to deliberately release classified material is applicable to ministers, ministerial officers and public servants alike; correct?
Mr Reid: That's my understanding. That legislation is administered by the Attorney-General's portfolio of course, but, yes.
Senator WONG: I'm sure that you can just give me an answer on that. I know it's administered by someone else. What's your position? You're a FAS?
Mr Reid: That's right.
Senator WONG: FAS in which division?
Mr Reid: Government Division.
Senator WONG: So you know about classified material; correct?
Mr Reid: Yes.
Senator WONG: And you deal with it?
Mr Reid: Yes.
Senator WONG: And you don't provide it to the public, do you?
Mr Reid: No.
Senator WONG: And you wouldn't provide it to a journalist?
Mr Reid: No.
Senator WONG: And you know that that would be the wrong thing to do?
Mr Reid: Yes.
Senator WONG: And you may well get into a lot of trouble if you did that?
Mr Reid: Yes.
Senator WONG: When did the department become aware that classified material was in the public domain?
Mr Reid: As far as I'm aware, the department became aware of that through the public reporting.
Senator WONG: The report to which I referred or another report?
Mr Reid: It would have been on the same day as the report you're referring to.
Senator WONG: What does that mean?
Mr Reid: I think it was being reported in several media outlets on the same day.
Senator WONG: So in multiple media locations. It appears that the briefing out of this classified information occurred to more than one news outlet?
Mr Reid: No. I understand it was being reported in several different media outlets at the same time.
Senator WONG: Ms Foster, when did Dr Parkinson become aware of it?
Ms Foster: I would have to ask Dr Parkinson that. I'm not aware of that. I can do so.
Senator WONG: When did you become aware of it, Miss Foster? Sorry, it's 'Ms', isn't it?
Ms Foster: Yes.

Senator WONG: I'm trying to be polite, not pointed.

Ms Foster: At the same time as Mr Reid, so through the reporting.

Senator WONG: Was there any discussion in PM&C as a consequence of that—about the fact that it appeared that classified material had been provided to the journalist?

Ms Foster: Mr Reid just reminded me that our understanding is that Mr Pezzullo referred it to the AFP on it becoming public.

Senator WONG: Yes, that's correct. I'm not asking things that are sub judice or under investigation; I'm asking about the processes of the department.

Ms Foster: My recollection is that we noted that that had happened. We were aware that Mr Pezzullo was making that referral.

Senator WONG: Hang on. He doesn't make that referral until the day after I think. Let's just step through the time line. We're jumping around a bit here. Maybe we'll go through the process first. We've had a number of discussions about cabinet material leaking and so forth... Ms Foster, do you want to finish that conversation or will I finish my question?

Ms Foster: I was just confirming that that kind of issue would normally be handled by our national security area.

Senator WONG: Okay. Can they come to the table, please?

Ms Foster: I was going to ask Caroline Millar to come to the table.

Senator WONG: Thank you. Maybe it's best to start with process, before we get to the specifics of this incident. If sensitive information, let's say, cabinet or classified information is in—Ms Foster, do you want to finish that conversation or will I finish my question?

Ms Millar: It really depends on the circumstances. In this circumstance, as you know, the secretary of the Department of Home Affairs immediately referred the matter to the AFP, so there was no additional process for us.

Senator WONG: I will ask you that question, Ms Millar, and I will give you the opportunity to tell me all about what you knew and when and when you knew about the leak being referred. But I asked a general process question, Ms Foster, which relates also to cabinet material. What do you do if sensitive material is in the public arena? Is there an internal process whereby someone is notified, there's a discussion of a particular group about handling, liaison with the relevant line department? Can anyone talk to me about that?

Ms Foster: Senator, as Ms Millar said—

Senator WONG: I'm asking a general question; can we answer generally about the procedure?

Ms Foster: Yes. It's dependent somewhat on the nature of the issue. If for example, as in this case, another secretary has referred the issue then that would be what PM&C would consider an appropriate response.

Senator WONG: Whether it's cabinet or national security, it's the same ad hoc process?
Ms Foster: It's not ad hoc, so much as—

Senator WONG: It depends on the case, isn't that the definition of 'ad hoc'?

Ms Foster: I guess I'm trying to say it's not random; it's a thought through process of what's appropriate in particular circumstances.

Senator WONG: Okay, well tell me what the thought through process is on cabinet information going public. What happens there?

Ms Foster: We will typically do two things. The first is to make a very quick assessment of the nature of the release and the potential damage, and then determine whether it's something that needs to be referred, for example to the AFP, or whether it's something that we can manage internally by tracking down the likely source of the problem. You'll recall that when a large volume of material was clearly available to the ABC, we took an immediate decision to refer it to the AFP.

Senator WONG: Right. And who makes that decision? Who does this quick assessment and then determines an AFP referral or if it can be internally managed? Is that a secretary level task, a deputy secretary? Is there a group? Is it the executive?

Ms Foster: Typically the cabinet area and the area which has responsibility for the topic, if I can put it that way, will talk together, work together to make that quick assessment. It would be unusual for us to make a decision without involving the secretary.

Senator WONG: Okay. And what about national security information, so information such as this or other occasions, where locations of another intelligence agency's operations were disclosed to a newspaper under this government? Does PM&C or does the national security division make an assessment in the same way an assessment is made of cabinet material?

Ms Foster: I'll let Ms Millar go through the details, but there's clearly a national security apparatus, so there's a process of involving agencies who are relevant.

Ms Millar: Again, it would depend a little bit on the situation, but, depending on the situation, either I or the Secretary would convene a meeting with the key national security agencies involved as a first step to determine what might need to be done.

Senator WONG: Did that occur on this occasion?

Ms Millar: No, it didn't.

Senator WONG: Why not?

Ms Millar: As we said earlier, Senator, the Secretary of the Department of Home Affairs immediately referred the matter to the Australian Federal Police, and that was considered the appropriate course of action.

Senator WONG: When did Dr Parkinson become aware of the ASIO leak?

Ms Millar: As far as I know—and we'd have to ask him—at the same time as the rest of us did: from the newspapers.

Senator WONG: When did you become aware?

Ms Millar: When I saw it in the media.

Senator WONG: What did you do as a result, Ms Millar?
Ms Millar: We didn't do anything at that point, because it was clearly a matter for the AFP. That's exactly what the Secretary of the Department—

Senator WONG: Hang on. No, no, no. Whoa, whoa, whoa. This appears online at five—actually, earlier, because the Australian newspaper front page is public the night before to subscribers. I want to know, before Mr Pezzullo made the referral to the Australian Federal Police about the leak of national security information to the Australian newspaper, when you became aware of it and when Dr Parkinson became aware of it.

Ms Millar: I became aware of it in the morning. I can't tell you exactly what hour of the day. I saw the press like everybody else.

Senator WONG: I want to know what you did as a result.

Ms Millar: It was clearly a matter for the Department of Home Affairs—

Senator WONG: How does it work? You tell me the process is that you or the secretary and key national security agencies talk about classified information being in the public arena and work out what to do with it—why was nothing done by PM&C?

Ms Millar: I really have nothing to add to what I've already said. This was clearly a matter for another department. We saw it in the newspaper. We were in touch with the other department. I've really got nothing else to add.

Senator WONG: Okay. All right. Did you call Mr Pezzullo?

Ms Millar: No, I didn't.

Senator WONG: Did you make any contact with Home Affairs?

Ms Millar: I really don't recall. During that period, we were in constant contact with the Department of Home Affairs.

Senator WONG: There's no such thing as constant, because that means you're on the phone endlessly.

Ms Millar: We were in regular contact—

Senator WONG: Let me finish my question, Ms Millar. You said you made a decision it was a matter for another department. Was that decision communicated to Dr Parkinson or any other colleague?

Ms Millar: Actually, Senator, I said it was a matter for the other department, the Department of Home Affairs.

Senator WONG: Yes, I just said that. You took the view it was a matter for the Department of Home Affairs and, therefore, to put it correctly, you didn't act upon it—is that a fair summation of your position?

Ms Millar: Senator, I really don't have anything else to add.

Senator WONG: Hang on. Ms Millar, you've told me you became aware of it in the morning. You've told me you didn't take any action, because you took the view it was a matter for Home Affairs. Correct?

Ms Millar: Correct.

Senator WONG: Okay. Was that a view you expressed to other colleagues?
Ms Millar: Senator, I really don't recall exactly. As I said, we were in regular contact with colleagues at Home Affairs on these and other issues. I don't recall exactly.

Senator WONG: PM&C colleagues?

Ms Millar: I really don't recall.

Senator WONG: At any point did you communicate to Dr Parkinson's office or to someone else that this was a matter for Home Affairs, so, therefore, no action was required on behalf of PM&C?

Ms Millar: I really don't recall exactly. It became very clear very quickly that the Department of Home Affairs was looking after this matter.

Senator WONG: Okay. Well, let's go to that timeline. When did you become aware Mr Pezzullo had referred this matter to the AFP, and how?

Ms Millar: Senator, we heard about it very quickly. I can't tell you the exact hour or the exact day. I really don't know. I'm not trying to be unhelpful, but it happened very quickly.

Senator WONG: You are coming across somewhat defensive. I just want to understand the chronology. I think we've established that PM&C regarded it as someone else's issue to deal with. I do want to come to you, Ms Foster. I'll give you an indication of the things that Dr Parkinson had said about an apolitical APS and why this might not have been relevant to that. But, leaving that aside for the moment, I'm trying to understand the chronology from PM&C's perspective. You had the front page of the newspaper referring to an ASIO classified briefing. We agree that, if it is the case that a classified briefing has been provided, that is probably a criminal offence—well, certainly it's contrary to the provisions of, I think, the Criminal Code or whatever. I'm trying to understand when you became aware that Mr Pezzullo had referred it to the AFP. Was it on the same day or was it the next day?

Ms Foster: Dr Parkinson has advised that he spoke with Mr Pezzullo, but he, too, can't recall exactly when. He was advised by Mr Pezzullo that he was referring it to the AFP or had referred it.

Senator WONG: On that day or the day after?

Ms Foster: He's unsure, Senator.

Senator WONG: Okay. At any point was the Prime Minister's office provided with any advice about the leak of ASIO information?

Ms Foster: Not to our knowledge.

Ms Millar: Not to our knowledge.

Senator WONG: Did the Prime Minister's office seek any advice about it from PM&C?

Ms Millar: Not that I recall.

Senator WONG: Did the Prime Minister's office seek any advice about a potential AFP referral?

Ms Millar: Not to our knowledge.

Ms Foster: Senator, once a referral had been made, it would be unusual for—

Senator WONG: No, I meant the possibility of it. To your knowledge, was the Prime Minister's office advised about the AFP referral prior to it occurring?
**Ms Foster:** Not to our knowledge, Senator. Perhaps that's more appropriately said as: we don't know whether it was before or after.

**Senator WONG:** I'm sorry?

**Ms Foster:** We don't know whether it was before or after, if that was your question.

**Senator WONG:** So, just to summarise: you didn't act, because you believed it was a matter for another department to deal with. Dr Parkinson was advised of Mr Pezzullo referring the matter to the AFP. He, at this point, can't recall when he was advised. We know that it was made public on the Friday. Ms Millar, you can't recall when you became aware of that referral. Is that a reasonable summation of the evidence this morning? Ms Millar, you have to say yes or no; the nod doesn't get picked up.

**Ms Millar:** Yes, Senator.

**Ms Foster:** Senator, in relation to the Prime Minister's office, we would not normally give advice when the leak or leak referral was being handled by another department.

**Senator WONG:** Has PM&C ever undertaken an assessment of who in government had access to that information?

**Ms Foster:** No, we haven't, Senator. Again, at the risk of being repetitive, once the matter is referred to the AFP, we would leave it in their hands. The AFP obviously can talk to their own approach, but would normally then seek to work with others to establish who had access.

**Senator WONG:** In terms of ASIO briefings, I assume they would go to Home Affairs, Attorney-General's, Prime Minister, Deputy Prime Minister—take me through who gets access to ASIO briefings.

**Ms Millar:** We can't comment on who gets access to ASIO briefings.

**Senator WONG:** Right, but the government can put it on the front page of a paper?

**Ms Foster:** Senator, these are questions obviously for ASIO, but the distribution of their briefings would be very much dependent on the content and the need to know, and would be restricted to the number of people who had a need to know on that topic.

**Senator WONG:** Sure. Did the Prime Minister's office have access to that briefing?

**Ms Foster:** I don't know, Senator. We'd have to ask.

**Senator WONG:** Ms Millar?

**Ms Millar:** I'd have to check.

**Senator WONG:** Has the Prime Minister asked for any assistance from PM&C to assure himself that the briefing did not come from his office?

**Ms Millar:** I'm sorry, I didn't understand the question.

**Senator WONG:** Has the Prime Minister asked for any assistance from PM&C to assure himself that the briefing did not come from his office?

**Ms Millar:** No, he has not. As we said, the matter is with the AFP.

**Senator WONG:** Have any officers from PM&C been interviewed as a consequence of the AFP referral?

**Ms Millar:** Not to my knowledge.
Senator WONG: Have any members of the Prime Minister's staff been interviewed by the AFP as a consequence of the referral?

Ms Millar: I don't know but not to my knowledge.

Senator WONG: Senator Cormann, can you, on behalf of the Prime Minister, provide a categorical assurance that the leak of this information did not come from the Prime Minister's office?

Senator Cormann: I don't have any knowledge at all that would suggest the leak came out of the Prime Minister's office.

Senator WONG: I'm asking you to get those instructions. I'm asking for—

Senator Cormann: I can only speak for myself. I don't have any knowledge.

Senator WONG: I'm not asking you to speak for yourself. I don't think you would do it, Senator Cormann. But I don't share the confidence that the Prime Minister or Minister Dutton wouldn't do it. I'm asking you as the Prime Minister's representative to get instructions over the lunchbreak. I'm seeking a categorical assurance that no member of the Prime Minister's staff was the individual or individuals involved in the leaking of that information.

Senator Cormann: I'm happy to take it on notice, but I can only speak from the perspective of my own state of knowledge and I have no reason to believe that the leak came out of the Prime Minister's office.

Senator WONG: Has the Prime Minister assured himself that the home affairs minister was not party to, either by himself or via the office, the leaking of classified intelligence information to the media?

Senator Cormann: In relation to questions about the interaction that the Prime Minister has with other ministers, I'd have to take that question on notice.

Senator WONG: We've got ASIO information in the public arena. You've got an AFP referral. Has the Prime Minister or his chief of staff, or anyone from his office, assured themselves that there is no member of the coalition staffing contingent who has participated in leaking classified information?

Senator Cormann: I have taken that question on notice.

Senator WONG: Would you take on notice also when the fact of the Australian Federal Police investigation was communicated, when the Prime Minister became aware of that?

Senator Cormann: I'm happy to take that on notice.

Senator WONG: Ms Millar, there was also a report—again, I don't want to go to the content of this advice—on another matter, the proposed shift in Middle East policy. There was a report, I think in The Guardian, possibly in another news outlet, about advice provided by Australia's spy agency, in terms of—I'm trying to use a bland term—security implications overseas for the government's shift in policy. Do you recall what I'm talking about, Ms Millar?

Ms Millar: Yes, I do.

Senator WONG: When did you become aware of that leak of what I assume is, again, classified information?

Ms Millar: Just one moment, if you'll bear with me, Senator.
Senator WONG: Sure.
Ms Millar: I became aware of it when we saw it in the newspaper on 17 October, in The Guardian.
Senator WONG: What action was taken, if any, as a result of that being made public?
Ms Millar: I'd like to take that on notice. I can possibly come back to you later in the day—
Senator WONG: Sure. I'd appreciate that.
Ms Millar: There was a consultation process at the time, but I'd like to get that clear.
Senator WONG: That's fine. Is it a concern to PM&C that sensitive documents, such as these, are being—
Ms Millar: Absolutely.
Senator WONG: Whilst you don't want to comment on the politics, it appears they are being utilised for political purposes. Is that correct?
Ms Millar: As you said, Senator, I'm not going to comment on the politics.
Senator WONG: But you are concerned that it appears that somebody—
Ms Millar: We're always concerned about the leaks of classified information, Senator.
Senator WONG: What action is being taken as a consequence of that, more broadly? I could go through a number of them—there have been a number of both national security and other leaks from the government. Is there any action being taken by the Public Service in relation to these?
Ms Millar: Senator, as I mentioned a minute ago, I'd like to check on the process for that one. It will depend very much on the circumstances, the agencies involved, the nature of the information, and the way in which it was disclosed.
Ms Foster: Senator—
Senator WONG: It's a high-level question, Ms Foster.
Ms Foster: It's a subject which Dr Parkinson discusses with his secretary colleagues, as incidents occur or at regular periods, to ensure that all departments—all secretaries—are ensuring that classified material is treated appropriately, and that, as in this most recent case, when there is a leak or apparent leak, we take appropriate action, which is, often, referring it to the AFP.
Senator WONG: Dr Parkinson has made public comments, which are consistent with, I think, his principles, about the importance of an apolitical Public Service. In a statement at an IPAA event, he said:
An apolitical Public Service is, to my mind, one of the key institutions in our Westminster system.
And:
The APS also has to contribute to the health of our democracy by guarding our independence and providing advice without fear or favour.
In circumstances where classified documents are being leaked to selected news outlets, do you think that has an implication for the independence of the Public Service?
Ms Millar: Senator, were the Public Service to be implicated in those leaks, then that would be a very grave concern.

Senator WONG: The issue of independence and the apolitical nature of the APS: is this a matter that Dr Parkinson has discussed with his colleagues in recent times?

Ms Foster: Yes it is, Senator. It's something that he has discussed with his colleagues, particularly in the context of a forthcoming election, when perceptions of politicisation become more acute. The secretaries have regular discussions about the importance of and the mechanisms of maintaining that independence.

Senator WONG: Has there been any recent correspondence to secretaries?

Ms Foster: Yes, Senator. Mr Dreyfus wrote to the secretary of Prime Minister and Cabinet—to Secretary Parkinson—last week to express his concern. Dr Parkinson advised Mr Dreyfus that he took any suggestion of politicisation of the APS extremely seriously, and that he would pass on Mr Dreyfus's concern to secretaries, which he did.

Senator WONG: Obviously, you might need to consult with him, but I'd like a copy of the correspondence from Dr Parkinson to the secretaries, please.

Ms Foster: Certainly, Senator.

Senator WONG: Was the APS Commissioner also—

Ms Foster: The APS Commissioner is a member of the Secretaries Board—

Senator WONG: Sorry; yes, of course.

Ms Foster: so automatically participates in anything that the Secretaries Board discuss.

Senator WONG: Would you like to get some instruction on that? How long will it take for you to get some instruction from Dr Parkinson, or are we hoping he's watching?

Ms Foster: I'm hoping he's watching, Senator.

Senator WONG: Okay. We'll move on to a different topic for the moment. I assume, to give it context, we'll also need to table the letter from Mr Dreyfus that you referred to.

Ms Foster: Yes, Senator.

Senator WONG: I'll come back to that. I just want to confirm: has there been any discussion about the application of the caretaker conventions and any advice or instruction from Dr Parkinson to departments?

Ms Foster: The context of discussions we've had around that is that the caretaker conventions obviously don't apply until parliament is dissolved. Whilst all secretaries are acutely aware that we are moving towards that period, we have not yet, and so we continue to serve the government of the day.

Senator WONG: What is the instruction issued by Dr Parkinson about when the caretaker conventions commence?

Ms Foster: They commence officially on the dissolution of the parliament. So it's not at the point when the election is called but at the point at which parliament is dissolved.

Senator WONG: Can I go now to another topic, pending the advice you get from Dr Parkinson? That is: what advice has been sought as to the consequences of what has occurred
in the House of Representatives in recent times. We had a long discussion on the last occasion—I think, in October with Senator Cormann—about minority government—

CHAIR: Senator Wong, before you go on, I'm happy for you to continue with this line of questioning. It would be helpful if you'd let me know before you go on to your next one, because I'll let Senator Leyonhjelm have some questions.

Senator WONG: I'm happy to break. He's generally quite pithy, I hope.

CHAIR: You can only hope.

Senator WONG: That was a hint.

CHAIR: Thank you, Senator Wong. In that case, we'll go to Senator Leyonhjelm.

Senator LEYONHJELM: Ms Foster, I'm not sure who is the appropriate person to deal with this, but perhaps, if it's not you, you can guide me. In response to a written question on notice from the last estimates, the department advised it had paid White Ribbon Australia $29,700 to become an accredited White Ribbon workplace. Are you the right person to direct this question to?

Ms Foster: Yes, but I'll get Ms Tressler, who is our chief operating officer, up to the table. She'll have some more detail.

Senator LEYONHJELM: Alright. While you're settling there, perhaps I could ask: does the minister endorse the use of taxpayers' funds to get a stamp of approval from a private advocacy group?

Senator Cormann: Sorry, could you say that again?

Senator LEYONHJELM: My question is: in the last estimates, in response to a written question on notice, that it had paid White Ribbon Australia $29,700 to become an accredited White Ribbon workplace. My first question is to you. Do you endorse the use of taxpayer funds to get a stamp of approval from a private advocacy group?

Senator Cormann: I'm unaware of the circumstances, so I might take that on notice and provide you a considered response.

Senator LEYONHJELM: Sorry. At the last estimates, in response to a written question, the department advised it had paid White Ribbon Australia $29,700 to become an accredited White Ribbon workplace. My first question is to you. Do you endorse the use of taxpayer funds to get a stamp of approval from a private advocacy group?

Senator Cormann: I'm unaware of the circumstances, so I might take that on notice and provide you a considered response.

Senator LEYONHJELM: No problem. My next question is either to you or to the secretary: should the department also pay to get a stamp of approval from Greenpeace?

Senator Cormann: Is this a question to me?

Senator LEYONHJELM: Either you or the secretary.

Ms Foster: The purpose of our engagement with the White Ribbon organisation was—

Ms Tressler: PM&C feels that it has a leadership role to play on this really important issue. So we did undertake a White Ribbon accreditation program to engender a whole-of-organisation commitment to the elimination of violence against women and support broader gender equality and diversity initiatives.
Ms Foster: I guess the context we're trying to set is that there was a particular organisational purpose that we were trying to serve in engaging with the White Ribbon association. Should there be reason to engage with another organisation, we would consider that on a case-by-case basis.

Senator LEYONHJELM: Was there any process undertaken to establish whether other organisations offer a stamp of approval regarding gender equality and whether White Ribbon Australia was the most cost-effective option?

Ms Tressler: I'm not aware. I'd need to take that on notice.

Senator LEYONHJELM: You're not aware whether there was any process or whether there are any other organisations that might be an alternative to White Ribbon?

Ms Tressler: Not to my knowledge, but I'll see if I can come back with that.

Ms Foster: We will check, but the White Ribbon organisation has been really at the forefront of leading this activity in assisting organisations to respond appropriately to domestic violence.

Senator LEYONHJELM: Yes, indeed, but there are other organisations that advocate on behalf of victims of domestic violence, and there was a fairly substantial amount of taxpayers' funds involved. So what I'm asking is: what process was there in determining, firstly, whether—and you've already answered—to become accredited and, secondly, why White Ribbon was selected?

Ms Foster: We've taken that on notice and we'll come back to you.

Senator LEYONHJELM: Can you confirm that payment of taxpayers' funds to White Ribbon represents the government's endorsement of the pronouncements of White Ribbon?

Ms Tressler: The government does support the objectives of White Ribbon to mobilise men in communities to respond to men's violence against women.

Ms Foster: As a broader policy issue, it's the Department of Social Services that would be able to provide you with more information on the government's policy and the government's position. They have the policy lead.

Senator LEYONHJELM: Is there an equivalent organisation for which the department might also gain a stamp of approval relevant to domestic violence where that violence is women perpetrators and male victims or women perpetrators and women victims or men perpetrators and men victims? My point is: there is only one of four options. It's women victims and male perpetrators that White Ribbon is relevant to. Is there an equivalent? Have you looked?

Ms Foster: I'll ask Dr Baxter, who is responsible for the social policy area, to answer that.

Dr Baxter: No, there is no equivalent to White Ribbon in terms of having an established workplace accreditation program. As you've pointed out, there are other organisations which deal with advocacy about the issues of violence against women and their children or they may deal with prevention, but it is White Ribbon that has the established workplace accreditation program.

Senator LEYONHJELM: Yes, except that it's only interested in one form of domestic violence. I wonder what the department's position would be, and would it pay to affiliate with other organisations, if you knew that they existed? The point is: does the department care as
much about domestic violence where it involves male victims, or female victims and female perpetrators, or is it only concerned with one form of domestic violence?

**Senator Cormann:** We care about addressing and preventing all forms of violence, obviously. And I have already indicated to you I'm going to take on notice to ensure that we can provide you with a more considered response. We do have a very important focus in addressing domestic violence against women and children. It's obviously very, very important to address that as effectively as possible. Of course, we are concerned about all forms of violence, family violence and other violence against anyone.

**Ms Foster:** Our policies in the department don't specify that we only support, for example, women who are subject to domestic violence, they are available and open and we would support any employee.

**Senator LEYONHJELM:** Yes, that may be. White Ribbon is only involved with female victims and male perpetrators, that is what they say anyway. Do I take it from what you just said, Ms Foster, that if an organisation existed that concerned itself with other forms of domestic violence the department would be equally interested in it?

**Ms Foster:** As I said right at the start, we would make an assessment of whether or not accreditation or affiliation with an organisation like that would help us to support our staff better. So, that would be an assessment we would make.

**Senator LEYONHJELM:** Alright. I'll leave it there.

**Dr Baxter:** I might add that you would be aware there are a number of programs that the Australian government funds that deals with the issue of violence against men, and also with men who are affected by family violence more generally. Questions about the specifics of those can be directed either to the Office for Women or to Social Services, but they include programs to prevent violence against men, they include a helpline for men who may be experiencing violence and a range of other programs and preventative responses. But, as I say, for more details Social Services can help you.

**Senator LEYONHJELM:** Yes. I don't think there are any organisations where male victims of domestic violence have any support. I'm not aware of anything. They are mostly in a nondomestic violence circumstance that I'm aware of. Anyway, thank you for your responses.

**Ms Foster:** Senator Wong, I have the documents—

**Senator WONG:** Can I have a look at that first? Are these being tabled, Ms Foster?

**Ms Foster:** Yes. I'm saying I have the documents now for you to table—

**Senator WONG:** Sure. Sorry. This seems to be taking a long time. So I might start another topic, if I may, and come back to that. Senator Cormann, on the last occasions we were here, we were talking about the prospect of minority government and you were waxing lyrical about the fact that a hung parliament isn't a minority government. And you suggested that the Wentworth by-election didn't mean minority government. Since then, you lost the member for Chisholm to the crossbench, so can you tell me: is that a minority government?

**Senator Cormann:** There's no question we are in minority government.

**Senator WONG:** Can you tell me: do you count Mr Hogan as one of yours or do you count him as a crossbencher?
Senator Cormann: My advice is that he sits in the National Party party room and that he votes with the government, but he doesn't attend the coalition party room.

Senator WONG: Senator Cormann, can you tell us why the government has abandoned its latest signature energy policy, the so-called big stick legislation?

Senator Cormann: We haven't abandoned it at all. It was introduced in December, as I'm sure you'd be aware, and we intend to secure a mandate for it at the next election. The biggest stick that any government can get, of course, is a mandate from the Australian people at the election. It continues to be our policy; the legislation is in the parliament, but we're obviously getting to the pointy end of the electoral cycle. So you'd be aware that there are only two more sitting days left in the Senate, one of which is the day that the budget is delivered, so physically we're starting to run out of time to get all of our priority legislation through the parliament.

Senator WONG: You lost a vote on a substantive bill last week for the first time since 1929. It's the case, isn't it, that you don't want to debate that bill because you don't think you'll be able to command the majority of the House of Representatives on it?

Senator Cormann: What is the case is that it remains government policy that we continue to be committed to bringing electricity prices down, whereas our political opponents will drive electricity prices up, and we are very comfortable in taking that argument to the Australian people at the next election.

Senator WONG: But you don't want to debate it the parliament?

Senator Cormann: Obviously the prioritisation in the House of Representatives in terms of the legislation that comes forward is a matter for the Leader of the House.

Senator WONG: You're the third most senior person in the government. You made a decision not to proceed with it, and I'm putting it to you that you are not proceeding with it because you're not sure you can get the majority of votes in the House.

Senator Cormann: Well, we will be proceeding with it, and it's on the Notice Paper.

Senator WONG: Prior to the election. This week, you have a week of the parliament. You've just spruiked how great this legislation is. You're not proceedings with it, and I'm putting it to you it's because you've lost control of the parliamentary agenda.

Senator Cormann: I'll leave the commentary to you. It's very important legislation and we believe, to ensure that it is a reform that is sustainably entrenched in our legal framework, it's very important for it to have the strong and formal support of the Australian people at an election.

Senator WONG: You were going to debate it and now you've deferred it because you don't know that you've got the numbers for it.

Senator Cormann: I'm not aware of what the specific program is in the House of Representatives today, or this week, for that matter.

Senator WONG: Can you confirm also that the Prime Minister on Thursday last week took an extended question time because he was trying to avoid another vote on a royal commission—another vote that he might lose in the House—into abuse in the disability sector?
**Senator Cormann:** I can confirm that there was an extended question time, and I'll leave the commentary to you.

**Senator WONG:** Minister Cormann, isn't it the case that with the loss of Ms Banks and with a vote on substantive legislation being lost, since 1929, refusal to proceed with your parliamentary legislative program because you can't command a majority in the House, extending question time to avoid losing a vote on the royal commission into abuse in the disability sector and many other issues, this is a government that has lost control of the parliamentary agenda?

**Senator Cormann:** I disagree. This is a government that continues to enjoy confidence and supply in the House of Representatives. If the Labor Party was of a different view, I think you'd be aware of the options available to you, in terms of testing the numbers on the floor of the House of Representatives.

**Senator WONG:** So despite the fact you can't govern the parliament you are asking the Australian people to ask you to govern the country again?

**Senator Cormann:** That is just your commentary. These are serious matters. If you believe and if the Labor Party believes that the government does not enjoy confidence and supply in the House of Representatives, there are processes available to you to test that belief. I note that, thus far, the Labor Party has chosen not to test that proposition.

**Senator WONG:** A government hanging on by its fingernails. Is that how it is?

**Senator Cormann:** That's just gratuitous political commentary.

**Senator WONG:** Following the loss in Wentworth and/or following a loss after the resignation of Ms Banks from the Liberal Party, was Dr Parkinson or the department asked to provide any advice as to the consequences of the government losing its majority?

**Ms Foster:** No.

**Senator WONG:** No advice sought from the Solicitor-General?

**Ms Foster:** There was no advice sought from the Department of Prime Minister and Cabinet.

**Senator WONG:** Are you aware of any advice being sought from the Solicitor-General?

**Ms Foster:** No, I'm not.

**Senator WONG:** So why did you avoid my question, previously?

**Ms Foster:** Because I can say categorically that we didn't provide it but I can't say categorically that it didn't come from somewhere else. So I was just trying to be—

**Senator WONG:** Fair enough. I'm asking about your knowledge. Just to confirm, neither you nor your colleagues at PM&C have any knowledge of the government seeking the advice of the Solicitor-General as to the implications of being in minority government.

**Ms Foster:** That's correct.

**Senator WONG:** Were you asked to provide any advice, or do you have any knowledge of legal advice being provided, in relation to the loss of a vote on a government bill?

**Ms Foster:** Certainly, we were involved in discussions over the course of last week.

**Senator WONG:** With whom?
Ms Foster: With the Prime Minister's office.

Senator WONG: About what?

Ms Foster: Mr Reid's correcting me. We were involved in discussions within the department, not with the Prime Minister's office, about what the implications might be and whether we would need to provide any advice or assistance. In the event, no advice was provided.

Senator WONG: No advice was sought?

Ms Foster: That's correct, and no advice was provided.

Senator WONG: Who was involved in those internal discussions in the department?

Ms Foster: It was, primarily, Mr Reid and Dr Parkinson.

Senator WONG: Why you, Mr Reid? Sorry, I don't mean that rudely.

Mr Reid: Sorry, Senator?

Senator WONG: I said, 'Why you?' and that sounded quite rude. I didn't mean it in that way. I meant what is your role that would have required you to engage in these discussions, what aspect of your job?

Mr Reid: I'm First Assistant Secretary, Government Division. One of our functions is administration of the executive branch.

Senator WONG: Did the discussions with Dr Parkinson occur because you initiated them or did he initiate them?

Mr Reid: I think he initiated them.

Senator WONG: You were aware, weren't you, that there was a prospect that the government would lose the vote on a substantive piece of legislation?

Mr Reid: That's right.

Senator WONG: And you're aware of the constitutional history of that. I think there's one precedent; correct?

Mr Reid: I don't know how many precedents there are, but it's been some time, yes.

Senator WONG: Right. 1929: what did the precedent tell us about what the government did then?

Mr Reid: In 1929—and I stand to be corrected by the Office of Constitutional Law—I'm pretty sure the government called on a vote of confidence.

Senator WONG: And what happened?

Mr Reid: I think they may have lost it. I'm not sure.

Senator WONG: Correct. Was the single precedent that I'm aware of and that you're aware of—and I'm sure there are constitutional lawyers who will tell us there are a heap of others; where's George Brandis when we need someone to opine?—discussed with Dr Parkinson?

Mr Reid: I think there are about 14 precedents, all predating 1929. Dr Parkinson and I discussed what had happened in 1904, 1908 and things like that.

Senator WONG: What was your conclusion about the effect of a loss on a substantive piece of legislation?
Mr Reid: A loss on a substantive piece of legislation is not a no-confidence vote. My conclusion in the discussion with Dr Parkinson was that, for instance, there are a range of things in the Practice of the House that inform how a government might manage its confidence in the House.

Senator Wong: Was that advice ever provided to the government?

Mr Reid: No.

Senator Wong: When did you become aware of the government seeking constitutional advice in relation to the medivac bill, for want of a better term?

Mr Reid: I became aware when the advice was tabled in parliament.

Senator Wong: When it was tabled in the parliament? So you weren't aware of it before that?

Mr Reid: Not me personally, no.

Senator Wong: Was PM&C aware of that?

Mr Reid: Not that I'm aware.

Senator Wong: Ms Foster?

Ms Foster: No, not that I'm aware.

Senator Wong: Was Dr Parkinson aware?

Ms Foster: We can take that on notice.

Senator Wong: Yes, take that on notice and come back to us. Was this constitutional issue that is the subject of Mr Porter's advice issued 10 February raised with PM&C or did PM&C raise that possibility prior to the advice being made public?

Ms Foster: Raised the possibility with whom? Are you asking: was that possibility raised—

Senator Wong: Yes, anywhere. You didn't know about the advice until it was made public, so we have got that as an endpoint. Prior to that, did this issue come up? Did you discuss internally that this was a possibility? Were you asked for advice from the Prime Minister's office about whether there was a constitutional issue with the bill?

Ms Foster: No, not to my knowledge.

Senator Wong: To either of those questions? I had two questions: did you discuss it internally and was it raised with the Prime Minister's office?

Ms Foster: As the day was progressing we were obviously following the progress of the bill and the statements that were happening in parliament. My recollection is that the Prime Minister was very clear in saying that the crossbench had made it clear that they did not see this as an issue of confidence.

Senator Wong: No, we've moved on, sorry. I'm not talking about confidence and supply; I'm now talking about the proposition that the government sought to put to the House and the House then weighed—the suggestion that the bill was contrary to section 53 of the Constitution, so this is a different constitutional issue. Correct?

Ms Foster: Yes.
Mr Reid: We didn't discuss internally, as far as I'm aware, section 53 or section 56 of the Constitution with respect to what is regarded as the medivac bill.

Senator WONG: Ever?

Mr Reid: Before the Monday when it returned to the House.

Ms Foster: Had that discussion taken place, it would have been between the two of us and Dr Parkinson.

Senator WONG: And that didn't happen?

Ms Foster: That's correct.

Senator WONG: Because it didn't arise?

Ms Foster: That's correct.

Senator WONG: So when did you first become aware that the government decided this was a constitutionally problematic bill? When the Attorney-General released the legal advice?

Ms Foster: That's correct.

Senator WONG: When did they come up with this idea? You don't know?

Mr Reid: I'm not aware.

Senator WONG: I think the letter from the Attorney-General is dated—sorry. The advice from Mr Donaghue, the Solicitor-General, is dated 7 February. The letter to the Speaker was not till 10 February. Do you have any knowledge as to why there was a delay in the provision of that advice to the Speaker?

Ms Foster: We don't, and obviously the Attorney-General's Department might be better placed—

Senator WONG: I know. I have looked at Mr Dreyfus's letter et cetera. I don't want to ask any questions about that now. I think that has been tabled, hasn't it Chair?

CHAIR: Yes.

Senator WONG: I'll come back to it after lunch, if required. One quick thing on big stick: Senator McKenzie said on Friday last week that it was the government's intention to introduce that legislation in the April sitting. Senator Cormann, why did she get that wrong?

Senator Cormann: Of course Senator McKenzie is aware of the plan. The relevant legislation was introduced in December. It's on the Notice Paper. But, as I said on Friday, the introduction of the bill is one thing. Obviously, for us to get the biggest possible stick to bring down power prices, we want to secure a mandate from the Australian people.

Senator WONG: Okay. Ms Foster, I'm now going to go to the Nauru-US resettlement agreement.

Ms Foster: I'll ask Ms Millar to come back to the table.

Senator WONG: Thank you. I'll try and be quick. Mr Turnbull announced in 2016 an agreement to resettle refugees from detention facilities on Nauru and Manus Island in the
United States. I first was going to request a general update on where the transfer of the refugees is up to. Are you able to answer that or is that best asked in Home Affairs?

Ms Millar: I think you'd probably be better asking Home Affairs.

Senator WONG: It's just that the Prime Minister announced it, so I assumed there would be some knowledge and oversight from PM&C.

Ms Millar: It's not so much oversight. Obviously, we follow it, but I think the detail is with the Department of Home Affairs.

Senator WONG: Of where the status is, all right. You, I think, might have been in the US. I can't remember when you were in Washington, Ms Millar. I'm sorry; I've forgotten time frames. I remember you were there. Can you track back for me to pre-2016 and Mr Turnbull's announcement to when the request or how the agreement came about? Was it first at a request from the Australian government—the Turnbull government?

Ms Millar: I'd have to take that on notice. I'd have to go back and check records.

Senator WONG: What do you remember?

Ms Millar: I really would prefer to take that on notice. It's a few years ago, so I think it's better to get it correct for you.

Senator WONG: Right. I can try and get an estimate spillover day on Friday, but I—

Ms Millar: I think it would also be better to ask the Department of Home Affairs.

Senator WONG: I'm interested in the sequence here. What's the problem? I just want to know: surely you remember if it was at our request?

Ms Millar: Sorry, if you can repeat—

Senator WONG: The agreement is announced November 2016. Mr Turnbull announces this resettlement agreement. I'm assuming that agreement was as a result of a request from Australia to the then administration.

Ms Millar: As you probably know, we work very closely with the United States on a range of refugee issues and resettlement issues, and we help each other out, as we do with Canada. I would just like to track back and look at that again, but, really, I think it is a more appropriate matter for Home Affairs.

Senator WONG: I'm going to come back to you because the Prime Minister announced it and I want to know what PM&C's involvement was and PM&C's involvement in, obviously, what was a leader-to-leader request. Perhaps you could acquaint yourself with it. I would like to know: was the request made of the Obama administration and by whom? How was it transmitted.

Ms Millar: We can check on that. I wasn't in PM&C at the time, but we can certainly check on the PM as well.

Senator Cormann: What I can assist you with is that resettlement to the US began in September 2017—that was during the period, obviously, of the Turnbull government—with further groups of refugees to be progressively resettled in the US. Refugees who expressed an interest in US resettlement may also volunteer to transfer from Manus to Nauru. Failed asylum seekers are expected to return home voluntarily. US authorities have conducted several visits to Nauru and PNG in recent months to interview applicants. The processing will
continue into early 2019, which is where we are, and departures through to quarter 3, the third quarter in 2019.

Senator WONG: Thank you. I'm actually going back to the history though. When you were at the embassy, were you involved in these discussions, Ms Millar?

Ms Millar: I did have some involvement in them, but, as I said, the lead carriage was taken by the Department of Home Affairs.

Senator WONG: What was your involvement?

Ms Millar: I was the Deputy Head of Mission at the time.

Senator WONG: Correct. You were aware and you were involved in discussions with the then administration about the terms of what the—

Ms Millar: I was involved in some of the discussions, but there were lead colleagues from Canberra who came forward to work on those issues with the United States.

Senator WONG: From Foreign Affairs and Trade and Home Affairs?

Ms Millar: Primarily from Home Affairs.

Senator WONG: Who were they? Who were the leads?

Ms Millar: I think it's more appropriate to ask those questions of the Department of Home Affairs.

Senator WONG: Come on. Seriously? You just told me there were leads. This is not a state secret. I'm just asking which public servants led that negotiation, Ms Millar?

Ms Foster: I don't think it's unreasonable for Ms Millar to want to (a) refresh her memory and (b) not speak as a Foreign Affairs official in a PM&C estimates.

Senator WONG: You can put that; it's up to the Senate what I ask her.

Ms Foster: Yes, Senator.

Senator WONG: At all times she is paid by the taxpayer. She's acting in accordance with directions from the executive government and she's acting in accordance with the APS values and legislations, so I am entitled to ask her questions. I just want to know, she said, 'People came forward to lead these negotiations.' I asked her 'Who?' Then she tried to flick me off to Home Affairs.

CHAIR: If necessary, Ms Millar, maybe take it on notice.

Ms Millar: I'm happy to take it on notice.

Senator WONG: I'd like to also know: do you have knowledge of the terms of the request and who made it?

Ms Millar: I was at the embassy at the time, and I am aware of many of the details of the request, but I would like to, as it was a few years ago, go back and refresh my memory and consult with colleagues.

Senator WONG: Sure. We've got a lunch break shortly. You'll have an opportunity to at least commence that. I'm asking you who made the initial request? Was it Mr Turnbull?

Ms Foster: And I think we are clear on the question.

Ms Millar: We'll come back to you.
Senator WONG: You don't know which minister made the request? I thought it was leader to leader. Is that not correct?

Ms Millar: I really would prefer to check and give you an accurate answer than to just try and refresh my memory on something I haven't been working on for the last little while.

Senator WONG: Surely, you would remember whether or not the Nauru deal with the United States was made Prime Minister to President or not?

Ms Millar: Certainly there were discussions at leader level.

Senator WONG: Thank you. And when were those, approximately?

Ms Millar: As I have said, I would really prefer to check my notes. We'll get back to you.

Senator WONG: But this is Prime Minister Turnbull, not Prime Minister Abbott? Were the discussions at leader-to-leader level about the resettlement arrangements Prime Minister Turnbull or Prime Minister Abbott?

Ms Millar: That is my recollection, but—

Senator WONG: Hang on, I gave you an 'or' and you said, 'That is my recollection.' It's binary. You need to tell me which one.

Ms Millar: Prime Minister Turnbull would be my recollection, but I would like to double check.

Senator WONG: Sure. I'm happy with that caveat. But, as far as you can recall, the original request and discussions occurred as between then Prime Minister Turnbull and then President Obama, is that correct? That's for leader-level discussions.

Ms Millar: As far as I recall.

Senator WONG: And who was the lead agency in terms of supporting the Prime Minister in those discussions?

Ms Millar: It was what is now the Department of Home Affairs.

Senator WONG: The Department of Home Affairs, not the PM&C, supports the Prime Minister in leader-to-leader engagement? That has never been my recollection.

Ms Millar: The discussions were taken forward by the line department responsible.

Senator WONG: Okay, but I'm still at the leader point. I get that, but this department supports the Prime Minister in international engagements. You have a coordinating role, utilising advice from other agencies.

Ms Foster: You're absolutely right. It would be the norm for PM&C to support the Prime Minister in such discussions, and we can go back and find out.

Senator WONG: I would like that. I would like you, if you are able to, to tell me. You can perhaps look at what notes we have, because there have been a number of things in the public arena about this agreement. Obviously, a lot of focus has been on the subsequent election of Mr Trump and what that meant for the agreement, but I am interested in how it came about.

Ms Foster: Sure.

CHAIR: On that note, we are on schedule for the break. I note, for the benefit of people following from home, that we will be returning with the Workplace Gender Equality Agency
and the Office for Women after the lunch break at 1.30, but, when those agencies have concluded, we'll return to the Department of the Prime Minister and Cabinet.

Senator WONG: On that, I will be returning to this at that point.

Ms Foster: Yes.

Proceedings suspended from 12:30 to 13:30

Workplace Gender Equality Agency

CHAIR: I welcome the Minister for Foreign Affairs, Senator the Hon. Marise Payne, representing the Minister for Women; Ms Libby Lyons, Director of the Workplace Gender Equality Agency; and Ms Janin Bredehoeft of the agency. The committee has set 29 March 2019 as the date by which answers to questions on notice are to be returned. 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 and into the microphone. Minister, do you wish to make an opening statement?

Senator Payne: Only that it's an absolute pleasure to be here, Chair.

CHAIR: Great to have you. Ms Lyons, do you wish to make an opening statement?

Ms Lyons: I will. Good afternoon, everybody. I'm very pleased to be able to provide the Senate with a brief update on the work of the agency. Since our last appearance before the committee, there are two developments on which I would like to update the committee. Firstly, we have released our fifth year of gender equality data. After five years of reporting, we now have a highly valuable longitudinal dataset.

Our latest data release, again, showed positive progress towards gender equality over the 2017-18 reporting period and also over the five full years of reporting. Measurement is driving change, and employer action is delivering real results. Some workplaces and industries are transforming quite quickly. In others, of course, is progress is far too slow. The data shows women are still undervalued right across Australia's workforce, with pay gaps favouring men in every industry, manager category and occupation. Even if you are a woman working in a female dominated sector, the gender pay gap still favours your male colleagues. Men continue to out-earn women in total remuneration by an average of 21.3 per cent. This means that Australian women working full time take home, on average, over $25½ thousand a year less than men. The 2017-18 data does show that the gender pay gap continues to shrink, however. In fact, the 2017-18 data showed the biggest single-year drop in the total remuneration gender gap since we started collecting data in 2012. It dropped by 1.1 percentage points.

We're seeing some very pleasing improvements. More employers are actually taking action on gender equality and it's happening at many levels. Significantly, more employers are analysing their pay data for gender pay gaps, and currently just over 40 per cent of all employers in our dataset are now conducting a gender pay gap audit. The pipeline of women into management has continued to improve, and this is the case across all manager categories. While I'm happy to report that more women are moving towards the top in corporate Australia, we know that there are still many barriers that persist for the majority of working women. Our dataset continues to be a valuable resource that's used to identify these barriers and help organisations overcome them.
The second development that I'd like to provide an update on is the upgrade of our reporting and data management system. As part of the government's Women's Economic Security Statement, the agency was allocated $8.1 million over four years for the development of a new system. This was a very welcome announcement as the current system is coming to the end of its useful life next month. We are currently in the discovery phase of the project and assessing user needs and requirements. We anticipate the new system will reduce the regulatory impact on business by about 30 per cent. We look forward to having a new reporting system in place for the reporting period in April 2021. Thank you, Chair.

CHAIR: Thank you, Senator Moore.

Senator MOORE: Thank you, Ms Lyons, and thank you for the update. The recent report was really useful to see and the data about the trend is very positive. I've got a couple of questions around the computer system, because we've talked about that in the past. In your introductory statement you again reinforced the fact of the urgent need for that input. You've looked at the preliminary process of introduction, so how will that new system actually affect voluntary reporting? How's it going to work?

Ms Lyons: We are going into a consultation phase in which we will speak to current employers but, of course, an important part of what we will be doing is speaking to those groups—the groups that we are looking at to voluntarily report. So that will be governments, government agencies at the three levels—local, state and federal—and also small to medium-sized enterprises. We would anticipate that we would want a phased approach to voluntary reporting and that, perhaps—and, again, this is all subject to consultation—the best way to start with voluntary reporting would be federal government, looking at federal government agencies to report. But, again, we very much need to look at a phased approach to any voluntary reporting.

Senator MOORE: You told us in your introduction, and you've also told us before, that the previous system was on its last legs. How long would it have kept going without that injection? I know it's asking you an opinion but I know you looked at it. This was a serious investigation of your capacity.

Ms Lyons: I couldn't tell you how long we would have anticipated it would survive.

Senator MOORE: Is it a matter of turning one off and starting again?

Ms Lyons: No.

Senator MOORE: So you are maintaining the current system—

Ms Lyons: Absolutely.

Senator MOORE: and you're going to introduce the new investment over the top of that, so it can keep going?

Ms Lyons: I imagine we'll have some sort of parallel implementation process.

Senator MOORE: That's what I was thinking. And you're hoping to have this new system happening by the next reporting phase?

Ms Lyons: No, by 2021. So for the opening of—


Ms Lyons: the 2021 reporting. So 1 April 2021 is when we anticipate the new system.
Senator MOORE: Your current system will be able to provide the 1 April 2020 report and the 1 April 2019 report?

Ms Lyons: We are working with our third-party supplier on that. We have updated—we've added some new hardware to the system—

Senator MOORE: Is that part of the 8.1 or is that just maintenance?

Ms Lyons: No, that was separate to that.

Senator MOORE: How much did that cost?

Ms Lyons: I'll have to talk—

Ms Beath: It was a load balance of services that we provided. That was only an investment of approximately $10,000.

Senator MOORE: Just to keep it going?

Ms Beath: Yes.

Senator MOORE: Sounds like a car! You are doing that to keep it ticking over. The 8.1, does that need to be expended by 2021?

Ms Beath: As we understand it, yes; that's when the end of that period of funding will finish.

Ms Lyons: There's one other thing that we're also doing, and that is we have a moratorium on all changes to the system. Basically, unless they're absolutely crucial to our operating, there's an absolute moratorium on any changes to the system to avoid causing any significant problems.

Senator MOORE: How long has that been in place, Ms Lyons?

Ms Lyons: That's been in place for two reporting periods.

Senator MOORE: That's what I thought. So this is not a new moratorium; this is maintaining the limitations that you expressed to us previously about the capacity of the system to do things. So that moratorium is just maintaining it until you have the new system in place. Can I just ask a question about the fact that the government has stated that public sector reporting could potentially expand the size of the data base to 75 per cent of Australian employees. Is the new system being built to have the capacity to support that level of reporting?

Ms Lyons: Absolutely.

Senator MOORE: It's an issue about how you're going to reach out to this new base that has not been required to report before. I'm always concerned with 'voluntary'. It worries me that that's the basis. How are you going to reach out to these new employees in the public sector—federal, state and local, as you've identified—to engage with them and to ensure they get involved?

Ms Lyons: Firstly, I must state that we've had a number of local, state and federal agencies reach out to us. They have expressed an interest in reporting into us so that they can benchmark themselves against those in our dataset and against the private sector. We already have a lot of information in relation to why they would like to report in and the sorts of benchmarking they would like to see. So we have that as a baseline, and we are currently in the process of developing a stakeholder consultation plan that will go out both to those...
agencies who've made contact with us and to new agencies and new government representatives and bodies that we can—working particularly, for instance, with local government association bodies is one way that we will go in and canvass—

**Senator MOORE:** The women in local government organisation?

**Ms Lyons:** That but also the Australian Local Government Women's Association, the different state local government associations. We have had quite a bit of dialogue already with a number of state governments. Some have written to us. For instance, the minister for women in Western Australia wrote to us asking when and if their government could report in. So there is a lot of information that we have already.

**Senator MOORE:** But they won't be able to report until 2021.

**Ms Lyons:** That would be the earliest.

**Senator MOORE:** So it's getting them interested—building them up but keeping them interested over a period of time.

**Ms Lyons:** That's right. Also, part of being able to consult with them would be to say, 'These are the things that we ask our reporting organisations to report in on. As you move forward with your plans, it would probably be a good idea to start getting your government agencies to report in the same manner.'

**Senator MOORE:** So keeping them onside as it goes through.

**Ms Lyons:** Precisely.

**Senator MOORE:** Can we get on notice your plans for the expenditure of the $8.1 million? I know you've been waiting for this a long time, so I'm quite sure you've already thought out how—but we'd like to get some kind of a project plan, with the dates you've already given us, about how that future money is to be expended so we can follow up at future estimates about how it's going. The other claim in the economic statement was to get more people involved in reporting, absolutely. It was also to make it more flexible. The direct quote from the document Women's Economic Security Statement says:

The upgrade will … streamline the reporting process, reducing the time and cost to business of reporting to WGEA.

How will that reporting process be streamlined? That's one of the issues you've been raising over the years: how you can work with your client base to streamline how they put their reports in.

**Ms Lyons:** It will be part, again, of the consultation we do with current reporting organisations, but our hope is that we will be able to utilise the data directly from employers as is captured by their HR systems. We know for, probably, 60 per cent of reporting organisations that there are three, possibly four, main HR systems that are used to collect and manage their HR data. We would look at a system—we are hopeful that we will have a system—again, much of this is dependent on the discovery phase and the work that we do in the lead-up to this, but we would hope that that they would be able to upload their data as they have it captured directly up to our system.

**Senator MOORE:** At this stage, have you got any idea about how much time will be taken in the investigation phase before you start implementing?
You identified in your statement the necessary consultation and the working with providers which you have to do. Have you got any idea at this stage—between now and, say, 2020—how long the investigation process will take?

Ms Beath: We're looking at concluding the discovery and the design and architecture phase by the end of June of this year.

Senator MOORE: That'll be June '19. Then there'll probably be tendering for the process.

Ms Beath: Yes, there will be the procurement process. We'll develop, obviously, the requirements, and then there will be at least, I would imagine, about a three-month procurement process before we would then move into that—

Senator MOORE: Public tender; all that stuff.

Ms Beath: Yes, that approach. Then there would be the actual build and testing process.

Senator MOORE: On your website, will what you're doing and how you're going be clearly spelt out as a kind of project update for the people who use that?

Ms Beath: Yes. There is a communications plan that we will have out, because we're keen to engage with our employers and organisations as we move to this change to make sure that they're across it.

Senator MOORE: Until 2021 there will be a moratorium on any changes to the data that will be requested from the client group. They'll still be reporting on the databases that you have in place now.

Ms Beath: Yes. We'll be utilising the same systems.

Senator MOORE: Thank you very much. Good luck.

CHAIR: I'll got to Senator Waters and then Senator Leyonhjelm.

Senator WATERS: Thanks for being here today. I always enjoy these discussions, and thank you, as always, for your work. I have quite a few questions here that range across some topics based on the information that you've revealed with your five-year study and the most recent data that was released late last year. Let's start with the headline news, which was the drop of 1½ per cent in the gender pay gap, which is, of course, I'm sure, to be welcomed by everyone. Have you done any analysis of what was driving that?

Ms Lyons: Formal analysis, in terms of: we know that employers are taking more action. We know that just over 40 per cent of employers do a gender pay gap analysis. Certainly, from the agency's perspective, we encourage employers to do that, because they need to know the state of play in their organisations before they can take action to address it. So 40 per cent of employers are taking action. In fact, on 1 March, the Bankwest Curtin Economics Centre will be launching a new report that has looked more deeply into this very issue, and that will come out on 1 March. Did you have anything to add?

Ms Bredehoeft: No, thank you.

Senator WATERS: We had some discussion last time about the fact that the mining boom had come off the boil, so those quite large salaries had come down a bit, and it was speculated—in fact, I think, by one of the Fair Work commissioners—that that was part of the reason the gap had narrowed. It was less that women were being paid more and it was more that men were being paid less that had closed the gap. Do you think that's a sound analysis?
Has the agency looked at what sort of contribution that might have made to the gender pay gap narrowing?

**Ms Lyons:** Firstly, it's very hard for us to draw that conclusion. But what I would say is: the fact that we are seeing more women move into management roles is, I think, a contributing factor in seeing the gender pay gap reduce, because, when we talk about this gender pay gap figure from the agency's perspective, we are looking at an organisation-wide pay gap, which takes into account where women are working and the roles that they have—how many women are concentrated in the lower-paid, lower-value roles; how many women are concentrated in the management and senior management roles. Certainly, the fact that we are seeing more women move into management roles contributes to a drop in the gender pay gap as we report it from our data.

**Senator WATERS:** It so sounds like I should keep my eye out for that 1 March report as well for some deeper analysis. In terms of industries, I was checking your website just now and I think I've got it right that construction is now, sadly, the second-worst industry and that the pay gap increased in construction by about four per cent. Is that correct? Again, does the agency do any analysis of why that's the case?

**Ms Lyons:** It is correct. The pay gap in the construction industry has gone up. We simply don't know the reasons why that has happened. We have been working with different organisations within construction who we know are working towards better gender balance in their organisations but are also looking at some of the reasons for this. UNSW did some research quite recently, towards the end of last year, that looked specifically at the construction industry and the issues that the construction industry were having around gender equality. So we've been working with them and talking to them, but our focus at the moment is on actually engaging with the construction industry, to work with them and help them in any way that we can to address the numerous issues they have around gender equality in their industry.

**Senator WATERS:** Certainly, they've got issues if their gap has gotten four per cent worse in a year. But it's probably pretty hard to fix that unless we know what's driving it.

**Ms Lyons:** Which is why we're working—

**Senator WATERS:** What work needs to happen so that we can have an understanding of what's causing that?

**Ms Lyons:** Again, working with the UNSW research people who are looking at that. But, also, the percentage of women in management roles in construction is currently sitting at just 12 per cent. So that will have an impact on that. And, again, in the construction industry, I would assume—and I don't have the data in front of me—that we've certainly got fewer people in management, but you would probably see that other women working in the industry work in the lower-value, admin-type roles that are paid less than those that are actually working onsite.

**Senator MOORE:** Is there any data available that shows state variations on that, Ms Lyons?

**Ms Lyons:** For construction in particular?

**Senator MOORE:** Yes.
Ms Lyons: We would have the state data, but I'm always a little bit reluctant to use state data because, as you know, the data that we collect from organisations is from the head office, so it depends. For instance, in New South Wales and Victoria, you've got a lot of head offices, so the data's always a bit skewed. So I'm always a little bit reluctant to use that data.

Senator Waters: Are there any other industries that are getting either significantly better or significantly worse from the most recent data? Again, do we have an understanding of what's driving those changes in the pay gap?

Ms Lyons: One of the industries that concerns me is health care and social assistance, because we're not really seeing much improvement in that, and that, of course, is a female-dominated industry. We've seen some pretty steady improvements in the male-dominated industry of mining, but in some of the female-dominated industries we're not seeing much change at all, which concerns me because I think they believe that they don't have a problem. They clearly do, and we need to certainly target our efforts towards working with the female-dominated industries.

Senator Waters: In that they're being paid proportionately less than others?

Ms Lyons: They're being paid proportionately less, but it's also the percentage of women and men working in them. Even in health care and social assistance, where 80 per cent of all employees are women, there's still a pay gap in favour of men. We really need to encourage more men into those industries to even the balance. This isn't just about women; this is about women and men, and we certainly need to see that balance change as well.

Senator Waters: Speaking of women and men, I noted one of your interesting statistics about who's taking paid parental leave and I jotted down here that only 5.1 per cent of those taking PPL were men versus 94.9 for women. Has that changed? Again, what do we think is driving that, and what can be done to encourage more men to take paid parental leave so that women can step up in the workplace more, if that's what they choose to do?

Ms Lyons: That's right. Last year we worked with an organisation called Parents At Work, which actually did some work looking at men who had taken parental leave. We worked with them, and certainly there is very much a focus from our perspective to encourage organisations to provide the same sort of parental leave for women and men. It is about parental leave, so it should be about parents, for women and men, and we're certainly looking at encouraging organisations to provide those same provisions for women and men. Anecdotally, we know that men often find it difficult not just asking for parental leave but taking it, because they believe that it will hamper their career progression.

Senator Waters: I wonder why that is—it certainly works for us, doesn't it?

Ms Lyons: That's right. So there are these cultural issues that have to be addressed. I think that, even when we look at what is currently termed as secondary carer's leave, which has traditionally been aimed at men, we see a very low take-up rate of that as well. So it really is a whole issue of looking at the cultures in which we work as employees and how we might change that for it to become acceptable for men to take parental leave, just as women do. Once we see those figures pick up, it will allow for greater choice for women, in particular.

Senator Waters: Is that something the agency is working on—how to assist that cultural change? Is that beyond your purview? I'm not sure who really has the lead on that.
Ms Lyons: It forms part of our education programs. We certainly look at how we can encourage, using the data that we have, organisations to offer the same parental leave to women and men. Certainly our Employer of Choice program, which is the best practice program for employers, specifically looks at the provision of parental leave. But, interestingly, over the course of data collection, the provision of paid parental leave offered by employers has stalled.

Senator Waters: Can you say that again, please?

Ms Lyons: Over the period that we've been collecting data, the provision of paid parental leave by employers has stalled.

Senator Waters: Do you think that's to do with the perception, albeit inaccurate in my view, that because government is providing a very modest amount, therefore, that's not necessary for employers?

Ms Lyons: I don't know.

Senator Waters: That is something for us all to look at. In one of your answers to my previous questions on notice, I asked about the minimum standards that employers that have more than 500 staff are required to develop, and thank you for your answer. You noted at the end of that answer that employers are not required to submit copies of their policies to the agency. Can I just get you to expand on that? Is it the case that the agency doesn't have a quality check, if you like? Does the organisation merely have to say, yes, they've written one of these things? Do you not even get to read it and see whether it's adequate? What level of quality assurance—

Ms Lyons: In excess of 10,000 employers report into us. We simply wouldn't have the resources to handle all of those policies and strategies, should we ask for them. When it comes to the minimum standards, we have had no-one in breach of the minimum standards.

Senator Waters: In that they have supplied them, but I'm interested in whether you have any oversight of the content of those.

Ms Lyons: We don't. We just wouldn't have the resources to be able to do that.

Senator Waters: So 10,000 folk are doing the reporting. How many are doing the minimum standards? That's only for people with more than 500 staff, so that wouldn't be 10,000, I would have thought.

Ms Lyons: We'd have to get back to you on the actual number of employers with over 500 staff.

Senator Waters: It might be a few thousand, perhaps—I'm not sure. How much extra capacity would the agency need to be able to do a check of those plans and policies? Are we talking a doubling? How big a task do you think that would be?

Ms Lyons: I would have to take that question on notice. I couldn't even stab at an answer. It would depend on the number of employers that are in that plus-500 bracket. It's no mean feat—put it that way. To be able to review everybody's policies and strategies around particular things would be a huge task.

Senator Waters: Is there anybody that's doing that? If not your agency, are there any other bodies that have responsibility for that sort of quality assurance? I'm just concerned it might turn into a tick-a-box. I don't mean to impugn any employer that's done one, and I
commend them for doing them, but we want to make sure that there are examples of best practice and some learnings that could be undertaken.

Ms Lyons: We certainly get examples of best practice through our Employer of Choice program. We get visibility of what leading employers are doing. I think there has to come a point too where we must trust the employers that they are reporting the correct information to us. As I say, through the Employer of Choice program, we absolutely get visibility of what organisations are doing. And, through the other work that we do, in advising, coaching and helping organisations to report and to improve their outcomes, we certainly are able to provide them with support and advice and understand what they are doing and what their policies and strategies might play. But we have to rely on the integrity of employers as well, to a certain extent.

Senator WATERS: Sure, and I'm not saying that the folk that are reporting are falsely reporting. I'm asking about that specific cohort of very large employers that have to demonstrate they have a policy or procedure to address the pay gap that their reporting has identified. Anyway, it sounds like, unfortunately, the agency doesn't have capacity to do that work. Hopefully that can change in the future. You noted that 41½ per cent of employers who had done the pay gap analysis had taken no action to address it. I think you called that the action gap. What can be done by any of us to change that and what could be done by the agency to help fix that action gap?

Ms Lyons: I think in some circumstances employers believe that their pay gap is justified, so therefore no action is required. In terms of what the agency is doing, our education programs are aimed at the steps that should be taken, firstly, to do the gender pay gap analysis but then the steps that might be taken to take action around that. It is something that I speak about every time I speak publicly. We need to also be very cognisant of the fact that the gender pay gap is a symptom of a much broader problem that we have around gender equality in general. That is very much an issue around workplace culture that we have to address. The agency addresses that through its education programs, through the public speaking that we do and through our media, both traditional and social media. So we are onto it and we counter it and we encourage employers to take action. Again, our Pay Equity Ambassador program works with those that are leading the way in this regard, and we very much rely on them to look at their supplier base, to look at their peers and to talk with their peers about what they're doing in terms of the gender pay gap and how they might push that issue forward as well.

Senator WATERS: Has that action gap gotten better or worse over the five years that the reporting has been undertaken?

Ms Lyons: It's improved.

Senator WATERS: That's good.

Senator LEYONHJELM: I recently asked the Workplace Gender Equality Agency a written question on notice. I asked what the workplace safety gap was. You replied that the agency doesn't collect data on workplace safety. Do you recall that?

Ms Lyons: Yes.

Senator LEYONHJELM: As I understand it, the agency's legislation requires it to promote and improve gender equality in employment and in the workplace. It would seem to me—and I'd ask you to confirm this—that whether or not people return home from work alive
and well, and the fact that women return home from work alive and well far more reliably than men do, might be a gender equality issue in employment and in the workplace. Is that not the case?

Ms Lyons: We collect data on six gender equality indicators that are prescribed by the act.

Senator LEYONHJELM: Does the act prevent you from collecting data on workplace safety in relation to gender equality?

Ms Lyons: We collect data on the six gender equality indicators—I can read them out for you if you would like—and currently none of those cover safety. We collect data on the gender composition of the workforce; the gender composition of governing bodies or of relevant employers; equal remuneration between women and men; the availability and utility of employment terms, conditions and practices relating to flexible working arrangements for employees, to working arrangements supporting employees with family and caring responsibilities; we collect data on the consultation that employers do with employees on issues concerning gender equality in the workplace; and we collect data on sex based harassment and discrimination. They're the six gender equality indicators as stated under the act.

Senator LEYONHJELM: Are you prevented from doing anything else beyond that?

Ms Lyons: That's a matter for government. It's quite prescriptive as to what we collect data on.

Senator LEYONHJELM: You've just been asked about parental leave. You have quite a lot of information about the fact that men don't take parental leave at the same rates as women do, but that's not in that list of items that you just read out to me, is it?

Ms Lyons: It is, because it talks about the working arrangements supporting employees with family or caring responsibilities.

Senator LEYONHJELM: So does this mean that it's an agency or a government consideration that gender equality and employment in the workplace in relation to safety is not as important as equality in relation to remuneration?

Ms Lyons: My understanding is that when the legislation was put in place it was to address the historical discrimination against women in the workplace. The data that we collect is the data that is specified within the act, and any questions around that are actually outside our remit in terms of collecting other data.

Senator LEYONHJELM: So if the government was to address this issue and say, 'Actually, you're right; gender equality in terms of arriving home from work alive is an important issue, and as important as remuneration is an issue,' would you welcome that?

Ms Lyons: Based on information from one of our biggest mining companies, BHP, when BHP analysed their own data looking at gender equality, they discovered that sites that had a better gender balance were in fact safer. As a result of that, BHP have taken action at a number of their sites and they have reviewed the way their employees are expected to work at some of these sites. At one site in regional Western Australia, in partnership with their suppliers, they have redesigned the equipment in that workshop so that all tools are now suspended from the ceiling. That means you don't need brute force to operate those tools. And it has actually not only encouraged more women into that workplace, but it also means that
the injury rate has actually dropped. So that absolutely is advantageous to women because they're able to be employed there, but it is particularly advantageous to men because the injury rate is lower. Men also suffer from bad backs, bad knees and bad shoulders from operating heavy equipment.

Senator LEYONHJELM: Yes, I've also heard about that sort of information. I'm delighted you're interested in it. I wonder whether, if you took a greater interest in workplace safety, and specifically deaths at work, of which men comprise an overwhelming majority, you may end up closing the gender pay gap, because more women would be in workplaces that are currently dominated by men. Do you think that's a possibility?

Ms Lyons: Certainly, BHP's example shows us that more women will work in what were traditionally male dominated worksites with a redesign of equipment and whatever. Whether there's a direct correlation between that and lowering the gender pay gap, I couldn't tell you.

Senator LEYONHJELM: Alright. On another issue, what is the gender workplace hours gap? The agency reports a workplace gender pay gap comparing male full-time employees and female full-time employees. But male full-time employees work longer hours on average than female full-time employees, and the agency doesn't account for this when reporting the workplace gender pay gap. I don't need harassment, thank you, Senator Waters. I leave you alone when you ask your questions. Show me the same respect.

Ms Lyons: Currently, using ABS data on employee earnings and hours, the gender pay gap as at May 2016 was 15.7 per cent. It is a survey of employees, that information from the ABS—it's not a census—and it's only conducted every two years. They only collect the data every two years. What we do is annualise our figure to full-time. So we look at all part-time employees and full-time employees that may have worked part of a 12-month period and we annualise that data to take into account part-time hours. Therefore, we're converting the part-time hours to full-time, if you like.

Senator LEYONHJELM: So do you take into account the fact that, on average, a male full-time employee works longer hours than a female full-time employee?

Ms Lyons: Not directly, no.

Senator LEYONHJELM: You don't?

Ms Lyons: But we annualise the part-time hours and those that have worked full-time but for part of the year. At the moment, what I can tell you is, women work part-time at three times the rate of men. So by annualising it, we are looking at a more realistic—

Senator LEYONHJELM: So you base it on an annual salary.

Ms Lyons: Yes.

Senator LEYONHJELM: What about if you did it on an hourly rate. What would be the gender hourly pay gap?

Ms Lyons: We don't have that data, Senator.

Senator LEYONHJELM: You don't have that data?

Ms Lyons: No, because we ask for annualised salaries from our employers when they report their data in.
Senator LEYONHJELM: If a woman was working fewer hours but earning the same rate per hour as a man doing the same job, would that show up as a gender pay gap?

Ms Lyons: No.

Senator LEYONHJELM: But in that case, you are looking at hourly rates?

Ms Bredehoeft: We do not collect the real hours that an employee might have worked. What we do collect is the hours that are specified in a contract, and that is provided by organisations to us, if that make sense.

Senator LEYONHJELM: Yes. Do you annualise it on the assumption that men and women are working the same number of hours? Or is it actual earnings?

Ms Bredehoeft: It's actual earnings. We don't have the data to distinguish or to then adjust for hours, because we cannot collect the real hours that employees are working.

Senator LEYONHJELM: So it's not possible to tell whether any or some of the gender pay gap is just simply attributable to a different number of hours worked. Is that right?

Ms Bredehoeft: It depends on whether we are looking at hours that are in contract or whether we are looking at hours that employees worked as overtime.

Senator LEYONHJELM: Why is it you don't look at hours worked? You don't collect it?

Ms Bredehoeft: The ABS does the survey, yes.

Ms Lyons: Every two years. But, again, as I say, we collect census data; that is survey data. The other thing I would say at this stage is: just because somebody might be sitting at their desk for 12 hours a day doesn't mean you're getting 12 hours of productivity out of them and doesn't mean that they're working, in essence, any harder than someone who may sit at their desk for eight hours. So I don't think—

Senator LEYONHJELM: That's true, but they're getting paid for the 12, whether they are doing any work, or they're getting paid for however many hours they're sitting at their desk. The issue for your agency is that, if it's a male sitting at a desk, they're getting paid more than a female sitting at a desk. So, irrespective of the hours, the question is whether, for those hours for which they're getting paid, there is a difference between men and women.

Ms Lyons: We don't collect information on hours.

Senator LEYONHJELM: ABS does, so it's available. So, if we put in a question on notice, will you access the ABS data so you can answer that question?

Ms Lyons: I did answer it earlier. I said that, under the ABS employee earnings and hours data, as at May 2016, the gender pay gap was 15.7 per cent.

Senator LEYONHJELM: If I understood you correctly, that's referring to annualised salary. Is that right? What is the gap based on—per hourly rates or annual incomes or annualised incomes? What are we talking about here?

Ms Lyons: The EEH data—that's the employee earnings and hours data—includes all employees regardless of employment status and reflects ordinary time cash earnings. The EEH survey produces hourly earnings for nonmanagers and can be used to produce a gender pay gap measure inclusive or exclusive of part-time employees. The EEH data can be configured in a variety of other ways that are useful to the gender pay gap estimates—for
example, managerial versus non-managerial employees. The big drawback from where we sit is that EEH data is just done on a two-year cycle. And, again, it's survey data and not census data.

Senator LEYONHJELM: Yes, it is survey data; I accept that. It's not census data. They do, however, collect both pay and hours. So I'm interested in this question. I don't think I can think of many men who would find it acceptable that a woman—irrespective of how many hours she's working in the day—if she's doing the same job as a man, was paid any less on the basis that she's a woman. I can't think of any men who would support that. And yet, because you're not looking at hours, we don't know whether that's occurring or not. Am I right there?

Ms Lyons: I think at this stage, as I've said to you, we are unable to collect and analyse that data. There are other countries that do do that, and we'll—

Senator LEYONHJELM: Not even every two years, with the ABS survey data. You could do it at least every two years.

Ms Lyons: And I gave you the figure: 15.7 per cent, based on the calculation that we last did.

Senator LEYONHJELM: What does the 15.7 reflect?

Ms Lyons: What I was about to say is that I'm happy to take that question on notice and go back and look at that last calculation that we did and provide you with the workings on that.

Senator LEYONHJELM: All right. Good. To return to my previous question about workplace safety, you read out I think six areas in which the agency is tasked in the regulations. Can you cite the section that says that those are the six and only those six? You can take that on notice, if you prefer.

Ms Lyons: I'll take that one on notice.

Senator LEYONHJELM: I'm not totally familiar with the act, but I can't find it. Thank you.

CHAIR: If there are in no further questions for the Workplace Gender Equality Agency, I thank you very much for your attendance here today and your evidence.

Department of the Prime Minister and Cabinet

[14:19]

CHAIR: The committee will now move to the Office for Women. Ms Bergin, do you wish to make an opening statement?

Ms Bergin: Yes. I would like to do so. Thank you. I would like to take this opportunity to update you all on some of the work of the Office for Women and what we have progressed since our previous appearance before this committee. Following the October COAG summit on reducing violence against women and their children in Adelaide, we've continued to work on consultation and policy development for the fourth action plan of the National Plan to Reduce Violence against Women and their Children, which has run from 2010 to 2022. On 12 December 2018, summit delegates presented a compelling statement to COAG, to first ministers, which was very well received, setting the priorities and themes that will underpin the fourth action plan due to be released in mid-2019.
In addition, the Office for Women was instrumental in supporting the Minister for Women in development of the Women's Economic Security Statement, delivered on 20 November 2018. This was a substantial piece of work. We coordinated measures from across the government that will contribute to increasing women's workforce participation, earning potential and economic independence. We are now progressing implementation of measures that we hold primary responsibility for, including the Future Female Entrepreneurs program and organising the Reducing Barriers to Work Forum. We are also progressing the targeted grants round under the Women's Leadership and Development Program, focused on women's economic security and implementation of changes to board links that were announced in October last year. In addition, our international team is preparing for Australia's engagement at the 63rd session of the Commission on the Status of Women at the United Nations. The team has also briefed the Parliamentary Joint Committee on Human Rights on Australia's progress made and challenges encountered in the implementation of the Beijing Declaration and Platform for Action.

We are also well progressed in the development of Australia's Second National Action Plan on Women, Peace and Security. Informed by strong community consultation, this will build on significant Australian achievements to implement the United Nations Security Council's resolutions on Women, Peace and Security. We have supported the November women's online safety dialogue meeting between the Minister for Women and representatives from Facebook, Instagram, Google, Twitter, YouTube, Microsoft and the Digital Industry Group to discuss ways to keep women and girls safe online. Our unit is also continuing to work hard behind the scenes, supporting and encouraging colleagues across the government to analyse gender dimensions when they're developing or reviewing policy. Thank you very much for the opportunity for this opening statement.

CHAIR: Thank you very much. Senator Moore.

Senator MOORE: Thank you for the update—including a number of issues that I would very much like to explore but won't have time to. The economic statement—thank you very much; we’ve asked many questions leading up to that. On notice, I want to get a forward plan about the economic expenditure on each of those particular commitments. I will let you know that.

Ms Bergin: Yes.

Senator MOORE: Can you confirm how much of the funding for the Women's Economic Security Statement is new funding and how much has been redirected from other programs that were already operating? As you know, this was a compendium statement about what was happening. Can you give us a breakdown about new funding as opposed to pre-existing commitments?

Ms Bergin: I will turn to my colleague, Rachel Livingston, but my understanding is that it was all new money.

Ms Livingston: Yes. That's right. The funding for the economic security statement is all new funding.

Senator MOORE: Okay. Which of the commitments were administered and implemented by the Office for Women itself?
Ms Livingston: There are a few measures implemented by the Office for Women. The first is the Reducing Barriers to Work Forum. There is—

Senator MOORE: When is that due to be held?

Ms Livingston: We are due to hold one this year and we are expecting to hold that—

Senator MOORE: This financial year?

Ms Livingston: Yes. This financial year.

Senator MOORE: Up until June 2019?

Ms Livingston: Yes. And there's funding to hold a further forum next financial year.

Senator MOORE: Right. Have plans for the one this year been finalised?

Ms Livingston: We are very well advanced in the planning for that forum, but we are just confirming a date.

Senator MOORE: Do you have a budget for that forum?

Ms Livingston: We do.

Senator MOORE: How much is that?

Ms Livingston: It's $200,000 in this financial year.

Senator MOORE: $200,000 for the first element of that proposal, right?

Ms Livingston: That's right.

Senator MOORE: You are doing that one.

Ms Livingston: We are doing that one. There's also additional fund that's gone into the WLDP to provide scholarships for women in finance and economics.

Senator MOORE: How much has been set aside for that one, each year?

Ms Livingston: For this year?

Senator MOORE: Yes. How many years is that one expected—

Ms Livingston: That measure has funding over three financial years, but starting from next financial year.

Senator MOORE: Which is 19-20?

Ms Livingston: Correct.

Senator MOORE: Have you got budget figures for each of those years at this stage?

Ms Livingston: Yes.

Senator MOORE: What are they?

Ms Livingston: It is $0.08 million for next financial year.

Senator MOORE: A well-known amount, yes.

Ms Livingston: About $1 million. So it's $2 million in total over three financial years, starting next financial year with 0.08. Just over $1 million for 2020-21 and $0.9 million for 21-22.

Senator MOORE: To make a total of two.

Ms Livingston: Yes.
Senator MOORE: How will the scholarships be allocated? That was one people were talking about.

Ms Livingston: Yes, that's right. We are still in the process of working that out but that will be a matter for the Minister for Women to decide.

Senator MOORE: As it starts in 19-20, is there any time frame now for when they will be advertised if it—

Ms Livingston: Not yet.

Senator MOORE: Is there a maximum funding for individual scholarships, or is it a pool that you're going to do different ways? Have you got to that modelling level yet?

Ms Livingston: We haven't got to that level of detail yet.

Senator MOORE: Okay. That's two down.

Ms Livingston: Then we have a third and final one, which is the Future Female Entrepreneurs Program.

Senator MOORE: Yes. Aka 'Boosting Female'—I love that term.

Ms Livingston: No. Aka 'The Business School for Disruptive Girls'.

Senator MOORE: I love 'Boosting Female Founders'. Is that the same thing or a different one?

Ms Livingston: Boosting Female Founders is a separate grants program which is being delivered by the department of industry.

Senator MOORE: The entrepreneur one is being organised by the Office for Women?

Ms Livingston: Yes.

Senator MOORE: How much is that one?

Ms Livingston: $3.55 million over two financial years.

Senator MOORE: When does the program for that start?

Ms Livingston: That will start this financial year, so—

Senator MOORE: The first lot will be by June this year? Is that right?

Ms Livingston: Correct. Yes.

Senator MOORE: What stage is that at now?

Ms Livingston: We have grant guidelines developed and we are in the process of negotiating with a potential provider.

Senator MOORE: So the first one is going to be allocated by June this year. We are in February. It will be a short time frame?

Ms Livingston: The intention of that program is really to provide seed funding—that's why it's two financial years—but the intention is that the school itself will be operating over a longer period of time.

Senator MOORE: But the first amount of money needs to be expended this financial year?

Ms Livingston: Yes.

Senator MOORE: It doesn't flow over? You have to spend it this year?
Ms Livingston: If the outcomes are in this financial year, it does need to be spent this financial year, yes.

Senator MOORE: Okay. I asked for the funding statement across each of the commitments; can I also get an indication of which departments will be responsible?

Ms Livingston: Yes, sure.

Senator MOORE: The three you've given me are the three for which Office for Women will be the responsible department.

Ms Livingston: That's right.

Senator MOORE: With no partnerships in each of those, it's just—

Ms Livingston: It's just Office for Women.

Senator MOORE: Okay. On that frame, can I get the ones into the future?

Ms Livingston: Yes.

Senator MOORE: Are any of the commitments over? Have you completed any of the tasks from the economic statement?

Ms Livingston: No, I wouldn't say any of them have been completed. There are certainly many underway, though.

Senator MOORE: Regarding ones that require external funding, can you give me any indication about external funding? For instance, that last one had an external provider.

Ms Livingston: Sorry, Senator, when you say 'external funding', do you mean funding coming in?

Senator MOORE: From other agencies or going to a tender process—not being owned and operated by Office for Women.

Ms Livingston: Your question is: where are other agencies up to with their procurement processes?

Senator MOORE: Yes. What I'm trying to find out is the allocation of expenditure, in terms of how many have gone to a process where you've already allocated expenditure to external agencies?

Ms Livingston: I'd have to take that one on notice.

Senator MOORE: Do any of the commitments made as part of the Women's Economic Security Statement require legislative change?

Ms Livingston: Yes. Some of them would require legislative change.

Senator MOORE: Chair, I'm relying on you to tell me when my time—I'm just keeping going.

CHAIR: In that case, I would encourage you to yield the call to other senators, because you are getting quite close.

Senator MOORE: I just wanted to make sure. That's why I was going so quickly.

Ms Livingston: I can give you one quick example. The Paid Parental Leave flexibility measure and the changes to the work test both require legislation.

Senator MOORE: Can I get an indication also into the future about which require change?
Ms Livingston: Yes.

Senator MOORE: I totally understand that it's a decision for government as to when that change will happen. Minister, are you aware of whether any of the legislative change required is before parliament yet?

Senator Payne: I don't have a timetable in front of me, but I'll take that on notice.

Senator MOORE: That'd be great. Thank you. There'll be significant numbers on notice.

Senator WATERS: Just to pick up on Senator Moore's final question, would accessing super early also require legislative change?

Ms Livingston: I think that it will, but I'll have to take that one on notice.

Senator WATERS: I will put the same question either to you or to the minister: I haven't noticed that come onto the Notice Paper yet; have I missed something there?

Ms Bergin: I'll add it to the response to Senator Moore.

Senator WATERS: That statement was released in November?

Ms Bergin: On 20 November.

Senator WATERS: At least three legislative changes were required, but it sounds like there has not yet been progress in drafting. Perhaps I can ask it this way: has your office had any input into the drafting of those legislative changes?

Ms Bergin: Not as yet.

Senator WATERS: Would you normally have input into drafting changes like that?

Ms Bergin: Yes.

Senator WATERS: And you haven't yet started that work.

Ms Bergin: No.

Senator WATERS: So we can assume that that hasn't been progressed.

Senator Payne: We shouldn't assume, Senator. I'll get the information and come back to the committee.

Senator WATERS: Okay. Thank you. Just sticking with the Women's Economic Security Statement, can I ask about the funding envelope. Can you just remind me how much the total amount was? I don't have that in front of me but I'd worked out that that was about 4c per woman. I'd love to be dissuaded from that calculation, but was that a ballpark estimation of how much that investment equated to?

Ms Livingston: The total amount was announced in MYEFO just before the end of last year. It was a total value of $119.17 million over four years.

Senator WATERS: I'd done some quick calculations at the time. I don't have my workings with me but I'd worked out that that was about 4c per woman. I'd love to be dissuaded from that calculation, but was that a ballpark estimation of how much that investment equated to?

Ms Livingston: I haven't done that calculation.

Senator WATERS: If you wouldn't mind, double-check my figures. I welcome the fact that we have an economic statement, and much of the content was positive, but my view was that 4c wasn't going to get anywhere near addressing the serious issues that women face. Do you ever make recommendations about the amount of funding that would be required to address the problems proposed, or is that purely a matter for government?
Ms Bergin: Yes, that is a matter for government. We work to make sure that policy options are available, but the size and quantum and direction of the overall package is a matter for government.

Senator WATERS: Would your advice be sought as to whether or not the amount of funding would be adequate to achieve the policy objectives?

Ms Bergin: In terms of specifics, we put forward, as I say, a range of things under a number of the pillars, particularly of this package, and certainly we advised in terms of the quantum that was necessary to achieve some of those things. But in terms of the overall package, as I say, that would be just a matter for government.

Senator Payne: There's no suggestion whatsoever that the Women's Economic Security Statement—the first ever Women's Economic Security Statement, I might add—is the totality of the Australian government's support for women in work, women in their families, women in education, or in any of the other range of activities to which government directs its attention. If I may say with enormous respect, to do a simple analysis of dividing the number of women in the country by $119 million does not represent in any way, shape or form the totality of the government's commitment. If you would like us to take on notice the investments in child care, the advantages that the changes in tax provide for women, and the work we've done around low and inactive superannuation accounts, then we can put all of that together for you and I think you'll see there is a very significant investment—added to most recently on 11 February, by the minister's announcements in the context of the Prime Minister's national security address around protecting people from family and domestic violence.

Senator WATERS: I would love that, and that was going to be my next question. If you're saying that's just a sliver then, please, hit me with the full shebang, because I would hope that it's more than 4c per person.

Senator Payne: Very happy to do that.

Senator WATERS: In relation to the $78 million that you've just referred to and that was announced, I think, on the 11th: did the Office of Women have any input into the adequacy of the quantum? Because $60 million for women's shelters is not going to touch the sides when we've got so many women that are turned away from refuges. I know the state governments, primarily, are the first port of call, but, obviously, the federal government provides money to the states which flows on through to support the construction and the maintenance of those shelters. Again, I would love for there to be a whole lot more money that perhaps I don't know about—

Senator Payne: It is part of a much broader approach by the Commonwealth, and we can put all of that together for you as well. Whether it comprises the Women's Safety Package, which I think commenced in 2015; support for 1800RESPECT; support for the Australian Human Rights Commission Inquiry into Sexual Harassment in Australian Workplaces; the work we're doing in cyberspace; the work we're doing with the states, as you also acknowledged, around the Let's Stop it at the Start campaign; the work that we're doing through the Housing and Homelessness Agreement; or a number of those initiatives—we can certainly compile all of those and put them in the one place for you. We are, of course, also in the process of developing the Fourth Action Plan of the national plan, and our stakeholder
consultations from the end of last year, both around COAG and with the stakeholders themselves, will inform that. So the first initiative, the $78 million that you've referred to, is the first step, not the last.

Senator WATERS: Just in relation to putting it all in the one place: that sounds like a great idea and I think there'd be many women across the country that would be interested in that. We sort of used to have that, though, with the women's budget impact statement, which was sadly dropped under the Abbott prime ministership. If it sounds like it's not too much trouble to pull that all together for me, has there been any thought given to re-establishing the women's budget impact statement so that women everywhere can see that information?

Senator Payne: I personally am not aware, but I will take that up with the minister.

Senator WATERS: Well, let's live in hope. Senator Moore would know that we've been asking this question since 2014. We hope for a positive answer at some point. I would love to know a bit more about the Housing and Homelessness Agreement and how much of that will go to women's refuges. I'll look forward to that.

Senator Payne: It's a $7.8 billion agreement, so it's a very considerable agreement, the Housing and Homelessness Agreement.

Senator WATERS: That's not all for women's shelters, though, is it?

Senator Payne: No, it's much broader than that. But it has a broad application in terms of the access to and quality of housing that is available in support for homelessness.

Senator WATERS: I'll look forward to seeing that, in particular for women's shelters and for long-term affordable housing accommodation options, particularly for women and their children fleeing violence. You mentioned the Fourth Action Plan. Can you just remind me how much MYEFO gave towards that? Or are we still waiting on the funding commitment to come in the upcoming budget?

Ms Bergin: Yes, that's correct. That will be as part of the budget process.

Senator WATERS: Was there any money dedicated to the evaluation of the second and third action plans under that national action plan? I've asked about this previously, and I'm trying to recall the answer. I think the answer was there wasn't an evaluation done, which seems to be perhaps a missed opportunity to have some learnings to help develop the next instalment.

Ms Bogaart: I can answer that. The Third Action Plan is currently being evaluated, and any questions about that are for the Department of Social Services. They're conducting that evaluation.

Senator WATERS: And is that something that the Office for Women has input into?

Ms Bogaart: We are able to see the drafts as they come through, yes.

Senator WATERS: What's the purpose of your role in that?

Ms Bogaart: The Department of Social Services leads the national plan. The action plans are being evaluated by the Department of Social Services, but they consult with us throughout
that process so that we can have a look at the evaluation as it goes through and the report is finalised. It is then presented to government.

Senator WATERS: Okay. And do you generally make changes or suggestions?

Ms Bogaart: I think we do make suggestions from time to time. We, as the Office for Women, are also involved in the coordination across government of various packages. The package that supported the Third Action Plan and the women's safety package, we worked quite closely with other Commonwealth agencies to monitor their evaluation and implementation of packages under that and work to report that back to DSS as well. So we do have broad oversight across the Commonwealth.

Senator WATERS: Okay; that's good to hear. Has the Prime Minister met with the Office for Women since he assumed the role?

Ms Bergin: No.

Senator WATERS: Have previous Prime Ministers met with the Office for Women?

Ms Bergin: I would have to take that on notice. I've been in the role for 18 months, so it's not in my time.

Senator WATERS: Given that we've got an epidemic of violence against women—69 women were killed last year, and eight have been killed already this year—would you be seeking a meeting with the Prime Minister, or is that something you would wait for the Prime Minister to initiate?

Ms Bergin: We do have a very close working relationship with the Prime Minister's office. There is a particular adviser that we work very closely with and whom we—yes, we work very closely with that office.

Senator WATERS: But not with the Prime Minister himself?

Ms Bergin: Not to date, no.

Ms Foster: But the Prime Minister has obviously affirmed his commitment by placing the Office for Women within his portfolio and cross-swearing the Minister for Women to his portfolio. That's a pretty strong statement of his commitment.

Senator WATERS: Wasn't the Office for Women always located in PM&C?

Ms Foster: It has moved around.

Senator WATERS: I see. I did have a short break, so it was not under PM&C for a while and now it's back?

Ms Bergin: Yes. It returned to PM&C in 2014. I'd have to check, but I think it had spent four to five years in the social services portfolio.

Ms Foster: And Prime Minister Morrison made a conscious decision to keep the Office for Women in his portfolio when he became Prime Minister.

Senator WATERS: So he didn't change anything, he just left it as it was.

Ms Foster: He made a conscious decision to keep it where it was.

Senator WATERS: Thanks very much.
Senator STOKER: There has been mention of the government's measures to deal with the issue of domestic violence. Did the economic security statement include measures to improve things for women who are experiencing domestic violence?

Ms Livingston: There were several measures that were introduced as part of the economic security package that do go towards assisting women facing domestic violence, and particularly supporting them with their economic security and economic capability at that time. I can run through some of those.

Senator STOKER: Can you briefly?

Ms Livingston: Yes. There is a measure for the early release of superannuation on compassionate grounds for victims of domestic violence. There's additional funding for Good Shepherd Microfinance to extend their no-interest loan scheme. That will be aimed at women and men escaping domestic violence, and the intention there is to expand the range of goods and services that can be purchased using those loans. Consideration will be given to increasing the loan amount as well, so there's additional support available for people at a time of crisis. There's a measure with funding for the Treasury and the Attorney-General's portfolio to improve the visibility of superannuation assets in family law proceedings. The package includes new funding for family law property mediation. That will support an additional 31,000 families to resolve family law disputes more quickly. There's additional funding for the Attorney-General's portfolio for a small claims property pilot. That's aimed at resolving small claims in family law property disputes with a value up to $500,000. There's quite significant new investment in specialist domestic violence units and health justice partnerships, also run out of the Attorney-General's portfolio. Domestic violence units and health justice partnerships provide comprehensive assistance, which integrate legal services with other supports that are important for women and children escaping domestic violence. There was additional funding, also through the Attorney-General's portfolio, to support the ban on perpetrators cross-examining victims of family violence during family law proceedings.

Senator STOKER: It sounds like you could keep going for a while.

Ms Livingston: Yes.

Senator STOKER: Thank you for that. Can you tell me something about the national inquiry into sexual harassment in the workplace? I think the minister mentioned it was to be run from the Australian Human Rights Commission. Has analysis and research like that been done before, and what is its importance? Who can answer that one for me?

Ms Bergin: Thank you for your question, Senator. The national inquiry was announced by the government on 20 June 2018. The government announced a $500,000 contribution to the inquiry, which is led by the Sex Discrimination Commissioner, Kate Jenkins. The Office for Women has provided $250,000 towards the government's funding contribution in addition to Safe Work Australia, which provided $100,000. This is the first of its kind in the world, this inquiry, and is driven by the emergence of an alarming number of stories around sexual harassment across workplaces generally. The focus of the inquiry is the nature and prevalence of sexual harassment and the drivers of this harassment. It will particularly look at measures to address practical actions that will help ensure that, where it does occur, it's dealt with sensitively and appropriately.
Senator STOKER: Final question before I wrap it up: will that research look into how much sexual harassment costs both the individual and each business in which it occurs?

Ms Bergin: Certainly there is an economic component to the inquiry. There is a study that Treasury has commissioned, that has commenced, that is looking at the economic impact of what is it costing us as a nation in terms of workplace sexual harassment, so really looking to see what is the cost of that.

CHAIR: As there are no further questions for the Office for Women, I thank them very much for their evidence, and I thank Minister Payne for joining us.

Department of the Prime Minister and Cabinet

[14:49]

CHAIR: I now welcome back Senator Cormann and officers of the Department of the Prime Minister and Cabinet, and note the committee will continue its examination of outcome 1. I also note that this is Senator Patrick's third attempt to come and ask questions of PM&C. Would you like to lead off, Senator Patrick?

Senator McALLISTER: Senator Patrick and I have had a conversation, and he has generously agreed that Senator Wong may lead off.

Senator WONG: I think the agreement is that I will do one topic, and then break for Senator Patrick, and then I'll come back as per your call.

CHAIR: Alright. No problems. Senator Wong, and then we'll go to Senator Patrick.

Senator WONG: Ms Millar, we were having a discussion prior to the lunchbreak about the agreement with the United States to take asylum seekers or refugees from Nauru and Manus. You were going to apprise yourself of the history of it. I wonder what you can tell me now.

Ms Millar: Over the lunchbreak, we tried to check our records, and I can confirm that the Prime Minister—Malcolm Turnbull at the time—visited Washington on 19 January and met President Obama. My recollection is the that issue—

Senator WONG: 20—


Senator WONG: Thank you. Just checking.

Ms Millar: My recollection is the issue of resettlement was raised in a broad way during the discussions, and I'm sure you'll appreciate that the content of leader-level discussions is not something we would normally divulge, as they're highly confidential.

Senator WONG: Why are you diverting from that? That's not necessarily the case, and, whatever the practice of departments or the practice of dealing with the media, the Senate will decide what you should and shouldn't answer. There is no need to divert before we get to the point.

Senator Cormann: Maybe just let the officer answer the question to the best of her ability.

Senator WONG: I find that, third sentence in, telling me why we can't be told—

Senator Cormann: There is a well-recognised public interest immunity ground in relation to international relations, and I think that this goes right to the heart of—
Senator WONG: Yes, there is. But, if she wants to make a PII claim, she should refer it to you. This is not the process.

Senator Cormann: Sure, and I understand the process very well.

Senator WONG: Yes, but perhaps officers should be advised: the process is a referral to you on a proper PII claim.

Senator Cormann: These are clearly matters that go right to the heart of international relations, and I don't think anybody would question that.

Ms Millar: Just to continue, as I said, I do recall the issue of resettlement was raised in a broad way during those discussions, and I can confirm that, subsequent to that, officials from the then Department of Immigration and Border Protection, led by Deputy Secretary Noble, and also including DFAT's ambassador for people smuggling and trafficking, Andrew Goledzinowski, visited Washington to start discussions.

Senator WONG: Deputy Secretary Noble, was it?

Ms Millar: Yes, that's right.

Senator WONG: Were you present in the meeting between Mr Turnbull and President Obama?

Ms Millar: Yes, I was.

Senator WONG: Who was the note taker?

Ms Millar: There were a range of note takers, including me.

Senator WONG: So you took notes?

Ms Millar: I did take notes.

Senator WONG: Who holds those notes?

Ms Millar: I don't have those notes anymore. As you know, records of leader-level meetings are usually very tightly held, and I don't have access to that at the moment.

Senator WONG: Could you listen to the question? Who has those records now?

Ms Millar: I don't have my notes from the period—

Senator WONG: No, I know. I understand you don't.

Ms Millar: There would be a distribution on that record. It'd be a standard distribution for a leader-level discussion. It would include the Prime Minister's department, and there'd be a few other people that would have it, but I don't have it at the moment.

Senator WONG: I'm not asking if you have it, Ms Millar. So can we move on from that point? I'm now asking—I was actually asking first—where your records are, and whether your personal notes of that meeting would be held by PM&C?

Ms Millar: No, they're not.

Senator WONG: Who holds them?

Ms Millar: I no longer have them.

Senator WONG: Who holds your personal records now?

Ms Foster: Ms Millar no longer holds those records. She has destroyed notes from that period.
Senator WONG: Nobody said that. Why don't you just say that?

Ms Millar: Because the record is the record and my notes are—

Senator WONG: I get that. So you had notes; you destroyed them after the official record of the meeting was finalised—is that what the evidence is?

Ms Millar: That's correct.

Senator WONG: In that meeting, was a number mentioned?

Ms Millar: I don't recall.

Senator WONG: We had a long discussion during a previous estimates—I'm not sure, Ms Foster, if you had taken your role at that point, and I think it was pre you taking your role, Ms Millar—of Mr Turnbull's conversation with President-elect or President Trump about this arrangement.

Ms Foster: I've only been here since December the year before last and I think it was pre-dating that.

Senator WONG: Yes, I think it pre-dated you. It was a reasonably long discussion. Also, obviously there was reporting in, I think, The Washington Post—the story actually broke while I was in Washington, which was interesting—of the phone call and the President and Prime Minister's discussion, where my recollection is that Mr Turnbull was seeking that the US essentially honour the agreement that had been undertaken with the previous administration. Is that a reasonable summation?

Ms Foster: Yes, I recall that.

Senator WONG: I'm trying to recall, when the current agreement became public, what the number of asylum seekers or refugees was—how many the US had agreed they'd take.

Ms Millar: I'd have to check my records. I do recall that the Minister for Home Affairs, Mr Dutton, announced the deal in November 2016. The exact details of that I would have to check.

Ms Foster: We can get someone to check that in the background.

Senator WONG: The Washington Post refers to a figure of 1,250. Does that ring any bells?

Ms Millar: Yes, it does.

Senator WONG: As the figure that was agreed?

Ms Millar: I don't recall exactly when that figure was first in the public domain.

Senator WONG: No, I'm not asking about the public domain. I'm asking: do you know when that figure first became—

Ms Millar: I don't recall.

Senator WONG: At any point did we ask for a different number of asylum seekers to be taken?

Ms Millar: I wasn't privy to all the negotiations in my previous capacity and I don't have the records in my current capacity. My job in Washington was very much to facilitate access for the delegation coming through with Washington based officials. I didn't play a leading role in those negotiations.
Senator WONG: I didn't ask if you played a leading role; I didn't ask you about your records. I asked if there were requests for a different number to the number that had been agreed.

Ms Millar: I don't recall, and the reason I mentioned those other factors is that they go to why I don't recall.

Senator WONG: No—be very clear. Is your answer to the Senate estimates that you don't recall?

Ms Millar: I don't recall.

Senator WONG: So there would not be any documentation anywhere that you might have seen that would suggest there was a different number discussed?

Ms Millar: Senator, I don't recall.

Senator WONG: You don't recall what?

Ms Millar: Whether or not there was a different number discussed.

Senator WONG: On the figure of 1,250 which was in the American press, you'll take on notice whether or not it is the case that that is the number—is that what you're doing?

Ms Foster: Yes.

Senator WONG: My recollection is that, at the time of the announcement, Mr Turnbull and Mr Dutton didn't give any number.

Ms Foster: We're just seeing if we can get hold of what was released.

Ms Millar: My colleague Ms Patterson just confirmed that a media statement by Mr Turnbull and Mr Dutton at the time did not mention a specific number.

Senator WONG: But you're aware of the 1,250 which is on the public record from The Washington Post at least?

Ms Millar: I'm aware of the 1,250 number being mentioned, yes.

Senator WONG: What's your understanding of the number now?

Ms Millar: I just have to check that. We're not directly working on this.

Senator WONG: Although it was raised at leader-to-leader, is this arrangement in a document or an exchange of letters? What's the nature of the recording of the terms of agreement between the US and Australia?

Ms Millar: My recollection is that there was an agreement, but I think it'd probably be better to direct that question to the Department of Home Affairs.

Senator WONG: But my question is: the agreement was between whom?

Ms Millar: I think it was at an officials level.

Senator WONG: So was it signed for at Home Affairs level or at PM&C level?

Ms Millar: Yes. Home Affairs, as I said, was a lead negotiator.

Senator WONG: So they signed it.

Ms Millar: Yes.

Senator WONG: PM&C didn't sign it?

Ms Millar: No.
Senator WONG: Foreign Affairs didn't sign it?

Ms Millar: No. On this deal, as far as I recall, it was Home Affairs.

Senator WONG: Did PM&C provide advice on that document, Ms Foster?

Ms Foster: I don't know. I'll see if someone can find out that answer for us as we're talking.

Senator WONG: As this was raised at the Prime Minister to President level, I assume PM&C stayed engaged, at least to some extent, in the progress of the negotiations, given it was a leader-to-leader-level discussion.

Ms Millar: I'm not actually sure that was quite the case, in that, as with many negotiations, they're very tightly held while they're going on. This was no exception. There was only a very small group of people who were party to those negotiations, and the distribution of the information was very tightly held, as is so often the case in many negotiations.

Senator WONG: You're telling me that the deputy secretary with responsibility for national security in the Prime Minister's department was not engaged or did not have any knowledge?

Ms Millar: I wasn't in that position at the time; I don't know. But it was primarily held by the Department of Home Affairs and to some extent, obviously, by the Department of Foreign Affairs and Trade.

Senator WONG: Surely, if it's a leader-leader-level agreement, there'd be some—I appreciate your evidence is that Home Affairs is the lead negotiator. But PM&C, being the good department that it is and the central department that it is, I would assume would ensure that the terms of the agreement, ultimately, and the progress of the negotiations were consistent with what was discussed between the leaders. So, presumably, you were in the hoop somehow.

Ms Foster: That seems a reasonable assumption. We're just having that checked to see if we can verify that now. I think what Ms Millar was indicating was that, because the negotiations were so tightly held, it wasn't something about which many officers had knowledge and access. That's why we're just trying to check it.

Senator WONG: Yes.

Ms Millar: We did try to check it over the lunchbreak, and we weren't able to ascertain that point, so we'll do what we can.

Senator WONG: Okay. No, that's fair enough. Ms Foster or Ms Millar, to your knowledge did Australia's request change on any occasion?

Ms Foster: I have no knowledge.

Ms Millar: I don't think I'm in a position to answer that question. I'm not quite sure, and, frankly, as I said, negotiations were taken forward by the line agencies. It's not really something I think I've got information I can find for you.

Senator WONG: When you say, 'I'm not in a position to answer,' from your own knowledge are you aware that it did and you don't want to tell me, or don't you know?

Ms Millar: I don't fully know.
Senator WONG: What does 'don't fully know' mean?

Ms Millar: As you would appreciate, some of these negotiations were quite highly classified, so I'm not actually in a position to divulge them. But, also, I'm not—

Senator WONG: I'm not asking for content.

Ms Millar: I'm not also fully in the loop, in the sense that, as I said, it was carried forward by those that I mentioned on the detail of the discussions, and I wasn't privy to all of that.

Senator WONG: Who were the ones carrying it forward?

Ms Millar: As I said, it was the Department of Home Affairs.

Senator WONG: Sorry, is it Ms or Mr Noble?

Ms Millar: Rachel Noble and her colleague Lachlan Colquhoun, who's the first assistant secretary international, and Andrew Goledzinowski, the ambassador for—

Senator WONG: He's no longer in that role, is he?

Ms Millar: No, he's no longer in that role.

Senator WONG: Do you recall ever being advised that the Australian government had asked for a different number of people to be transferred?

Ms Millar: No, I don't recall.

Senator WONG: Subsequent to the Prime Minister's discussion, then-Prime Minister Turnbull, with President Obama, was there any further leader-to-leader engagement ahead of the election on this issue?

Ms Millar: There was the phone call that you referred to earlier between—

Senator WONG: No, that's— I'm sorry—

Ms Millar: The American elections?

Senator WONG: Yes. I apologise, I wasn't clear. As between January 2016—where Mr Turnbull raises it with President Obama. At that time, does he raise a number with Mr President Obama? Does he say, 'We want all of them,' or 'some of them'?

Ms Millar: I really am not able to divulge the contents of discussions between leaders. But I can tell you, as far as I recall, there was no other discussion at the leaders level before the US election.

Senator WONG: Hang on. There are processes by which you make a public interest immunity claim, if that's what you're making. You've not made one in accordance with the procedure that the Senate has indicated should be made. But before we go down that path—I don't want to cause difficulty. I'm trying to understand what Prime Minister Turnbull sought from President Obama. Was it all or some?

Ms Millar: The discussion at the time, as I recall, was in very general terms, and the details were followed up later in the negotiations between our departments and the American counterparts—

Senator Cormann: Which is not unusual.

Senator WONG: Okay.

Ms Millar: which is quite standard.

Senator WONG: Sorry, I cut you off.
Ms Millar: No. That's a fairly standard process, as Minister Cormann mentioned.

Senator WONG: We think there's an agreement as between, signed between—you'll check over the break, but you think the agreement is at official level. Can you take on notice my question from earlier, whether or not the number of people, asylum seekers, that Australia was seeking the US take changed at any point?

Ms Foster: We can take that on notice.

Ms Millar: Certainly.

Senator WONG: When did Mr Dutton get involved? Was he aware prior to Mr Turnbull raising it that this would be raised at leader level?

Ms Millar: I don't know about the discussions between ministers at that time. I was in Washington.

Senator WONG: Sure, so it's probably a little unfair. I'm trying to work out if there's an agreed discussion, that officials are aware that there's been a cross-portfolio discussion and the Prime Minister's going to raise this, or whether this is something the Prime Minister chooses to raise off his own bat.

Ms Millar: I really don't know.

Senator Cormann: I might be able to take that on notice. I'm sure there's information, in relation to these matters, available.

Senator WONG: The records of these negotiations, including what the various offers would be—the various texts et cetera or communication about key aspects of it—do you have any records about that?

Ms Millar: As I indicated at the beginning, I personally don't at this point. Whether or not they are held within the Prime Minister's department, we would have to check. We did do a quick check at lunchtime. As they were such closely-held documents, officers couldn't see them quickly.

Senator WONG: Why are they so closely held?

Ms Millar: It's quite common in sensitive negotiations to ensure there is a narrow distribution.

Senator WONG: ASIO documents seem to get into the public arena pretty easily! Anyway. Sorry, you don't have to respond to that. Perhaps you can take that on notice and, if so, what documents. Then we can have a discussion about content. I'd like to know what documents are held by PM&C.

Ms Foster: Certainly.

Senator WONG: I think you've also taken on notice my request to know if there was any change to the numbers or scope of—

Ms Millar: Yes.

Senator WONG: people that we were seeking the US to agree to. I was going to stop for Senator Patrick. Has he gone away?

Senator McALLISTER: He needed to go to another committee—
Ms Foster: Could I give a clarification, then, for the record? You asked earlier if PM&C had given advice to the PMO about the passage of the medivac bill, and I initially said yes, and then said no, that Mr Reid had said that the discussion was only internal. In fact, our parliamentary liaison officer provided advice to the PMO on the procedural aspects of legislation going through that day. So it didn't go to the politics, if you like, or the tactics of the bill, simply on the process of legislation during the day. But I did just want to clarify that point.

Senator WONG: I'm going to want to follow that up.

Ms Foster: Sure.

Senator WONG: Ms Millar, do you want the opportunity to follow up on some of the issues I have raised with you, rather than me continuing with this line of questioning now?

Ms Millar: We can certainly do that. I cannot guarantee we will be able to get it by the end of the day, but we'll do our best.

Senator WONG: Well, we're here till quite late. Can I have Mr Reid and the parliamentary liaison officer to the table then on the medivac bill, please.

Ms Foster: The parliamentary liaison officer is actually doing her liaison job right now; she's not here. She's actually coordinating—

Senator WONG: This is House, not Senate.

Ms Foster: Yes.

Senator WONG: What was the nature of the advice?

Mr Reid: In the break, we were able to confirm that our House parliamentary liaison officer, on 5 February—so it was a week before parliament came back—provided some process advice to the office of the Prime Minister around the manner in which messages would be reported from the Senate, the manner in which amendments of that kind were reported from the Senate. It was very procedural, around simply the daily program and how that would work.

Senator WONG: But nothing subsequently?

Mr Reid: No.

Senator WONG: On notice, Mr Reid: I didn't take issue with it, but you made an assertion from the table about the effect of a loss on a substantive bill, which I have to say to you is pretty heavily contested amongst a range of parliamentary and constitutional scholars. But, rather than going through it, I wonder if, on notice, you can give me an answer to the question as to why what you said was correct. I'd like you to tell me, with relevant reference to precedents, why you made the assertion you made that a loss on the substantive legislation—what did you say? I can't actually remember the terms you used; I'll have to go back to Hansard—didn't constitute any lack of confidence in the government.

Senator Cormann: That is a matter of constitutional fact.

Senator WONG: No, I'm asking him to just provide me with a more detailed response on notice as to the basis of that assertion.

Senator Cormann: If I might just point you to—

Senator WONG: I'm not going to go into this now.
Senator Cormann: Well, this is actually a pretty important point. In relation to a no confidence or lack of supply situation, in order to bring that about there is an established process in place, which you are well aware of. The government obviously believe—and we have no reason to believe otherwise—that we continue to enjoy confidence and supply in the House of Representatives.

Senator WONG: It's a different question. It's not the question I asked.

Senator Cormann: If the opposition had an alternative view, there are processes available to you to test your belief. I note that, to date, that has not happened.

Senator WONG: Are you clear about the question, Mr Reid?

Mr Reid: I can provide you with the sources and the background, certainly.

Senator WONG: I appreciate that. Thank you. Can I turn now to another matter. It's a question in relation to the AWU case and the evidence which the AFP gave this morning, and it goes to the actions of two cabinet ministers. Evidence was given today by the Deputy Commissioner, Ms Close, I think. The AFP evidence given today—and I think this also was confirmed by the minister in court—was that Minister Cash was requested to be interviewed by the AFP and declined to be interviewed.

Senator Cormann: That is obviously a question for Senator Cash.

Senator WONG: This goes to the Prime Minister, actually. That's what I want to ask questions about. I will ask you first: when were you first aware, Minister, that Minister Cash had been requested to provide a voluntary witness statement to the AFP and had declined to do so?

Senator Cormann: I was not aware. I've read public reports in recent times—but what I can say is that my advice is that Senator Cash last week when she appeared at the Federal Court again confirmed that she stands by these statements that she made in Senate estimates, and in the parliament subsequently, about her direct knowledge in relation to the matters that unfolded.

Senator WONG: So you said you weren't aware?

Senator Cormann: Sorry?

Senator WONG: You answered that question by saying you weren't aware—so you weren't aware that Minister Cash had declined to cooperate with the AFP by way of—

Senator Cormann: I don't agree with that characterisation.

Senator WONG: Let me finish the question and then you can respond, please. Is it correct you were not aware that the minister had declined to provide a witness statement to the AFP, until you read the news articles about that evidence?

Senator Cormann: I'm not directly involved in Senator Cash's involvement as a witness in the process or in the process involving the AWU and the Registered Organisations Commission, that's right. And, to the extent that I have become aware of matters personally myself, it is through the media in relation to the issue that you've just mentioned. And I can't specifically recollect when that was, either.

Senator WONG: I'm not asking for a precise minute. Was it after that fact had been reported?
Senator Cormann: I believe so, yes.

Senator WONG: Can I ask when the Prime Minister first became aware that Minister Cash had declined to provide a witness statement to the AFP?

Senator Cormann: I'll take that on notice.

Senator WONG: Do you know?

Senator Cormann: I don't. I've obviously got to ask him—I don't have personal knowledge of the Prime Minister's personal state of mind or state of knowledge.

Senator WONG: What about Mr Keenan: are you aware that he has declined to provide a witness statement to the AFP?

Senator Cormann: The same answer applies. I was not aware of Mr Keenan's involvement in this process, other than what was reported in the media.

Senator WONG: When was the Prime Minister aware that Mr Keenan declined?

Senator Cormann: I'll take that on notice.

Senator WONG: Surely the Prime Minister or his office were advised that the AFP had made a request of two cabinet ministers for witness statements to be provided—for an interview to occur?

Senator Cormann: What I can say is that Minister Cash cooperated with the investigation and she provided information to the AFP. That is my advice.

Senator WONG: That is not correct. The AFP—

Senator Cormann: That is the advice in front of me.

Senator WONG: Whoever is sending you emails should perhaps start telling the truth, so you don't start misleading the Senate because you're doing the right thing and reading out people's emails.

Senator Cormann: I'm just telling you that I've been advised that this is what—

Senator WONG: We've just had a deputy commissioner of the AFP make clear that Minister Cash declined to be interviewed. This is also from her evidence in the Federal Court: the AFP requested a voluntary witness statement and the minister declined to be interviewed. I don't think Minister Cash is disputing that. How does that constitute cooperation?

Senator Cormann: You are obviously providing a particular characterisation of the processes that took place. I don't have firsthand knowledge of the processes that took place; what I can say is that I'm advised that Minister Cash cooperated with the investigation—

Senator WONG: Who's advising you of that?

Senator Cormann: and that she provided information to the AFP. What I can also say to you, as has been said in the Senate chamber on a number of occasions now, is that this is a matter before the courts, and there's not really anything else that I can personally add.

The final point to make is that Senator Cash is involved in these proceedings not as an accused. The implication in your line of questioning, of lack of cooperation and the like, implies that somehow Senator Cash stands accused. She's been subpoenaed by the AWU, as I understand it, to appear as a witness. So I think—
**Senator WONG:** No, this is an AFP request. What sort of Prime Minister thinks it is acceptable for a cabinet minister to refuse to cooperate with an AFP request to provide a witness statement? On which planet of ministerial responsibility is it acceptable for a senior minister that the AFP ask you questions and seek that you provide a statement and you decline to do so?

**Senator Cormann:** My advice is that Senator Cash did provide information to the AFP and that she did cooperate with them—

**Senator WONG:** Do you know what it was? It was a transcript of her Senate estimates evidence, where she's refusing to provide answers.

**Senator Cormann:** There's obviously a level of theatre involved here.

**Senator WONG:** No, I actually—

**Senator Cormann:** Let me just say again that my advice is that Senator Cash, in sworn evidence in front of the Federal Court, made clear that she stands by the statements that she made in Senate estimates previously. I would have thought that is a pretty strong indication that Senator Cash is confident in the statements that she's made to Senate estimates.

**Senator WONG:** Does the Prime Minister believe it is acceptable for a cabinet minister to be requested by the AFP that she provide a voluntary witness statement and to decline to do so?

**Senator Cormann:** Here's the specific advice I've got, because I don't accept the characterisation that you're putting on it. My advice is that the AFP sent Minister Cash a letter asking if she could be interviewed and make a statement. Minister Cash wrote a letter to the AFP providing them assistance, referring them to her comments in Hansard the days after the raids, and I'm advised that the AFP did not make any further contact. I'm at a disadvantage because I'm not close to this process, but I can only surmise that the AFP would have been satisfied that they had all the information they required—from somebody, I hasten to add, who was not accused of anything and who is appearing as a witness, not as somebody who is the subject of these court proceedings.
Senator WONG: Regarding these two letters—the letter from the AFP requesting that she be interviewed and make a statement and the response from Senator Cash which refers them to the Hansard of estimates—I'd like to know who in the Prime Minister's office was advised of the receipt of the AFP letter and when they were advised.

Senator Cormann: I'll take that on notice.

Senator WONG: When was the Prime Minister aware of the AFP letter?

Senator Cormann: I've already taken it on notice previously.

Senator WONG: No, sorry. First I'm asking about staff.

Senator Cormann: You have previously asked me about when the Prime Minister knew, and I have taken that previously on notice.

Senator WONG: What about staff?

Senator Cormann: Same. I've got to take that on notice.

Senator WONG: And is your evidence, Minister, that you didn't know about it until this became public?

Senator Cormann: That's right.

Senator WONG: Was Minister Cash's decision which is evinced in the letter—that is, she doesn't agree to an interview, instead providing her Hansard from Senate estimates—something which was discussed with the Prime Minister or any member of the Prime Minister's office?

Senator Cormann: I'd have to take that on notice; I'm unaware.

Senator WONG: Are you aware as to whether or not it was discussed with the Prime Minister or any member of the Prime Minister's office?

Senator Cormann: I'm not aware.

Senator WONG: Does this Prime Minister regard it as appropriate and consistent with the expectations upon ministers that a request for assistance from the AFP, a request for a statement to be made, be met with the response that Senator Cash made?

Senator Cormann: I can only assume, given that there wasn't any further request from the AFP after she provided the information she provided, that the AFP were satisfied. But you'd really have to ask them the question as to why, after Senator Cash cooperated with the AFP by providing the information she did, there wasn't any further contact after that. That is not—

Senator WONG: You do know the information is—

Senator Cormann: You are inviting me to speculate, but really only the AFP can answer that question.

Senator WONG: Senator Cormann, they didn't write to her asking for copies of Hansard that they can look at on the internet. They wrote to her asking her to be interviewed. She declined to do so, and I'm asking you—

Senator Cormann: I've got that from you, but not—

Senator WONG: No no, hang on. Well, self-evidently she did, because she wasn't interviewed, she didn't provide a statement, and instead she sent them a letter. Regardless of
that, I'd like to know whether or not the Prime Minister regards that as an appropriate course of action for a minister.

**Senator Cormann:** As I already indicated last week, the Prime Minister has full confidence in Minister Cash. And the other point that I make again, which I think is material, is that in sworn evidence, in front of a court, Senator Cash again stood by the statements that she made in Senate estimates, and my understanding is that that is what you are challenging. You are somehow suggesting, and quite explicitly suggesting, that somehow the statements were inaccurate and you—

**Senator Wong:** Sorry?

**Senator Cormann:** You are asserting and alleging that the statements were inaccurate, based on evidence provided by others.

**Senator Wong:** No, no, not on this occasion. That's not correct.

**Senator Cormann:** That's what you did last week.

**Senator Wong:** No, no. In question time—and I can get to that—we were asserting, and I think that is demonstrably the case from the evidence, that the evidence given by Mr De Garis and Mr Davies was not consistent with Senator Cash's. This is a different point. This is an accountability point. This is a federal minister being asked to assist the AFP with their investigations and declining to do what is requested, which is to attend and to provide a statement. And I'm asking you, as the Prime Minister's representative, whether the Prime Minister regards that as acceptable behaviour.

**Senator Cormann:** And I say to you again: I believe and we believe that Senator Cash did assist the AFP, by pointing them to the evidence that she put on the public record—evidence that she's since confirmed under oath in front of the Federal Court.

**Senator Wong:** My question remains. And, if you've declined to answer it, or want to take it on notice, I suppose that's a matter for you. But you would agree that the standards that are expected of ministers are appropriately high standards, correct?

**Senator Cormann:** Of course.

**Senator Wong:** And they are standards over and above what might be legally possible.

**Senator Cormann:** Well, they are appropriately high standards.

**Senator Wong:** In fact, the Statement of Ministerial Standards talks about that. It talks about acting with integrity, it talks about accountability and it says that ministers must be 'open to public scrutiny and explanation'. You are aware of the ministerial standards?

**Senator Cormann:** Of course ministers are. I believe that your position has questioned Senator Cash, and everyone that is loosely associated with these events, for months, through Senate question time, through Senate estimates and, indeed, with the AFP—

**Senator Wong:** But we are talking about the AFP, and so I again ask you: given the ministerial standards, given that, in our democratic system, the standards expected of ministers are higher than what might be legally permissible, does the Prime Minister believe it is appropriate for a senior cabinet minister to decline to be interviewed by the AFP when requested?
Senator Cormann: I don't agree with your characterisation. I've already indicated to you, as far as we're concerned, Senator Cash did cooperate with the inquiry by providing the information she did, and there was no subsequent request for further information from the AFP.

Senator Wong: The evidence you've just given is inconsistent with the evidence of the AFP. I will quote to you from Hansard this morning—or this afternoon, I'm not sure. Senator Watt asked Deputy Commissioner Close:

How many times did you ask each of Minister Keenan and Minister Cash to provide you with a statement?

Ms Close: At least two occasions—each office.

Senator Watt asks:

In writing?

Ms Close: In writing, as well as verbally through their staff.

The situation isn't as you have been advised by whoever is helpfully messaging you. According to the AFP, the request for cooperation in terms of the provision of a statement is made at least twice.

Senator Cormann: I don't want to be petty, but nothing that you say there is inconsistent with the proposition that, after Senator Cash provided the information she provided, there wasn't any subsequent approach. I don't know—

Senator Wong: Oh Senator Cormann—

Senator Cormann: That's the reality.

Senator Wong: There are many things on which I disagree with you, but I think you do have some sense of the place of ministers of the Crown in our democracy, and of the importance of convention. You cannot seriously and with a straight face sit there and tell me you think it is appropriate for ministers to be asked to cooperate with the AFP on at least two occasions and for them to decline to do so. You cannot tell me that you think that is acceptable.

Senator Cormann: I can only tell you the advice that I've got in front of me. I've taken other matters on notice. The advice that I have in front of me is that the AFP did request Minister Cash to be interviewed and make a statement—

Senator Wong: Twice—at least twice.

Senator Cormann: and Minister Cash wrote a letter to the AFP providing them with assistance referring them to her comments in Hansard on the days after the raids, and that the AFP did not make any further contact subsequent to that. That is the advice I have. If you have different advice—

Senator Wong: I'm reading from the public record. Your staff can get it for you: it's Senator Watt asking questions of the deputy commissioner, and it is that on at least two occasions to each office this request was made. My question remains: does the Prime Minister think that that is acceptable behaviour by his ministers?

Senator Cormann: And the answer that I've given several times now is that the Prime Minister has full confidence in Ministers Cash and Keenan.
Senator WONG: That is not my question. I did not ask if he had confidence in them. Does he think it is acceptable for coalition ministers to not help the AFP when asked?

Senator Cormann: I don't accept your characterisation of that.

Senator WONG: When did the Prime Minister become aware Minister Keenan had declined to assist the AFP?

Senator Cormann: I've already taken that on notice.

Senator WONG: When did you become aware?

Senator Cormann: I am not aware of the precise circumstances, but I've obviously seen recent media reports. I'll take on notice when the Prime Minister became aware of what you are putting to me, and I'll check my record whether I had any prior knowledge, but I don't believe so.

Senator WONG: Again, from the AFP estimates transcript this morning:

Senator WATT: How did you describe the information that Minister Cash and Minister Keenan provided you? They sent you a letter?

Ms Close: They did. They sent the AFP a letter in relation to this inquiry.

Senator WATT: And would you say that that amounts to a witness statement?

Ms Close: No. I would not classify it as a witness statement.

Senator WATT: So, neither Minister Keenan nor Minister Cash provided a witness statement to the AFP?

Ms Close: That's correct.

Senator WATT: But they were asked to do so?

Ms Close: Yes, we wanted to have the opportunity to speak to them both and see if they could provide information to support our unauthorised disclosure investigation.

Senator WATT: But they declined your request and just sent you a letter?

Ms Close: They sent us a letter.

Senator WATT: How many times did you ask each of Minister Keenan and Minister Cash to provide you with a statement?

Ms Close: At least two occasions—each office.

Senator WATT: In writing?

Ms Close: In writing, as well as verbally through their staff.

Was this course of action endorsed by the Prime Minister or his office?

Senator Cormann: Again, I think we're going around and around in circles. As far as Minister Cash is concerned, I repeat: she actually appeared as a witness in the Federal Court.

Senator WONG: That's not assisting the AFP.

Senator Cormann: And, in appearing as a witness in the Federal Court, she confirmed under oath the statement that she made to Senate estimates previously and to the Senate. In relation to the approaches by the AFP to Ministers Cash and Keenan, all I can say is that my advice is that they did cooperate with the AFP by providing information in the form of a letter—something that you already know. If there are any further issues to be addressed here, I think that these are really matters for Ministers Cash and Keenan to address.
CHAIR: I will just note that we've got 10 minutes before the break and Senator Patrick is back.

Senator WONG: I'm happy to break, because he was very courteous on the last occasion.

CHAIR: Thank you, Senator Wong. Senator Patrick.

Senator PATRICK: I've just got a couple of questions—perhaps to you, Ms Foster. Mr Duggan might also be helpful in this regard. I put in an FOI—and I don't want to prosecute the FOI, but it raises a more general concern I might have—for access to a diary. It was the secretary's diary, actually. In response to that, the words came back that the diaries obviously contain details of meetings between the secretary and senior officials of state and territory governments, that information about those meetings is not in the public domain and that, further, there's an implied understanding between the Commonwealth and the states and territory authorities that details of these meetings are kept confidential. I just want to narrow in. Is this some sort of state-to-federal-government agreement that exists with the secretary, or is it more generally a claim that there is an implication that meetings that are held between federal officials and state officials are always secret?

Ms Foster: Let me just get the expert up to the table so that we can answer you very precisely.

Senator PATRICK: Fantastic.

Mr Duggan: There's no general agreement in this regard. It really depends on the nature of the conversation that's being had. Clearly, if the nature of that conversation is something of commercial or national security effect, then that's not something that we typically publicise. But, to the extent that there is no general understanding or general set of rules or guidelines that prohibit—

Senator PATRICK: So there's no implied understanding that the existence of a meeting should be held secret, because you could imagine that anyone listening would think that something that would occur in Stalin's times is that there is general secrecy when public officials, who work for the state, are paid for by the state and work for the public—and it's the same on the federal side—meet. In fact, the FOI guidelines are quite good and case law is quite good, in that what normally could be protected—and there is a threshold to that protection; it is not a blanket protection—is that the communication that is taking place at those meetings is held to be confidential, not the meetings themselves. By way of example, when Mr Dreyfus sought to have access to Mr Brandis's diaries, the judge made it very clear that a meeting between the Attorney-General and ASIS cannot be withheld. It doesn't go to what they talked about, but one would expect the Attorney-General to talk to ASIS on a regular basis. So is there some understanding that the fact of a meeting taking place between state officials is to be withheld from the public? Is that the case?

Mr Duggan: The FOI Act provides that there are grounds but under some fairly strict conditions. I think your presumption that, in general, we wouldn't seek to hide the fact that there were meetings taking place between Commonwealth and state officials is absolutely right. But there are some ground under the FOI Act where you would withhold that information. Those ground are: we would reasonably expect it to cause damage between the Commonwealth and the states—
Senator PATRICK: Yes. That's the threshold I was referring to. But the words were very clear: 'There is an implied understanding between the Commonwealth and the states and territory authorities that details of these meetings are kept confidential.' So that there would be an implied understanding of confidentiality of the fact of a meeting taking place.

Mr Duggan: There's also a second element to that, which is about the extent that revealing that information would disclose information on a matter that's communicated in confidence between the Commonwealth and the states. So there are some things that we do transact with the states and territories that are—

Senator PATRICK: But, for example, having a meeting with a Murray-Darling Basin state or having a Mr McCormack meeting with a state transport minister would surely not be confidential?

Ms Foster: It would be very unusual for the fact of the meeting to be—

Senator PATRICK: Sure. That's what I'm getting to.

Ms Foster: covered by that. But, in some cases, that is the case. As you'd be aware, with each FOI request, we look at each document and assess it on a case-by-case basis. We're not making a generic statement about such meetings but saying that, in this instance, we believe this exemption applied.

Senator PATRICK: This actually makes it very clear: there's an implied understanding between the Commonwealth and states and territory authorities that details of these meetings are kept confidential. Which is why I said: is it only the secretary of PM&C that that applies to, or, more broadly, everyone? But you're saying that's not the case.

Ms Foster: What I'm trying to say is that I think that statement was setting the context for us to apply in this specific case, because if, indeed, there is nothing sensitive, then there is no reason to withhold.

Senator PATRICK: I guess I'll leave this to the Information Commissioner now—

Ms Foster: Indeed.

Senator PATRICK: and, possibly, the AAT. But I'll give you a bit of a tip: I haven't lost one yet. So maybe you want to go back and reconsider a decision on this particular issue.

Ms Foster: Certainly, Senator.

Senator PATRICK: I've won them in the AAT, and even when I get to the AAT the department generally says, 'Oh, well, in that case, we'd better let you have a lot of it.'

CHAIR: There are a couple of minutes remaining before the break. Senator Waters, will that be enough time for your questions?

Senator WATERS: Yes. I might make a start. I'm not too sure who the right folk are to ask this of. It's about the Lobbying Code of Conduct.

Ms Foster: Yes, we can take those.

Senator WATERS: I'm interested in how many people have been penalised for a breach of the Lobbying Code of Conduct?

Mr Reid: As we told you last time—and I think we've answered a question on notice since the last estimates—following the ANAO audit, there was one complaint against a lobbyist, and that lobbyist was removed from the register. That doesn't include a large number of
lobbyists who have come off the register for failing to comply with automatic updates and things like that. That numbers in the several hundred, I think, because there's a mandatory update, and so, often, lobbyists will come off the register. Either they choose to or they fail to comply with the six-monthly updating of their details.

**Senator WATERS:** But they can seek to return if they update those details?

**Mr Reid:** Of course.

**Senator WATERS:** Of those 11 allegations of noncompliance that the ANAO revealed—and that's a couple of years old now—firstly, have there been any new instances of noncompliance since then?

**Mr Reid:** There haven't been.

**Senator WATERS:** Secondly, is there still just the one lobbyist who has been removed for those proven breaches?

**Mr Reid:** In relation to those 11?

**Senator WATERS:** Yes.

**Mr Reid:** That's right, yes. Of the others, all of the 11 were investigated; one was not proven, one was followed by an assurance from the lobbyist that they were aware of their obligations under the code, and one was acted upon by the lobbyist. That was when they removed themselves from the register.

**Senator WATERS:** You said one lobbyist was removed. Was that one of those three?

**Mr Reid:** That was one of those three—the third of those three.

**Senator WATERS:** Was that the last of the three?

**Mr Reid:** That's right.

**Senator WATERS:** So the lobbyist removed themselves, rather than being removed by you or anyone else.

**Mr Reid:** That's right. They were removed at their request, yes.

**Senator WATERS:** At their own request, okay. So there's not been any lobbyists removed other than by their own request?

**Mr Reid:** No, not in terms of a compliance function, if you like.

**Senator WATERS:** So what about the other eight allegations of those 11 that the ANAO identified? You said one wasn't proven, one asked to be removed, and one said, 'I'm sorry, I won't do it again'.

**Mr Reid:** Sorry. I'm not sure what the numbers were in relation to that. They were the three reasons that no further action was taken in relation to the others.

**Senator WATERS:** I see.

**Mr Reid:** I think there may have been more than one where the lobbyist provided an assurance.

**Ms Foster:** Those three reasons covered all of the 11 instances.

**Senator WATERS:** Thank you; I understand now. Would you mind taking on notice, or perhaps you have it to hand there, which of those three reasons applied to each of those 11? So how many fit into each of those categories?
Mr Reid: Yes.

Senator WATERS: All right, but that doesn't change your response earlier, that no lobbyist has been removed other than by their own request.

Mr Reid: That's right.

Senator WATERS: Thank you.

CHAIR: Senator Waters, we're right on time for our scheduled break.

Senator WATERS: Okay. I've probably only got a few minutes left, but I don't want to detain folk.

CHAIR: I'm sure the agency will be here for many more hours, so there will be plenty of opportunities. We will break as scheduled.

Proceedings suspended from 15:45 to 16:02

Senator WATERS: Mr Reid, you were running me through what had happened with the alleged breaches of the Lobbying Code of Conduct and you said, of the 11 allegations of noncompliance that the ANAO had identified, in one of those lobbyists had been removed from the register at their own request. Can you tell me whether or not the lobbying code would allow you or the department to actively remove anyone.

Mr Reid: The code provides for the secretary of the department to remove a lobbyist for a range of reasons, one of which will be failure to comply with the code such as failure to comply with providing the right details and things like that.

Senator WATERS: Has the secretary ever exercised that power?

Mr Reid: Not without the lobbyist requesting to have themselves taken off—so, of his own volition in that way, no.

Senator WATERS: I'm trying to remember how many years the lobbying code has been on foot now.

Mr Reid: Since 2013.

Senator WATERS: So in six-odd years the secretary has never removed anyone.

Mr Reid: That's right.

Senator WATERS: Some might consider that somewhat toothless. Has there ever been any consideration to give some teeth to that Lobbying Code of Conduct or to perhaps use the powers that might exist in it already?

Mr Reid: In terms of the powers that exist in it already, the only power which exists in it is for, as I say, the secretary to remove a lobbyist who has failed to meet the requirements in the code. There are no other sanctions set out in the code. The code is essentially a transparency instrument. When it was announced, it was to be sure that government representatives knew to whom they were speaking. So it was important to ensure that lobbyists were open about who they were representing. That was the rationale behind the code.

Senator WATERS: Would the secretary need to run past the minister a proposal to remove a lobbyist from the register?

Mr Reid: No.
Senator WATERS: Okay, good. There have been a number of complaints about folk who are on the lobbyists register also holding executive positions in political parties. There were obviously a few in the Nationals last year and there was some reporting over the weekend that the Prime Minister at the time, Mr Turnbull, had received quite a number of complaints about people who were simultaneously lobbyists and holding party executive positions. My understanding is that no action has been taken on the basis of those complaints. Could you tell me why not.

Mr Reid: Different responses have been taken to different situations. Can I ask which particular situation you are—

Senator WATERS: All of them. Can you run me through what actions have been taken. I would hope there are not too many of them.

Mr Rush: The Lobbying Code of Conduct does prohibit registered lobbyists from being on executive committees of political parties. That is prohibited. If the department received credible allegations that a registered lobbyist was on a political party's executive then we would look into that and that could be a matter that would generate the exclusion from the register that Mr Reid's been discussing with you.

Senator WATERS: How many times have you looked into it?

Mr Rush: I couldn't give you a number off the top of my head, but from time to time some of the information that's brought to the department's attention goes to whether or not a lobbyist is on a political party executive. So there have been occasions when that's been the subject—

Senator WATERS: There have been a lot of occasions, but I'm interested in how regularly you have acted upon those occasions to investigate and then take action?

Mr Rush: All allegations are looked into and, as the Audit Office's report said in 2013, the 11 allegations that they identified were all investigated.

Senator WATERS: How many times has it been drawn to the department's or the secretary's—whoever the relevant person is—attention that someone who is on the lobbyists register is also holding a position in a political party and, ergo, has a huge conflict of interest? How many times has that occurred?

Mr Rush: To give you an exact number I'd have to take it on notice. It's also worth explaining that the mandatory compliance check that we go through every six months includes checking with registered lobbyists that they continue to comply with the code. So lobbyists are reminded every six months of the requirements of the code. It is not uncommon at that six-monthly check for people to identify an issue in relation to their registration. So they could choose to deregister at that point or at any other time during the year. So if, for instance, a lobbyist were to become a member of a political party executive, they could deregister and stop acting as a third-party lobbyist.

Senator WATERS: I've got here some FOI documents as to nine complaints that were received by the department as to people who are lobbyists and also hold positions in political parties. What did you or your department or whoever is in charge do about those complaints?

Mr Rush: I don't have the details of those cases in front of me, but I can describe the general process. When a credible allegation is received by the department, we look into that.
That would always involve some fairness procedures. So we would generally go to the registered lobbyist concerned to confirm any details that were brought to our attention.

**Senator WATERS:** Did you investigate those nine complaints? It was written up in *The Guardian* a few days ago. I'm sure you saw it. It is on the public record. It was on 9 February.

**Mr Rush:** Yes, the department would have investigated each of those nine cases.

**Senator WATERS:** Are you saying that you found none of those to be credible?

**Mr Rush:** No.

**Senator WATERS:** If that is not the case, what was the action that flowed?

**Mr Rush:** I couldn't answer completely on all nine. I think each case is looked at on a case-by-case basis.

**Senator WATERS:** And what happened? Did anything happen? Was anybody sanctioned?

**Mr Rush:** I know that none of those nine cases resulted in removal from the register, with the secretary exercising that power under the code. I'd have to have a look at each of those cases to tell you whether or not each of the lobbyists concerned took any other action in relation to their registration.

**Senator WATERS:** If you could, because it really goes to the utility of having a code, if it's not enforced or people flagrantly flout it, knowing full well that it's against the code to be both a lobbyist and a party exec. If they're still doing it and complaints are coming in fairly regularly, it really would lead to members of the public questioning the utility of this code, if you can't even tell me whether anything happened as a result of these complaints.

**Mr Rush:** I can tell you that no lobbyists have been removed, except at their own request or through those regular compliance checks since the Audit Office report.

**Senator WATERS:** Is it the case that these nine complaints formed part of the 11 allegations that the ANAO investigated?

**Mr Rush:** Yes.

**Senator WATERS:** Last time we spoke about who administers the register. I believe it was in the process of being transferred to A-G's.

**Mr Reid:** That's right.

**Senator WATERS:** I tried to understand from them where the process was at and I didn't get terribly far. Hopefully you can help me out. How's that transfer going? Have they got control of it now? Just tell me anything you can about that transfer process.

**Mr Reid:** That transfer is subject to an IT infrastructure build which is going to streamline the register itself and make things easier to operate. That IT build is in the final stages of testing. We are intending to transfer the IT system and, along with it, responsibility for the register and the code to AGD in March. It could have happened earlier but, as Mr Rush referred to, there is a six-monthly mandatory update period for all lobbyists on the register, which creates a lot of work in January into February and in July. So we couldn't transfer it in January-February, but it will be ready to transfer to AGD in March, and we are in very regular contact with them about how to make that transition work.

**Senator WATERS:** When did the process of the transfer commence?
Mr Reid: The Prime Minister announced the transfer of the lobbyists code and register to AGD in May last year.

Senator WATERS: So it's been since May and you've been working on the IT system since then.

Mr Reid: That's right.

Senator WATERS: Are there not many folk working on it?

Mr Reid: On the IT itself? I couldn't tell you how exactly many people are working on it. We work with different IT design people and those types, but I couldn't tell you exactly how many. I don't think there's a large team of IT builders living behind it.

Senator WATERS: Who's been looking after it during this transition phase?

Mr Reid: We have.

Senator WATERS: You said the carriage of both the register and the code itself will go to AGD?

Mr Reid: That's right.

Senator WATERS: Are you aware how many folk they will have caretaking compliance with the code and the register?

Mr Reid: No. We've been in discussions with them about the staff that we have dedicated to manage the register. I'm not sure what AGD—

Senator WATERS: Remind me how many people you've had on it while it's been under your purview. Was it two and a bit? It was some small number. I just can't recall.

Mr Reid: On a full-time basis, it's less than one person managing the daily correspondence and daily queries and then a small amount of a more senior officer, executive level 2, who acts as an approver.

Senator WATERS: When you say 'a small amount'?

Mr Reid: I'm talking an hour a week sort of thing, a very small amount.

Senator WATERS: So it's basically less than one full-time equivalent.

Mr Reid: It's definitely less than one person. Of course then during the surge periods, which happen every six months, that increases to a bit over one person full time.

Senator WATERS: So the surge is really not that much of a surge, if you're talking staff hours.

Mr Reid: From less than one to—yes.

Senator WATERS: I will chase up with them whether they're going to continue with that. It seems to be a fairly low level of resourcing. Did you dedicate any additional staff to monitoring the register or compliance with the code after the ANAO report was handed down?

Mr Reid: No.

Senator WATERS: Was there any consideration as to the wisdom of maybe putting some more people on the job when it was revealed that there'd been some noncompliance? You didn't think it was a bad look to have not even one full-time person looking into it?
**Mr Rush:** The Audit Office didn't reveal anything that we weren't already aware of. There were additional resources put into the rebuild of the IT, which is intended to make the system a better administrative system for both the department administering and also for lobbyists and others to access that information. The audit report didn't suggest to us that there was any need for additional staff resources in administering it.

**Senator WATERS:** So you thought those 11 allegations of noncompliance didn't require additional staff to deal with?

**Mr Rush:** The audit report made it quite clear that all 11 cases had been fully investigated and dealt with appropriately by the department.

**Senator WATERS:** That's it from me, thank you, Chair.

**Senator WONG:** Senator Cormann, going back to, first, the issue of ministerial accountability, Minister Keenan was asked on Thursday, 1 March in question time by Mr O'Connor—

**Senator Cormann:** 1 March?

**Senator WONG:** I'm sorry, this must be an incorrect—no, it's 2018. He was asked by Mr O'Connor:

My question is to the Minister for Human Services, and I refer to his previous answers. A moment ago, the minister said he rejected the allegation. Does he deny his office being the original source of the leak to the media about the AFP raid, yes or no?

**Mr KEENAN** (Stirling—Minister for Human Services and Minister Assisting the Prime Minister for Digital Transformation) (14:43): How much clearer can I be? Yes.

The sworn evidence of Mr De Garis, which has been publicly reported, in February of this year to the Federal Court was that 'he worked with a media adviser for Mr Keenan 'to leak news of the impending police raids on the AWU'. Mr De Garis, who at the relevant time, as you know, was Minister Cash's media adviser told the Federal Court that he told Michael Tetlow, an adviser in Mr Keenan's office, about the impending raids on the union's Melbourne and Sydney offices in October 2017. The report says:

De Garis said he—

that is, Mr De Garis—

had called print journalists from the Australian, the Daily Telegraph and Fairfax while Tetlow called television media.

So we have evidence in the Federal Court that says that an adviser to Minister Keenan called the televisions in order to give them advance notice of the raids—a leak—and Mr Keenan in the House of Representatives saying that his office was not the source of the leak to the media about the raid.

Without getting into a long, lengthy obfuscation, Senator Cormann can you just answer this question: which should be believed, Minister Keenan in the House of Representatives or Mr De Garis in the Federal Court?

**Senator Cormann:** We went through this around and around in circles in Senate question time last week. Both ministers stand by the statements that they have made. As you know, these are matters that are currently before the Federal Court. Just because somebody makes a statement a particular way, it doesn't necessarily mean that somebody else making a different
statement makes that statement incorrect. Different people can have different recollections or different states of knowledge at various points in time. All I can say is that, based on the advice in front of me, both relevant ministers stand by the statements they have made to the parliament, to Senate estimates and to the Senate.

Senator WONG: So, by implication, I think you're saying Minister Keenan should be believed, not Mr De Garis.

Senator Cormann: No, you can't ask me to provide—

Senator WONG: No, no.

Senator Cormann: I've got to correct this.

Senator WONG: You need to make sure ministers tell the truth!

CHAIR: Order, Senator Wong!

Senator Cormann: Can I please answer?

Senator WONG: The public cannot be told in the Federal Court something that is utterly inconsistent with a statement the minister has made in the House of Representatives, and simply have that stand.

CHAIR: Senator Wong, please allow the minister an opportunity—

Senator WONG: Will the minister make a statement clarifying why his statement still stands?

Senator Cormann: Again, as far as Minister Cash is concerned, as you know, she has made a statement under oath in the Federal Court standing by her—

Senator WONG: Will Minister Keenan make a statement—

CHAIR: Order, Senator Wong! The minister was halfway through his answer.

Senator WONG: explaining the inconsistency between his statement to the House of Representatives and the evidence to the Federal Court?

CHAIR: Order, Senator Wong! I'm going to have to insist you allow the minister to answer questions before you put another question to him.

Senator Cormann: I'm somewhat at a disadvantage because I don't have firsthand knowledge—and neither do you, incidentally. It is not unusual in the context of court proceedings for there to be different recollections—in good faith, even—from different people about some events that have happened in the past. That is not necessarily unusual. All I can say is that both Minister Cash and Minister Keenan stand by the statements they have made, and I don't have any information otherwise. I again point out that the process in the Federal Court is not as yet concluded. This is a process that is still underway. While you might want to choose a certain statement as the ultimate statement of fact, I don't know that that is something that you can legitimately do in the context of proceedings that have not as yet been finalised.

Senator WONG: This is not a case of people having different recollections. This is a case of facts that ministers have asserted in the House or the Senate being completely inconsistent with evidence that's been given in the Federal Court. Leaving aside the fact that the court case is underway and is yet to be finalised, surely the standards of ministerial accountability
require at least an explanation as to how that inconsistency can be resolved? The House and the Senate should be assured that the ministers have not misled them.

**Senator Cormann:** Both the ministers have repeated the fact that they stand by the statements that they've made. You choose not to accept that—

**Senator WONG:** No, no, I just want to know how you can explain it. This is not about me accepting it, Senator Cormann.

**Senator Cormann:** I don't know that the ministers can explain what is in the minds of other people.

**Senator WONG:** Senator Cormann, you've got sworn evidence that is inconsistent. It's not that I don't or do accept it. The public of Australia have a minister saying one thing in the House and a staffer saying an inconsistent thing under oath in the Federal Court. I am simply saying to you: which of those is correct, and will the ministers make a statement explaining why?

**Senator Cormann:** In relation to Minister Cash, because she has appeared in the Federal Court, she has equally made a statement under oath standing by the statements that she's made in the past. What you are inviting me to do is to be judge and jury—

**Senator WONG:** No, I'm not.

**Senator Cormann:** to ascertain what was what in relation to events that I have no involvement with.

**Senator WONG:** No, no; strawman argument.

**Senator Cormann:** It's not a strawman argument at all.

**Senator WONG:** I'm asking you to back ministerial accountability. I'm asking you to assure the public of Australia that your ministers have not misled the House or the Senate.

**Senator Cormann:** I've already said—and I couldn't have been more clear—that both ministers stand by the statements they have made.

**Senator WONG:** Have you ministers misled the House of Representatives or the Senate?

**Senator Cormann:** If they stand by the statements they have made, then, clearly, they have not misled the House of Representatives or the Senate.

**Senator WONG:** Has Minister Keenan provided an interview or a statement to the AFP?

**Senator Cormann:** I will have to take on notice precisely what Minister Keenan has provided.

**Senator WONG:** You don't know?

**Senator Cormann:** I personally don't know what information Minister Keenan has provided. I indicated that I understand that Minister Cash wrote to the AFP, providing a copy of her statement to the Senate. In relation to Minister Keenan, I will have to take it on notice. I'm sure that he has been asked a question in the House of Representatives.

**Senator WONG:** That's not what I asked.

**Senator Cormann:** I'll have to take that on notice.

**Senator WONG:** We have evidence that the AFP—and I don't think this can be denied—has sought, on at least two occasions, cooperation from those ministers. We've had a long
discussion about Senator Cash. I'm asking whether or not Minister Keenan has ever attended an interview with the AFP or provided an interview for the AFP or provided a statement?

Senator Cormann: I've already taken that on notice.

Senator Wong: Can we come back to the ministerial standards; these are Mr Morrison's ministerial standards. The overarching principle in the standards is accountability. Under the Westminster system, ministers are accountable to the Australian people through the parliament.

Senator Cormann: Under the Westminster system, both Minister Cash and Minister Keenan are accountable to the parliament and both are available to be questioned, among other things, during their respective question times—

Senator Wong: I'll come back to that.

Senator Cormann: and during Senate estimates hearings as well, in relation to Senator Cash; something that I think everybody would agree the opposition has expansively used.

Senator Wong: They are also required to tell the truth.

Senator Cormann: Are you suggesting they didn't?

Senator Wong: I am suggesting that the evidence to the Federal Court is inconsistent with their statements to the parliament. So somebody is not telling the truth.

Senator Cormann: And, subsequently, both ministers have reconfirmed that they stand by their statements, including Senator Cash in sworn evidence to the Federal Court.

Senator Wong: Are you aware that Minister Keenan, on the evidence of the AFP, has not provided a statement nor has he been willing to be interviewed?

Senator Cormann: I've already taken on notice what interaction Minister Keenan has had with the AFP.

Senator Wong: Can I come back to the accountability principle. The overarching principle behind the statement of standards is accountability, which I would hope that even you, as a cabinet minister, would agree with.

Senator Cormann: Even me?

Senator Wong: Yes; you're part of a government that, at the moment, doesn't demonstrate much accountability.

Senator Cormann: I'm here answering your questions.

Senator Wong: You're not, actually.

Senator Cormann: I am, actually.

Senator Wong: You're not.

Senator Cormann: You're trying to get me to say something you want me to say. I'm actually answering your questions.

Senator Wong: You know this stinks to high heaven, Mathias. You know that.

Senator Cormann: Please, Chair.

Senator Wong: Okay; I withdraw that. Accountability is the overarching principle. Operative provision 4.4:
Ministers are required to provide an honest and comprehensive account of their exercise of public office, and of the activities of the agencies within their portfolios, in response to any reasonable and bona fide enquiry by a member of the Parliament or a Parliamentary Committee.

I assume you would agree that that principle should apply to requests for assistance by the AFP?

**Senator Cormann:** Both ministers have been accountable to the parliament, and both ministers continue to stand by the statements that they have made. In relation to Minister Cash, she has written to the AFP providing information, including, in particular, a copy of the statement she has previously made to the Senate. She has subsequently, in the Federal Court under oath, confirmed she stands by her past statement. In relation to Minister Keenan, I've taken a number of questions on notice and I will get those responses to you as soon as possible.

**Senator WONG:** Minister Cash has, on many, many occasions—including when she was standing up behind you in the Senate—declined to answer questions in the parliament because this matter is before the courts. It's also the case that Minister Cash has declined to answer questions in the Federal Court because she's been asked those questions in the parliament. My question to you is this: Minister Cash in the parliament avoids answering questions on the basis that the matter is in the Federal Court, and Minister Cash in the Federal Court declines to answer questions because she's been asked those questions in parliament. It is a very simple question: precisely where is Senator Cash actually accountable?

**Senator Cormann:** Firstly, Senator Cash has of course made very clear statements about what she knew when at the time. These are statements that you are challenging, and you're entitled to do so. But Senator Cash has consistently stood by the statements that she's made to the Senate, including in Senate question time, and, I'm advised, also under oath in the Federal Court.

**Senator WONG:** Hang on. Let's just remember, in October 2017—this is how long this has been going on—Minister Cash provided a statement to the Senate in response to a range of questions about her involvement in the illegal leaking, illegal provision of information about the police raid. At page 3, she made an assertion about the sub judice rule and then she asserts incorrectly, I would interpose: 'The sub judice rule precludes discussion of the matters which are the subject of the proceedings or evidence or contention before that court. It would, therefore, be inappropriate for me or officers at the table to canvas any of those matters'—any of those matters. In the Federal Court, she makes a similar assertion that she can't answer questions because they are matters that go to parliamentary privilege. I will ask someone to provide me with the precise information. Her lawyer successfully cited parliamentary privilege to argue she should not be forced to give specific evidence about details of conversations, including with Mr De Garis. So parliamentary privilege—that is, what she knew—is being used in the Federal Court to avoid the minister having to answer questions about what she knew when about this leak occurring. In the Senate, whether in estimates or in the chamber, she is utilising the Federal Court as a shield against her having to answer questions about her knowledge. Now, under the ministerial standards—

**Senator Cormann:** She did answer questions. I don't accept that characterisation.

**Senator WONG:** She didn't. Her consistent answer is that it wouldn't be appropriate. You yourself have used that excuse.
Senator Cormann: No, I think you're being a bit—
Senator WONG: Let me finish.
Senator Cormann: You're being a bit unfair here. You're fudging something.
Senator WONG: The obligation on ministers is to provide honest and comprehensive account of their behaviour. How is continuing a circular argument that you can't answer questions in either the court or the chamber an honest and comprehensive account of your actions?

Senator Cormann: I reject that proposition. Senator Cash, again and again, including in Senate question time, stood by the statements that she previously made in Senate estimates in relation to these matters. You invited at various times Senator Cash, and myself for that matter, during Senate question time, to make a finding in relation to the status of evidence by others provided in the Federal Court vis-a-vis evidence provided by Senator Cash and Minister Keenan in the parliament and also subsequently confirmed in the Federal Court. Now, that is not a position that we can put ourselves in. That is not a position for the government or for the parliament. That is a position that is appropriately subject to a court process as we speak—incidentally, of course, involving the AWU pursuing the Registered Organisation Commission in relation to some information about whether or not the AWU followed proper process when making certain donations to GetUp! and so on.

Senator WONG: You think it is legitimate for a minister, when asked questions—and I can point you to many, many occasions—in Senate estimates or in the chamber, even last week, where Minister Cash declined to answer questions on the basis the matter was before the courts. According to media reports, the minister was cross-examined about her role in this affair and she refused to answer questions because her answers were protected by parliamentary privilege. So I again ask: to where is she accountable?

Senator Cormann: She was and is accountable to the parliament, and she also provided evidence in the Federal Court. But, again—

Senator WONG: She declined to answer questions!

Senator Cormann: I completely reject that proposition. Of course, it is entirely appropriate for her to point to evidence that she has provided in the Senate and in Senate estimates—

Senator WONG: No, this is a different point. Sorry.

Senator Cormann: to reconfirm that she stands by the statements that she has previously made. It is also important for us to remind ourselves that Senator Cash is not somehow an accused in these proceedings. She is a witness in a court case that has been launched by the AWU in an attempt to prevent the Registered Organisations Commission from getting access to documents—

Senator WONG: Don't read that.

Senator Cormann: seized from AWU head office—

Senator WONG: Really, they shouldn't make you read that out.

Senator Cormann: by the AFP under a warrant. Why is the AWU resisting the AFP having access to these documents?
Senator WONG: Why is this government leaking information about a police raid to the media before the police raid occurs? You can try and divert all you like onto 'We hate the AWU. We hate unions,' but fundamentally—

Senator Cormann: I don't hate the AWU. That's not right.

Senator WONG: the question for the Australian people and for this parliament and this government—

Senator Cormann: I reject the proposition that I hate the AWU. It's just not true.

Senator WONG: Well you're the one who raised the AWU. The question is this: do we think it's acceptable in today's society for federal ministers offices to give advanced notice to the police, something which is not condoned, which is not consistent with the law, in order to damage the Leader of the Opposition—that we think we should be using police raids for these political purposes? That's the first point.

Senator Cormann: Sorry; I don't believe it's—

Senator WONG: I will give you the opportunity to respond; can I just finish this? The second point is whether this government, these ministers, think it is appropriate for them to be able to get away with not providing a comprehensive account to either the AFP or to the public in circumstances where their statements to the parliament are directly contradicted by the evidence before the Federal Court. This goes to the heart of accountability to the parliament, which is one of the key conventions in our democracy.

Senator Cormann: Firstly, it is wrong to say—and I believe I heard you say—that the AFP raids were initiated somehow by the government. They were initiated by the Registered Organisations Commission, which is, of course, independent. In relation to the other matters, both Senator Cash and Minister Keenan have consistently stood by the statements that they have made about their state of knowledge in terms of what occurred. From where I sit, I don't believe that I can make any judgement otherwise than to accept that these are the statements they stand by.

Senator WONG: Okay. It's also ministers' obligations under the standards at 5.1 to ensure that any error or misconception in relation to such a matter—that is, conduct of public office et cetera—is corrected or clarified as soon as practicable and in a manner appropriate to the issues and the interests involved. Does the Prime Minister consider that that aspect of the statement of standards would require the ministers to give a full and frank explanation—certainly far fuller and franker than the avoidance that we've had today?

Senator Cormann: As I have indicated to you, the Prime Minister has full confidence in both Minister Cash and Minister Keenan.

Senator WONG: On what basis?

Senator Cormann: Obviously, the Prime Minister has full confidence—

Senator WONG: On what basis?

Senator Cormann: on the basis that he has full confidence in Minister Cash and Minister Keenan. I don't think that you are an objective judge in relation to whether or not the Prime Minister appropriately has confidence in his ministers.

Senator WONG: No, no. There are many things I think, but that actually was not the basis of the question I asked. You made an assertion that the Prime Minister has full
confidence in these ministers, and I'm asking you on what basis he retains full confidence in these ministers.

Senator Cormann: On the basis that both Minister Cash and Minister Keenan have consistently stood by the statements that they've made about their state of knowledge at the time and that the core proposition which you are pursuing and which you have been pursuing—that somehow they misled the parliament—is not right.

Senator Wong: Does the Prime Minister believe that the statements made by Minister Keenan and Minister Cash, in light of the evidence of two coalition staffers to the Federal Court, remain correct?

Senator Cormann: The Prime Minister has full confidence in his ministers.

Senator Wong: Does the Prime Minister consider or believe that the statements made by his ministers, in light of the evidence given by coalition staffers in the Federal Court, remain correct?

Senator Cormann: The Prime Minister continues to have confidence in his ministers.

Senator Wong: So does he think the statements are true?

Senator Cormann: It is not up to anyone in executive government to provide a running commentary on witness evidence—

Senator Wong: Incorrect. The Prime Minister must be satisfied that ministers have not lied to the parliament. Is the Prime Minister satisfied that ministers have not lied to the parliament?

Senator Cormann: The Prime Minister has full confidence in his ministers and he is satisfied that his ministers have consistently stood by the statements they have made to the parliament—

Senator Wong: Wow. Does the Prime Minister—

Senator Cormann: as their accurate state of knowledge.

Senator Wong: Right. Does the Prime Minister believe his ministers, Minister Keenan and Minister Cash, have been truthful in their statements to parliament?

Senator Cormann: The Prime Minister has full confidence in his ministers.

Senator Wong: Does the Prime Minister believe that the statements made by these two ministers to the parliament are truthful?

Senator Cormann: Well, yes. I mean, that's—

Senator Wong: Okay. The standards are the Prime Minister's standards, and any allegation—can I make a couple of points? The first is that, contrary to your assertion, Senator Cormann, that it's not a matter for a member of the executive to determine what's correct, in fact, it is a matter for the Prime Minister. The Prime Minister can decide whether and when a minister should stand aside if a minister becomes the subject of an investigation of alleged illegal or improper conduct. In other words, what the statement of standards demonstrates and confirms is what we all know: that the standard expected of ministers is higher than a criminal standard. It's a matter for the Prime Minister to determine whether or not the minister needs to stand aside.

Senator Cormann: Obviously—
Senator WONG: I'm just going—

Senator Cormann: I thought you'd asked me a question.

Senator WONG: I am asking you a question; I haven't got to the question. Where an allegation involving improper conduct of a significant kind is made against a minister, the Prime Minister may refer the matter to an appropriate independent authority and/or may seek advice from Secretary of the Department of the Prime Minister and Cabinet on any matters within these standards. This may be a question for Ms Foster. Has the Prime Minister sought any advice in relation to Minister Cash's or Minister Keenan's statements to the parliament or actions in relation to the AWU in terms of compliance with the ministerial standards? It was a rather clumsy question. Would you like me to try it again?

Ms Foster: No.

Senator WONG: No, you don't want me to try it again? No, no advice has been sought?

Ms Foster: I think I get it. No advice has been sought.

Senator WONG: Has Dr Parkinson raised at any point with the Prime Minister the possibility that consideration as to the application of ministerial standards should occur?

Ms Foster: Not to my knowledge. As you know, normally the ministerial standards are written—

Senator WONG: It's the other way around.

Ms Foster: such that it's the Prime Minister who initiates that conversation.

Senator WONG: So neither the Prime Minister nor his office on any occasion have sought to consider or sought advice as to whether or not the ministerial standards are being complied with.

Ms Foster: No. As Senator Cormann said, both ministers in question have affirmed that they have not breached the standards, in effect, by their affirmation that they stand by their statements.

Senator WONG: So have we got to the point in the Australian democracy where utterly inconsistent evidence can simply be responded to not by a statement, not by refuting it but by ministers simply saying, 'I stand by what I said before'?  

Senator Cormann: Hang on.

Senator WONG: I mean, it's extraordinary.

Senator Cormann: The alternative you are suggesting is that, just because somebody makes a different statement, that is—

Senator WONG: No, it's not a different statement; it's sworn evidence of two of your staffers. It's not like some Johnny or Jane Smith out there just making a comment on Twitter. This is two of your staff having given sworn evidence that they leaked the information about the raid, which is directly contrary to the statements to the parliament of two of your ministers.

Senator Cormann: And those two ministers stand by the statements that they've made. They've consistently stood by the statements that they've made. Unless you are judge and jury, I don't know that you're in a position to make a judgement that would indicate that somehow they should not be able to rely on their statements. I mean, Senator Cash in
estimates clearly spelled out—under intense questioning, I might add—what she knew and when, and she has consistently stood by the statements that she made at the time. There is no basis on which to believe that what she's saying is not her true state of knowledge when she made those statements.

**Senator WONG:** You can try to hang your hat on that timing issue with Senator Cash. That has now, I think, been obviated by the effluxion of time and the fact that the evidence has been given in Federal Court. But, leaving that aside, the only way in which Minister Keenan's statement to the parliament can stand is if Mr David De Garis lied. That is the only way. It is a direct contradiction.

**Senator Cormann:** Well—

**Senator WONG:** No. Minister, you cannot possibly say to this committee or to the Australian public that there's some weasel way out of that. Minister says no involvement of his office. De Garis says that Minister Keenan's adviser helped him leak the information. They are diametrically opposed. If the Prime Minister stands by Minister Keenan's statement, is it the government's position that Mr David De Garis has perjured himself?

**Senator Cormann:** The government is not providing a running commentary or judgement on things that are—

**Senator WONG:** It's not a running commentary.

**Senator Cormann:** currently before the Federal Court. What I would say on behalf of the government is that both relevant ministers have made certain clear statements that they stand by.

**Senator WONG:** Which are inconsistent with clear statements from senior coalition staff members.

**Senator Cormann:** I can't really help you any further, other than to say that both ministers continue to stand by the statements that they've made on the public record, in parliament, in Senate estimates and in the House of Representatives.

**Senator WONG:** You could help us further, Minister. Some cabinet minister in this government could actually demonstrate that ministerial accountability to the parliament is something this government takes seriously.

**Senator Cormann:** We're taking it very seriously.

**Senator WONG:** You don't take it seriously.

**Senator Cormann:** I am sitting here answering your questions.

**Senator WONG:** You don't take it seriously—

**Senator Cormann:** I object to that.

**Senator WONG:** I mean 'vous' not 'tu'. The government has evidence in the Federal Court which is directly contradicting statements made to the parliament by two cabinet ministers in relation to an illegal tip-off, and the government has simply stonewalled. It is not providing any further information. It is not providing any statements. It is simply saying the ministers stand by their statements in circumstances where two senior former staffers have given evidence which is directly contrary. That is not ministerial accountability; that's just stonewalling.
Senator Cormann: I disagree. You would say that, I guess.

Senator WONG: I think most reasonable observers would.

Senator Cormann: I don't think that's right.

Senator WONG: Find me a reasonable observer who reckons that is an appropriate exercise of ministerial accountability.


Ms Foster: We are trying to get the question up. What's the subject?

Senator McALLISTER: It goes to the issuing of ministry lists.

Ms Foster: We don't have a paper copy. Someone is trying to Google it.

Senator McALLISTER: I might ask my question anyway; you may or may not need to refer to it. At that time, PM&C advised that, since Prime Minister Turnbull was sworn in on 2015, a ministry list was issued on four occasions between 21 September 2015 and 18 February 2016. PM&C further advised that, since the ministry list on 19 July 2016 that followed the 2016 election, further ministry lists were issued on seven occasions: 24 January 2017, 27 July 2017, 27 October 2017, 13 November 2017, 6 November 2017, 19 December 2017 and 20 December 2017. Following provision of that answer, Mr Joyce resigned as Deputy Prime Minister. Prime Minister Turnbull was rolled by his colleagues and Mr Morrison became the Prime Minister. Former Minister Bishop left the ministry and various other changes took place. Can you advise the committee on how many ministry lists have been issued since 20 December 2017?

Ms Foster: It will take us just a minute to get that information, but someone can calculate that for us and I'll get back to you as soon as I can.

Senator McALLISTER: I think last February we established that, under Prime Minister Turnbull, a new ministry list had been issued every two months or so. Have things improved under Mr Morrison? Is it less frequent?

Ms Foster: From memory, we issued one ministry list immediately after Prime Minister Morrison announced his ministry, and we've made one change since then.

Senator McALLISTER: What was that change in relation to? Who resigned or was dismissed?

Ms Foster: That was in relation to, I think, Andrew Broad being replaced by Assistant Minister Gee.

Senator McALLISTER: Under the Ministers of State Act, there can be 30 ministers and 12 parliamentary secretaries in office at any time. Does PM&C have a record of how many individuals have served as ministers since the 2013 election?

Ms Foster: Again, we could calculate that, Senator, but I don't have it to hand.

Senator McALLISTER: If you could, I would appreciate it. Separately, can I refer to an FOI request, specifically FOI 2018 146.

Ms Foster: What is the subject?
Senator McALLISTER: It was reported in The Mandarin in November last year. It released partial minutes from the secretary's teleconference that was chaired by Dr Parkinson in the week beginning 20 August.

Ms Foster: We don't have it here, but please ask the question.

Senator McALLISTER: Can I ask the purpose of these meetings convened by Dr Parkinson.

Ms Foster: If I'm remembering the right sequence, Dr Parkinson held a series of meetings during the week after the challenge to Prime Minister Turnbull, or in that week between the challenge and Prime Minister Morrison being elected as leader of the party, and in the immediate aftermath of those. Is that the right timing?

Senator McALLISTER: Yes.

Ms Foster: The purpose was to make sure that we were sharing with secretaries what we understood to be in place at the time. For example, a number of ministers had resigned and there were a number of occasions on which there was potentially a gap, or there was a gap, between the minister offering their resignation and that being accepted. So we were making sure that we were all clear about what the status of ministers was during that period. Then, after Prime Minister Morrison became Prime Minister and put his new ministry in place, we were going through practical arrangements—for example, the cross-swinging of ministers to different portfolios. You may be aware that we made very few, if any, MOG changes as a result of that change. We managed that by cross-swinging ministers. That required us to make sure all departments understood how that mechanism would work. That was the sort of thing we discussed at those meetings.

Senator McALLISTER: So these were extraordinary meetings; they weren't ordinary meetings that had otherwise been scheduled?

Ms Foster: That's correct. We were calling meetings as we needed to.

Senator McALLISTER: On how many occasions did Dr Parkinson convene these meetings?

Ms Foster: I'd have to take that on notice to give you an exact number. There were a handful, in broad terms.

Senator McALLISTER: If we could understand on how many occasions during the month of August Dr Parkinson convened those meetings, that would be helpful.

Ms Foster: Sure.

Senator McALLISTER: The meeting minutes of 22 August indicate that Dr Parkinson and secretaries discussed potential pathways for leadership matters from this point. What was under discussion under that dot point?

Ms Foster: Senator, I'm just looking at the wording, refreshing my memory. What I think I'm remembering is that the first challenge was on the 21st, and therefore there might have been a number of different scenarios that played out that week. Again, I'm dredging into my memory, I think after the first unsuccessful challenge in the party room there was a fairly clear indication that there would be another and so we were trying to make sure that, as a bureaucracy, we were prepared as much as we could be for any of the outcomes that might result.
Senator McALLISTER: Dr Parkinson, in the notes, appears to advise secretaries that they should continue to present as calm professionals. 'We've seen it before. We'll do our jobs.' Was there a sense of chaos in the Public Service at that time that required Dr Parkinson to reassure secretaries in this way?

Ms Foster: Not at all—I think it was more a reflection that there was a lot of media speculation and there was a lot of uncertainty about what might transpire. Dr Parkinson was simply saying that it's our role during a time of change to maintain a calm, professional approach and to support the government and Prime Minister, for each secretary to be supporting their minister in this period. There was no sense of chaos.

Senator McALLISTER: So it was perfectly normal that secretaries needed to discuss arrangements for international travel, noting the proposed Indonesia visit and the Five Eyes Home Affairs A-G's meeting next week. That was all perfectly normal and being handled in a perfectly normal way in this context where ministers were resigning and it was unclear whether or not their resignations had been accepted. Planning was nonetheless able to go on. I frankly find that difficult to believe.

Ms Foster: For example, with the Indonesia visit, which was from memory the Friday after the prime ministerial transition, the discussion that we were having was about the desirability of that visit proceeding. If Prime Minister Turnbull had remained in the role then that would've been fairly straightforward. If there was a transitional Prime Minister, what would we need to do to prepare a new Prime Minister?

Senator DEAN SMITH: It was still a very successful trip by the Australian Prime Minister to Indonesia, if I recall.

Ms Foster: It was indeed. That was the nature of the discussion around Indonesia. As you know, there was also a significant meeting to which home affairs ministers and Attorneys- General equivalents from the Five Eyes community were coming to Australia. We were discussing how we could manage that, should we have a changeover in ministers. As it again turned out—

Senator DEAN SMITH: It was successfully executed.

Ms Foster: the Governor-General was able to swear in Minister Dutton again as home affairs minister and both he and the Attorney-General were able to attend the meeting.

Senator McALLISTER: So the Australian Public Service was working overtime to manage the chaos that was occurring at ministerial level, by the look of it.

Ms Foster: We were making sure that we were giving a focus that week to managing, as I said, whatever outcome may come from the challenge to the leadership.

Senator McALLISTER: Yes, I can imagine it did require quite a bit of focus. What were—

Senator DEAN SMITH: But you're experienced, given the Rudd-Gillard exchange.

Senator McALLISTER: the arrangements for those ministers who had tendered their resignation but whose resignation had been noted but not accepted?

Ms Foster: I'm sorry; I missed the first bit of the question.

Senator McALLISTER: Yes, that's because Senator Smith was talking over me. Dr Parkinson was asked about arrangements for ministers who had tendered their resignations
but for whom the resignations had—I think this ought to say 'not been accepted, and Dr Parkinson noted, 'We were not providing any direction about handling this, but secretaries should continue to exercise their judgement in handling these matters.' How ought secretaries exercise their judgement when it's unclear whether or not a person, in fact, continues to be a minister?

Ms Foster: In fact, the minister continued to be a minister until his or her resignation was accepted by the Prime Minister.

Senator McALLISTER: I see. Can I just go back to the original question, which was really about whether these were ordinary meetings or extraordinary meetings. How often does the secretary of the Department of the Prime Minister and Cabinet reflect on leadership changes of the current government?

Ms Foster: When there's a potential leadership change, I think, would be the simplest answer to that question. We don't speculate about that at any other time.

Senator McALLISTER: Are these meetings ever convened to discuss broader political developments in the parliament?

Ms Foster: I'm trying to think of another example where we've pulled secretaries together. As you may know, there's a secretary's board which meets on the first Wednesday of every month, but from time to time there'll be issues which occur at short notice which require us to pull the secretaries together again. Often that will be done via teleconference so it's minimally disruptive. I recall that we did that in response to the issues we had around the filing cabinet issue earlier last year, for example, to make sure that everyone was getting the same information at the same time about what had occurred and how we were responding.

Senator McALLISTER: I think that is all I have on that matter.

Senator WONG: Minister, I wasn't going to go back to this, but I actually do want to go back to one point, which is your answer both here and in the chamber that references Minister Cash's state of knowledge at the time she made those statements. Would you accept that if a minister makes a statement to the chamber but subsequently becomes aware of evidence that demonstrates that the statement was incorrect, it is incumbent upon the minister to correct that error?

Senator Cormann: You are asking me a hypothetical question.

Senator WONG: No, I'm asking you as a matter of the ministerial standards. The phrase you used was, I think, 'the state of knowledge at the time she made those statements'—let's accept for the moment, for the purposes of this discussion, that that is the case. Do you accept that, if a minister makes a statement to the chamber and subsequently becomes aware that the statement is incorrect, it is incumbent upon that minister to correct that record?

Senator Cormann: If a minister becomes aware that a statement he or she made is incorrect, then of course the minister is required to correct the record. But, as I understand it, that is not the situation we find ourselves in here, because the minister, to this day, stands by the statements she has made. Both ministers stand by the statements that they have made. I do not, myself, in front of me, have any court transcripts; it appears that perhaps you might have court transcripts in front of you. If you, do perhaps you might want to table them.
Senator WONG: I'd be really careful about inviting me to do that. I'm actually, frankly, reading off quotes from evidence in media reports, so it is publicly available. But, if you want me to table a transcript of Minister Cash's evidence that we've highlighted to demonstrate it's inconsistent with the statement, I will take instructions over the break and I'm happy to look at that.

Senator Cormann: I've just been advised that the department doesn't actually have a transcript, so—

Senator WONG: Sure, but in the quotes I put to you I was actually quoting from articles which quoted the evidence. But I will take instructions on whether you want a highlighted transcript demonstrating the inconsistency between the statements—

Senator Cormann: The thing is, though, you're quoting evidence out of context—

Senator WONG: From articles. I am happy to give you the articles. We can just look at the media—

Senator Cormann: Sure, but the truth is—and this is what I've said consistently—that both ministers stand by the statements that they've made.

Senator WONG: We'll certainly have a look to see whether we can give you something over the break. Can I come back to another matter? It's Paladin— is that how one says that?

Ms Foster: That's my understanding.

Senator WONG: Yes. I just want to understand, first, if there has been any involvement by PM&C in relation to this contract and this issue. And, if so, what that engagement is. Ms Foster, you're very good so can we not have, 'This is a matter for home affairs and they're the contracting party'. I know that. I actually just want to know what your involvement is, if any.

Ms Foster: I was just about to say that I don't believe that we have. But I'll ask Ms Millar to come to the table.

Senator WONG: Thank you. It may not be Ms Millar. I don't know who else it might be.

Ms Millar: I'm not aware of any involvement by this department.

Senator WONG: How did the department become aware of the fact of a contract with Paladin, which had been extended, bringing the total value of the contract to $422 million over 22 months? That's a very significant outlay by the government. When and how did PM&C become aware of that fact?

Ms Foster: We don't believe, and I've asked for people to check with our staff to see if anyone has any further information, that we had any involvement or any knowledge of this contract.

Senator WONG: Prior to this becoming public—we should confirm this.

Ms Foster: That's right.

Senator WONG: Okay. So you'll check that. Perhaps you can confirm this for me—and, yes, obviously, we'll ask questions of Senator Cormann, with his finance hat on, and I think home affairs is being asked at the moment—in your experience, would it be usual for a contract of that size to be approved without any executive-level oversight?
Ms Foster: I'm hesitating to answer, only because I don't have details of the contract and I don't know the context in which it was established. I would be answering from a basis of ignorance rather than informed.

Senator Wong: That's fair enough. So, given the size of the contract, which is nearly half a billion dollars—that's 'billion' with a 'b'—can you tell me if any additional checks were undertaken in your portfolio or, to your knowledge, in any other portfolio, to ensure that the awarding of this contract was above board?

Ms Foster: Not in our department, and I wouldn't have visibility for others. Again, what kinds of checks and balances would be very much context dependent.

Senator Wong: Okay. Can anyone else at the table tell me anything? Ms Patterson? She comes up to the table and it looks like she's going to help, but she doesn't!

Ms Patterson: The most I can add is that, certainly, PM&C was not consulted on the decision to engage Paladin. That was very much a home affairs procurement process.

Senator Wong: Okay. And just to confirm, without wanting to divulge any consideration by cabinet, this was not a matter that went to cabinet, so PM&C didn't become aware of it through the usual cabinet processes. Is that correct?

Ms Foster: 'I don't know' is the answer. I'm not sure how I could answer that question, because if it were to have been discussed at cabinet then my confirming that would be confirming considerations of cabinet.

Senator Wong: Well, no. People can't have it both ways. They can't say, 'This was a cabinet decision'—I just want to know: was this a cabinet decision, or was this a departmental decision? I'll put it that way.

Ms Foster: I don't know. That question would have to go to Home Affairs.

Senator Wong: To your knowledge, was it a cabinet decision?

Ms Foster: To my knowledge it was not. Sorry: I should say that I don't know whether or not it was a cabinet decision. That's more accurate.

Senator Wong: Minister, was it a cabinet decision, or an ERC decision?

Senator Cormann: Sorry—which decision is this?

Senator Wong: This is the $423 million contract to Paladin, to provide security for refugees in PNG and Manus Island—

Senator Cormann: I'd have to take that on notice. We'd obviously have followed all the normal, proper processes. In terms of what precisely was involved and what we can assist you with, I'll provide that to you on notice.

Senator Wong: Can you tell me whether there was any correspondence between the Prime Minister and the relevant ministers, or vice versa, in relation to this matter?

Senator Cormann: I'd have to take that on notice.

Senator Wong: Ms Foster?

Ms Foster: Similarly, I'll have to take it on notice.
Senator WONG: Does anyone at the table have any knowledge of that? No? Okay. Since this matter has received some media attention, has the department briefed Mr Morrison at all about the contract with Paladin?

Ms Foster: No, we haven't.

Senator WONG: Have you been asked for advice?

Ms Foster: Not to my knowledge.

Senator WONG: Are you aware that one of the reports—this one, relevantly, in the Australian Financial Review—was:

Paladin's contract was extended on January 3, even after one of its founders was not permitted entry into PNG. In the weeks following another director was charged with 106 counts of fraud and one of money laundering. Is PM&C aware of those facts?

Ms Foster: No.

Senator WONG: You weren't aware prior to it? Or you weren't aware at all until I just put them to you?

Ms Millar: I heard it on the ABC news this morning.

Senator WONG: But prior to that you weren't aware?

Ms Foster: I wasn't, no.

Senator WONG: This matter has been the subject of quite a lot of media attention. As the central department, did anyone from PM&C ever make any contact with Home Affairs asking them what was going on or whether or not these issues were being dealt with?

Ms Millar: Not to my knowledge.

Ms Foster: And, again, we'll check with our staff to see whether anyone was aware, whether anyone made contact with the Department of Home Affairs over this.

Senator WONG: So, basically it's nothing to do with you?

Ms Foster: The conduct of the business of departments we will typically leave to those departments.

Senator WONG: You're choosing your words carefully, because you know that is the case but you also know, I'm sure, the role that PM&C has in terms of the performance of the Public Service.

Ms Foster: I was going to go on to say that were we to have reason to have concern then it would be natural for either the line area or, depending on the severity of the issue, the secretary to engage. What I don't know about this issue is: were we aware, as a department, that there was a significant issue of concern? And that's what I'm asking.

Senator WONG: Is there a significant issue of concern?
Ms Foster: I'm operating on the basis of media reports at the moment, so it would be wrong of me to draw a conclusion on it. I was trying to say 'in principle'. You said 'Wouldn't you?' And my answer was 'Yes, if we were aware that there was an issue of significant concern then, typically, there would be discussion between PM&C, at some level, and the department.

Senator WONG: Ms Millar, you're the line area? Is that how that works?

Ms Foster: As you know, PM&C see plays a shadow role for the various policy areas.

Senator WONG: We could call it 'shepherding'. 'Shadow' sounds somewhat dark. Or 'guiding light'? Or is that too—

Ms Millar: It might be a bit strong. We normally wouldn't be involved in the details of a contract. That's why I'm hesitating to speak.

Senator WONG: I appreciate that. But the point I was going to—and I think Ms Foster has given a reasonable set of answers around that from where she is sitting—is that that is the case but you do have a role about the standards of conduct of the Public Service and surely as the central department, if it comes to your attention that at least prima facie there appears to be some issue associated with some decision or conduct of a department, you might do something about that—engage with your counterparts, escalate it et cetera. Is that broadly a fair summation of your role and the evidence you have given?

Ms Foster: Yes. And it would be typically to engage with that department, because each secretary is legislatively responsible for his or her actions.

Senator WONG: Sure. Did you have an engagement with Mr Pezzullo about this contract given the controversy associated with it and the lengthy period this has been in the media? Criticisms have been made about the quantum of the contract, the nature of the directors, the capacity of the firm to exercise functions under the contract, and the procurement process. Concerns which have been raised publicly on numerous occasions go to both process and the quality of the contract, of the decision-making.

Ms Foster: As I said before, we at the table have no knowledge of that occurring and no knowledge of the department being aware of a concern of a level that would trigger any engagement. We typically don't get involved in the individual management of contracts. Clearly there are other parts of the government, like the ANAO, who do investigations, and we oversee that.

Senator WONG: I understand that. It just seems to me that we have a lot of media reports questioning the closed tender process, value for money and allegations against a couple of the directors/founders—I am a little unclear as to their relationship with the company—and whether they can actually carry out the contract. Leaving aside the veracity of any or all of those propositions, that is in the public arena. Is it your evidence that none of that elicited PM&C's attention sufficiently to actually engage with Home Affairs?

Ms Foster: Neither Dr Parkinson nor I were actually aware of the Paladin issue before we saw it in the media.

Senator WONG: Ms Millar, is it your evidence that nothing that was in the media previously elicited the attention of PM&C?

Ms Millar: I wasn't aware of much of this at all until I heard media reports.
Ms Foster: And the reason I am saying we will check with our staff is because both Ms Patterson and Ms Millar are relatively new to their roles, so I just want to make sure there wasn't another senior person who was aware and making a judgement.

Senator Cormann: I should also add, given what was previously asked, that the first the Prime Minister heard about this contract was from his staff at today's question time briefing. He hasn't had a briefing from the department.

Senator Wong: Minister, when I was asking about whether this $423 million contract, which is being questioned, went through a cabinet or ERC process, you said, and it may simply have been a throwaway line, that it—that is, the contract—followed all proper processes. Frankly, that is quite a big call given the questions around the process which are being raised publicly and explored now.

Senator Cormann: I will get some more information on notice, as I've indicated, about what process was followed. I don't have direct visibility of this contract, as I'm advised the Prime Minister didn't have visibility either. I can only assume that, as is normally the case, this would have followed the normal process for this sort of contract, but I'm happy to provide further information on notice, as I undertook before that I would do.

Senator Wong: Thank you. Ms Foster, just to confirm, I think Ms Millar said—

Senator Cormann: I will get some more information on notice, as I've indicated, about what process was followed. I don't have direct visibility of this contract, as I'm advised the Prime Minister didn't have visibility either. I can only assume that, as is normally the case, this would have followed the normal process for this sort of contract, but I'm happy to provide further information on notice, as I undertook before that I would do.

Senator Wong: Ms Foster, just to confirm, I think Ms Millar said—

Senator Cormann: Again, I'm at a disadvantage because I don't have any firsthand knowledge, but what I'm assuming is that, as would normally be the case with something like this, this would have followed all of the normal tender processes that would normally apply. But I'm getting that information for you on notice.

Senator Wong: Ms Foster, Ms Millar gave evidence—I think this was your evidence, Ms Millar—that the first she knew of issues associated with this contract was via the ABC news this morning. Correct?

Ms Millar: That's correct.

Senator Wong: Went did you first become aware, Ms Foster?

Ms Foster: Similarly, I heard it on the news this morning.

Senator Wong: So no-one read anything before?

Ms Foster: Senator, it's not something that would normally fall into my bailiwick; that's why I'm checking to see if the line area had any visibility over it.

Senator Wong: It's just a lot of money for a company that has a few questions hanging over it, in a closed tender.

I would like to see if Ms Millar has anything more on the US arrangement or whether the witnesses would like to wait until after the dinner break.

Ms Foster: We might have a more complete answer if we wait till after the dinner break.

Senator Wong: See, I'm being very polite! Thank you.

Senator McAllister: I want to ask a couple of questions about the ABC. Last year a process to recruit the new chairperson was commenced. Has a decision been taken by the Prime Minister on who to recommend to the Governor-General for appointment as the next ABC chairperson?

Ms Foster: I'm just asking Mr Duggan to come up to the table.
Mr Duggan: Apologies, Senator, do you mind repeating the question?

Senator McALLISTER: I think we all understand that a process to recruit the new chairperson of the ABC has commenced. Has a decision been taken by the Prime Minister on who to recommend to the Governor-General for appointment as the next ABC chair?

Mr Duggan: Not that I'm aware of.

Senator McALLISTER: Are you speaking in your personal capacity? When you say, 'Not that I'm aware of,' is the department aware of it?

Mr Duggan: No, the department is not aware of the Prime Minister having made a decision on who to recommend to the Governor-General.

Senator McALLISTER: Has a short list been provided to the Prime Minister consistent with the requirements in the act by the nomination panel?

Mr Duggan: Yes, the nomination panel's report was provided to the office of the Prime Minister on 16 January.

Senator McALLISTER: Has the Prime Minister consulted the Leader of the Opposition on the proposed appointment?

Mr Duggan: Not that the department is aware of.

Senator McALLISTER: Is the department aware of when the Prime Minister intends to speak to Mr Shorten about the appointment?

Mr Duggan: No.

Senator McALLISTER: Is the department aware of when the new ABC chairperson will be announced?

Mr Duggan: No.

Senator McALLISTER: The AFR is reporting today that it will be announced at the end of this week or perhaps next week. Have those dates been floated with the department by the Prime Minister's office?

Mr Duggan: No.

Senator McALLISTER: Have any dates been suggested to the department?

Mr Duggan: No.

Senator McALLISTER: On 30 September last year, the Leader of the Opposition, Mr Shorten, wrote to the Prime Minister requesting a bipartisan approach to the appointment of the next ABC chair, stating that the opposition expects to be genuinely consulted with sufficient notice on all future ABC board appointments. You'd accept that Mr Shorten is simply asking for what is already required by law under the ABC's act?

Mr Duggan: Yes, that's correct. Under the act—section 24X(1)—the Prime Minister is required to consult the Leader of the Opposition before recommending to the Governor-General who should be appointed as the ABC chairperson.

Senator McALLISTER: Has the Prime Minister sought any advice on the meaning of the requirement 'to consult' in the context of that act and his decision?

Mr Duggan: The Prime Minister hasn't sought that advice from the department.

Senator McALLISTER: Has the department provided any advice?
Mr Duggan: Not on the meaning of the act, no.

Senator McALLISTER: On 4 October the Prime Minister responded to Mr Shorten's request by rejecting his call for a bipartisan approach to the appointment of the next ABC chair. I wonder if this is something Minister Cormann is able to assist with. Can you explain why—

Senator Cormann: Can I explain why what? I'm listening.

Senator McALLISTER: Why Mr Morrison rejected Mr Shorten's request for a bipartisan approach to the appointment of the ABC chair?

Senator Cormann: I believe that what the Prime Minister has said is that the appointment of the next chair of the ABC board would be conducted in precisely the same way and consistent with the provisions in the relevant act, as was the case under the previous Labor government. I think that's the essence of what the Prime Minister indicated to Mr Shorten.

Senator McALLISTER: I think the process under the last Labor government was not for the most part governed by the arrangements that are now in place because the act didn't commence until 2012. There is a new act and a new set of requirements. There's also a new political imperative because, in fact, there is substantial controversy about the independence of the ABC.

Senator Cormann: Why is there a new political imperative?

Senator McALLISTER: Because there is substantial controversy about the independence of the ABC under this government. I'm asking you why, in light of an offer for a genuinely bipartisan approach to this appointment, the Prime Minister refuses to participate or cooperate?

Senator Cormann: It is the executive government of the day that makes recommendations to the Governor-General in relation to appointments that are the purview of the Governor-General under relevant legislation. There is a process set out in relation to aspects of the selection process, which of course were followed by the government, as is appropriate. Beyond that, as the Prime Minister has indicated to Mr Shorten, this is being handled in precisely the same way as it would have been handled by the previous Labor government.

Senator McALLISTER: It's true that a process has been set out, but you would concede that in the past the Liberal government has on more than one occasion blatantly ignored the recommendations of the nominations panel.

Senator Cormann: Are you suggesting that your government has always 100 per cent agreed with every recommendation of the selection panel?

Senator McALLISTER: I'm asking a question of you.

Senator Cormann: In fact, the legislation that you put in place—

Senator McALLISTER: Normally, it's my role to ask questions and your role to answer them.

Senator Cormann: Sure, I'm happy to answer it. What I can confirm again is that the government will make the recommendation to the Governor-General, consistent with the requirements in the act, which was amended by your government. Your government obviously set out a particular process and we will fully comply with that process.
Senator McALLISTER: In relation to the appointment of Dr Guthrie to the board, Dr Guthrie wasn't recommended by the nominations panel, was she, Minister?

Senator Cormann: Sorry?

Senator McALLISTER: Your government appointed Dr Vanessa Guthrie to the board.

Senator Cormann: Yes.

Senator McALLISTER: They also appointed Mr Joseph Gersh. Those people were not recommended by the nomination panel to the minister, were they?

Senator Cormann: Not that I'm the minister responsible for this area, but I believe that there's a process set out under the act as to what the government must do in circumstances where the government decides not to accept the recommendations made by the selection panel. I think it involves a statement in both houses of parliament, from memory, in relation to that fact.

Mr Duggan: I can confirm that Dr Vanessa Guthrie wasn't nominated by the nominations panel. I can also confirm, as the minister said, that there is a requirement under the act for the government to table the reasons for the appointment in each house of parliament not more than 15 sitting days after the appointment is made.

Senator McALLISTER: Do you think, Minister, that the public will be satisfied if, on this occasion, in relation to such an important appointment, and an appointment that occurs very close to a federal election, the Australian public will be satisfied if the recommendations of the nomination panel are ignored again by your government?

Senator Cormann: I think that obviously the Prime Minister and the government take very seriously the responsibility to provide advice to the Governor-General, and the government will be accountable to the parliament and to the Australian people for whatever decision is ultimately made.

Senator McALLISTER: On the last occasion when the former chairperson, Mr Milne, was appointed, what steps did Prime Minister Turnbull take to consult with the Leader of the Opposition around that appointment?

Senator Cormann: I would assume that the process was the same as what it was under the previous government.

Senator McALLISTER: I'm not really asking for an assumption; I'm asking—

Senator Cormann: I'm happy to take on notice the specifics. I wasn't involved at the time.

Senator McALLISTER: Perhaps the department can assist.

Mr Duggan: I can confirm, Senator, that the former consultation was a phone call between the Prime Minister and the Leader of the Opposition in advance of making the appointment, or progressing the appointment, with the Governor-General.

Senator McALLISTER: What date did that phone call take place?

Mr Duggan: I'll have to take that on notice, Senator.

Senator McALLISTER: On 14 January this year, the shadow minister for communications, Ms Rowland, requested a progress briefing from the nomination panel on the process to shortlist candidates for the ABC chair. However, the Prime Minister's office has refused this request. Why was that progress briefing refused?
Senator Cormann: There's a normal process underway and, under the relevant legislation, the responsibility to make a recommendation to the Governor-General is the responsibility of the executive government of the day.

Senator McALLISTER: Is there anything in the ABC Act that would preclude such a briefing taking place?

Senator Cormann: Again, we are handling this and other relevant appointments in precisely the same way they were handled by the previous government. There is nothing unusual about it.

Senator McALLISTER: You don't want opposition staff to be able to just speak with the nomination panel?

Senator Cormann: That is not something that has been part of the process before, and I don't believe it is part of the process under the legislation as it currently stands.

Senator McALLISTER: But there's nothing in the legislation that would prevent it, and the offer that's on the table is a genuinely bipartisan approach.

Senator Cormann: Is it your policy, if down the track you become government, that you will involve the opposition in the way you are suggesting?

Senator McALLISTER: Again, I'd make the point that normally, in the estimates process, your job's to answer questions.

Senator Cormann: Well, I think I've answered that question.

Senator McALLISTER: Well, I don't think you have. What are the selection criteria for the ABC chairperson?

Senator Cormann: I'd have to take that on notice. That's not in my portfolio area, so I can provide that for you on notice.

Senator McALLISTER: How many potential applicants for the role of chair were proactively contacted by Korn Ferry?

Senator Cormann: I think you will find that that part of the process is managed by the communications portfolio.

Mr Duggan: That's correct.

Senator McALLISTER: That's right, Mr Duggan?

Mr Duggan: Yes.

Senator McALLISTER: I think my frustration is that there is mounting public anger about the handling of the ABC. There is an offer on the table from the opposition, both from the Opposition Leader and also from the shadow spokesperson for communications, to work with the government to re-establish trust in the ABC, and there is simply stonewalling. There have been repeated attempts made to communicate with the Prime Minister and to the Prime Minister's office, and the answer that we're getting is pretty minimal.

Do you accept that there are issues of trust in relation to the ABC, given the events that took place in relation to Ms Guthrie and Mr Milne? We have a situation where, in September, they announced they were sacking the managing director. There were then allegations that Mr Milne, the chair, told the CEO to fire Emma Alberici and Andrew Probyn. Because of Liberal government pressure, Mr Milne resigned. Ms Guthrie is suing the ABC. There is a big
problem at the ABC. There is an offer on the table for bipartisanship to assist in restoring confidence in this institution. Can you explain why you are refusing that offer.

Senator Cormann: I don't believe there is an offer of bipartisanship on the table. I believe what's on the table is an attempt by the Labor opposition to exercise executive government responsibility, irrespective of the outcome of the election. I think this is another demonstration of the Labor opposition getting way ahead of itself in terms of making assumptions about what the result of the next election will be.

Senator McALLISTER: No.

Senator WONG: It's actually about trying to make sure the ABC functions.

Senator Cormann: The responsibility under the act to make recommendations to the Governor-General is the responsibility of the executive government.

Senator McALLISTER: And there is a responsibility to consult.

Senator Cormann: The executive government is fulfilling all of the requirements under the act scrupulously—

Senator McALLISTER: There is a responsibility to consult, Minister, and an offer has been made to you about the form that consultation. Your government has sought no advice from the public service about what that consultation ought to comprise. You've got an offer to do something differently, and better I would suggest, and you're refusing it.

Senator Cormann: As I have indicated to you several times now, we are going through this process consistent with the act, consistent with precedent, and I can't remember either Prime Minister Gillard or Prime Minister Rudd ever consulting with us to the extent that you're suggesting that you should be consulted.

Senator McALLISTER: Under a different act, under a different process. The law was changed in 2012.

Senator Cormann: Indeed. We are in full compliance with all of the requirements in that amended act.

Senator McALLISTER: But you sought no advice about what compliance would actually involve.

Senator Cormann: You're suggesting we should be doing things that you never did in government.

Senator McALLISTER: Under a different act.

Senator Cormann: But that's irrelevant because the act wasn't changed in the areas that you are asking us to act differently.

Senator McALLISTER: In relation to consultation, indeed it was. That is precisely the point. The act requires consultation; it previously didn't.

Senator Cormann: Not in the form that you are suggesting.

Senator McALLISTER: You've sought no advice about what form is in fact required.

Senator Cormann: We will act consistent with the legal requirement.
Ms Foster: If I could just clarify: Mr Duggan's advice was that the Department of Prime Minister and Cabinet had provided no advice, but of course the process is being run by the Department of Communications, so you might wish to also address a question to them.

Senator McALLISTER: Thank you, Ms Foster. However, it's Mr Morrison who's been corresponding with Mr Shorten on these questions, and I am interested to understand the basis of his correspondence because it appears that he has written to Mr Shorten without obtaining any advice whatsoever. Thanks, Chair.

CHAIR: Senator Kitching, are you seeking the call?

Senator KITCHING: Senator Cormann, can I ask: does the Prime Minister enforce any standards of the conduct of backbenchers? Ms Foster?

Ms Foster: Sorry, Minister Cormann was looking at me. The Prime Minister imposes standards for ministers and then—I'm looking to Mr Reid or Mr Rush to come and help me—there is another process for parliamentarians.

Mr Reid: The short answer to your question is that parliamentarians' responsibilities are dealt with by parliament or by the House, and particularly by the privileges committee. The Department of Prime Minister and Cabinet assists the Prime Minister in relation to advice on the ministerial standards but not in relation to backbenchers.

Senator KITCHING: I will just go to recent reports about the conduct of the Liberal MP for Moore, Mr Goodenough. There were recently some reports that Mr Goodenough had escorted a delegation of Asian businesspeople to two lobster businesses that pay a commission to his company for securing export deals and to declare his interests in this company to the parliament contrary to the rules. So, that was one report. He used his official MP's LinkedIn page to advertise the sale of commercial units, which he owned through one of his holding companies—a company which he has failed to declare to the parliament. He also used his official MP's Facebook page to promote a shopping centre in which he has a pecuniary interest. Senator Cormann, does the Prime Minister consider that it is appropriate for Mr Goodenough to abuse his position as a government MP to promote his commercial interests?

Senator Cormann: I believe that Mr Goodenough has made certain statements in that regard, and I refer you to those statements. To the extent that you've got inquiries in relation to the use of work expense arrangements, there's obviously an appropriate part of the Finance portfolio in which questions in relation to these matters can appropriately be addressed. I don't believe that these are matters for Prime Minister and Cabinet.

Ms Foster: Senator, we have no role in the conduct of parliamentarians. We advise the Prime Minister only, at his request, on ministerial conduct.

Senator KITCHING: Senator Cormann, has the Prime Minister counselled Mr Goodenough about his behaviour?

Senator Cormann: I'm not aware of what interaction there was, if any, between the Prime Minister and Mr Goodenough, but I'm happy to take that on notice.

Senator KITCHING: Thank you. Would you also take on notice: has the Prime Minister taken any action about Mr Goodenough's conduct and the confusion between his commercial interests and his parliamentary position?
Senator Cormann: Again, I understand that Mr Goodenough has made certain public statements himself. I would refer you to those statements and, beyond that, I'm happy to take these things on notice.

Senator KITCHING: Mr Reid, do you think that this matter would be more appropriately dealt with by the Privileges Committee?

CHAIR: It sounds like you're asking an official for an expression of opinion there, Senator Kitching.

Senator KITCHING: Would it be normally more appropriate for the privileges committee?

Senator Cormann: That is not a question for the official.

Senator KITCHING: Senator Cormann, do you think that the privileges committee of the House of Representatives should undertake an investigation?

CHAIR: Order, Senator Kitching! I have been fairly tolerant here, but I think it has been very clearly answered by the officials and the minister that PM&C has no responsibility for the conduct of members of parliament.

Senator Cormann: In relation to what is appropriately a matter for the privileges committee of the House, or the Senate for that matter, that is a matter for the House, and the Senate.

Senator KITCHING: The only reason I raised it, Senator Cormann, was that Mr Reid did say it was normally dealt with by the privileges committee, so I raised that issue for confirmation. Could I go to Senator McKenzie. According to media reports, Senator McKenzie charged taxpayers almost $20,000 in May 2018 so she could fly direct from Rockhampton to Melbourne to see an ice hockey game. An equivalent commercial flight would have cost around $614, or 32 times less than the cost of the chartered RAAF jet. What was the Senator doing in Rockhampton? Was she representing another minister?

Senator Cormann: I'm not aware of the circumstances of Senator McKenzie's official travel on that occasion. I do point out that she is the minister with responsibility for the sports portfolio among other things, but if you've got any specific questions, again, there is an appropriate part of the Finance portfolio where work expense arrangements can be asked about.

Senator KITCHING: The minister's spokesperson insisted that multiple quotes were obtained to 'find the most cost and time-efficient use of travel'. Senator Cormann, as the Prime Minister's representative, will you undertake to require Senator McKenzie to produce those quotes to the parliament?

Senator Cormann: You have the opportunity to ask questions of Senator McKenzie, as you have the opportunity to ask questions of me in relation to matters involving me. I would encourage you to ask Senator McKenzie these questions.

Senator KITCHING: I'm asking you because I want go to the Statement of Ministerial Standards. As you would know, there's a section that says, '1. Principles … 2. Integrity,' and then it goes further. There is also section 4 which talks about accountability and responsibility. How does that gel? That's why I'm asking you if you can ask Senator McKenzie to produce those. She's the one who said there were multiple quotes.
Senator Cormann: Then you should ask her the question, unless you are suggesting to me—

Senator KITCHING: Well, you're here representing the Prime Minister, and we're discussing the Statement of Ministerial Standards, in PM&C.

Senator Cormann: And Senator McKenzie, as far as I'm concerned, complies with the Statement of Ministerial Standards. If you have queries in relation to individual travel arrangements in relation to her official travel as a minister, obviously you've got the opportunity to ask her and you have the opportunity to ask the Independent Parliamentary Expenses Authority. Obviously ministers have to travel from time to time in the course of their official duties. I don't think that anybody would be surprised to hear me say that.

Senator KITCHING: Could I go to Senator McKenzie's trip to Cairns, where she went to watch the basketball.

Senator McALLISTER: Just before you do that, Senator Kitching, it is worth going back to the very specific piece in the ministerial standards which reads, at 4.1:

Ministers and their staff are provided with resources and facilities at public expense for the effective conduct of public business. Such resources are not to be subject to wasteful or extravagant use, and due economy is to be observed at all times.

Senator Cormann: I don't really want to go there, but if you are inviting me to provide you with a comparative analysis: Senator McKenzie is the minister with responsibility for the sports portfolio, and I'm well aware of very senior ministers previously who travelled to grand finals in VIP aircraft—

Senator KITCHING: And a former foreign minister. She did that as well, and for the polo.

Senator Cormann: Let me just make the overall point that ministers, in the course of fulfilling their duties and responsibilities, do have to travel, and we live in a very big country. When you talk about attending events in Cairns, the logistics involved can be somewhat complex from time to time. I don't have knowledge of the specific circumstances in relation to the travel that you're referencing, but I would encourage you to put your questions to Minister McKenzie. I'm not in a position to just accept whatever assertion you make in relation to aspects of that travel. You have, of course, the opportunity to ask these questions of the relevant minister.

Senator KITCHING: Just to go to the Cairns trip: that cost $14,000. A similar nonstop 2½ hour flight on Jetstar would have cost about $221, or 63 times less than the amount she charged taxpayers. Why wouldn't she have taken the commercial flight?

Senator Cormann: I'm not aware of Senator McKenzie's diary arrangements at the time. I'm not aware of what her other duties and responsibilities in other parts of Australia might have been on or around those commitments that you're referencing in Cairns. So I can't really assist you based on what you're putting to me. I invite you to ask Senator McKenzie those questions if you believe that there are questions to be asked.

Senator KITCHING: I can go through the Cairns trip, the travel allowance being claimed for purchasing an apartment in inner city Melbourne and a variety of other things. It was revealed last year that $1,000 in travel expenses was charged by Senator McKenzie for three trips to Melbourne. There was spending $2½ thousand of taxpayers' money to campaign for
Barnaby Joyce during the New England by-election. There was thousands of dollars to attend an awards night for shooting in Sydney, and it was electorate business—that was the claim.

Senator Cormann: Did you say an awards night for shooting in Sydney?

Senator KITCHING: It was for an awards night for shooting in Sydney.

Senator Cormann: Are you suggesting that it is not appropriate official business?

Senator KITCHING: What I want to know is: who enforces the Statement of Ministerial Standards?

Senator Cormann: Obviously the responsibility to make judgements in the context of the Statement of Ministerial Standards is the Prime Minister's. I'm not hearing you refer to anything that involves the improper use of work expense arrangements that are available to all members and senators and, indeed, all members of the executive.

Senator KITCHING: She is a minister. How is this enforced? The Prime Minister—we have had this discussion now over several estimates periods. Who enforces this? It never seems to be enforced.

Senator Cormann: I disagree with that characterisation. I would just say that, in relation to the use of special purpose aircraft, there is an approval process in place.

Senator KITCHING: Who did approve that trip?

Senator Cormann: I'd have to take that on notice. I assume it went through the normal process.

Senator KITCHING: If you could, that would be good. If you could tell me who particularly approved it, that would be useful. Do you think it meets community expectations?

Senator Cormann: I do believe that the community expects members and senators—and, indeed, ministers—to engage and interact with the community, to be available to attend events and listen to views and feed them into the deliberative processes of government, absolutely.

Senator KITCHING: You might be aware of media reports, over the weekend, of a function called the National Obesity Summit. What time did the summit start?

Senator Cormann: I honestly don't know. I'm not aware of—

CHAIR: This does not sound like a matter for PM&C, Senator Kitching.

CHAIR: I know what you want to know, Senator Kitching, and this is not the appropriate committee to raise that matter—
**Senator KITCHING:** specified as causing her—what I want to know is, does that comply with the Statement of Ministerial Standards and has Senator McKenzie acted with integrity and with the best interests of the Australian people at heart?

**Senator Cormann:** The Prime Minister has full confidence in Minister McKenzie. These are matters that are not matters for the PM&C portfolio. These are matters, in the first instance, for the health portfolio and, of course, you'll have the opportunity to ask questions in that portfolio about the obesity summit and any related matters.

**Senator KITCHING:** I'm happy to ask questions there as well. Often, it is quite interesting that answers given in one committee for estimates differ from answers given in another committee, as we've seen recently. But I would like to know whether the Prime Minister thinks that Senator McKenzie has complied with the Statement of Ministerial Standards, in terms of all of these issues.

**Senator Cormann:** I'm not aware of any reason why he wouldn't. The Prime Minister has full confidence in Minister McKenzie.

**Senator KITCHING:** I want to go to the issue of the Prime Minister wearing poorly photoshopped shoes in a photo that was uploaded to his official website. After this appeared on social media, the fact that the white trainers had been photoshopped but a left shoe was on Mr Morrison's right foot, the Prime Minister tweeted that the photo had come from the Department of Prime Minister and Cabinet, not his own staff. He said: 'Messaged my department, "I didn't ask for the shoe shine but if you must photoshop please focus on the hair or lack thereof, not the feet."'

A spokesperson for Prime Minister and Cabinet told *The Australian* how the odd shoes ended up on the Prime Minister's website, and that decision was made by an officer in the graphic design team in the Department of Prime Minister and Cabinet in developing design options for the Prime Minister's Christmas card. By FOI, we received some documents and in the body of that it says, 'They were expecting a few versions of the card and, in one'—this is a message from the Prime Minister's office, expecting a few versions of the card—'please crop out shoes.' Who asked the department to photoshop the shoes?

**Ms Foster:** Senator, it might help if I just quickly run you through the sequence. We were provided with an image by the Prime Minister's office for the Prime Minister's Christmas card. The graphic designer was given the task of working this up into some options for a Christmas card—and, when we talk about options, they were, 'Should there be a Happy Hanukkah option?' and different ways of saying 'Happy Christmas'. They were all the sorts of options that we were working up—the sort of text that went with it. The graphic designer looking at the photograph wanted to see the impact of matching the colour of the Prime Minister's shoes to the girls' dresses, in essence, so it was a visual thing that she was playing with. Mrs Morrison and the girls were wearing white dresses. She created an image with white sneakers photoshopped over the Prime Minister's sneakers but immediately cropped out the back foot, the one where there was apparently a second left shoe. There was no request from the Prime Minister's office to do that. It was the decision of the graphic designer to see the impact of a different colour.

The image with the back foot in it was never provided to the Prime Minister's office. It was, unfortunately, saved as a file rather than being deleted. Some weeks—I think—later, we
were changing the Prime Minister's photograph on the website. So the card was produced; there were a number of options taken; the Prime Minister's office chose a version which had, in fact, both feet largely cropped out; and then we did the wording underneath it. You've got all of those various pictures from the FOI that we provided. Sometime later we were asked to change the photograph—

**Senator KITCHING:** Sorry, change the photograph on the website?

**Ms Foster:** on the website. Because the original photograph for photoshopping with both shoes visible had been incorrectly saved as 'final' rather than 'draft' or in fact deleted because it was not used, that was inadvertently loaded to the website. Because of the way the website displays, that was not evident to anyone who checked the photo. Depending on your browser, your browser will frame the photo in particular ways. In fact, in all contemporary browsers that we checked, it looked like the cropped version with the back foot removed.

**Senator KITCHING:** Cropped out, yes. But there were obviously discussions between the PMO and the department about the photographs.

**Ms Foster:** Yes.

**Senator KITCHING:** So the PMO did ask for several versions. In fact, the message from the PMO says, 'Expecting a few versions of card.' The next bullet point is, 'In one, please crop out shoes.' So there was an ask from the PMO for versions.

**Ms Foster:** Yes, and it's not entirely clear whether that was versions of photo, versions of message or both.

**Senator KITCHING:** But the Prime Minister's own tweet is, 'I didn't ask for the shoeshine, but if you must photoshопер'—blah, blah. They did ask though. His office did ask for several versions.

**Ms Foster:** I don't want to get too technical about it, but there is editing that's done on photographs that is what I would call superficial, cropping a photograph to fit in a particular size, removing red eye, fixing lighting—that sort of thing. It's very unusual—in fact, we can't identify any other occasion on which we have actually altered an image by adding something, like a different shoe. That's not our standard practice. So, when we're asked to produce several versions, that to us means: 'Give us different croppings, make sure the lighting's nice, and fix the messaging underneath because we want some different versions of that.'

**Senator KITCHING:** Is this a problem of communication between the Prime Minister and his office—

**Ms Foster:** No.

**Senator KITCHING:** because they asked for several versions, but the Prime Minister by his tweeting seemed to indicate that he hadn't?

**Ms Foster:** No, the error was entirely that of the department, and the error was essentially in the misnaming and uploading of an image that should have been deleted. Neither the Prime Minister nor his office at any stage requested that we photoshopped in the sense that we're talking about.

**Senator KITCHING:** In the FOI message, it says, 'Expecting a few versions of card,' and then, 'In one, please crop out shoes.' So they did ask for photoshopping.
Ms Foster: That's why I was trying to make the distinction between cropping and altering.

Cropping—

Senator KITCHING: Cropping is a form of altering of an image.

Ms Foster: Shall I say adding elements to a photograph?

Senator KITCHING: Well, they didn't add in; they cropped.

Ms Foster: That's correct.

Senator KITCHING: Yes. So they did ask for it. I'm looking at their email which you've given to me under an FOI, which makes it clear that it was the PMO that asked for it.

Ms Foster: The issue around the photoshopping was the addition with the changing of the colour of the shoes. That was the thing that was being picked up in the media.

Senator KITCHING: And the angle of the foot.

Ms Foster: And the angle of the foot.

Senator KITCHING: And the fact that there were two left feet.

Ms Foster: They were not requested by the PMO.

Senator KITCHING: Sorry, they weren't requested, but they did ask for versions. They did ask for versions. It's in the email. They were expecting you to provide different versions of the photo.

Ms Foster: Senator, as I said, it's not clear from that message whether it's versions of the photo or versions of the message. In fact, the context around it was that they wanted different messages to go with the card. They wanted different options to look at around that. It's not at all—

Senator KITCHING: The next bit of it says, 'What are we doing for them this year, by the way?' or 'BTW', to be precise. Message from PMO: 'Expecting a few versions of card. In one, please crop out shoes.' Next line: 'What are we doing for them this year, by the way?' and I presume that means, 'What are we doing for them?' 'them' being the Christmas cards. So they did ask you to provide various versions.

Ms Foster: But at no stage did they ask us to do anything other than a pretty routine exercise of cropping the image.

Senator KITCHING: It's just that the Prime Minister then went on to disclaim all knowledge. And I know that we've seen many ministers disclaim knowledge of what their offices get up to today, but this is another version of that.

Ms Foster: No, Senator, the Prime Minister said, 'I didn't ask for the shoeshine,' and that's absolutely correct. Neither he nor his office asked us to change the colour of his shoes.

Senator KITCHING: Chair, just one moment. Thank you.

Ms Foster: Senator, Mr Martin's just pointed out for context that the statement, 'What are we doing for them this year, by the way?' he thinks probably refers to the fact that in some years we've done electronic cards and in some years hard copy.

Senator KITCHING: Okay, thank you.

Senator McALLISTER: I'd like to turn to the topic of Mr Broad. He served as Assistant Minister to the Deputy Prime Minister until December 2018. Can I table a statement that was
issued by the Deputy Prime Minister on 17 December 2018. I might go on, because I feel certain that you will have seen it already. The statement reads:

Deputy Prime Minister, Minister for Infrastructure, Transport and Regional Development and Leader of The Nationals Michael McCormack has accepted Andrew Broad's resignation as the Assistant Minister to the Deputy Prime Minister.

It goes on later:

Mr McCormack said due to the nature of the allegations made, it is appropriate for Mr Broad to resign as the Assistant Minister to the Deputy Prime Minister.

Minister, can you confirm the statement of Mr McCormack that Andrew Broad resigned from his role as Assistant minister?

**Senator Cormann:** Well, I've got the statement in front of me here; it's the statement made by the Deputy Prime Minister.

**Senator McALLISTER:** Can I ask you to consider this gazette notice by the Governor-General which reads:

His Excellency the Governor-General directs it to be notified, for general information, that on 18 December 2018, he revoked the appointment of The Honourable Andrew John Broad MP as Parliamentary Secretary to the Deputy Prime Minister and Minister for Infrastructure, Transport and Regional Development.

**Senator Cormann:** I can see that statement.

**Senator McALLISTER:** Isn't it correct to say that Mr Broad didn't resign but was actually sacked by the Governor-General?

**Senator Cormann:** Well, my understanding is that he offered his resignation and that was given effect to in the usual way. I mean, there's obviously a process involved when a member of the executive leaves the executive, which involves the Governor-General, and that was notified the following day in this form.

**Ms Foster:** That's correct. When a minister resigns the formal mechanism to bring that to effect is a revocation. So on appointment, the Governor-General will appoint; on their leaving, he will revoke.

**Senator McALLISTER:** Is it your evidence that every coalition minister who's left the ministry has had their appointment revoked by the Governor-General, since 2013?

**Ms Foster:** Yes, that's the formal process.

**Senator Cormann:** And every minister under any previous government too.

**Senator McALLISTER:** Thanks.

**Senator CAMERON:** Can someone explain to me why the review of the VET system is being conducted by PM&C and not the Department of Education and Training?

**Dr Baxter:** The review is being undertaken by a task force situated within the Department of Prime Minister and Cabinet, but it's actually being contributed to by staff from a number of different agencies, including the Department of Education and Training; Industry, Innovation and Science; Finance and a range of other agencies also.

**Senator CAMERON:** So who is the lead minister?

**Dr Baxter:** It's reporting to the Prime Minister.
Senator CAMERON: Is that because you've got no confidence in Minister Cash, Senator Cormann?

Senator Cormann: No, the Prime Minister has full confidence in Minister Cash. We've gone through this on a number of occasions already today.

Ms Foster: If I could just add, it's reasonably standard for us within government to run task forces out of PM&C where we want to give them particular emphasis and use our convening power to bring all agencies together. Typically, we will do that for a period and, once the initial work has been done, then transition the issue back into the line agency.

Senator CAMERON: So what departmental budget will the $1.5 million cost of the review come from?

Dr Baxter: The $1.5 million allocation for the review will come from the Department of Prime Minister and Cabinet's departmental budget.

Senator CAMERON: I see from the response the previous questions that $378,000 was allocated to consultants for the review. Is that correct?

Dr Baxter: That's correct.

Senator CAMERON: That includes Mr Joyce's remuneration?

Dr Baxter: That's correct.

Senator CAMERON: And Mr Joyce received $218,500?

Dr Baxter: I'll just check that, but my understanding is that he received $180,000—that the $218,000 was for consultants more generally.

Ms Furnell: The overall contract as listed on AusTender was the total that you referred to, $218,500, and $180,000 has been in that court for remuneration to Mr Joyce and the other part is around allowance for expenses.

Senator CAMERON: So $180,000 plus expenses?

Ms Furnell: The expenses are things like covering travel et cetera. So, obviously, we are still part way through the review at this point.

Senator CAMERON: Do you have a breakdown of Mr Joyce's consultancy fee? How it's allocated?

Ms Furnell: Allocated in what way?

Senator CAMERON: In terms of remuneration, in terms of how much is for overnight stays, how much for accommodation?

Dr Baxter: I think that's a question that we'd have to take on notice. What we can provide at the moment—the material we have—is that $180,000 is for his consultancy fees and the other amount that makes up the $218,000 includes expenses, travel and those kind of things. For any greater breakdown of detail, we'd need to take that one on notice.

Senator CAMERON: Are there any other consultants involved in this process?

Ms Furnell: The review team has hired four additional contractors—three additional consultants. One is Qualtrics, who is engaged to conduct a student survey. A data analyst has been engaged to help us analyse the public submissions.

Senator CAMERON: What company is that?
Ms Furnell: I'll get that for you. A design editor has also been hired to help us complete the design and editing of the report, and one of our staff is a contractor.

Senator CAMERON: And one of your staff is a contractor?

Ms Furnell: Is a contractor within PM&C and joined us on the review to help us with administration.

Senator CAMERON: Who is that? What is the name of the company?

Ms Furnell: Hays.

Ms Foster: So we hired the contractor through Hays as a provider of contract staff.

Senator CAMERON: Who is that? What is the name of the company?

Ms Furnell: It's a junior administrative person.

Senator CAMERON: Okay. There is $120,000 allocated for travel and accommodation. How is this reconciled? Do receipts go into the department and get paid, or is it just $120,000 allocated to the contract?

Dr Baxter: That's the amount that has been allocated at the outset. Obviously, that's not the amount that has been spent to date. The booking of travel and accommodation, I understand, has occurred through the department—so through the task force—and final costs of travel related expenses for conducting the consultation I imagine will be reconciled at the end.

Ms Furnell: In the usual processes.

Senator CAMERON: So then there'll be receipts and invoices for all travel, accommodation and expenses?

Dr Baxter: So generally that would be the case for some elements, but most of the accommodation and travel would be booked centrally through PM&C through our booking processes.

Senator CAMERON: That's fine. Can you provide details of all expenditure on travel, all expenditure on accommodation, any expenditure in relation to meals, and provide receipts?

Dr Baxter: We can undertake to provide some of that on notice. Some we would have now; some would be reconciled within a period of time during or following the review, because people as you know are not required to—

Senator CAMERON: Can you provide me with what the up-to-date reconciliations are?

Dr Baxter: Of those elements which we would have access to, yes, but, as I just mentioned, some of them would be material—the receipts and those sorts of things—that would be provided in due course.

Ms Foster: Dr Baxter has just said she doesn't have that detail with her. We can give that to you on notice as we know it now.

Senator CAMERON: Okay. Have any interim reports been provided to PM&C?
Dr Baxter: There hasn't been any formal interim advice to date, but Mr Joyce has written to the Prime Minister, providing an update on the public consultations that he's undertaken to date.

Senator CAMERON: Yes. So that's just like: this is where I've been and this is what I've done.

Dr Baxter: That's correct.

Senator CAMERON: Can you table that document?

Dr Baxter: I'd need to take on notice whether that's something we're able to table, Senator.

Senator WONG: You can take it on notice, and, if you need to make a public interest immunity claim, it should follow the appropriate possess. The Senate will determine whether or not it should be tabled.

Ms Foster: That's correct, Senator. We'll take it on notice.

Senator CAMERON: Are any interim reports scheduled to be made to the Prime Minister's department?

Dr Baxter: No. The original review stated that there would simply be the final review report, which is due in March.

Senator CAMERON: How was Mr Joyce chosen for this job?

Dr Baxter: The selection of Mr Joyce was a decision of the government—of the Prime Minister—and he was contracted under a labour-hire arrangement.

Senator CAMERON: Under a labour-hire arrangement.

Dr Baxter: Yes, that's correct.

Senator CAMERON: So was there any open tender for this?

Dr Baxter: No. There's not a requirement for an open tender in relation to the Commonwealth Procurement Rules if an eminent individual is appointed to a special role, as is the case here for Mr Joyce.

Senator CAMERON: An eminent individual who has left the New Zealand VET system in crisis—how does that become 'eminent'?

Dr Baxter: I'm sorry, I'm not sure about the question.

Senator CAMERON: In the period during which Mr Joyce was the minister, there were declining enrolments, a lack of skills available and a massive skill shortage. This is Mr Joyce's 'eminent' contribution to New Zealand. Why would we then pick him to do this in Australia?

Dr Baxter: His eminent contribution relates to the seven years during which Mr Joyce was New Zealand's Minister for Tertiary Education, Skills and Employment and also work that he's undertaken for the South Australian trade, tourism and investment department. That's the basis of his retention.

Senator CAMERON: Does the Prime Minister have a personal relationship with Mr Joyce?

Dr Baxter: I don't know, Senator. Not that I'm aware of.

Senator CAMERON: Can you take that on notice, Minister?
Senator Cormann: I'm happy to take that on notice. I'm not aware.

Senator CAMERON: Was any Australian eminent expert considered for this job?

Dr Baxter: There was a short list of candidates, who were reviewed by the Prime Minister and the government. There was a range of people who were offered on a short list.

Senator CAMERON: How many were on the short list?

Dr Baxter: I'd have to take that on notice.

Senator CAMERON: Did the department provide any advice to the Prime Minister about the employment or engagement of Mr Joyce?

Dr Baxter: Yes. We provided advice about how to engage Mr Joyce, once that decision was made, and the appropriate channels.

Senator CAMERON: So the Prime Minister made the decision and then you provided some advice post the fact of the appointment.

Dr Baxter: There would have been some advice provided generally about how to retain a consultant and then advice specifically after the decision had been made. But I've also mentioned that Prime Minister and Cabinet provided the list and some background details on potential nominees.

Senator CAMERON: Can you provide details of those who were on the short list?

Dr Baxter: No, I can't provide the content. I understand that I can't provide content of that advice.

Senator CAMERON: Why?

Dr Baxter: Because that was the basis of advice that was provided to the Prime Minister from the department. There were a number of names on the list, with background information about each of the nominee.

Senator CAMERON: And some were Australian experts?

Dr Baxter: I can't recall who was on the list, but there were a range of people, all with expertise relevant to the VET review.

Senator CAMERON: On what date did the Prime Minister make the decision to engage Mr Joyce?

Dr Baxter: I don't know that I have the date of the decision. I do have the date of the announcement, which was 28 November 2018.

Senator CAMERON: Okay. Can you, then, on notice provide details of when the decision was made to undertake this so-called review?

Dr Baxter: Yes, I can take that on notice.

Senator CAMERON: Is there any analysis of Mr Joyce's capabilities to understand the intricacies of the Australian VET system?

Dr Baxter: Do you mean an analysis that has been undertaken by Prime Minister and Cabinet?

Senator CAMERON: Yes, to give the Prime Minister the advice that Mr Joyce is the appropriate person?
Dr Baxter: I've already indicated, Senator, that we provided advice on a range of nominees, including Mr Joyce, and that advice went to his qualifications and background experience in relation to the VET sector and industry and training here in Australia. And I've already mentioned the trade, tourism and investment review in South Australia.

Senator CAMERON: So what's his expertise in the Australian VET system?

Dr Baxter: The government in its announcement of the VET review indicated it was interested in the work that Mr Joyce had done here in Australia, in South Australia, but they also indicated they were interested in his experience in New Zealand. Also, they indicated they were having someone with that degree and depth and time of expertise coming to the review with fresh eyes.

Senator CAMERON: Given that there are massive skill shortages in New Zealand, given that there has been privatisation and cutbacks in the polytechnic system in New Zealand, why then does this make Mr Joyce the candidate to undertake a review in Australia?

Dr Baxter: What I can tell you, Senator, is that we provided the information about Mr Joyce's expertise and experience and then the decision was made by the government.

Senator CAMERON: Did Mr Joyce provide any documentation about his capacity to understand and his capabilities to understand the Australian VET system?

Dr Baxter: Do you mean to the Department of the Prime Minister and Cabinet?

Senator CAMERON: To the department or the Prime Minister personally.

Dr Baxter: I'm not aware of material that he may have provided to the Prime Minister, and I can take on notice whether there was any material that he provided to the department. I don't recall it.

Senator CAMERON: Did the department conduct any due diligence on Mr Joyce's capacity?

Dr Baxter: The standard process would be that we would provide the background information I've mentioned in relation to the short list of nominees. And then, once the government has indicated there is a particular nominee they would like to appoint, we would do a little bit more provision of information, including about how to contract the person and anything else that the government may need to be aware of.

Senator CAMERON: Does Mr Joyce have to provide details of how many hours he spends on this review?

Dr Baxter: As part of acquitting his consulting fees?

Senator CAMERON: Yes.

Dr Baxter: I would have to take on notice what has been the mechanism for Mr Joyce invoicing us for his fees and that payment being provided. I don't have that intricate level of detail with me.

Senator CAMERON: Up to today's date, how many days and how many hours has Mr Joyce put into this consultancy?

Dr Baxter: We know it has been a very packed four months, Senator, but the exact detail of days we don't have with us. We can take that on notice.

Senator CAMERON: So it has been packed.
Dr Baxter: It has been a very busy consultation schedule, yes.

Senator CAMERON: Who determined who should be consulted?

Ms Furnell: Senator, the people that Mr Joyce is consulting with are a wide range of people across industry bodies, RTOs, others in the VET sector, state ministers and Commonwealth ministers—and I believe yourself, as well, he met with. The suggestions for people to meet with, particularly for the roundtables, have come from a variety of sources. The department of education and some state officials have made suggestions for industry RTO reps et cetera and also some others have made suggestions or have offered or indicated interest in meeting with Mr Joyce—

Senator CAMERON: Can you provide me details of any other overseas eminent persons that have conducted reviews for PM&C during the coalition government?

Dr Baxter: We can certainly take that on notice, Senator.

Senator CAMERON: Is the $120,000 for travel and accommodation in addition to Mr Joyce's package?

Ms Furnell: The travel and accommodation in that is largely that of the task force.

Dr Baxter: But we can check that.

Ms Furnell: But we can check how that is worked out.

Senator CAMERON: For those on the task force, can you provide receipts of any expenditure they have incurred as part of their travel or engagement in this review?

Dr Baxter: Yes, we can take that on notice, as I mentioned before, what has been incurred to date, which receipts have filtered through to date?

Senator CAMERON: All receipts. Has Mr Joyce engaged in any expenditure other than expenditure outlined in his consultancy?

Dr Baxter: Sorry, I don't quite follow the question?

Senator CAMERON: Have there been any dinners? Has there been any hospitality that he's conducted as part of this?

Ms Furnell: No.

Dr Baxter: No, certainly not that we are aware of.

Senator CAMERON: Has Mr Joyce consulted with the trade union movement on this?

Ms Furnell: Yes. There was a meeting with the Australian Education Union at one of the roundtables in Western Australia, a member of the WA Unions was present and we also sought a meeting with the ACTU, although that timing didn't work out.

Senator CAMERON: Are all states and territories engaged in this review?

Ms Furnell: Yes.

Senator CAMERON: To what level—written submissions, meetings—what?

Ms Furnell: Written submissions from several, Mr Joyce's travelling to each state and territory and meeting with many state officials, RTOs, industry representatives.

Senator CAMERON: So can you provide copies of all written submissions?
Ms Furnell: I could take that on notice. Some of the submissions, people do not wish to be released publicly. When we put out the submission process, we ask whether you wish to be quoted from or release the material publicly and several said no.

Senator CAMERON: Does that then mean that the department would be claiming public interest immunity on behalf of these individuals?

Dr Baxter: I think it's a protocol. When we ask for people to put submissions in, we ask them whether that's something that they would be comfortable to have released so, as a starting point, it's a protocol we generally follow.

Senator CAMERON: But I'm not interested in general protocols; I'm interested in public expenditure and I'm interested in what information has been coming, what submissions have been coming through.

Dr Baxter: I think Ms Furnell might have indicated we are happy to provide you with a list of the submissions that have been provided. We would like to check the content of some of those where we have been specifically asked to keep it confidential. It's obviously an important part of running these consultations that we are able to indicate to people if they can provide us with material in confidence that we will keep faith with that.

Senator CAMERON: So is the department aware of Mr Joyce's record in New Zealand or his record of what looks like failure in New Zealand as part of his ministerial period?

Dr Baxter: The background we did on Mr Joyce covers the positions that he's held in New Zealand, the work that he's done here in Australia. It certainly doesn't go to the content of particular funding decisions or other close detail of what he has done.

Senator CAMERON: So was the Prime Minister advised about outcomes in the New Zealand VET system before the decision was made?

Dr Baxter: The Prime Minister would have been advised as part of that advice about the broad work and review that Mr Joyce undertook in New Zealand. The advice would not generally go to the level of detail that you're canvassing.

Senator CAMERON: I will put the rest on notice.

CHAIR: In that case, I think we might go to the break as scheduled and we'll be returning at 8:00 pm with the Department of the Prime Minister and Cabinet.

Proceedings suspended from 18:29 to 19:59

CHAIR: The committee will now resume. I understand Ms Foster has a couple of updates to share with the committee.

Ms Foster: Earlier today, in response to a question from Senator Waters, Mr Reid gave evidence that the lobbyist code was established in 2013. The most recent version of the code was released in 2013. It was in fact promulgated in 2008.

We were also asked by, I think, Senator McAllister about changes to the ministry list. There have been six since 20 December 2017. The first was on 26 February 2018, following Deputy Prime Minister Joyce's resignation and subsequent reshuffle. The second was on 5 March 2018, which was a minor reshuffle involving Chester, Coulton and Pitt. Then we had 28 August 2018, which was the Morrison ministry; 26 November 2018, which was a new minister assisting title for Mr Littleproud; 18 December 2018, which was when Mr Broad resigned; and, finally, 25 January 2019, which was when Mr Gee was appointed.
Unfortunately, we weren't able to get you an accurate answer on how many ministers since 2013. We're still working on that, so that will probably come as a written answer on notice.

**Senator McALLISTER:** Thanks very much, Ms Foster.

**CHAIR:** Senator Wong?

**Senator WONG:** Thank you. First, Nauru and the arrangement with the United States?

**Ms Foster:** Ms Millar will come to the table to answer any questions. Unfortunately, we've been unable to find much more information or documents for you, Senator, confirming some of your questions, but Ms Millar can go through that with you.

**Ms Millar:** We did a search in the time available for some of the information you requested. You asked about the involvement of Prime Minister and Cabinet in the whole process, including before the finalisation of the agreement. It's perfectly reasonable to think that there was indeed involvement by the Prime Minister's department. It would have been my predecessor. We are not able to access those documents, mainly because most of them are on the DFAT cable system and, as they were highly restricted at the time, we can't actually go and have a look at them. We have asked DFAT during the course of the day to see what they can find and to have a look for you. But that's all I can advise on that particular aspect.

In terms of the number, you mentioned the number 1,250 and whether there were other numbers in the negotiations. I don't actually recall that, but, as I said to you, I wasn't in all the negotiations. That's certainly the number that got traction, as I recall.

**Senator WONG:** I think I asked you whether PM&C was aware of any change in position, from the Australian perspective. Was there any change in our ask?

**Ms Millar:** I don't recall. As I said, we weren't able to go back and have a look at all those documents, and I personally wasn't involved in all the negotiations.

**Senator WONG:** All right. Anything further, Ms Foster?

**Ms Foster:** No.

**Senator WONG:** I'll have to follow that up. Thanks, Ms Millar. Can I go now to the banking royal commission? Is PM&C playing any coordinating role in relation to the government's response to the banking royal commission?

**Ms Foster:** Simon Duggan will be able to help you with questions on this.

**Mr Duggan:** No, the government's response is being coordinated out of Treasury.

**Senator WONG:** What is your engagement, Mr Duggan?

**Mr Duggan:** As with most areas of policy, Senator, we are working with Treasury. We helped them to put together the government's response, and we continue to work with them.

**Senator WONG:** Mr Duggan, are you Industry and Jobs?

**Mr Duggan:** I am.

**Senator WONG:** So why is this being coordinated with you rather than with Mr Gruen?

**Mr Duggan:** I took over responsibility for this from my previous role. I was previously the first assistant secretary from the economic division. Given that me moving into my current role occurred in December and the royal commission was well down its path, Dr Parkinson took the view that I should continue to have a sight of royal commission issues.
Senator WONG: Okay. So, notwithstanding that you're in a different—I always forget this—division?

Ms Foster: It's a group, Senator.

Senator WONG: Group! That's right. I'm not good with the hierarchy.

Ms Foster: As you probably recall, our domestic policy group has three deputy secretaries: Dr Gruen, Mr Duggan and Dr Baxter. They work as a team across the domestic policy issues.

Senator WONG: Four? Or Mr Duggan?

Ms Foster: Mr Duggan, Dr Baxter and Dr Gruen.

Senator WONG: The org chart you handed up today: Williamson, Baxter, Gruen and Duggan.

Ms Foster: David Williamson heads the APS review.

Senator WONG: Correct. But he's a deputy secretary. He's in grey. I assumed grey was the group—no?

Ms Foster: He has been sort of homed in the domestic policy group, but the three core areas—

Senator WONG: Homed. Okay. It's getting to that time of night where everybody's getting a little bit—okay. What role has been requested by the Prime Minister of PM&C in terms of the work of the agency on the banking royal commission?

Mr Duggan: Subsequent to the receipt of the final report, the Prime Minister hasn't made any specific request of us.

Senator WONG: No specific request?

Mr Duggan: No, Senator.

Senator WONG: Have you briefed him?

Mr Duggan: We briefed the Prime Minister in advance of receipt of the final report of the royal commission. We briefed the Prime Minister following receipt of the final report.

Senator WONG: What do you understand your role to have been and be as the officer—notwithstanding the change of position you've had—responsible for PM&C engagement on the banking royal commission?

Mr Duggan: The role that I've played and the role that my staff have played who've been—in advance of receipt of the final report, we've worked with the Treasury department in preparing for that receipt. I've briefed the Prime Minister both orally and in writing on the final report after we received that report. We continue to work with the Treasury department in helping to, I guess, put in place the steps that are needed in order to implement the government's response.

Senator WONG: The lead department is Treasury, though?

Mr Duggan: The lead department is Treasury. That's correct, Senator.

Senator WONG: How many PM&C officers are involved in supporting the government's response to the royal commission?
Mr Duggan: Directly involved, Senator, there would be a small team of approximately four people. That's not their only role, but they have spent a fair bit of time over recent weeks focused largely on that issue.

Senator WONG: Four people within the economic group?

Mr Duggan: That's correct.

Senator WONG: Reporting to you for the purposes of this subject?

Mr Duggan: That's correct, Senator.

Senator WONG: So, four part time on this, as it were?

Mr Duggan: That's correct, Senator. But, at various times, very much full time. Following receipt of the final report, as you can imagine, it was a full-time effort in order to help the government to frame its response.

Senator WONG: When did Mr Morrison receive the report?

Mr Duggan: The commissioner handed over his report on Friday, 1 February at 11.30 am. That was provided to the Governor-General. That was then conveyed to both the Treasurer and the Prime Minister shortly thereafter.

Senator WONG: So, nothing in advance of that?

Mr Duggan: Nothing in advance of that, Senator. No.

Senator WONG: You said you briefed the Prime Minister before and after. How many briefings have been provided to Mr Morrison on the banking royal commission since the report was provided to government?

Mr Duggan: I don't have the precise number in front of me. I can tell you though that we provided a number of briefings to the Prime Minister between the receipt of the final report and the government issuing its response.

Senator WONG: Can you take that on notice, please?

Mr Duggan: I can, Senator. I'll take that on notice.

Senator WONG: How many of those were at his request and how many were initiated by the department?

Mr Duggan: I'll take that on notice.

Senator WONG: Has there been any briefing in relation to potential legislative changes?

Mr Duggan: In providing briefing on the government's response, we provided briefing on the mechanism through which those responses would be implemented, including legislative responses.

Senator WONG: Are there any of those which could occur prior to the end of the financial year?

Mr Duggan: That's a question best directed to the Treasury department, I think. They've got a task force that has been established to think specifically about this question of when and how to respond or to implement the government's responses to the royal commission.

Senator WONG: How many meetings, if any, have the Prime Minister or the Prime Minister's office, to your knowledge, had with representatives from the four large banks or
other members of the financial services industry since the report was provided to government?

**Mr Duggan:** I don't know the answer to that, Senator. I can take it on notice.

**Senator Wong:** I take it you provided a briefing to the Prime Minister for the purpose of such meetings?

**Mr Duggan:** Yes, we have provided briefings for the purpose of meetings with members of the financial services.

**Senator Wong:** Members of the financial services industry?

**Mr Duggan:** That's correct.

**Senator Wong:** Have you provided any briefings for meetings with victims of poor practices or banking, I suppose, malpractice?

**Mr Duggan:** Yes. The Prime Minister has had meetings with people who certainly found themselves victims of poor practice in the banking sector, and we have provided briefings.

**Senator Wong:** Have you done that since the royal commission reported?

**Mr Duggan:** Not to my recollection, Senator. I'll have to take that on notice.

**Senator Wong:** But there have been meetings with members of the financial services industry since the royal commission handed its decision down?

**Mr Duggan:** I'll have to take that on notice. I can't recall.

**Senator Wong:** Sorry, I thought that's what you said before, Mr Duggan. Maybe I misunderstood your evidence. I thought you said before that you had provided briefings in relation to meetings with members of the financial services industry since the royal commission report was handed down but you couldn't recall whom.

**Mr Duggan:** To correct—sorry, Senator—we have provided briefings with respect to meetings that have taken place. What I can't confirm is whether or not there have been meetings that have taken place since the receipt of the final report.

**Senator Wong:** Okay. On notice, can I have—and this might be a question for the minister at the table—the number of meetings the Prime Minister has had with representatives from the large banks or the financial services industry since the report was provided, and a list of whom. Can I also have the number of meetings the Prime Minister has had with consumer groups or victims since the report was provided to government—although, in relation to that one, we're not seeking personal particulars.

**Senator Cormann:** I'm happy to take that on notice.

**Senator Wong:** Was the Prime Minister scheduled to attend the photo opportunity with Commissioner Hayne handing over the report?

**Mr Duggan:** Not to my knowledge.

**Senator Wong:** Senator Cormann?

**Senator Cormann:** Not to my knowledge.

**Senator Wong:** Was the Prime Minister scheduled to stand up with the Treasurer to announce the government's response on 4 February?

**Senator Cormann:** I don't believe so.
Senator WONG: Thank you, Mr Duggan. I want to quickly move to a couple of things out of MYEFO. Can someone just be clear with me: the government's fiscal strategy at page 38 of MYEFO, which sets out the four policy elements of the fiscal strategy, includes the tax to GDP ratio at 23.9 per cent. Does the Prime Minister remain committed to that cap?

Dr Gruen: The answer to your question is yes.

Senator WONG: So the Prime Minister remains—sorry.

Senator Cormann: Sorry, I was just checking for a document.

Senator WONG: Do you want me to ask the question again, Minister?

Senator Cormann: Were you asking me?

Senator WONG: I just asked whether you want me to ask the question again.

Senator Cormann: No, that's all right. I heard you the first time. You were talking to Dr Gruen, right?

Senator WONG: Well, I can ask you. Does the Prime Minister remain committed to the 23.9 per cent tax as a share of GDP?

Senator Cormann: Yes.

Senator WONG: It was reported last month that senior ministers were considering a one-off payment instead of tax cuts. Is it the Prime Minister's view that such payments would count as payments, not revenue reductions?

Senator Cormann: Firstly, I don't speculate on what may or may not be contained in the budget, but a decision that is made on the payments side of the budget obviously doesn't have a bearing on tax revenue as a share of GDP. That would have a bearing on payments as a share of GDP.

Senator WONG: I agree.

Senator Cormann: But you are asking me a speculative question that I'm unable to confirm.

Senator WONG: Sure. I'm just asking whether or not it's the Prime Minister's view that paying a one-off payment to pensioners and families would affect the tax-to-GDP ratio.

Senator Cormann: What affects the tax-to-GDP ratio is the level of tax that is raised. What you are referencing, if it were to be considered, obviously doesn't go to tax as a share of GDP.

Senator WONG: MYEFO also included, I think, in excess of $9 billion in revenue decisions taken but not yet announced over the 2019-20 to 2021-22 years. Can you tell me this: are further company tax cuts still under consideration by the government?

Senator Cormann: It stands to reason that any item under the category 'Decisions taken but not yet announced' are precisely that: items of decisions taken but not yet announced. I'm not able to make those announcements here for you, but you'll be pleased to know that, consistent with the Charter of Budget Honesty, any items in this category will have to be published, if they're not announced before then, in the context of the Pre-Election Economic and Fiscal Outlook. Whatever decisions have been taken, but not yet announced, to lower taxes on the Australian economy to help strengthen growth, create more jobs and help
families have the best possible opportunity to get ahead are obviously a matter that will have to be announced between now and the Pre-Election Economic and Fiscal Outlook.

Senator WONG: Has the government ruled out any further company tax cuts between now and the election?

Senator Cormann: We have legislated the—

Senator WONG: Additional—I said 'further'.

Senator Cormann: I'm not going to deliver the budget for you today. What I can say is that we have legislated the company tax cuts that reflect government policy, for small businesses with a turnover of up to $50 million, down to 25 per cent on the pathway that you actually supported in the Senate. The Labor Party supported the tax cuts for small and medium-sized business that we put to the parliament.

Senator WONG: I'm just giving you the opportunity to rule out more company tax cuts. You don't wish to do that?

Senator Cormann: I'm not going to announce the budget for you today.

Senator WONG: Okay; you don't want to rule it out.

Senator Cormann: Honestly, I can't make announcements for you here today. What I'm saying to you is: the government have already legislated our policy on company tax cuts, and it's reflected in the legislation that went through the parliament.

Senator WONG: There's also a capital measure for the Department of the Prime Minister and Cabinet: $4 million in 2018-19. Can someone tell me what that is.

Senator Cormann: Are you saying it's in the decisions taken but not announced?

Senator WONG: No, no. I've moved off that. I'm now into— I think it's 240.

Senator Cormann: So page 240?

Senator WONG: It's a capital measure at page 246.

Ms Tressler: The department received $4 million for our Commonwealth Parliament Offices' cabinet rooms. That money was for us to upgrade some of the facilities to include videoconferencing and upgrade facilities so that we could hold secret and top secret cabinet meetings.

Senator WONG: Right. Which CPOs were included in that item?

Ms Tressler: For now, we are looking at Sydney and Melbourne and also doing some feasibility studies around Brisbane as well.

Senator WONG: Just run me through the list of what is included in this again.

Ms Tressler: It's Sydney and Melbourne at this stage, although we are doing scoping.

Senator WONG: What are you doing?

Ms Tressler: We'll be doing necessary upgrades and enhancements.

Senator WONG: What does 'necessary upgrades' mean? Necessary upgrades of what?

Ms Tressler: For Sydney in particular we'll be upgrading the video-conferencing facilities. In Melbourne we are looking at the video-conferencing facilities but also looking at increasing the security for facilities around the cabinet rooms so that we can hold secret and top secret cabinet meetings.
Senator WONG: Anything further?

Ms Tressler: That's all.

Senator WONG: How was that request generated? How was that budget generated? Was this a request from the PMO or the Prime Minister himself, or was this a departmental recommendation on something? I just want to know where it came from.

Ms Tressler: This was a departmental recommendation. We could see that the volume of meetings that were occurring outside of Canberra were increasing and that our facilities were inadequate to accommodate them, and so we asked for some additional funding.

Senator WONG: Why are the number of meetings occurring not in Canberra increasing?

Ms Foster: The schedule of cabinet meetings is set to suit the needs of the Prime Minister and other ministers.

Senator WONG: That's not really an answer. It's probably not a bad answer, Deputy Secretary. The evidence from Ms Tressler is that the weight of meetings outside of Canberra is increasing. I want to know what's driving that. It's the Prime Minister's schedule—is that what you are saying?

Ms Foster: We'll schedule the meetings where the Prime Minister asks us to schedule them. Sometimes it's more convenient—

Senator WONG: How many cabinet meetings have occurred outside Canberra since Mr Morrison became Prime Minister?

Ms Foster: I'll see if anyone here has that answer. I don't have the details with me. If someone here doesn't, we'll get it to you on notice.

Senator WONG: Okay.

Senator Cormann: As somebody who has to travel, irrespective of where they are being held, from the other side of the country, let me say that I haven't detected a particular variation between Prime Minister Turnbull and Prime Minister Morrison. There have been, in recent years, a number of meetings that have taken place in Sydney. That was the case under Prime Minister Turnbull. It's the case now. When parliament is sitting, self-evidently meetings are in Canberra.

Senator WONG: Except that you are barely sitting.

Senator Cormann: Many, many meetings are in Canberra.

Senator WONG: But you are barely sitting.

Senator Cormann: That's just rhetoric.

Senator WONG: It's the calendar. It's not rhetoric; it's the calendar.

Senator Cormann: It is complete rhetoric. We have an election in May. You know that we had to bring forward the budget by a month and so that means that—

Senator WONG: How many sitting days have we got in the Senate between now and the election? Just remind me.

Senator Cormann: It's 10 weeks until the end of August. The election happens to be due in May—

Senator WONG: There are five sitting days of the Senate between January and May.
Senator Cormann: In the lead-up to the budget, there is a five-week or six-week period where there are no sittings. That has obviously been brought forward in the context of the election timetable and I think that people understand that.

Ms Foster: Senator, you asked about—

Senator WONG: No. If you think the Senate sitting for five days between January and May is something that Australians think is hunky-dory then I really think you should get out more.

Ms Foster: I don't have trends or any long-term data about meetings, but we do have the figures from 1 July to 31 December last year. We supported 78 cabinet and committee meetings—62 in Canberra and 16 interstate.

Senator WONG: They include the cabinet committee, I assume?

Ms Foster: Cabinet and cabinet committee.

Senator Cormann: So overwhelmingly in Canberra.

Ms Foster: And Senator Cormann's right: without having the figures in front of me, I think what we're talking about is a longer term trend, not a spike in the last six months.

Senator WONG: Thank you. I'll come back on another matter.

Senator KITCHING: I want to ask some follow-up questions on QON No. 689. Thank you for the supply of the attached table. This relates to gifts that have been received and declared and the difference paid from the $300 limit from the non-government source and the Prime Minister's Guidelines Relating to Official Gifts Received. I have previously asked about former foreign minister Julie Bishop's failure to pay the Collector of Public Monies. She retained a pair of Jimmy Choo shoes that are valued at approximately $25,000, but I see that's not in the table. I've got here the description, the dates. The Prime Minister has made a declaration and Senator Fierravanti-Wells has made a declaration—and I presume this is all Prime Minister Turnbull is it, Ms Foster?

Senator Cormann: It says Prime Minister Morrison, if we're looking at the same thing. This is for the period of October 2018 to January 2019?

Senator KITCHING: Can I confirm that, if a minister wants to keep a gift from a non-government source worth more than $300, the minister must buy it by paying the difference

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between the threshold and the commercial value to the Collector of Public Monies. Is that correct?

**Ms Foster:** In the broad, yes, that's correct.

**Senator KITCHING:** I'm looking particularly at section 8, 'Retention of a gift' in the Prime Minister's Guidelines Relating to Official Gifts Received. Then section 9 details the payment arrangements. Could I confirm that a breach of the Prime Minister's Guidelines Relating to Official Gifts Received would in turn be a breach of section 2.11 of the Statement of Ministerial Standards, which requires ministers to comply with the Prime Minister's guidelines? Is that correct?

**Ms Foster:** That sounds logical. I'm just hoping that Mr Reid will put those two things together for me and say yes.

**Senator KITCHING:** Thank you, and thank you, Mr Reid. In relation to question 689, two former ministers, Mr Turnbull and Senator Fierravanti-Wells, made payments to the Collector of Public Monies in the 2017 calendar year. Senator Fierravanti-Wells paid an amount for $1,328.60 for a silk carpet, and the former member for Wentworth paid an amount of $7,824 to the Collector of Public Monies for 13 official gifts he had received. How are ministers informed of their obligations regarding both the Prime Minister's Guidelines Relating to Official Gifts Received and the Statement of Ministerial Standards? Does that advice—

**Senator Cormann:** Ministers are issued with the Statement of Ministerial Standards on becoming a minister.

**Senator McALLISTER:** Does that advice come directly from the Prime Minister, from his office, from the Department of PM&C or a combination of those?

**Ms Foster:** The most recent version we have of this, from November last year, was from the chief of staff to the Prime Minister, to chiefs of staff from other ministers, bringing to their attention the practices in relation to official gifts received and official gifts for presentation and reminding the chiefs of staff of ministerial and staff responsibilities in relation to official gifts.

**Senator KITCHING:** Okay. Has there been a flurry of declarations?

**Ms Foster:** Not that I'm aware of.

**Senator KITCHING:** Have there been any declarations?

**Senator Cormann:** We might take that on notice to provide you with an updated version of that table that we have been looking at today.

**Senator KITCHING:** As you'll recall, I did ask about Ms Bishop, the member for Curtin, having been gifted a pair of Jimmy Choo shoes. They retail for approximately $25,000. Has there been any payment to the Collector of Public Monies in relation to that gift?

**Senator Cormann:** I'm at a disadvantage here. I'm not personally aware of what it is that you're referring to.

**Senator KITCHING:** She was gifted a pair of Jimmy Choo shoes. With the individual atelier work, another pair was about $25,000. There was no payments made that we can see, but maybe it's in the update.
Senator McALLISTER: Minister, I should explain that the reason we're surprised that you didn't notice is that there were a number of media articles that included large colour photos of these shoes and Ms Bishop. There was quite a thing about the shoes.

Senator Cormann: I didn't notice any articles about the shoes, I'm sorry.

Senator KITCHING: Jimmy Choo has passed you by!

Senator Cormann: What period are you talking about?

Senator KITCHING: It was last year. I can get you a date. There was a lot of media about it.

Senator McALLISTER: Latika Bourke wrote a story about it on 23 October, but there was significant media prior to that.

Senator Cormann: Apparently this issue was raised in the foreign affairs estimates previously.

Senator McALLISTER: Correct.

Senator Cormann: So you confirm that. I'm advised that the minister declared all gifts, consistent with the relevant requirements.

Senator KITCHING: But we're going to get an update to see if that includes the shoes?

Senator Cormann: I've taken on notice any declarations that have been made, consistent with the requirements to declare gifts. Obviously I've taken that on notice, so it will be tabled at the appropriate time, but I'm not personally aware of it. All I can say is that the response in foreign affairs estimates, I'm advised, was that the then minister made all of the relevant declarations, consistent with the relevant requirements.

Senator McALLISTER: Ms Foster, did you indicate earlier that you had a table in your brief that detailed all of the recent declarations?

Ms Foster: I was actually looking for the question on notice. But we did have a table that went from October to January.

Senator Cormann: Which is not the whole period, obviously.

Ms Foster: Since the last estimates.

Senator Cormann: That is the end of October to the end of—

Ms Foster: January.

Senator McALLISTER: Would it be possible for you to table that document, Ms Foster?

Ms Foster: Yes.

Senator McALLISTER: Thank you.

Senator KITCHING: Ms Foster, if a minister is unsure of the value of the gift they may receive, are they able to ask the department for advice or a valuation of a gift?

Ms Foster: There is a process to assist with that, and I think Mr Fraser can probably help us with that.

Mr Fraser: There is a policy in place for valuation. That valuation should be obtained within 28 days of receipt of gifts. That's something that's initiated by the recipient, whether that's the Prime Minister's office or a minister's office. If gifts are found to be over the allowable limit—$300 or $750 respectively—then that information is registered with my
division, where we hold those records. We can certainly provide advice and support about processes for valuation from external providers.

**Senator KITCHING:** Just so we're clear, the $750 would be for a gift from a government source?

**Mr Fraser:** That's correct.

**Senator KITCHING:** How often has that happened, say, in the past 12 months? You must have started recently, but are you or Ms Foster able to give us some indication of how often the department has given advice or a valuation in the past 12 months?

**Ms Foster:** What Mr Fraser was just saying is that, in fact, the onus is on the minister's office that receives the gift to get that valuation.

**Senator KITCHING:** Yes. What I'm asking is: have ministers or their offices gone to the department for advice, and has that happened, let's say, in the last 12 months? How many times has that happened?

**Ms Foster:** I think I'm misunderstanding the question. They don't come to us for advice. They simply get a valuation.

**Senator KITCHING:** Mr Fraser, did you just say that you can give support to minister's offices? That's what I'm asking about, Ms Foster.

**Mr Fraser:** From time to time there are inquiries where we do provide support and perhaps advice about how to obtain a valuation.

**Senator KITCHING:** How often has that occurred in the past 12 months?

**Mr Fraser:** I'll have to take that on notice.

**Senator KITCHING:** So you outsource that. Do you go to someone with expert knowledge? In the case of Senator Fierravanti-Wells, she received a silk carpet from the Australia-Azerbaijan Parliamentary Friendship Group. Would you go to someone who is an expert in carpets, for example?

**Mr Fraser:** Valuations can come from various sources, including the internet. Sometimes a simple Google search is sufficient. You can identify the same item, print that out and attach it. That's sufficient. Sometimes it might be a piece of jewellery—that would be valued by a jeweller. There are a whole range of different mechanisms. What is important is that the 'declaree' needs to be satisfied that there is a suitable valuation.

**Senator KITCHING:** Has the department ever examined the pecuniary register of interests and looked at gifts received and declared and cross-referenced those with any payments made to the Collector of Public Monies to see if ministers are abiding by their obligations?

**Mr Fraser:** No, we don't.

**Senator KITCHING:** Senator Cormann, there was advice given by the Prime Minister's chief of staff on 17 November—is that correct?

**Senator Cormann:** That is the most recent advice, but there has been guidance provided previously, and ministers obviously understand what their obligations are.
Senator KITCHING: I'm not sure that's correct; I think that's an assumption. Has the Department of the Prime Minister and Cabinet been approached by the Prime Minister's office around ensuring that ministers do comply with the guidelines?

Senator Cormann: That is obviously what we've said, yes.

Senator KITCHING: Can I confirm that, according to your department's records, Mr Dutton has made no contribution to the Collector of Public Monies for a caravan refurbishment of his mobile office he declared on his register of interests on 24 May 2017? It looks like it is a gift from Kedron Caravans.

Ms Foster: As Minister Cormann said, this list covers only the period from 22 October forward, so we would have to take that on notice. This was a list prepared of gifts received.

Senator KITCHING: I guess what I could say is that this is in response to question on notice number 689. The date I'm interested in is 24 May 2017. On this list, that date is covered, so I guess he hasn't made any declarations. There is 9 March, and the Prime Minister received an APEC scarf. Then, on 23 June, Prime Minister Turnbull received a ceramic hand-painted clay vessel. I guess if Mr Dutton had made a contribution to the Collector of Public Monies, it would be on table A, wouldn't it?

Ms Foster: It should appear there, yes.

Senator KITCHING: Sorry, I should say table A in response to QON 689. Has Mr Dutton ever asked for a valuation on the caravan refurbishment?

Ms Foster: Not to my knowledge, Senator. Sorry to be a broken record, but he wouldn't ask us for an evaluation.

Senator KITCHING: No, but did he ask for advice?

Ms Foster: Not to my knowledge, no.

Senator KITCHING: Would the department consider investigating to see if the refurbishment, in the case of Mr Dutton, or any other gifts that might have been given that I've raised this evening—for example, Jimmy Choo shoes—was over the $300 threshold?

Ms Foster: That's a question that we could put to Mr Dutton's department.

Senator KITCHING: Would the department consider advising the member that he must pay the Collector of Public Monies any outstanding threshold balance?

Ms Foster: That would depend on the response that we got to the question.

Senator KITCHING: Senator Cormann, if someone hasn't complied with the guidelines, and therefore hasn't complied with the Statement of Ministerial Standards, what happens?

Senator Cormann: It sounds like a hypothetical to me. Obviously, if there is a breach, that would be addressed by the Prime Minister proportionate to the level of breach by.

Senator KITCHING: There don't seem to ever be any sanctions or any actions taken for noncompliance with the Statement of Ministerial Standards.

Senator Cormann: I don't accept that assertion.

Senator WONG: I was going to turn to a couple of things for the international division. First is the embassy shift to Jerusalem—or the non-shift. We traversed this in detail on the last occasion. I don't want to go through everything again, but I did want to follow up a couple of things which have occurred since we last met. The Prime Minister announced in his address to
the Sydney Institute on 15 December 2018 that the government would 'look forward to moving our embassy to West Jerusalem when practical, in support of and after final status determination'. Can I ask about the process leading up to that announcement and PM&C's involvement in it, please?

Ms Millar: Can you just explain what your question is? As you know, there was a review conducted about the conduct of the review. I'm not quite sure of the—

Senator WONG: The Prime Minister announced a different position to one which was floated during the Wentworth by-election. He announced, 'We look forward to moving our embassy to West Jerusalem when practical, in support of and after final status determination.' He also made an announcement in relation to, I think, the defence and trade office.

Senator Cormann: Hear, hear!

Senator WONG: I'm glad this is foreign policy to ensure people inside the Liberal Party party room continue to support Mr Morrison, but I think we've established that this didn't even go to cabinet, and the foreign minister had one day on the political imperatives behind that decision. I've traversed that at length. I just want to understand Prime Minister and Cabinet's involvement in the development of the announcement on 15 December, or whatever it was.

Ms Millar: As you know, the Prime Minister announced a review on 16 October. A few weeks after that the department set up a review task force. The task force conducted a thorough review on a national-interest basis and then, following cabinet consideration, the decisions were taken and the Prime Minister announced them in his speech that you have referred to.

Senator WONG: Who headed the review? Was it you?

Ms Millar: No, it was Secretary Parkinson.

Senator WONG: Dr Parkinson.

Ms Millar: Yes.

Senator WONG: So there was no-one from DFAT, no-one from—

Mr Rush: The secretary headed the review, but it also include the secretaries of DFAT, Defence and Home Affairs.

Senator WONG: But it was run out of PM&C.

Ms Millar: Run out of PM&C.

Senator WONG: Why was that done? This is a foreign policy issue.

Ms Millar: It was a whole-of-government consideration, the Prime Minister had announced it and, as I think Ms Foster mentioned earlier, pulling together those kinds of task forces is quite often done through the prime minister's department, but on a whole-of-government basis with the key agencies concerned.

Senator WONG: Did you conduct any process in the lead-up to the non-cabinet consideration of this matter?

Ms Foster: No. I think we traversed that last time.
Senator WONG: Yes. The answer is no. How come, and maybe I'm being a bit defensive of Foreign Affairs' territory, Prime Minister and Cabinet gets to lead the task force dealing with what is a foreign policy decision?

Ms Foster: That was a decision by the Prime Minister that he wished his department to lead this review.

Senator WONG: When did he make that decision?

Ms Foster: I'm not sure we have that date to hand.

Senator WONG: Just the time frame. Ms Millar you gave me the date of 16 October. I don't have a chronology here, what—

Ms Millar: Look, over the next—

Senator WONG: This would be easier if I could finish my question first. Can you tell me: is the 16 October date you gave me the day on which the review commenced?

Ms Millar: No. That was the day on which the Prime Minister announced that there would be a review. I think, from memory, on several occasions he talked about setting up a process. There were deliberations about how best that would proceed. A few weeks later a task force was stood up.

Senator WONG: My recollection is that when I asked the question of Mr Hayhurst—a lot has happened since then—the review hadn't commenced, and then when I asked a question of Secretary Adamson some three days later it had commenced. Is that correct?

Mr Hayhurst: I can't recall exactly what Secretary Adamson said. Obviously work on the question and the issue had begun, but the formal task force in PM&C to support the secretaries leading the review was stood up not a few days after but later on, on 19 November.

Senator WONG: But it is the case— isn't it?—when I last asked you questions on this that at that point the review had not been commenced.

Senator Cormann: Hang on, sorry—

Senator WONG: No, I'm just—

Senator Cormann: No, let's—

Senator WONG: We can go back to the Hansard.

Senator Cormann: It goes to your definition of 'review'. I think I've just go to put a few things on the record. On 16 October 2018 the Prime Minister announced a review of Australia's Middle East policy settings. The Prime Minister noted at the time that discussions would take place over the coming months with cabinet colleagues, as they did. The outcome of the review was announced on 15 December 2018. So over that two-month period different phases took place, but it's not right to—if your suggestion is that the review did not commence until some time in late November, that is not accurate.

Senator WONG: Mr Hayhurst, I'm not interested in having an argument about things which are already on the public record. I can ask my office to go back and check the Hansard. I have questions about what it did, but I'm just trying to confirm the time lines that you gave us previously and that were given by Ms Adamson previously. So 16 October was the announcement. You just gave me a date of 19 November. What do you say that date correlates to?
Mr Hayhurst: That date is when the taskforce in PM&C was stood up to support the work of the secretaries leading the review—work that was, to my recollection, already underway.

Senator Wong: So your evidence is that the work was already underway?

Mr Hayhurst: My evidence is that work was already underway.

Senator Wong: Okay. Well, I will check that against your previous evidence, Mr Hayhurst. It’s not my recollection, but I might be wrong; it has been some time. What work do you say was underway?

Mr Hayhurst: In my previous testimony, we were going to the announcement of the review.

Senator Wong: Do you have it here?

Mr Hayhurst: I have it somewhere with me, yes.

Senator Wong: Okay. So, what do you say occurred between 16 October and 19 November?

Mr Hayhurst: There was work undertaken on the issues that the Prime Minister had identified as being the subject of the review.

Senator Wong: By whom?

Mr Hayhurst: By officials.

Senator Wong: But which officials? Is this something you did, that you have personal knowledge of, or has someone told you this?

Mr Hayhurst: I have knowledge of some of it. Also being considered at that time was the precise form of aspects of the review, including which officers would be assembled within PM&C to support the further work of the leads of the review, the four departmental secretaries.

Senator Wong: When was the decision made that the review would be led by the four departmental secretaries, and by whom was it made?

Mr Hayhurst: I’d have to take that on notice. I can’t recall.

Senator Wong: That’s key to your evidence. Key to your evidence is, 'Actually, Senator, you shouldn’t pay attention to the 19th date because there was a whole heap of work that was done before,' but you can’t tell me—or can someone else at the table tell me: when was the decision made by government that secretaries would lead that work, from which we can infer the approximate commencement day?

Senator Cormann: Work to further support that work, because—

Senator Wong: No, no, no, can we not do the 19—

Senator Cormann: the government—

Senator Wong: I’m asking about before.

Senator Cormann: The Prime Minister announced a review on 16 October. There were processes involving cabinet colleagues. I think he indicated at the time words to the effect that this would involve consultation with international partners—friends and partners—and, at some point, all of that had to be brought towards a structured conclusion in order to finalise the outcomes of the review, which was ultimately announced in—
Senator WONG: Okay. Thank you for that!

Senator Cormann: middle of December.

Senator WONG: I don't know whether I'm on to something because people are just obfuscating—

Senator Cormann: No, I'm not—

Senator WONG: in which case we can stay and we will just—

Senator Cormann: There are different phases and different processes—

Senator WONG: No, it's a really simple question and it is entirely legitimate. Mr Hayhurst has given evidence that the review work commenced prior to this task force being stood up, and it was led by four secretaries, and I asked a very simple question: who made the decision that this review would be undertaken by the four secretaries, or the three secretaries identified, and when was that decision made?

Senator Cormann: I'll take that on notice.

Senator WONG: Ms Foster, you said it was a decision by the Prime Minister to request that PM&C lead the review.

Ms Foster: And, after I said that, I thought—

Senator WONG: Do the right thing here, Ms Foster.

Ms Foster: Sorry?

Senator WONG: Do the right thing here.

Senator Cormann: She is doing the right thing, please.

Ms Foster: I thought to myself, 'I don't know why I think it was the Prime Minister,' and so I've gone back and asked: was it the Prime Minister's direction or was it a recommendation from the secretary of Prime Minister and Cabinet? And I'm just waiting for an answer on that.

Senator WONG: Okay, fair enough. But is that the decision process which Mr Hayhurst is referencing for the four secretaries or three secretaries to lead—sorry, is it four or three? There's Home Affairs, PM&C, Foreign Affairs. Was there anyone else?

Ms Millar: Defence.

Senator WONG: Defence. Okay. So was this the decision for the four secretaries to lead the review?

Ms Foster: And that's the question I'm asking: who made that decision and at what point.

Senator WONG: Okay. Thank you for doing that. I appreciate that. But is that the decision to which Mr Hayhurst is referring?

Mr Hayhurst: Sorry, I understood you were asking about when the review in this format was decided and by whom, and I don't have those exact details to hand and I need to check them. It's not obfuscation. It's just—

Senator WONG: Why is this so difficult?

Mr Hayhurst: I don't know exactly the dates.

Senator WONG: The Prime Minister announced the review on the 16th.

Mr Hayhurst: Yes.
Senator WONG: I'm told in these estimates that four secretaries were tasked with it, and the task force was stood up, on 19 November. I just want to know the process by which those decisions were made and when work was commenced, and who made them.

Mr Hayhurst: Yes, and to get that right I'd have to take it on notice, because I don't have all the details and all the dates. Some of it was being handled by the secretaries, presumably, and I'm not privy to all the advice and the information.

Senator WONG: Surely—this has been one of the most controversial areas in your area of work in the last six months— you would come here knowing, having a brief at least on this issue. I don't mind if people want to go away and find out. I just would like a time line around the 16th until the announcement in December in terms of the work the public servants did on this review and what they were asked to do and who did it.

Ms Foster: I can confirm that it was the Prime Minister's decision.

Senator WONG: So the Prime Minister decided that the four secretaries should lead. Correct? Thank you for ascertaining that, Ms Foster. I do appreciate it. Can you tell me approximately when that occurred?

Ms Foster: We're still waiting for that, and I'm not confident that I'm going to get that tonight.

Senator WONG: Why is that?

Ms Foster: We need to find somebody who actually knows what date it was and—

Senator WONG: Surely this is documented.

Ms Foster: Indeed.

Ms Millar: I don't have that information.

Senator WONG: The Prime Minister announces a review and then announces—I just want to know what happens between announcing the review and the announcement of the outcome of the review.

Ms Foster: The date will clearly be on file. I'm just not sure whether we're going to be able to get to it.

Senator WONG: Thank you, if you can get that. But we know this: on 16 October it was announced that the task force is not stood up until 19 November. Is that correct? I thought that was your evidence, Mr Hayhurst.

Mr Hayhurst: That's correct.

Senator WONG: And when you say 'stood up', that is a decision or an agreement made by departmental secretaries to allocate particular resources to this work. Is that right?

Ms Millar: That's correct.

Senator WONG: How many staff were allocated, and from where?

Mr Hayhurst: The review task force supporting the secretaries had five staff.

Senator WONG: From the four agencies?

Mr Hayhurst: From DFAT and the Department of the Prime Minister and Cabinet. It was led by a DFAT official on short-term secondment to PM&C for the purposes of working on the task force.
Senator WONG: How long were they seconded for, and at what level?

Mr Hayhurst: The official was a band 2 level official, and they worked on the task force in between the 19th and the announcement, or just immediately prior to the announcement on 15 December.

Ms Foster: And Dr Parkinson's recollection was that the work that was done before that task force was stood up was actually establishing what would be required—what sort of approach to take. So, it was sort of preliminary work to enable the task force to have clear terms of reference.

Senator WONG: But it did take over a month just to get the task force established. I know there's a lot of work and a lot of other pressing priorities, but is there a reason that it took a little bit of time, given the focus on this? It was obviously a very big announcement, a very large shift in terms of foreign policy by a Prime Minister to announce this. Can someone just explain to me why that took that amount of time?

Mr Hayhurst: Well, the only explanation I have is that it took some time to get the right officials in place, to set out a plan to approach the work. But I don't have a specific explanation. The official who led the work of the task force was not in Australia at the time it was announced. He came back to Australia to lead the work on the task force. Those things took a little bit of time.

Senator WONG: Did the taskforce hand a written report to government?

Ms Millar: Sorry, Senator: what was the question?

Senator WONG: Did the taskforce provide government with a written report?

Ms Millar: Yes, it did.

Senator WONG: When was that provided and to whom?

Mr Hayhurst: I don't have the exact date that the report was handed down, but it was part of a cabinet process. It was not long prior to the Prime Minister's announcement of the government's decision in relation to the outcome of the review.

Senator WONG: So the report was considered by cabinet shortly before 15 December—correct?

Mr Hayhurst: Correct.

Senator WONG: Was the report to the Prime Minister? I understand the indication that it went to cabinet—which is useful, because it's difficult for me to get a copy of it, right? But was the report to him?

Mr Hayhurst: I'd have to check the exact form and whether it was addressed to him or whether it was addressed to the wider cabinet and presented that way.

Senator WONG: Was the request to Dr Parkinson to lead this review done in writing, or is there another document which sets out the terms of the question on which the government were seeking advice from the taskforce?

Ms Millar: My recollection—and I would have to check this—is that there discussions amongst the secretaries and with the Prime Minister's office about the terms of the review and a document was drawn up as part of that consultation process setting it how it would proceed. That is my recollection.
Senator WONG: Was this before or after the decision that Ms Foster is referencing?
Ms Millar: Afterwards.
Ms Foster: As I said before, there was a period of sort of working out how to approach it, planning an approach to the issue and then the taskforce was set up. We were in that stage establishing who would be on the taskforce and their plan of attack to the review.
Senator WONG: Did the taskforce provide a single recommendation or a range of options?
Mr Hayhurst: Without going into the details of what was provided to cabinet, the taskforce reported on the range of matters that the Prime Minister asked it to look at. There was more than one issue; it was several issues relating to the Middle East peace process and Australia's diplomatic representation.
Senator WONG: Was the announcement by Prime Minister consistent with any of the recommendations of the taskforce?
Mr Hayhurst: It's advice to cabinet.
Senator WONG: I'm just asking whether what he announced was consistent with what was recommended. It's a problem here for you, isn't it? Given this process, if you answer yes then you will say I'm engaging in discussion about cabinet. So you can't answer that. You can't even confirm that this review, which took all this time, on a controversial issue was actually of any utility.
Senator Cormann: But the outcome is there for all to see. The outcome is reported and the department is accountable for—
Senator WONG: I'm asking you, Minister. I'm assuming you're not going to answer that, Ms Millar? Will I just move on, because it's better not to have an argument at this time of night?
Ms Millar: I haven't anything further to add.
Senator WONG: Senator Cormann, was the decision of the Prime Minister consistent with any of the recommendations or outcomes of the review?
Senator Cormann: I take on notice whether there is anything that I can help you with in terms of the input and the output, but the output is of course what reflects the decision of the government, and the output is what the government is accountable for.
Senator WONG: How long before the decision was the cabinet process that you referenced, Mr Hayhurst?
Mr Hayhurst: I don't have with me the exact amount of time in between the discussion between ministers and the decision. I recall it was not long.
Senator WONG: You mean the cabinet discussion and the announcement, surely?
Mr Hayhurst: Sorry, that's what I thought you were asking. That is indeed what I mean.
Senator WONG: Yes, okay. By the way, Mr Hayhurst, your evidence on 22nd October was that 'the precise terms and processes for the review have yet to be decided'.
Mr Hayhurst: On that date, that was the answer.
Senator WONG: Yes, but what you did not tell me was that the secretaries had been tasked. I think Ms Foster's—

Mr Hayhurst: Just on that point, in between the 22nd and the 19th, there were several discussions about how to form the review. When I gave evidence on the 22nd, those decisions had not taken place or I was not aware of—

Senator WONG: Sorry. I thought you were asserting earlier tonight that, at that time, secretaries had already been tasked.

Mr Hayhurst: No, that was not my assertion.

Senator WONG: We'll move on then. Can I ask what 'when practical' means? The quote from the Prime Minister, Mr Morrison, is:

We look forward to moving our embassy to West Jerusalem when practical …

Mr Hayhurst: I think there are further clauses to his point, which go to being 'in support of and after the final status determination' of a two-state solution.

Senator WONG: Correct.

Mr Hayhurst: So the practicalities centre on the two-state solution negotiation and the final status thereof.

Senator WONG: Which was actually Ms Bishop's point: that Jerusalem is a final status issue.

Mr Hayhurst: That's what the Prime Minister said.

Senator WONG: Correct, but that wasn't what was said earlier, was it? It wasn't what was said during the Wentworth by-election. It's not the wording that was used.

Mr Hayhurst: I don't have all of the Prime Minister's transcripts from that time, but that's what he said on the 15th: the decision after the review had been conducted.

Senator WONG: So, does this mean, actually, that, other than the move of the— I'm sorry, was it a 'defence and trade office'? Is that right?

Ms Millar: Australian trade and defence office.

Senator WONG: Even though Israeli defence force and trade offices are in Tel Aviv, we're going to put an office in Jerusalem. Is that right?

Mr Hayhurst: The Prime Minister said we would establish such an office to help build the relationship.

Senator WONG: I read it.

Mr Hayhurst: A focus on trade, investment and defence industry partnerships.

Senator WONG: Given the reference to final status determination, is there actually any change in Australia's position to the position that Australia had in relation to this issue—that is, on the capital issue, leaving aside the defence and trade office—prior to the Prime Minister's Wentworth by-election announcement?

Ms Millar: As part of the announcement, the Prime Minister did say:

Australia now recognises West Jerusalem, being the seat of the Knesset and many of the institutions of government, is the capital of Israel.

Senator WONG: And? That is the change in position that you're referencing?
Ms Millar: That's exactly right.

Senator WONG: Why was Jerusalem chosen for the trade and defence offices?

Mr Hayhurst: I don't have that advice to hand, and it would have been a matter contained in the report of the review panel that went to cabinet.

Senator WONG: It would have been what? Could you repeat that sentence?

Mr Hayhurst: The issue of the establishment or otherwise of such an office would have been part of the report that went to cabinet and was considered by ministers.

Senator WONG: There was some media about security warnings in February—I think it was in an FOI request to the ABC—that indicated that a number of our posts were forced to close and that security warnings were sent prior to the announcement about potential security risks. Can I ask: were PM&C advised of these security concerns prior to the announcement being made, or were they aware of them?

Mr Hayhurst: I think the FOI request, the media reporting, relates to the announcement of the review on 16 October?

Senator WONG: Yes.

Mr Hayhurst: I just wanted to be clear. The messages referred to in those reports—we were aware that those messages were going to be sent to the diplomatic missions.

Senator WONG: When were you aware of that?

Mr Hayhurst: I assume that that message was being prepared that day.

Senator WONG: Okay, so this was in the scramble, which I think you and DFAT have given evidence about, about the speed of that decision-making. I think the foreign minister called on the Sunday, and the leadership group met on the Monday morning, was it? And when was the announcement made? It was provided to the media Monday evening.

Mr Hayhurst: I think it was a Tuesday that the announcement was made.

Senator WONG: Yes, but it was on the front page of the papers, so I think we can establish that the foreign minister called on the Sunday; the leadership group met to discuss, and the media was briefed Monday evening, because it was on the front page of the papers on the Tuesday morning. I might have got the days wrong, but I think that was the sequence. I'm pretty sure it was Sunday, Monday, Tuesday.

CHAIR: Senator, I'll draw your attention to the fact that we've got five minutes until the scheduled break, which is also the scheduled end for PM&C.

Senator WONG: Well, I'll need them to come back, I'm afraid.

CHAIR: Okay.

Senator WONG: Now you've broken my train of thought, Chair.

CHAIR: My apologies. It wasn't my intention.

Senator WONG: It's all right. I got up very early; I got the early flight out of Adelaide. So, in this scrambling, when did you become aware of the security concerns for our posts?

Mr Hayhurst: In the course of the day, in which the decision by the government to conduct this review was communicated to me and to other departments, and in discussions with DFAT about how to respond and give effect to the government's decision, we would...
have discussed the need to inform posts in the diplomatic network about the government's intention to make this announcement.

Senator WONG: That's not the question, though. I've had that evidence previously. This goes directly to concerns as to security, not just information about the fact of. As I understand it, if I can put it to you very squarely, the concern regarding the security of a number of our posts was something that relevant parts of the Public Service—so you and presumably DFAT and others—were aware of prior to this announcement being made public.

Mr Hayhurst: That's right.

Senator WONG: At any point, was it communicated to the Prime Minister or his office that there were security risks to Australian diplomatic posts as a consequence of this announcement?

Mr Hayhurst: I recall that my advice to the Prime Minister's office was that messages relevant to the security of diplomatic missions would have to be sent to our posts and that DFAT would put that process in train.

Senator WONG: When did you indicate that?

Mr Hayhurst: The same day that I was informed about the government's decision.

Senator WONG: Was that about 3.15 you were informed? I can't recall the time frames.

Mr Hayhurst: I can't recall.

Senator WONG: In one of those discussions with the PMO, you do tell them that there are security concerns about Australian diplomatic posts and that you would work to inform them.

Mr Hayhurst: I think the way, from memory, that I would have put it is that the Department of Foreign Affairs and Trade would need to consider and provide advice about possible security implications.

Senator WONG: Hang on. You just put 'would need to consider' and 'possible' into your answer, which weren't present in the last answer.

Mr Hayhurst: I'm recalling a conversation from—

Senator WONG: Were you aware that there were potential security risks to certain posts as a consequence of the announcement?

Mr Hayhurst: I was aware that DFAT would have to think about those matters and put advice to its posts, and I let the Prime Minister's office know that that would have to happen.

Senator WONG: Did they express any concern as to diplomatic posts having security risks as a consequence of a government announcement?

Mr Hayhurst: My conversations with officials from DFAT that day were mainly on other issues to give effect to the announcement. The issue of DFAT providing advice to its posts was something that was really squarely for it, and we supported getting that message out to the system as soon as it was able.

Senator WONG: Do you want me to start the next bit, Chair?

CHAIR: Perhaps just for management of the committee's time, could you indicate how much—
Senator WONG: This is taking longer than I anticipated.
CHAIR: more time you think we'll need with this?
Senator WONG: Probably half an hour.
CHAIR: In that case I think we should break as scheduled.

Proceedings suspended from 21:15 to 21:30

CHAIR: The committee will now resume.
Ms Foster: I have a point of clarification. Senator Wong asked: did the report go straight to cabinet? I think we've been able to establish that the report went first to the Prime Minister, as the commissioning minister, and from there to cabinet. What I haven't got is the exact dates that that happened.
Senator WONG: Who was the commissioning minister?
Ms Foster: The Prime Minister.
Senator WONG: I thought you said the Prime Minister 'and' the commissioning minister.
Ms Foster: 'As' the commissioning minister.
Senator WONG: Sorry, I misheard you. Has Mr Hayhurst run away?
Ms Foster: Yes. Both he and Ms Millar have decided to—no, of course they're here.
Senator WONG: I assume that, given the when-practical and other clauses—in support of and after final status determination—there has actually been nothing done in relation to any possible move of the embassy. Is that correct?
Ms Millar: Yes, the decision was made to leave our embassy in Tel Aviv.
Senator WONG: So nothing has been done in preparation for any move?
Ms Millar: No, because, as the Prime Minister announced at the time, they were looking to move the embassy in support of and after final status determination for a two-state solution.
Senator WONG: Can I turn now to the announcement of, I think, $17.1 million to Free TV for the purposes of producing content for the Pacific region. Can you talk to me about this?
Mr Hayhurst: To a degree, I can, yes.
Senator WONG: Who else do I need at the table if I want to ask questions about it?
Mr Hayhurst: Well, start with me and we'll see how we go. The issue with that announcement is that the department of communications is the responsible department for the implementation of that announcement.
Senator WONG: The Prime Minister announced this, though. When did you first become aware the Prime Minister was making the announcement? When did PM&C become aware?
Mr Hayhurst: There was a broader process within government to look at initiatives to improve our engagement with and advance our interests with Pacific island nations, and it was part of that broader consideration. It was one of several possible initiatives being considered.
Senator WONG: When you say there was a broader government process, was that a process associated with the Prime Minister's visit or some separate process?
Mr Hayhurst: It was a separate process.
Senator WONG: Who led that process?
Mr Hayhurst: This was a cabinet process that was led by ministers proposing options to advance Australia's interests with the Pacific.
Senator WONG: When did that process commence?
Mr Hayhurst: I don't recall exactly when it commenced. I don't have the detail of when it started to hand.
Senator WONG: Approximately? Since you've been in the position you're in?
Mr Hayhurst: Yes.
Senator WONG: Was it a cabinet decision to establish this process? What do we call this process? What do you call it?
Mr Hayhurst: What do I call it?
Senator WONG: What do public servants refer to it as? Every time they talk about it, do they talk about 'the broader process that was established by ministers who are carrying forward Pacific policy'? Does it have a name?
Ms Millar: More broadly, 'the Pacific step-up'.
Senator WONG: So the Pacific step-up had a bureaucratic and ministerial process leading up to it. When did that commence?
Mr Hayhurst: As I said, I'm not exactly sure when the process commenced.
Senator WONG: Approximately?
Mr Hayhurst: Sometime around the middle of 2018.
Senator WONG: Is it your evidence that this announcement was generated through that process?
Mr Hayhurst: That's right.
Senator WONG: Who is involved in that? Which portfolios? Is there a lead minister or lead department?
Mr Hayhurst: The lead department is Communications—
Senator WONG: No, No, No. Not on this specific policy. The specific policy announcement—I'll come back to that. The step-up and the process that we've been discussing—is there a lead agency to coordinate that policy development?
Mr Hayhurst: The lead agency, I think, is the Department of Foreign Affairs and Trade—I think it was an interagency process that involved DFAT, Defence and Home Affairs.
Senator WONG: And are you involved in that personally, or is someone who works to you involved in that?
Mr Hayhurst: I and some of my colleagues are involved in that process.
Senator WONG: So PM&C is involved. So, it's DFAT, PM&C, Defence—who else: Home Affairs?
Mr Hayhurst: That's right.
Senator WONG: And how often does this interagency group meet?
Mr Hayhurst: Now we're at the point after the Prime Minister has made his announcements. For example, one of his announcements relates to the Office of the Pacific which has been established in DFAT. That is now the main coordinating—

Senator WONG: Are they taking over the work that was previously being done?

Mr Hayhurst: They're in charge of coordinating the implementation of the announcements made by the Prime Minister.

Senator WONG: Can we come back to this issue. So, there is a series of announcements which are developed through this interagency process. I want to ask about this one. Your evidence is that the $17.1 million to commercial networks to provide these programs arose as a result of that interagency process?

Mr Hayhurst: That's right: it was part of that process.

Senator WONG: When you say part of that process, was there a single report to government or a single advice to government at a conclusion of that process, or is it more a series of advice on a range of different announcements which comprise the step-up?

Mr Hayhurst: There was a lot of different work that went into it, but the process was about advice to cabinet and cabinet submissions.

Senator WONG: Okay. And this was part of that?

Mr Hayhurst: This was, yes, part of that process.

Senator WONG: Okay. Just to go back—and I'm sorry, I've forgotten your answer if you did give me an answer: when were you aware that the Prime Minister was making this announcement?

Mr Hayhurst: The Prime Minister made the announcement about new media content for the Pacific on 8 November, and I was aware in the lead-up to that announcement that several of the decisions that had been taken by government were to be announced on that day.

Senator WONG: I'll ask DFAT, but was there any discussion with DFAT about this announcement?

Mr Hayhurst: I'm almost certain there would have been, given they were intimately involved in the whole process.

Senator WONG: Can you tell me, was there—I assume there was outreach as part of this Pacific step-up and in the development of policy options to Pacific nations. Can you name a single Pacific nation that has urged this government to give the money to commercial networks as per the Prime Minister's announcement?

Mr Hayhurst: I don't have that knowledge, Senator.

Senator WONG: Because none have?

Mr Hayhurst: Well, you'd have to probably direct that question to DFAT. I don't know every request they've made about their engagement with Australia.

Senator WONG: But do you have any knowledge? Okay, we will turn it the other way around—we'll try and contain the knowable universe to what your knowledge is. Do you have any knowledge of any Pacific nation requesting the Australian government to provide money for Pacific broadcasting to commercial networks?

Mr Hayhurst: No, I don't have any knowledge.
Senator WONG: Thank you. Isn't it the case that, in fact, certainly the public statements from a number of Pacific nations, leaders and ministers have been to request that the ABC funding be restored for these purposes?

Mr Hayhurst: I'm not aware of that, Senator.

Senator WONG: Can you confirm: you're not aware of that at all?

Mr Hayhurst: I'm not aware that any Pacific countries have requested the Australian government to fund services of the ABC in the Pacific, no—that was your question.

Senator WONG: I find that odd, that you say no-one has raised it with you.

Mr Hayhurst: No-one has raised that with me as the First Assistant Secretary of International Division at PM&C.

Ms Foster: Essentially, DFAT has been leading the work, post the decision—

Senator WONG: Sure.

Ms Foster: We were a coordinating point leading up to that.

Senator WONG: Yes, fair enough. Mr Hayhurst, Ms Millar or Ms Foster et cetera, are you aware that, in fact, Free TV Australia has said publicly—their CEO—that they didn't ask for the money?

Mr Hayhurst: I've seen a media report that quoted Free TV, but that's the extent of my knowledge.

Senator WONG: So you're not aware of that?

Mr Hayhurst: Other than seeing a report in the media about comments attributed to Free TV, I'm not aware of any other contact by that organisation with the government.

Senator WONG: Is there any evidence that there's actually any partnership between any commercial network and any Pacific nation?

Mr Hayhurst: Not known to me. That policy proposal was developed by the Department of Communications and the Arts, probably in consultation with DFAT. The detail is really held by them; I'm not aware of anything myself.

Ms Foster: And that was the construct that really went forward, with each department—

Senator WONG: Sure, and I'll ask questions of them. But the Prime Minister did announce that Free TV's Australian chief executive said that the government approached the industry last year. Was that something done by PM&C or was this done by communications?

Mr Hayhurst: To my knowledge, it was not done by PM&C.

Senator WONG: Okay, perhaps you can take that on notice to confirm that?

Mr Hayhurst: I can do that.

Senator WONG: That the funding was not something they 'sought out'. This is her quote:

I don't think there is any benefit to the industry in providing the content to the Pacific. No commercial networks are building partnerships in the Pacific. We've been approached by the PM and we are more than happy to help out.

So they got $70 million they didn't ask for and they made clear that they don't have any partnerships. What's the logic behind the decision and the Prime Minister's announcement?
Mr Hayhurst: You would have to ask the Department of Communications and the Arts about the detail. But in the Prime Minister's announcement, which was about several initiatives, this part was about Australian content and Australian stories being projected into the Pacific—part of the people-to-people community soft power aspects of the step up.

Senator WONG: Are you involved in the soft power review?

Mr Hayhurst: It's being led by DFAT, but PM&C has been involved in part of the consultations.

Senator WONG: Has it reported yet?

Mr Hayhurst: To my knowledge it has not yet reported.

Senator WONG: Great. So we've got a soft power review which hasn't finished, of which this presumably would be a relevant component that should be considered. Instead, we've got a decision to grant $17 million to a group, which hasn't asked for the money and has no specific partnerships, to do Pacific content. Okay.

There was, obviously, a lot of public reporting about Mr Dutton's decision to strip Neil Prakash of his Australian citizenship because he was a Fijian citizen. I just want to know when the department first became aware of that decision.

Ms Millar: Just bear with me for one moment, Senator; I'll check that. Sorry—I was just checking my brief. We became aware that Mr Prakash was eligible for citizenship loss in July last year under the terms of the act.

Senator WONG: How did you become aware of it?

Ms Millar: As part of routine information sharing from other agencies.

Senator WONG: From Home Affairs?

Ms Millar: Yes.

Senator WONG: When was the decision made public—January?

Ms Millar: The decision? Just a second.

Senator WONG: Yes, on 2 January—there was an article.

Ms Millar: Sorry; I've just had to go back to a different part of my brief to find all this.

Senator WONG: Sorry.

Ms Millar: On 29 December.

Senator WONG: The decision was actually made?

Ms Millar: No—the decision was made public.

Senator WONG: But there is a proceeding set—

Ms Millar: I'm sorry; I thought that was your question.

Senator WONG: The July 2018 information is that he's eligible for citizenship loss.

Ms Millar: That was when we became aware that that was the case.

Senator WONG: Yes, but the decision to actually give effect to that must've been made at some point between July and 2 January, when it was announced, or the end of December? There's another step, isn't there.
Ms Millar: You're absolutely right. I'm sorry. I'm just trying to find it in my pack, and we were not actually directly involved in that decision. That's why I'm just trying to check.

Senator WONG: Okay. I don't want to sort of stop on that. Then there is, you say, a 29 December announcement. I had 2 January, but not much turns on that. At any point between July 2018, when you become aware of the possibility of citizenship loss, and its announcement, are you aware of any contact between the Australian government and the Fijian authorities about the prospective announcement, in relation to Mr Prakash's Fijian citizenship?

Ms Millar: Yes, I am. The Department of Foreign Affairs and Trade, through our post in Fiji, consulted with the Fijian government on 28 September and then again on 21 December.

Senator WONG: Right. And the actual decision is made sometime—do we have that date?

Ms Millar: The actual decision was made sometime before then.

Senator WONG: So before the first consultation with the Fijian government?

Ms Millar: Yes.

Senator WONG: So before 28 September?

Ms Millar: That is correct. I'm just trying to see if I have the date—or one of my colleagues may. As I said, we were not directly involved in that decision.

Senator WONG: And you weren't involved in consultation or advice to Fiji?

Ms Millar: That was conducted by the Department of Foreign Affairs and Trade.

Senator WONG: So you might have been personally, but DFAT, in a different—I wasn't trying to play games, but DFAT was involved, not PM&C?

Ms Millar: DFAT was involved—exactly.

Senator WONG: No involvement from PM&C?

Ms Millar: No.

Senator WONG: So PM&C, plus others, obviously supported the Prime Minister's visit to Fiji—

Ms Millar: That's correct.

Senator WONG: and Vanuatu?

Mr Hayhurst: That's correct—Vanuatu.

Senator WONG: As part of that, did the Fijians raise any issue with PM&C or DFAT or other Australian officials about Mr Prakash?

Ms Millar: During the Prime Minister's visit to Fiji?

Senator WONG: Prior to—and as part of supporting that visit?

Mr Hayhurst: It was discussed between officials in the lead-up to the Prime Minister's visit.

Senator WONG: And what was the view of the Fijians? What was discussed?
Mr Hayhurst: I think there was an exchange of information about the issue, and the other part of it was really about, I think it is fair to say, ensuring that the issue didn't overshadow or affect the agenda that the Prime Minister was to pursue during the visit.

Senator WONG: Tell me why it could have overshadowed it.

Mr Hayhurst: It was an issue that related to a decision that had been made in 2018. The Prime Minister was looking to establish a new sort of partnership with Fiji looking into the future. It was front page media in both countries, and we wanted the attention to be focused on the announcements and the visit itself.

Senator WONG: The Fijian Attorney-General, I think—a number of officials in Fiji have made public comment expressing concern about the decision.

Mr Hayhurst: I have seen media reporting—

Senator WONG: Yes. I'm not asking you to comment on that. I'm just asking whether or not the issues raised or the matters raised with you as part of the exchange of views were consistent with the publicly expressed views of the Fijian authorities.

Mr Hayhurst: I think it was broadly consistent with, but also consistent with a desire to move on and establish the new partnership that the Prime Minister was able to announce when he was there.

Senator WONG: But they weren't happy about the way in which it was done?

Mr Hayhurst: Well—

Senator Cormann: You're asking him for an opinion.

Senator WONG: I'm asking what they expressed to him. Did they express concern about the decisions the Australian government had taken and the way they were taken?

Mr Hayhurst: Not to me, directly, but I think it is fair to say that Fiji did express some concern about aspects of that—

Senator WONG: Thank you for that, Mr Hayhurst. As part of the 'step up' and—sorry, I can't remember the phrase you used—I think it was 'new relationship', have there been any commitments given to Fiji about how any future citizenship issues such as that would be resolved?

Mr Hayhurst: I'm not aware of any such commitments, Senator.

Senator WONG: Thank you, Mr Hayhurst. I'm finished on that point, I think, unless somebody emails me something that I've forgotten. One thing I did neglect to go back to, Ms Millar, was the JCPOA review. I think the outcome of that was buried in either the Prime Minister's speech or one of the announcements. I think the evidence was that you conducted that review?

Ms Millar: That's correct.

Senator WONG: And your advice was 'no change', or subsequent to your review being completed?

Ms Millar: That was the decision of the government.

Senator WONG: Thank you. There was a lot of furore over not much. Thank you. I've finished.
CHAIR: If there are no further questions for the Department of the Prime Minister and Cabinet—

Senator WONG: I understand Senator Kitching may be returning. I don't know if there is anybody else who wants to ask questions. Can we ascertain that? I've finished.

CHAIR: Are there any other questions?

Senator WONG: Can we just make a call?

CHAIR: Okay.

Senator WONG: Do you want me to keep asking questions?

Senator Cormann: No!

CHAIR: We are just waiting for Senator Kitching's whereabouts and then we'll advise.

Senator WONG: They're running late in another committee.

Senator Cormann: Shall we take a short break?

CHAIR: That's a good idea. We'll have a brief suspension.

Proceedings suspended from 21:54 to 21:57

CHAIR: The committee will now resume. I thank the Department of the Prime Minister and Cabinet for their evidence today. You are now free to go. I thank the minister. We will now move on to the Digital Transformation Agency.

Digital Transformation Agency

[21:58]

CHAIR: I welcome the Assistant Minister for Treasury and Finance, Senator the Hon. Zed Seselja; Mr Randall Brugueaud, the Chief Executive Officer of the Digital Transformation Agency; and officers of the agency. I 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. Witnesses are specifically reminded that a statement that information or a document is confidential or consists of advice to government is not a statement that meets the requirements of the 2009 order. Instead, witnesses are required to provide some specific indication of the harm to the public interest that could result from the disclosure of the information or the document. The committee has set 29 March 2019 as the date by which answers to questions on notice are to be returned. Assistant Minister, do you have an opening statement?

Senator Seselja: I do not, but officials are ready to take your questions.

CHAIR: Mr Brugueaud, do you have an opening statement?

Mr Brugueaud: I have a short opening statement, yes. Since our last appearance the DTA has continued to progress Australia's digital transformation agenda. We have settled into our new operating model and we are working with our colleagues and partners to deliver against the priorities I outlined to you in October. Australia has long been recognised as a world leader in digital government, but an incredibly dynamic operating environment means that we cannot afford to stand still. We live in a time where countries and economies are in a race to harness the benefits of digital in the development of government policies, the implementation of programs and service delivery. The opportunity to improve government services through digital transformation remains high, but generating the impact required to drive us forward
into the next decade requires a bold vision, clear strategies and the sustained support of government.

In November last year we launched the whole-of-government Digital Transformation Strategy. This describes a vision that puts people and businesses at the centre of everything we do. It is supported by a rolling two-year roadmap to guide implementation. At its core are three priorities: government that is easy to deal with, which is focused on services; government that is informed by you, which is focused on data; and government that is fit for the digital age, which is focused on capability.

In November we also released our whole-of-government platform strategy. This provides guidance for departments who create or manage digital service platforms. It outlines how we will achieve the benefits of reusable platforms such as notifications and payments. Our work on digital identity is progressing well. Digital identity will offer a better experience for people and businesses as they access government services. It will also deliver economic benefits and encourage collaboration and innovation. We will have eight pilots running before the end of this financial year, with high-volume government services such as TFN applications, grant management, youth allowance and the Australian Business Register all being able to be accessed using mygovID, the government issued digital identity.

Digital identity, along with our trusted Digital Identity Framework, has been developed in close consultation with security, identity and privacy experts. This ensures that we continue to offer a reliable, safe and secure way for people to access government services online. They have also been developed in a collaborative way, with the DTA building productive working relationships with our colleagues in government and our partners in academia and industry. Across government, the Australian Digital Council is proving to be an important enabler of interjurisdictional collaboration. We have established multidisciplinary teams, or MDTs, to deal with the complexities associated with services that span Commonwealth, state and territory lines. We have focused MDTs on life events such as having a baby and getting a job. We have also got teams working on digital identity and data integration initiatives. Our core objective is to improve services for people and businesses all around the country.

Building digital capability is a critical part of the DTA's mission. We have continued to provide training, coaching, mentoring and support across government. This includes work with the Australian Public Service Commission to define career pathways for digital professionals. We have also just welcomed 121 new digital apprentices, cadets and graduates. These new recruits were engaged through our Emerging Talent Program to work in a range of digital roles across 19 Commonwealth agencies.

While we have many incredible people working in the APS, we also need to leverage the capabilities of industry. To this end we have continued to grow our digital marketplace with over $348 million worth of contracts awarded to the end of January 2019, of which 72 per cent went to small and medium sized enterprises. We are also continuing to negotiate large whole-of-government deals to increase value and flexibility and drive down costs.

I mentioned innovation in the context of digital identity in my earlier comments. Innovation is crucial to our ongoing success as a nation. Our recent blockchain research and advice is an example of how we are monitoring our external environment for capabilities that may be applied to the delivery of government services. This work is underpinned by
platforms such as cloud.gov.au that support innovation by allowing organisations to rapidly test hypotheses as they drive new thinking.

Finally, we continue to work hard to provide strategic advice through our Digital Investment Division. We work closely with our counterparts in the Department of Finance to develop quality digital proposals. We provide advice to ensure the proposals align with whole-of-government strategies, including the Digital Transformation Strategy. We also continue to provide targeted advice to government programs to reduce risk and increase delivery confidence.

Senators, I thank you for the opportunity to share this update. While we still have a lot of work to do, I'm incredibly proud of the achievements of 'team DTA' in leading and supporting Australia's Digital Transformation Agenda. We look forward to taking your questions.

CHAIR: Thank you very much.

Senator McALLISTER: Thanks very much, Mr Brugeaud. We don't have a lot of time, and I really just wanted to talk about one issue, which is the ANAO's report into the Australian Criminal Intelligence Commission's administration of the Biometric Identification Services project. I assume you've seen the ANAO report.

Mr Brugeaud: Yes.

Senator McALLISTER: The report indicates that $34 million was wasted on a project which the ANAO ultimately found to be 'deficient in almost every significant respect'. Was that a surprising finding? Were you surprised when the report came out?

Mr Brugeaud: Surprised in relation to the findings? Large digital transformation programs are complex, and I suppose I expect to see challenges with programs of that complexity, particularly where you're involving industry partners to assist in delivery.

Senator McALLISTER: It's more than a challenge, though, isn't it? And it's more than just the hurdles that come with complexity. It's a project where the finding, to be really specific, on page 8, is:

… deficient in … every significant respect.

That is a damning finding. Do you wish to revisit your assessment that this is just an ordinary consequence of the challenges of working on complex projects?

Mr Brugeaud: We are providing support to programs as our resources allow, and we have a view of programs across government and are able to draw out insights when it comes to common trends and challenges. So what we see is the importance of early engagement with users, the establishment of effective multidisciplinary teams, effective use of and accountabilities being described with commercial suppliers, right digital capabilities, incremental delivery—

Senator McALLISTER: I'm sorry to interrupt you, but I think we know what good looks like, or we tried to describe in the past what good looks like. I'm asking you about this specific project, because the Auditor-General has reviewed it. I'll come to the role of DTA in a moment, but his finding was that the project 'was deficient in almost every significant respect'. He also found that not a single one of the project's milestones or deliverables was met—deficient in every single respect and not a single milestone or deliverable met. Were
you surprised that upon review that was the finding of the Auditor-General? Had you expected a different finding?

Mr Brugeaud: I think having it such that every element was found to be deficient is remarkable, yes.

Senator McALLISTER: Have you examined the claims of project mismanagement, which are detailed throughout the report but particularly, I suppose, at the summary at point 16 on page 9?

Mr Brugeaud: I don't have the report in front of me.

Senator McALLISTER: It goes to the issues of contract management, which is the main area where the Auditor points to. The first dot point is:

• The stipulated contract process by which progress against milestones and deliverables was to be assessed was not followed at any stage and ACIC thus had no way of assuring itself that it got what it paid for.

Your responsibility is digital investment advice and portfolio oversight. Were you aware, prior to this report, that the ACIC had no way of assuring itself that it got what it paid for? Was that obvious to you as the entity overseeing these projects?

Mr Brugeaud: The project itself commenced in April 2016. The DTA's engagement was not until much later than the program start date. We do normal, regular wave data collection where we take input from agencies on their self-assessment of their program. We have targeted interventions where programs are self-reporting that they're having delivery issues, and, in the case of the Biometric Identification Services, that didn't come to light until very late in the program.

Senator DEAN SMITH: I don't think you put your best foot forward because what the Auditor-General's report says is that the BIS procurement process was largely effective. Then it goes on to say what Senator McAllister had to say. Senator McAllister's description of the report is not completely accurate, so this is an opportunity for the DTA to put its best foot forward.

Senator McALLISTER: I think the evidence that Mr Brugeaud has just provided is actually that the DTA was not involved at 2014 when the contract process was initiated nor were they involved in 2016 when the contract management commenced. I would like to understand when the DTA did become involved.

Mr Brugeaud: I will hand over to our chief portfolio officer, Ms Hutchinson.

Ms Hutchinson: The ACIC first started reporting to the DTA in August 2017 as part of the regular performance reporting that agencies do to the DTA.

Senator McALLISTER: The Auditor-General has included a direct reference about that reporting arrangement. It says that the DTA received six bi-monthly reports from the ACIC that consistently reflected the ACIC's amber/red confidence in project delivery. What does it mean if a project is amber/red?

Ms Hutchinson: Projects self-assess their delivery status. They typically will mean that they are having some form of difficulty with one or more aspects of their project. That may be anything ranging from the timing of deliverables through to sourcing, suppliers or staff.
Senator McALLISTER: How many metrics would you generally be self-assessing against—20, six?

Ms Hutchinson: We collect information on probably around 20 different things we would ask agencies to report on.

Senator McALLISTER: This information in the Auditor-General's report was presumably provided by your organisation to the Auditor-General?

Ms Hutchinson: We provided some. We provided the reports that the agency had provided to us.

Senator McALLISTER: Can you tell me, when the summary says that the bi-monthly reports from ACIC consistently reflected ACIC's amber/red confidence in project delivery, is that an accurate assessment of the material you received?

Ms Hutchinson: Yes, it is.

Senator McALLISTER: What steps were taken by DTA to improve project performance in light of those six assessments from August 2017 that indicated the project was going off the rails?

Ms Hutchinson: We contacted the ACIC to initiate discussions and held a meeting with them earlier in 2018.

Senator McALLISTER: Was that the meeting at which the ACIC advised DTA that their confidence level had increased in relation to project delivery?

Ms Hutchinson: No. That advice was received later in 2018.

Senator McALLISTER: So you met in early 2018 and then advice was communicated in May that confidence had increased.

Ms Hutchinson: Let me just check that date for you. Yes, it would be May.

Senator McALLISTER: Do you consider that the ACIC misled you in providing that advice at that time?

Ms Hutchinson: We rely on agencies to accurately self-report.

Senator McALLISTER: Of course, but they self-reported one month before they terminated the contract, the $34 million contract, that their confidence level had increased. Do you consider that that advice was misleading?

Ms Hutchinson: I'm not in a position to comment on the agency's self-report.

Senator McALLISTER: What is your role then, if not to comment on the agency's self-report? This is quite confusing. They self-reported that their confidence level in project delivery had increased after months of providing red and amber flags about project delivery and then they cancelled the project. There is something wrong there, is there not, and that is the sort of thing that your organisation, surely, is established to identify?

Ms Hutchinson: Certainly, and we reached out to the agency for a third meeting with them to try and understand changes in their reporting.

Senator McALLISTER: I'll come back to that. Can I ask: at the time that they told you their confidence level had increased, did you seek to validate or otherwise assess that claim or did you take it on face value that the project was improving?
Ms Hutchinson: No. I understand my predecessor had reached out to the agency at that point.

Senator McALLISTER: Sorry; I'm asking for an organisational response, not your personal response. Did the DTA seek in any way to validate the self-assessment that confidence levels had increased in May?

Ms Hutchinson: We had reached out to the agency a number of times between March and June.

Senator McALLISTER: I'm really asking about validation, because this agency reports that things are not on track, then tells you in May that things are on track and then cancels the project a month later.

Ms Hutchinson: We reached out to the agency a number of times between March and June.

Senator McALLISTER: 'Reaching out', with the greatest respect, is not a very descriptive or helpful term. Did you send them a text message with an emoji? What exactly did you do?

Ms Hutchinson: I understand attempts were made by email and telephone to contact the agency.

Senator McALLISTER: What was the purpose of those telephone calls?

Ms Hutchinson: It would have been, I imagine, to seek further information about the status of the project.

Senator McALLISTER: So they sent you a written report saying confidence levels had increased, and the DTA sent emails and made telephone calls to seek further information. What sort of information would you have sought, had you been able to get in touch with them?

Ms Hutchinson: Typically, the engagement we do with agencies, when there is a change in their reporting of their status, is to understand what's driving that change.

Senator McALLISTER: The same auditor's report indicates that these attempts were unsuccessful:

- During the BIS project, DTA made numerous unsuccessful attempts to meet with ACIC to verify the challenges reported by ACIC.

This is reasonably troubling. Your role is to have portfolio oversight. How can we have a circumstance where the DTA, the agency with portfolio oversight, is unable to speak to the agencies in charge of the projects that the DTA is supposed to be overseeing?

Ms Hutchinson: By and large, most agencies will engage with us when we reach out to speak to them.

Senator McALLISTER: Did you seek to elevate this to Mr Brugeaud?

Ms Hutchinson: I think my predecessor may have; I'm not aware of that.

Senator DEAN SMITH: When the Auditor-General's report at 3.66 says:

The DTA advised that it is not a regulator—

Senator McALLISTER: Sorry; I actually had the call. I'm sure that we can return the call to Senator Smith, if he'd like to ask questions.
CHAIR: Senator McAllister, clarifying questions are generally tolerated.

Senator DEAN SMITH: what does that statement mean?

Ms Hutchinson: Sorry, which section?

Senator DEAN SMITH: At 3.66 in the report, it says:
The DTA advised that it is not a regulator and has no mandate to direct entities.

That's a direct quote from the Auditor-General's report. What does that statement mean?

Ms Hutchinson: That means the DTA has no legislative authority or formal role in terms of engaging with agencies to direct particular activities or a particular infringement.

Senator DEAN SMITH: Would you agree with the Auditor-General's report when it focuses a lot of its attention on the audit committee and its failings?

Ms Hutchinson: Certainly. We would recommend—

Senator DEAN SMITH: Not your audit committee, I might add.

Ms Hutchinson: Thank you. We would recommend many of the lessons out of this report, particularly around governance; good principles across for the APS to adopt.

CHAIR: Senator McAllister.

Senator McALLISTER: These issues were brought to the attention of the CEO, Mr Brugeaud?

Mr Brugeaud: No, they weren't.

Senator McALLISTER: Did you raise them with the minister?

Mr Brugeaud: No, I did not.

Senator McALLISTER: Why not?

Mr Brugeaud: Because they weren't brought to my attention.

Senator McALLISTER: My apologies; I misheard your answer. So you weren't in charge, Ms Hutchinson. Who was sitting in your seat?

Ms Hutchinson: It would have been my predecessor or her predecessor.

Senator McALLISTER: That was Dr Seebeck, was it?

Ms Hutchinson: It could have been, or Ms Monkley.

Mr Brugeaud: Most likely Ms Monkley, who was on secondment from the Department of Human Services.

Senator McALLISTER: How long was she with the DTA?

Mr Brugeaud: I will need to check the dates. We'll take that on notice to get you the exact dates, but it was around 12 months. She performed a couple of different roles in the time that she was with the DTA.

Senator McALLISTER: So she was on secondment—

Mr Brugeaud: Yes.

Senator McALLISTER: filling a temporary vacancy?
Mr Brugeaud: She was originally seconded to support our hosting strategy work. We made some organisational changes in late 2018, and Ms Monkley moved into the portfolio role that Ms Hutchinson is now in.

Senator McALLISTER: So Ms Monkley was managing this project?

Mr Brugeaud: She wasn't managing the project.

Senator McALLISTER: She was responsible for oversight of this project and a range of other projects. The entity, ACIC, was refusing to meet with the DTA, and she elevated it but not to you, Mr Brugeaud, and thus you were unable to elevate it to the minister. When did you find out that things had gone so badly wrong?

Mr Brugeaud: As we were engaging later and the program was referred to the cabinet meeting for consideration, that was the point at which I became aware of the issues in the program.

Senator McALLISTER: When was that?

Mr Brugeaud: That was the same time frame as they reported the increased confidence, which you have spoken to Ms Hutchinson about—so in May 2018.

Senator McALLISTER: I see. And PM&C became involved at that time through a cabinet process. What is the process by which a project of this kind gets referred to the Digital Transformation and Public Sector Modernisation Committee? Who makes that referral?

Ms Hutchinson: As part of our advice to the agency, we recommended that their minister advise the relevant committee of cabinet.

Senator McALLISTER: And do you understand that they did that?

Ms Hutchinson: Yes, I do understand that. The ANAO report mentions that.

Senator McALLISTER: But, nonetheless, you were then asked for advice, Mr Brugeaud, in the context of cabinet subcommittee deliberations around these matters?

Mr Brugeaud: Sorry, what was the question?

Senator McALLISTER: You were then asked for advice. Your earlier evidence was that you became involved when this was referred to the cabinet subcommittee?

Mr Brugeaud: Correct.

Senator McALLISTER: So a verbal report was provided to the cabinet subcommittee, and then you were subsequently asked for further information about that?

Mr Brugeaud: I go into the cabinet discussions—

Senator McALLISTER: I'm asking about timing, Mr Brugeaud, not about the content.

Mr Brugeaud: It was at that time, yes.

Senator McALLISTER: Before or after the cabinet subcommittee met?

Mr Brugeaud: We provide advice leading into that cabinet committee meeting.

Senator McALLISTER: I see. Senator Smith went to a point I was going to go to, which is that you are not a regulator and you have no mandate to direct entities. It appears that your ability to engage with these entities is limited, because the ACIC chose not to return your phone calls. Do you think this points to some of the limitations in the operating model for the DTA? You're before a Senate committee, senators are trying to understand what your role is
and why you didn't prevent this $34 million disaster, and your answer is, 'Because they wouldn't return our phone calls.' It does point to a structural problem in the role of the organisation, does it not?

Mr Brugeaud: The DTA has a broad range of roles. The investment advice and the collection of information for the purposes of getting a portfolio-wide view of the digital program of work is a relatively small part of that. Exactly as you have observed, it is the responsibility of the agencies who are funded to deliver their programs. We provide advice to the senior responsible officers—

Senator McALLISTER: If they return your phone calls?

Mr Brugeaud: if they return our phone calls. There is an opportunity, clearly, for us to escalate. However, in this particular case, that occurred very late in the program due to the fact that the self-assessment was adjusted to a medium delivery confidence later in the program.

Senator McALLISTER: The self-assessment was, in fact, amber/red for over six bimonthly reports. There were plenty of opportunities in that period for the person who previously occupied Ms Hutchinson's role to elevate that to you, but that person chose not to do so. Mr Brugeaud, you said that you provided advice in the context of the cabinet subcommittee consideration, but the ANAO report says:

The DTA understands that ACIC gave the—

cabinet subcommittee—
a 'verbal report' but DTA holds no details or records of this.

Ms Hutchinson: That's correct, Senator.

Senator McALLISTER: How is that consistent with the advice that Mr Brugeaud just provided, which is that he did provide advice prior to that meeting?

Ms Hutchinson: I think the ANAO report is around the relevant minister providing advice to the committee.

Senator McALLISTER: It says:
The DTA understands that ACIC gave the DTPSMC a 'verbal report' but DTA holds no details or records of this.

Yet Mr Brugeaud said he did provide advice in advance of that meeting. How can there be no record of the advice that Mr Brugeaud provided?

Ms Hutchinson: I'm sorry, Senator, I misunderstood. As part of our role we provide advice to government on the portfolio of projects.

Senator McALLISTER: Who is the responsible minister? I'm sorry, I'm never entirely certain, because things have changed a lot.

Mr Brugeaud: The minister for digital transformation?

Senator McALLISTER: Yes.

Mr Brugeaud: Minister Keenan.

Senator McALLISTER: The project cost rose by $12 million between April 2016 and June 2018, sometimes without explanation, according to the ANAO report. When was the minister first made aware of the extra expenditure?
Ms Hutchinson: Do you mean Minister Keenan?

Senator McALLISTER: I mean your minister, yes.

Ms Hutchinson: That's not something that we would normally advise our minister on. Agencies are responsible for advising their own ministers on changes in their projects.

Senator McALLISTER: So, if you saw catastrophic project failure in the Public Service, you're saying you would not tell the minister for digital transformation?

Ms Hutchinson: No, I'm not saying that, but in terms of a particular parameter changing, such as the cost, in isolation other factors, we would not necessarily advise on that.

Senator McALLISTER: This project has been a pretty big disaster. It has been a comprehensive failure. The ANAO describes it, as I said earlier, as being 'deficient in almost every significant respect'. Was there a point at which you think, in retrospect, it may have been better had Minister Keenan been alerted to this?

Mr Brugeaud: So 20/20 hindsight is a wonderful thing.

Senator McALLISTER: Yes.

Mr Brugeaud: Given the outcomes of the review of this and any other program that may not have gone particularly well, then we would have clearly provided advice. I do come back to the point that the DTA has limited capacity and jurisdiction over individual projects. There are many large projects being run across government. For us to have a forensic view of every project that's reporting amber at any reporting point is just impractical, even with a broader mandate.

Senator McALLISTER: The ANAO discovered that the project's recordkeeping was so poor that it took more than a month for the ACIC to find the original 800-page contract and that, because it was not measured against milestones or deliverables at any stage, there was no way of knowing that the ACIC got what they paid for. There's a big gap between that and the self-reporting process, isn't there? There's really terrible project management underway. They self-reported to you that things were amber or red, which maybe should have raised a flag anyway. Why were you unaware of these gaping holes in the project management arrangements for the project?

Mr Brugeaud: We have the visibility of the inputs that are provided through the self-assessments of the individual agencies involved, so if that wasn't made visible to us then we wouldn't have been aware of it.

Senator McALLISTER: Senator Seselja, are there any consequences for any of the public servants who were involved in this process—in particular, those public servants who regularly reported that the thing was off track and then reported they had confidence in it and then canned the project—being held accountable for what happened?

Senator Seselja: Sorry, I don't have any specific information on that. I can take that on notice.

Senator McALLISTER: Mr Keenan kicked this project off, didn't he, when he was the justice minister? Then he was made the DTA minister and then he had to cancel it. That's how it worked. Is that right?

Senator Seselja: Sorry, I'm not sure what you're referring to.
Mr Brugeaud: Mr Keenan wouldn't have cancelled the project. This would have been the minister responsible for that given portfolio at the time. Our minister doesn't have the capacity to cancel projects that are being run in other portfolios.

Senator McALLISTER: I see. So he kicked the project off and then got moved into the transformation role.

Ms Hutchinson: I'm not sure if Minister Keenan was the responsible minister at the commissioning of the project.

Senator McALLISTER: It is hard to keep track of it, I understand. Do you accept any responsibility for the fact this project went off the rails, organisationally?

Mr Brugeaud: This is the responsibility of the owning agency. We have a limited capacity, as I'd said, to forensically examine projects in detail across government. Ultimately, the accountability lies with the owning agency, and our involvement and our capacity to provide advice to government is at an aggregate level.

Senator PATRICK: I think that's a no.

Senator McALLISTER: Are these arrangements satisfactory? Is there anything that needs to change with the DTA to prevent something like this happening again? The DTA does have a role in overseeing major digital infrastructure projects. They've had over a dozen of those projects fail under this government. Does something need to change?

Mr Brugeaud: It really is a matter for government. We are working within the set of accountabilities that we've been provided and we are, clearly, executing on the mandate that we've been given. There are options available and different countries have taken different approaches. The New Zealand approach is very similar to the Australian approach, which is without direct control although there is governance over that. The UK had a much stronger set of controls, spend control, than what the DTA currently has. But, fundamentally, we're working within the set of parameters that have been assigned, and we will work within whatever government assigns to us.

Senator McALLISTER: I have a couple of questions, which I might just read through. I suspect the department may need to take some of them on notice, but they are fact based rather than—

CHAIR: I'm just conscious of the time, with half an hour left and two agencies to go.

Senator McALLISTER: Yes, me too. I want to ask about Mr Keenan's visit to San Francisco last year. What was the purpose of the trip?

Mr Brugeaud: It was an industry delegation with members of the Australian Information Industry Association. There were a couple of objectives in the visit. One was to showcase great Australian talent. It was to build relationships with industry, within Australia, in an environment that was innovative and very progressive in its mode of operation. It was also connecting with Australian companies in the US.

Senator McALLISTER: What was the departure date and date of return?

Mr Brugeaud: I'll need to take that on notice.

Senator McALLISTER: What destinations were visited on the trip and for how long at each destination?
Mr Brugeaud: We'll take this on notice. At a high level, the visit included San Francisco, New York and Washington DC.

Senator McALLISTER: For each of those destinations, can you please provide a list of the meetings attended by the minister and on which day?

Mr Brugeaud: Indeed.

Senator McALLISTER: For each of those destinations, can you please provide a list of the meetings attended by the minister and on which day?

Mr Brugeaud: Ministerial staff travelled with the minister, and a number of departmental staff from within the APS travelled with the minister. There were also myself and the then acting CIO of the Department of Human Services, Mr Charles McHardie, as well as administrative support staff.

Senator McALLISTER: The ministerial staff were from Minister Keenan's own office.

Mr Brugeaud: Correct.

Senator McALLISTER: Were there any other ministerial staff?

Mr Brugeaud: Not as far as I'm aware, but we'll confirm that and come back.

Senator McALLISTER: If you can provide an itinerary for the trip and the roles of the people who attended alongside Minister Keenan—obviously I don't need the names of the people who participated—that would be terrific. Thank you. That's all from me.

Ms Hutchinson: From memory, none of them relate to the DTA. They are recommendations that the ACIC made in terms of the lessons they learned from the project.

Senator DEAN SMITH: And none of them related to your performance.

Ms Hutchinson: From memory, no.

CHAIR: If there are no further questions for the DTA, I thank you very much for your evidence and your attendance here tonight. The committee will now move to the Australian National Audit Office.

Australian National Audit Office

[10:37]

CHAIR: Welcome. I thank the ANAO for providing the summaries of ANAO reports since the supplementary budget estimates round in October 2018. Mr Hehir, do you wish to make an opening statement?

Mr Hehir: No, thank you.

CHAIR: I assume you don't either, Minister?

Senator Seselja: No.

Senator PATRICK: Mr Hehir, I'm wondering how you're going with Murray-Darling Basin related audits. I think there was a request for an audit into some of the strategic purchases that have been made. There was a letter sent by a number of members of parliament to your office.

Mr Hehir: We're putting together our next program at the moment and we've circulated a draft program to the JCPAA to facilitate consultation with parliament over its development.
Senator PATRICK: I seem to recall that letter was sent quite some time ago. Nothing has started at this point.

Mr Hehir: No.

Senator PATRICK: Obviously Murray-Darling is quite topical at the moment, so it might have been good if there was a report on its way. Moving to section 37, last estimates you advised Senator McAllister on notice names of agencies that had floated the idea of a section 37 certificate with you. They were Home Affairs and the Australian Criminal Intelligence Commission.

Mr Hehir: Yes.

Senator PATRICK: Have you had any more agencies raise section 37 with your office?

Mr Hehir: No.

Senator PATRICK: That's a good thing.

Mr Hehir: Yes.

Senator PATRICK: I will go to Thales's supplementary submission that they put in. You know that I've been critical of the notion that they may have tendered evidence that was in your report to the court. They say in the submission:

Further, I am advised that extracts of the draft report were annexed to the affidavit of the Auditor-General, Mr Grant Hehir affirmed on 16 March 2018 and filed in the Federal Court of Australia on 19 March 2018.

I know the court has dealt responsibly with any claims in respect of parliamentary privilege, and of course section 16(4) of the Parliamentary Privileges Act says:

A court or tribunal shall not:

(a) require to be produced, or admit into evidence …

And it goes on to state, basically, matters that are covered by privilege. And of course the court exercised that material extremely carefully, and that is a matter for the court. However, and this is more a matter for the Senate or for the parliament, section 16(3) says:

And so forth, in relation to material that is covered by privilege. I just wanted to put that on the table and hear what you might have to say in relation to that.

Mr Hehir: My understanding is that the law allows parliamentary material to be given to a court for the limited purpose of enabling the court to assess whether the material is subject to parliamentary privilege, and that's the context in which we put it in our submission.

Senator PATRICK: So it was in fact to aid the court in dealing responsibly with section 16(4) of the act, which is about whether or not a court can deal with that information?

Mr Hehir: Yes. Our submission was in the context of arguing that the material was subject to parliamentary privilege.

Senator PATRICK: That's a very simple answer and covers it off nicely. Thank you.

Senator McALLISTER: I have a couple of questions about funding. Is it expected that your budget in this year and in the forwards will be balanced?

Mr Hehir: We're expecting to run a loss this year and next year, at this stage.
Senator McALLISTER: So you will access the accumulated reserves in both this year and the next financial year?

Mr Hehir: Yes.

Senator McALLISTER: Does that require approval?

Mr Hehir: I've written to the minister for finance indicating that that will be the case.

Senator McALLISTER: Does the minister for finance have a role in approving that expenditure?

Mr Hehir: Part of our need to access the surplus relates to expenditure undertaken. We've renewed the lease on our building and are doing some refurbishment of it. Because of the nature of the expenditure there, the minister for finance's approval was sought for that expenditure on refurbishing the building.

Senator McALLISTER: I'm trying to understand the structure of the approval process, just for clarity. Are you saying that there are certain categories of the expenditure that require ministerial approval or require ministerial approval if they are to be paid for through access to the accumulated reserves?

Mr Hehir: That is categories of expenditure which require ministerial approval to be undertaken because of the size of the expenditure.

Senator McALLISTER: So it's to do with the delegations?

Mr Hehir: Yes.

Senator McALLISTER: So you don't necessarily require approval to access the accumulated reserves but you do to undertake certain kinds of expenditure?

Mr Hehir: I think that's correct but, in the normal course of our business, in a circumstance like this I inform the minister and the department that we will be accessing reserves. Our legislation sets out that those reserves are available for our use, but we try and adhere to the government policies around budget operations as well. Does that make any sense? It would be impolite not to tell the minister for finance what we were doing with respect to accessing reserves, I think is the point.

Senator McALLISTER: I'm trying to understand whether the minister for finance has the power to prevent you from accessing the reserves under the legislation. I'm trying to understand whether you require his approval or you are merely doing it as a courtesy, which seems quite proper.

Mr Hehir: My understanding of our act is that we don't require approval to access the reserves.

Senator McALLISTER: Thank you. That's all from me, Chair.

CHAIR: If there are no further questions for the ANAO, I thank you very much for your attendance here late this evening. The committee will move to the Office of the Official Secretary to the Governor-General.

Office of the Official Secretary to the Governor-General

[10:45]

CHAIR: I welcome Mr Paul Singer, Acting Official Secretary to the Governor-General, and Mr Steve Murtagh, Acting Deputy Official Secretary to the Governor-General. The
The committee has set 29 March 2019 as the date by which answers to questions on notice must be returned. Do you wish to make an opening statement?

Mr Singer: The Governor-General will shortly mark his fifth and final anniversary in the role. As at the end of January 2019 Their Excellencies have spent approximately one-third of their time in regional, remote or rural Australia, including visiting 207 different location on 603 separate trips. As we speak they are undertaking a regional program in Tasmania to meet with those affected by the recent bushfires and later this week will visit Townsville in support of those affected by the devastation of this month's floods. They have participated in close to 4,000 official engagements and have welcomed over 210,000 guests to both properties. By any measure it has been a period of incredible outreach and engagement, focused on reinforcing our national values and promoting community cohesion.

With respect to Australian Day awards, we continue to work on an ambitious program to streamline and digitalise the entire process, as well as efforts to increase the diversity of recipients to better reflect the Australian community. I am pleased to advise that, as a result of a concerted campaign, in 2018 we had a 69 per cent increase in nominations received compared to 2016. In last month's Australia Day list 37.4 per cent of awards were for women, the highest percentage and number of women recipients since the system began some 40 years ago. Of course there is still more to be done. At the heart of the system we rely on community nominations to be submitted which reflect the diversity in our community.

I also acknowledge the committee's interest in a project currently underway to stabilise the Kirribilli Point Battery precinct. In November, the self-seeded Moreton Bay fig tree which was causing damage to the heritage listed marine barracks was removed and replaced with a mature Norfolk Island pine. The replacement pine complements the nearby existing pine as a pair of signal trees, which is an historical feature of properties of the era. The office is currently undertaking design work for the next stage of the restabilisation project.

I also wish to provide advice to the committee with regard to the Senate order for the production of documents related to unanswered questions on notice. There were no questions taken on notice or transferred to the office during the October 2018 hearings, 14 written questions on notice were received after the last hearing, and responses to all questions were sent to the Senate committee by the nominated due date.

I look forward to answering the committee's questions.

CHAIR: Before I pass to Senator McAlister, I apologise; I briefly tuned out during your opening statement. Were you referring to the Admiralty House works and the naval barracks?

Mr Singer: The Kirribilli Point Battery precinct is what is colloquially known as the Admiralty House project.

CHAIR: Remind me what your update was there.

Mr Singer: In November the self-seeded Moreton Bay fig which was causing a lot of structural damage to the marine barracks was removed. There was urgency to do that to reduce the weight that was affecting the barracks.

CHAIR: I remember that the committee visited and inspected that firsthand.

Mr Singer: That has been removed and replaced by a mature Norfolk Island pine. We are currently undertaking design work for the next stage of the restabilisation works.
Senator McALLISTER: I want to ask some questions about the article that appeared in *The Age* concerning funding of the Office of the Official Secretary to the Governor-General. Is there any precedent for the Office of the Official Secretary to the Governor-General to go public in relation to an increased need for funding?

Mr Singer: We took the view that as part of our annual report last year it was important to bring to the attention of stakeholders that we would be liaising with government about our financial bid. It's important to note that the office has not been rebased for many decades, and it's pleasing that in the MYEFO process that funding was forthcoming to address certain shortfalls.

Senator McALLISTER: We might come back to that. Was the Prime Minister's office or the finance minister's office aware that you were speaking to the media?

Mr Singer: I should correct the assertion there. We made no direct contact with the media.

Senator McALLISTER: So how did the story come to be in the media?

Mr Singer: Are you referring to reports on New Year's Eve?

Senator McALLISTER: I am. I'm referring to the report by Shane Wright in *The Age* on 31 December.

Mr Singer: I believe that those reports were based on our answers to the October Senate estimates hearings.

Senator McALLISTER: Right.

Mr Singer: In fact, the media reporting even made reference to responses or questions on notice.

Senator DEAN SMITH: Meaning that the information was disclosed to the parliament and then it was reported by Shane Wright.

Mr Singer: I can't speak to how it was reported to the media, but I know there was no direct contact.

Senator DEAN SMITH: But you disclosed it in questions on notice.

Mr Singer: We responded to the questions on notice. That's right.

Senator McALLISTER: That does clarify an anomaly, because the MYEFO funding was provided prior to the article and I was confused about why you would go to the media after the funding was provided. But that—

Mr Singer: I can assure you, Senator, that I shared your confusion on 31 December.

Senator McALLISTER: I can imagine.

Senator DEAN SMITH: It would be very unwise to agree to go to the media without disclosing it to government.

Mr Singer: Indeed.

Senator McALLISTER: Can the office confirm that it was the current Governor-General's previous intention to step down in March 2019, as he confirmed in an article in *The Australian* in September 2018?

Mr Singer: When Governor-General Cosgrove took office he believed that he would be doing so for the notional term of five years. In the absence of any further update or request
upon his time frame in terms of his own retirement from the office, he fully expected that his term would conclude in March 2019, which is the five-year mark.

**Senator McALLISTER:** I note that the opposition leader wrote to Mr Morrison to ask him to extend the current Governor-General's term. Did the office of the secretary of the Governor-General provide any advice in relation to that matter?

**Mr Singer:** No, we were not aware of that until it was made public via media reporting.

**Senator McALLISTER:** Of course, a new Governor-General has now been announced. Can you just step us through, from a process prospective, what occurred on 16 December in 2018?

**Mr Singer:** 2018, Senator?

**Senator McALLISTER:** Correct. On the day of the announcement.

**Mr Singer:** The appointment of a new Governor-General is very much within the purview of both the Prime Minister's office and the Department of the Prime Minister and Cabinet. My office has no responsibility for the transitional arrangements to a new Governor-General until such time as the Governor-General designate is sworn in. However, as a courtesy, Governor-General Cosgrove was informed that a Governor-General designate would be announced on 16 December.

**Senator McALLISTER:** When was he informed of that?

**Mr Singer:** I wouldn't be able to specify a specific date, but I know it was in the days leading up to the announcement, and that was in the context of Governor-General Cosgrove being asked to stay on for an extra few months.

**Senator McALLISTER:** Could I just confirm: when you say that you wouldn't be able to tell us the exact date, is that because you don't know?

**Mr Singer:** That's right. It is not a question of I don't want to; it's a question of that I don't know when the Governor-General will have been informed. I know that he will have had a series of discussions with both the Prime Minister and Dr Parkinson from Prime Minister and Cabinet. Most of those would have related to the timing of his own departure from office, and in the context of those conversations he would have been informed as a courtesy that General Hurley was to be pointed Governor-General.

**Senator McALLISTER:** I see. Could you please take on notice when those discussions took place and at which of those discussions the Governor-General was informed of the pending announcement of General Hurley.

**Mr Singer:** I'd be happy to take that on notice.

**Senator McALLISTER:** I note that the current Governor-General's term appears to have been extended until June.

**Mr Singer:** Technically, there is no extension of a Governor-General's term per se. The Governor-General's commission remains extant until such time as it's extinguished by a new Governor-General being sworn in. So whilst Governor-General Cosgrove expected to complete his five-year term, he has agreed to stay on until Governor-General Hurly is sworn in.
Senator McALLISTER: You say he has agreed to stay on. With whom did he make that agreement?

Mr Singer: That was following a request from the Prime Minister.

Senator McALLISTER: So Mr Morrison personally asked him to stay on.

Mr Singer: That's correct.

Senator McALLISTER: Can I just ask from a process prospective—I note that you are the acting official secretary, congratulations—what has happened to Mr Fraser? When did he leave? I note that he appeared as a FAS in PM&C earlier today.

Mr Singer: That's right. Mark Fraser, my predecessor, accepted a position with Prime Minister and Cabinet in mid-August. His last day with the Office of the Official Secretary to the Governor-General was on 17 August, at which time the Governor-General, under the Governor General Act, appointed me as the acting official secretary for the remainder of his term.

Senator McALLISTER: For the remainder of his term?

Mr Singer: That's correct, and, in fact, through until August, so a 12 month period to cover the transition.

Senator McALLISTER: When will an official secretary be appointed?

Mr Singer: The appointment of the official secretary to the Governor-General is entirely within the purview of the Governor-General, under section 6 of the Governor-General Act. I expect that Governor-General Hurley will make that decision at a time that's convenient to him.

Senator McALLISTER: Has Mr Murtagh also been extended until August?

Mr Singer: At the moment, Mr Murtagh is currently on a contract through until the end of March, which was quite deliberate, to see us through until Governor-General Cosgrove's completion of term. But, given that the transition between governors-general is now likely to occur in late June or early July, the intention is that Mr Murtagh would be extended through until August as well.

Senator McALLISTER: Thank you.

Senator DEAN SMITH: Mr Singer, congratulations on your acting appointment. I'm sure, on behalf of many senators, I trust you will convey to His Excellency and Lady Cosgrove our appreciation and, indeed, the appreciation of all of our constituents for the very fine and gracious way they both have carried out their responsibilities as head of state. It's hard to think of a part of the country that has been untouched by their physical presence or the presence of their great Australian spirit. We trust that you'll convey our best wishes and gratitude for their very, very strong performance in the role.

Mr Singer: I will. Thank you, Senator.

CHAIR: There are no further questions for the Office of the Official Secretary of the Governor-General. I thank you for your evidence and your attendance here this evening.

Mr Singer: Thank you.
CHAIR: That concludes the committee's hearing. I'd like to thank ministers and officers who have given evidence to the committee. I would like also to thank Hansard, broadcasting and the secretariat for their assistance.

Committee adjourned at 22:59