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SENATE

EDUCATION, EMPLOYMENT AND WORKPLACE
RELATIONS LEGISLATION COMMITTEE

Estimates

TUESDAY, 29 MAY 2012

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SENATE
EDUCATION, EMPLOYMENT AND WORKPLACE RELATIONS
LEGISLATION COMMITTEE

Tuesday, 29 May 2012

Members in attendance: Senators Abetz, Back, Bilyk, Cameron, Edwards, Fierravanti-Wells, Fisher, Marshall, Siewert and Thistlethwaite

EDUCATION, EMPLOYMENT AND WORKPLACE RELATIONS PORTFOLIO

In Attendance

Senator Collins, Parliamentary Secretary for School Education and Workplace Relations

Senator Ludwig, Minister for Agriculture, Fisheries and Forestry, Minister Assisting on
Queensland Floods Recovery

Senator Kim Carr, Minister for Human Services

Department of Education, Employment and Workplace Relations

Ms Lisa Paul, Secretary

Mr Michael Manthorpe, Deputy Secretary

Ms Jennifer Taylor, Deputy Secretary

Mr Tony Cook, Associate Secretary

Mr Martin Hehir, Deputy Secretary

Ms Sandra Parker, Deputy Secretary

Mr John Kovacic, Deputy Secretary

Corporate and Network

Mr Michael Manthorpe, Deputy Secretary

Ms Robyn Kingston, Chief Internal Auditor

Mr Craig Storen, Chief Finance Officer

Mr George Kriz, Chief Lawyer and Group Manager, Legal and Investigations

Ms Helen Willoughby, Group Manager, Communication and Parliamentary

Ms Deb Rollings, Branch Manager, Communication and Parliamentary

Mr Tim Pigot, Branch Manager, Communication and Parliamentary

Ms Meredith Fairweather, Branch Manager, Communication and Parliamentary

Mr Benjamin Wyers, Acting Group Manager, People and Organisational Development

Ms Susan Monkley, Group Manager, Technology Solutions

Ms Michelle Cornish, Group Manager, State and Regional Services Strategy

Ms Helen McCormack, Branch Manager, State and Regional Services Strategy

Outcome 1—Early Childhood, Working Age and Indigenous Participation

Ms Jennifer Taylor, Deputy Secretary

Mr David DeSilva, Group Manager, Early Childhood Quality and Workforce

Ms Suzanne Northcott, Branch Manager, Early Childhood Quality and Workforce

Ms Joanna Stanion, Branch Manager, Early Childhood Quality and Workforce

Ms Joan Ten Brummelaar, Branch Manager, Early Childhood Quality and Workforce

Mr Michael Maynard, Group Manager, Early Learning and Care Support

Ms Robyn Priddle, Branch Manager, Early Learning and Care Support

Mr Matthew Hardy, Branch Manager, Early Learning and Care Support

Ms Kellie Hippit, Acting Branch Manager, Early Learning and Care Support

Ms Jo Caldwell, Group Manager, Strategy and Family Payments

Mr Murray Kimber, Branch Manager, Strategy and Family Payments

Dr Russell Ayres, Branch Manager, Strategy and Family Payments

Ms Gillian Mitchell, Branch Manager, Strategy and Family Payments

Outcome 2—Schools and Youth

Mr Tony Cook, Deputy Secretary

Mr Martin Hehir, Deputy Secretary

Ms Janet Davy, Group Manager, Curriculum, Assessment and Teaching

Ms Alex Gordon, Branch Manager, Curriculum, Assessment and Teaching, National School Reform Support

Ms Jan Febey, Branch Manager, Curriculum, Assessment and Teaching, School Improvement and Transparency

Mr Chris Sheedy, SA State Manager, Engagement and Wellbeing, National School Chaplaincy and Student Welfare Program Branch

Mr Matt Davies, Group Manager, Engagement and Wellbeing

Mr Anthony Fernando, Branch Manager, Engagement and Wellbeing, Office for Youth

Mr Stephen Goodwin, Branch Manager, Engagement and Wellbeing, Aboriginal and Torres Strait Islander Schooling

Ms Joanne Skinner, Branch Manager, Engagement and Wellbeing, Inclusive Education and Engagement

Ms Susan Smith, Group Manager, Infrastructure and Funding

Ms Oon Ying Chin, Branch Manager, Infrastructure and Funding, Schools Grants and Funding Policy Branch

Mr Alan Edwards, Branch Manager, Infrastructure and Funding, Schools Vocational Pathways Branch

Ms Hilary Riggs, Branch Manager, Infrastructure and Funding, Schools Corporate Support

Ms Margaret Sykes, Branch Manager, Infrastructure and Funding, National Trade Cadetships Taskforce

Mr Stewart Thomas, Branch Manager, Infrastructure and Funding, Building the Education Revolution Branch

Ms Louise Hanlon, Group Manager, National Schools and Youth Partnerships

Ms Helen McLaren, Branch Manager, National Schools and Youth Partnerships, Youth Attainment and Transitions Branch

Ms Rhyen Bloor, Branch Manager, National Schools and Youth Partnerships, Digital Education Branch

Ms Wenda Donaldson, Branch Manager, National Schools and Youth Partnerships, Smarter School Partnerships Branch

Ms Gabrielle Phillips, Branch Manager, National Schools and Youth Partnerships, Educational Accountability and Reporting Branch

Ms Sue Dawson, Group Manager, Schools Funding Taskforce, Schools Funding Taskforce Group

Mr Patrick Burford, Branch Manager, Schools Funding Taskforce, Schools Funding Taskforce Group

Ms Debbie Mitchell, Branch Manager, Schools Funding Taskforce, Schools Funding Taskforce Group

Outcome 3- Employment

Ms Sandra Parker, Deputy Secretary

Ms Anthony Parsons, Group Manager, Employment Services Management Procurement

Ms Alison Durbin, Branch Manager, Employment Services Management Procurement

Ms Jenny Harrison, Branch Manager, Employment Services Management Procurement

Mr Stephen Moore, Group Manager, Employment Systems

Ms Moya Drayton, Group Manager, Job Services Australia

Ms Linda Laker, Branch Manager, Job Services Australia
Mr Stuart Watson, Branch Manager, Job Services Australia
Mr Derek Stiller, Branch Manager, Job Services Australia
Mr James McDonald, Branch Manager, Job Services Australia
Ms Fiona Buffinton, Group Manager, Specialist Employment Services
Ms Sharon Stuart, Branch Manager, Specialist Employment Services
Ms Suzie Northcott, Branch Manager, Specialist Employment Services
Ms Lis Kelly, Branch Manager, Specialist Employment Services
Ms Margaret Kidd, Group Manager, Labour Market Strategy
Mr Ali Jalayer, Branch Manager, Labour Market Strategy
Mr John Kovacic, Deputy Secretary
Ms Ngaire Hosking, Group Manager, Social Policy and Economic Strategy
Ms Rose Verspaandonk, Branch Manager, Social Policy and Economic Strategy
Mr Mark Roddam, Branch Manager, Social Policy and Economic Strategy
Ms Helen Innes, Branch Manager, Social Policy and Economic Strategy
Mr Scott Matheson, Branch Manager, Social Policy and Economic Strategy
Ms Jennifer Taylor, Deputy Secretary
Ms Marsha Milliken, Group Manager, Income Support
Mr David Pattie, Branch Manager, Income Support
Mr Ty Emerson, Branch Manager, Income Support
Ms Ingrid Kemp, Branch Manager, Income Support
Ms Jennifer Taylor, Deputy Secretary, Executive
Ms Jo Wood, Group Manager, Indigenous Economic Strategy
Ms Tania Rishniw, Branch Manager, Indigenous Economic Strategy
Ms Brenda Love, Branch Manager, Indigenous Economic Strategy

Outcome 4 - Workplace Relations and Economic Strategy

Mr John Kovacic, Deputy Secretary
Ms Kylie Emery, Acting Group Manager, Workplace Relations Implementation and Safety
Mr Jeff Willing, Branch Manager, Workplace Relations Implementation and Safety
Ms Sue Saunders, Branch Manager, Workplace Relations Implementation and Safety
Ms Nikki Armour, Acting Branch Manager, Workplace Relations Implementation and Safety
Mr Jeremy O'Sullivan, Chief Counsel, Workplace Relations Legal
Ms Sarah McKinnon, Acting Branch Manager, Workplace Relations Legal
Mr Adrian Breen, Acting Branch Manager, Workplace Relations Legal
Mr David Bohn, Branch Manager, Workplace Relations Legal
Dr Alison Morehead, Group Manager, Workplace Relations Policy
Ms Lisa Berry, Branch Manager, Workplace Relations Policy
Mr Peter Cully, Branch Manager, Workplace Relations Policy
Ms Michelle Boundy, Branch Manager, Workplace Relations Policy
Ms Sharon Huender, Acting, Branch Manager, Workplace Relations Policy
Ms Colette Shelley, Branch Manager, Workplace Relations Policy
Ms Louise McDonough, Branch Manager, Workplace Relations Policy
Ms Clare Firth, Acting Assistant Director, Workplace Relations Policy

Office of the Australian Building and Construction Commissioner

Mr Leigh Johns, ABC Commissioner
Mr Brian Corney, Deputy ABC Commissioner
Mr Michael Campbell, Deputy ABC Commissioner
Mr John Casey, Chief Financial Officer
Mr Murray Furlong, Executive Director

Australian Curriculum Assessment and Reporting Authority

Mr Rob Randall, Acting CEO and GM, Curriculum
Mr Peter Adams, GM-Assessment and Reporting
Prof Barry McGaw, Chair ACARA Board

Australian Institute for Teaching and School Leadership

Ms Margery Evans, Chief Executive Officer
Ms Madeleine Scully, Company Secretary
Mr Edmund Misson, General Manager

Comcare

Mr Paul O'Connor, Chief Executive Officer
Mr Steve Kibble, Deputy Chief Executive Officer

Fair Work Australia

Ms Bernadette O'Neill, General Manager
Mr Iain Ross, President
Mr Brendan Hower, Director
Ms Pauline Burke, Director (Acting)
Ms Leanne Lawrence, Director (Acting)
Ms Louise Clarke, Director (Acting)
Ms Ailsa Carruthers, Director (Acting)

Fair Work Ombudsman

Mr Nicholas Wilson, Fair Work Ombudsman
Mr Russell Jacob, Executive Director, Regional Services and Targeting
Mr Karsten Lehn, Executive Director, Project Management Office
Mr Mark Scully, Group Manager, Finance and Information Management
Mr Alfred Bongi, Group Manager, Customer Service Group
Mr Tom O'Shea, Executive Director, Policy and Partnership
Ms Janine Webster, Chief Counsel
Mr Michael Clark, Executive Director - Customer Contact
Ms Su Kearns, Group Manager, Corporate and Strategic Development
Ms Lynda McAlary-Smith, Executive Director, Education and Major Employers

Safe Work Australia

Mr Rex Hoy, Chief Executive Officer
Mr Drew Wagner, Branch Manager, Corporate Services Branch
Ms Amanda Grey, Branch Manager, Strategic Policy Branch
Ms Julia Collins, Acting Branch Manager, Work Health and Safety Branch
Ms Justine Ross, Branch Manager, Harmonisation and Legal Services Branch
Mr Andrew Craig, Chief Financial Officer
Mr Wayne Creaser, Branch Manager, Mining
Ms Ivanka Debevec, Director, Legal Policy

Department of Education, Employment and Workplace Relations**Committee met at 09:00**

CHAIR (Senator Marshall): Welcome. We will recommence these estimates processes with questions in outcome 3. I know officers are familiar with the rules governing Senate estimates, but if anyone needs any assistance the secretariat will only be too happy to assist. Ms Paul, do you have any opening remarks you would like to make to the committee before we commence?

Ms Paul: No.

CHAIR: All right. We will go straight to questions, and I suspect Senator Scullion is there eagerly awaiting.

Senator SCULLION: Thank you, Mr Chairman. Good morning, Jacinta and Ms Paul. I would like to ask some questions on the Remote Jobs and Communities Program. It is a recent initiative. It is going to commence on 1 July. I would like to ask questions in the context of the existing program and some of its challenges, and you might want to reflect on taking an opportunity to say, 'Well, the new program does this or otherwise.'

Ms Paul: Sure.

Senator SCULLION: This question relates to the existing employment service providers: how are they audited to ensure that they have a meaningful or productive meeting with job seekers rather than a tick-and-flick interaction that ensures that they are paid for the contract? Anecdotally, I get examples of somebody coming out of the supermarket and they say to them, 'How is it going, Jack?' And Jack says, 'Terrific, mate'. They say, 'Are you having a good day? Nice water melon. On special, are they?' 'Yes. Absolutely,' says Jack. And people say to me that that was the interaction. Apparently, someone said that that is a consultation. We hear these things from time to time. Could you briefly go through what the audited processes are for a job service provider in remote or regional Australia and how you verify whether they have taken place or not and what the quality of that consultation was and how meaningful it was.

Ms Paul: Senator, you are talking about the current system—

Senator SCULLION: Yes.

Ms Paul: against what we have planned under the new system?

Senator SCULLION: Yes.

Ms Paul: Those things will change for the better, I think. Nonetheless, we are happy to talk to you about how the current system works. I should probably mention that in a programming sense we are expecting to take questions on the new system on Friday. That being said, I am quite happy to see where we go, because we can probably get to most places today for you. I just wanted to mention that in case I suddenly have to say, 'People aren't right here.' But I think we will probably be pretty right—so here we go.

Ms Parker: I can provide you with an outline of our program assurance and compliance. It is at a high level. I have got quite a bit of detail here. I think what you are asking is much more specific: how do we make sure things are happening day to day.

Senator SCULLION: Perhaps you can just touch on the auditing arrangements. There is a job service provider back of somewhere. The interaction in terms of their payments is often

about contact—'We contacted somebody. We had a discussion about their job prospects.' How is the nature of those interactions—not specifically referring to anywhere—audited?

Ms Parker: There are a number of things. Our providers are contracted and under that contract there are minimum requirements that they have to adhere to, and that includes contact with job seekers. They are required to have an individual Employment Pathway Plan with each job seeker who is under their contract. The Employment Pathway Plan is negotiated with that job seeker. It is a bit like a contract with the job seeker, and once that contract with the job seeker is in place it then becomes a compliance for the job seeker. By that I mean that under the legislation, in order to get income support, you have participation requirements when you are a job seeker, and the participation requirements are that you will be either looking for work or doing training, and there are minimum requirements depending on what age you are, and it varies depending on various categories.

The job seeker has to negotiate an Employment Pathway Plan which has to include addressing barriers. When the job seeker turns up to Centrelink and gets their income support, they are assessed against a thing called a job seeker classification instrument, and that job seeker classification instrument is quite a technical tool that assesses all their barriers, things like how long since you have been in school, what level of education did you get, do you have any alcohol and drug problems, do you have mental health issues, are you from a non-English-speaking background, are you from a regional area: there are hundreds of different categories. All of those are put into a mix that gives the job seeker a score, and that score then determines what level of servicing they will get through their provider.

There are four streams. If I am pretty much job ready—so I might have just been working and lost my job, I have come in and I am still ready to work—I am put in stream 1. If I am someone who has mental health and alcohol and drug problems and I am homeless, I will probably be in stream 3 or 4. If I am really disadvantaged or disabled or I have significant mental health issues, I may be referred to an allied health professional for a much more medical assessment, and we call those ESAs, or employment services assessments, or a job capacity assessment, which might actually get me on to the disability support pension. So all of those go into the mix.

The provider then has to decide, on the basis of all those barriers that have been identified for me the job seeker in my test, my JSCI—the job seeker classification instrument—et cetera, what interventions they need to do to help me get a job as a job seeker. So, on the basis of that, the plan is developed. It may include the job seeker then doing foundation skills training; they might need alcohol and drug counselling; they might need to do language, literacy and numeracy; it may be that they need to go and do a certificate II—all the sorts of interventions that can be provided. They can be given bus tickets. They can be given clothing. So all of that goes into the job seeker's plan, and then the job seeker has to go and do that. They have to turn up to the provider on a monthly basis and show that they are actually doing the things that are in their plan, but they are also required to turn up or put in a statement to Centrelink that they have been job searching and participating, and if they do not do that—

Senator SCULLION: What is the frequency?

Ms Parker: It depends a bit on the cohort. If they are a young person, for example, they need to turn up, or put in a statement, to Centrelink to say 'I've been doing the things I am

required to do to meet my participation requirements to get my income support' on a monthly basis.

Senator SCULLION: So that may be, 'Here's a list of people have rung or I've contacted; you can validate it.'

Ms Parker: Yes. 'I've applied for this many jobs' or 'I'm in training' and I am therefore meeting my participation requirements. If I am someone who has children, for example, and I am on parenting payment, I may only need to be doing training; I do not have to be job searching, for example. It does vary by the type of cohort.

So there are two ways of checking what the job seeker it is up to, I guess. One is through Centrelink and the obligations they have there. The other way is through the JSA provider. If they have to be looking for work to get employment—not all people on income support do—then they have to go to their Job Services Australia provider on a monthly basis and check in about what they are actually doing. The provider is required to put in what is called a participation report if they do not do what they are supposed to be doing, and the participation report goes to Centrelink. Centrelink assess that and determine whether or not the job seeker had a reasonable excuse, like they were ill. They may have a perfectly reasonable excuse for not doing what they were supposed to be doing. If they do not have a reasonable excuse, then Centrelink can take their income support off them and will then comprehensively assess them and try and get them back in.

Senator SCULLION: How would Centrelink or the Department ensure that the job service provider actually puts in a participation report if somebody on their books is not in fact participating? Do you audit those arrangements?

Ms Parker: It is not compulsory for the provider to put in a participation report. What the government determined was that there are times when it is not in the best interest of the job seeker to just put in a participation report. Part of the job of the JSA, Job Services Australia, is to establish a relationship with the job seeker. Their job is to get to the job seeker's trust, mentor them, work with them and help them overcome their barriers. If every time the job seeker is late for an appointment, they put in a participation report and their income support ends up suspended.

Senator SCULLION: Are there some guidelines?

Ms Parker: Yes, there are guidelines. Since 1 July 2010 there has been a tightening of job seeker compliance, and in fact what we are finding is that providers are putting in participation reports more readily. I guess you could say in the past there was a view that that was a bit harsh. The providers have started to see that the job seeker is better off being made to turn up, rather than being treated as though they should be able to do what they like. That is an exaggeration.

There is a strong view in the community and elsewhere that people are better off working and that every possible opportunity should be given to them to assist them to find work. If they are not doing the right thing in turning up, then they should suffer the consequences... In the end, that will get them to turn up. That is working in remote communities. We are finding in remote communities that providers are putting in more participation reports, they are being upheld by Centrelink and more job seekers in remote are having their income support suspended but they are also turning up for appointments more than they ever have. When we

did our consultations in remote about the new system, the communities were very strong on this. Their view was: 'Don't be soft: these people do need to be turning up and you need to be putting in participation reports. You need to be making them turn up because that is best for everybody.'

Senator SCULLION: I know you have responded in a sense to this: in terms of the job service provider, it is not compulsory to provide one. One would have thought that for the system to operate—you said there are some guidelines; can you point to some sort of auditing requirement at all? Do they audit them at all?

Ms Parker: The participation reports?

Senator SCULLION: No, do they audit sending in a participation report against noncompliance with the guidelines? We have the job service provider out there and they are playing this amicus role on behalf of the government, which is all very nice, to ensure that they are meeting the guidelines. So if someone is never turning up or doing anything and they are not sending in a participation report, I would have assumed you would want some adjustment in that regard. How do you audit the job service provider?

Ms Parker: The account managers and the department check what is happening with job seekers, so if job seekers are not participating or doing what they are supposed to be doing, we do watch that. I would also say that there is a strong incentive for providers to do everything in their power to get job seekers to re-engage. One of the ways of doing that is to put in a participation report. What we are seeing is providers being much more willing to do that and seeing the value of that. If the provider does not do that, the job seeker kind of disappears off the system. They are not turning up, nothing is happening with that job-seeker. Pretty quickly Centrelink would become aware of that, because they will not be participating in Centrelink as well. Therefore they are not putting in their reports that they are doing compulsory job search or training. Centrelink will very quickly be on to that and withhold their income support. There are the two checks, and we find providers will use a bit of discretion but they are quite comfortable putting in a PR when it is in the best interests of the job seeker. But it is not always in the best interests of the job seekers.

Senator SCULLION: You have given a very informative answer and I do appreciate that. Can I glean from that, without verballing you, that there are some natural leverages within the system to ensure that the job service provider is encouraged to?

Ms Parker: Yes.

Senator SCULLION: And from that can I take it there is not any formalised auditing process of the relationship and the obligations between the job service provider and the employee in this system?

Ms Parker: I might get Ms Drayton to answer this, as she has been on both sides—the Centrelink side and our department side.

Ms Drayton: There are several ways that we look at what the provider is doing in respect of participation report submission. I will take you through a few of those. From a departmental perspective, we do regular reviews with DHS on participation report submission and the quality of those reports, and certainly we monitor the outcomes both at a provider level and nationally. We are looking at how many of those reports are submitted, what the applied rate is, what they are being submitted for. We also run a regular program of looking at

the employment pathway plans to see whether what is included in those plans are what should be included, from a job seeker's perspective and a Job Services Australia provider's perspective—so that we can make sure that the things that are in there are actually what is needed to help the job seeker on their pathway to employment.

Regarding the kind of monitoring we do at a case level, we look at different cases quarterly. We might choose, for one quarter, to look at comprehensive compliance assessments. It could be a different kind of participation failure that we are reviewing. We do that jointly with DHS to ensure that there is clear and consistent understanding of the requirements from a provider's perspective as well as from the job seeker's perspective. That kind of work has resulted in us clarifying guidelines, for example, or doing additional training where we need to. Again, in some of the more remote areas of Australia we have done quite a bit of training with providers in the last nine months to ensure that everyone understands what is required in the system, and that has been informed by the review work of individual cases that we do. What we can see from some of that work is that the applied rate, for example, has continued to increase, as has the number of participation reports that are submitted and accepted as being to the standard that we require.

Senator SCULLION: Is there a statistic about how many jobs have actually been filled by the combined existing employment service providers? When I say remote and regional it is all very amorphous. Do you have a breakdown regionally? You might have a very remote category or a remote category, or do you just have it spatially?

Ms Paul: We can break it down for you.

Senator SCULLION: Could I have how many jobs have been filled by those service providers working in remote communities?

Ms Parker: We can do remote. In terms of remote area job seekers, there are 30,424 Indigenous job seekers. If can just do Indigenous, is that okay?

Senator SCULLION: Excellent, thank you.

Ms Parker: Regarding remote outcomes, job seekers who have achieved 13 or 26 weeks in a job, we had 26,183 to 31 March 2012. In terms of job placements, there are 17,376 who have basically been placed in a job. Of those, we have 6,000 13-week outcomes, and 3,631 26-week outcomes. In terms of how it is going, remote area job placements are, we would say, encouraging. Obviously there is a long way to go and obviously they are underperforming compared to the rest of the population. You would be well aware of that.

Senator SCULLION: Encouraging? I am depressed.

Ms Parker: A very strong reason the government wanted to change remote servicing was for that reason—that we needed to get better outcomes in remote areas.

Senator SCULLION: You have these 17,376 placements and only 3,000 were still in a job at 26 weeks. Obviously that would be a standout concern—the number of placements against the people staying in those positions.

Ms Parker: Commencement rates in jobs are at a high compared to where they have been in the past. We say it is encouraging because we have seen improvement. We do not want to gild the lily—there is a long way to go, hence the government investing significantly in remote services.

Senator SCULLION: How do you verify that these people are actually real people in a job?

Ms Parker: There are a number of ways. The provider obviously needs to connect the job seeker with an employer. They have to keep documentary evidence that they are in a job. The best way is that they come off income support. The provider only gets outcome fees at 13 and 26 weeks when the job seeker is no longer claiming income support—in other words, they are getting a wage. There is daily checking with Centrelink—the systems are interlinked, so we can check at any time what is going on with their income support.

Senator SCULLION: In the Daly River shire—and this is not out of the norm—there are over a thousand commencements and a thousand terminations in one year. And I can assure you we do not have a thousand workers in Daly River.

Ms Parker: A commencement can be more than one job seeker for the same job—for example, if the job seeker drops out of the system or gets another a job somewhere else. A commencement is not a single job seeker necessarily—it can be the same thing.

Senator SCULLION: You can understand my concern about a merry-go-round, and in a relatively small community that has a thousand people employed one would assume they are multiples of the same individuals, and a thousand terminations—

Ms Parker: I am not sure of the terminations—

Senator SCULLION: That is what was claimed—I am more than happy to provide you with that information. When you have someone going into the system and then they come out of the system and then go into the system and come out of the system, there is obviously a bit of that. What sort of intervention in the process with the job seeker does the department or Centrelink or yourselves do? Is there any process that triggers that this is something that is not working? If someone goes to work and decides they do not really like it—it was a terrific start; they got their boots and their shirt but they are just not going to turn up again, but they might try again a week later—what sort of interventions do you use in those circumstances?

Ms Drayton: If a job seeker decides that they do not want to turn up to work again or they do not like the job, they would possibly go in and claim income support again because they had left work, at which point—

Senator SCULLION: And how long would that take? Would they just be able to go straight back onto—

Ms Drayton: No, not at all. The job seeker compliance system would kick in at that point. If they voluntarily left a job for no good reason, they just decided they did not want to be working, they would have an eight-week non-payment period applied to them before they would be able to get income support again. That is what we call an unemployment non-payment period.

Senator SCULLION: Can you provide over the same timeframe for which you provided me the 17,000 placements and the 3,000 26-week survivors in the job, how many breaches of the type you have just described occurred?

Ms Drayton: I can give you a figure now and then look for the other one. I have it for the general population and I have it for Indigenous populations as a whole.

Senator SCULLION: So when you give me the one for the Indigenous population, does that relate to the same demographic you spoke about the first time? The answer you provided me was 17,376 placements, then there were 6,000 at, I think, 12 weeks and then 3,000 at 26 weeks. I want to make sure the response you give me relates to that sum.

Ms Drayton: So we can get exactly the right thing, we will take that on notice, if that is okay. We will have some people get that information together. I have a national figure, not specifically the area you are looking at.

Senator SCULLION: That would be very useful, if you could do that. So you do actually hold a figure for that answer for the Indigenous demographic?

Ms Drayton: If you want to hear the national figure, you can get a sense of the scale of it—that might be helpful—and for Indigenous, although the Indigenous one here would cover metro.

Senator SCULLION: Before you provide me that, to get this in context, can you give me the national figure?

Ms Drayton: The unemployment non-payment periods—that was the particular failure I was talking about before—for the period up until 31 March there had been 42,557.

Senator SCULLION: Thank you. I look forward to grabbing that on notice. On 20 April 2012 the minister put out a statement about the review to the JSA providers which revealed inappropriate claims by providers for placing people into work. What was the response to that? Were they investigated? What was the process of dealing with that?

Ms Parker: Before we answer that question, I would like to correct the record. I said the tightening of the compliance system was 1 July 2010; it was actually 1 July 2011.

Ms Paul: Before we move off remote, was it Daly River that had the report about the 1,000?

Senator SCULLION: Yes.

Ms Paul: The notion of termination does not really mean anything to us. I suspect that report was getting at the churn, which is where you are coming from. To put it into a broader context, statistics like that do not necessarily indicate that there is just churn by way of people falling out of jobs short term. It will indicate that to some extent but it may also indicate the nature of the labour market, it may indicate casual work, it may indicate seasonal work, which is perfectly fine, and it may indicate that there will be some who have gone into training on the way to a job and so on. It is a bit hard to tell just from numbers like that.

Senator SCULLION: This was through a Northern Territory shire council, so it was one operation; it was not about seasonality.

Ms Paul: Yes, so it could cover a range of activities, many of which are probably perfectly fine. Taking it on notice, when we find the number of people who drop out of work, who should not have dropped out, to get the eight-week non-payment penalty, I think that will help to put the picture on it.

Ms Parker: You were talking about churn before and job seekers who get a job, drop out and then get back in. The incentives in Jobs Services Australia and the contract are about outcomes. Providers will be paid when they get an outcome and keep a job seeker in a job. Clearly we are paying them to keep job seekers engaged and where a job seeker is falling

through the cracks, for them to get them re-engaged. There is income support suspension, which none of us really want, and there is the provider incentive of, 'You'll get paid more if you get this job seeker engaged and get them a job.' There are a number of ways we try to keep the job seeker turning up, participating in doing the right thing.

Senator SCULLION: I have only a short time so I will come back to those on notice and provide some further questions on notice. One of the concerns I have is that for probably the last three years I have observed the same 15 to 20 men crossing a particular river in Alice Springs at 11 minutes to 10 and if you there today they would be crossing the same river. Their only engagement is with the pub. They return when they are off-tap at three o'clock. It seems to me to be nonsensical. They can get there easily enough, they play footy, but for some reason they are completely disengaged with the system and clearly they are still on some sort of income support.

There has been some discussion in the media about GenOne and the Australian Employment Covenant. Is there any formalised relationship between job service providers and employers? We have 64,000 jobs—and that is great. People have said, 'We've got this job.' You indicated that the job service provider has a good relationship with the employee. How do they facilitate access to the Australian Employment Covenant?

Ms Paul: There is a range of ways. There are considerable amounts of money that go through IEP to a range of employers. Then there is the training angle. It is often the training angle that is the connection between JSA and IEP, or it can be a local connection with the local branch of an IEP that is supporting big employers, as you know—Coles, West Farmers, whatever—and there will be local connections with the local branches and so on. It can happen on a range of levels. We touch base with both our JSA providers at a national and a local level, and with IEP providers or our employers. We often talk about those connections. Those connections are made; perhaps they are not always as fabulous as they should be. But certainly you hear a lot, particularly at the local level. Then of course there are the national commitments, whether it is GenOne or whatever it happens to be.

Senator SCULLION: Would your department have a list of those jobs? There are 64,000 jobs. It would not just be a job. It would be a giraffe farmer or bulldozer driver—

Ms Paul: 64,000 jobs where?

Senator SCULLION: Within the Australian Employment Covenant.

Ms Paul: We can tell you, on notice, which employers have promised those jobs. Those jobs are the commitments; they are not the delivered jobs. They are the promised jobs through the covenant. Yes, we do have a list from the AEC.

Senator SCULLION: It would be useful if you could provide those positions. I will finish up. I will put the rest of my questions on notice.

Senator WILLIAMS: Following on from Senator Scullion, as far as the payments to the job service providers, it will now be 110 per cent of the lower rate. There are two rates; is that correct?

Ms Parker: Correct.

Senator WILLIAMS: Is it correct that in rural and regional areas the percentage of brokered outcomes can be as high as 60 to 70 per cent. Are you aware of that?

Ms Parker: Our analysis indicates it is around 40 per cent in regional areas.

Senator WILLIAMS: Is that an average over all the regional areas?

Ms Parker: That is correct.

Senator WILLIAMS: So it is an average across the regional areas. In some areas it could be up as high as 70 per cent.

Ms Parker: We have not done that analysis; we looked across the average. We would be very surprised if it were 70 per cent; that is very high.

Senator WILLIAMS: In many regional markets vacancies do not occur unless the job service provider engages directly with the employer. That means they receive the higher fee and that then funds a position for staff that engage with employers. Was there consideration of the impact that these cuts will have on regional providers?

Ms Parker: In making its decision to remove the higher PBO payment, the government was very mindful of the fact that the payment was being misused, and incorrectly claimed. The initial analysis that we have done would indicate that is across the board.

Senator WILLIAMS: That the misuse is across the board?

Ms Parker: That is our initial analysis. We have not finished the audit yet. We have done a sample of providers. But if we were to assume the sample would extrapolate—again we need to finish the audit—

Senator WILLIAMS: When will you finish that audit?

Ms Parker: We are in the process of doing the second phase at the moment. I will come back with a date in a moment.

Senator WILLIAMS: Of the \$7.38 million savings announced in the budget for Job Services Australia outcome payments, what is the break-up between metropolitan and regional providers? In other words, from which sector will there be the greatest savings? If you are saying 40 per cent average, do you think that the top money in the regional areas—

Ms Parker: That is a complex question because what you are implying is that the providers were all making that payment correctly. Our analysis would say that some of them were not. Therefore, we would say that they should not have been getting the higher payment. To be able to answer and say that the loss is, x, would actually be incorrect.

Ms Paul: To add to what Ms Parker has correctly said, this was a change that was well consulted in the sector, particularly with the National Employment Services Association and so on. It has been accepted that there were practices which were not correct and there was a confusion between the two payments. Fortunately, this has had absolutely no impact on job seekers getting jobs, of course. However, it is important to say what Ms Parker has said, which is that this is a change that has been done with the sector, with providers, because it was clearly a vulnerable area of claiming.

Senator WILLIAMS: Some of these providers were on the higher payments. I am concerned that they may actually have to shed staff if their income is reduced. Have you had any consultation? Did you have any feedback on that very issues?

Ms Parker: Yes, we have. This is a difficult issue because if providers have been claiming fees for which they are not entitled, they may have paid for staff with those extra fees.

Senator WILLIAMS: What about the ones that they were entitled to? Of course they are going to earn less income then and they may consider shedding staff. That is the point I make. Not the ones who are rorting the system. The ones who are doing the right thing and getting the higher payment, they see their income drop and the next thing they will be looking at their numbers of staff and saying: sorry, I cannot afford to keep you on. That is the concern I have. Was that raised by those providers during consultation phase?

Ms Parker: We have had a couple of providers saying that it may impact on their staff.

Senator WILLIAMS: Will you monitor that in the future?

Ms Parker: The providers' business model is for them. What the government does is fund the contract. We do not monitor the staff that they have or how many are where or how they do their business. It is no different, I suppose, when we do a tender or a business reallocation, we reallocate and some providers will actually close and staff will be lost. What we do find, and we do monitor, through the National Employment Services Association is that employees in employment services who do lose jobs are picked up quite quickly within the sector.

Ms Paul: Its probably worth adding here that we are just talking about the difference between the two fees. We are not talking about taking out a whole fee. I think some of the reports have been quite misleading, in this regard. It is probably worth clarifying this on the record that we are just talking about the difference between one fee and another fee, a margin difference. While we have had some representations, we have not had very many. I am not surprised about that because, out of the whole system, this is a tiny proportion of revenue. At any rate, this change is about getting to practices which are clearer and correct.

Senator WILLIAMS: One final question. When someone works for a job provider, they might line up someone who is unemployed to come and have an interview and that person does not show up. That provider may then contact Centrelink and they will actually lose their dole. Am I correct when I say that? Or they may have their dole suspended for a while?

Ms Parker: Yes, that is correct.

Senator WILLIAMS: Do you hear many complaints about that unemployed person then ringing up the provider and abusing them, going off: why did you dob me into Centrelink. Have you had cases of that?

Ms Parker: Not to us directly.

Senator WILLIAMS: Have you heard of it?

Ms Parker: One of the requirements under the contract is that providers do have a conflict resolution strategy. We require them to keep that up to date. Job seekers can phone us and complain, but we do not have complaints very often that the provider—

Senator WILLIAMS: I am referring to the situation where a job seeker, all of sudden, finds there is no dole at the end of the week and the provider says, 'I have reported you because you did not show up for this interview, you wouldn't do this and you wouldn't do that.' Then the call comes back to the provider, abusing—

Ms Parker: It does happen. And Centrelink gets that too. It is really unfortunate, but, yes, it does happen.

Senator WILLIAMS: Sad, isn't it?

Senator CASH: My questions are mainly statistical, so I will give you a heads-up about the subjects I will be raising questions about in case you need to get people in. I will be asking statistical questions on the JSAs, stream services, compliance failures, joint connection interviews, the Employment Pathway Fund, employment pathway agreements, work experience activities, the transfer of mothers to Newstart, the funding model changes, the Family Centred Employment Project, the National Workforce Development Fund, the relocation pilot and the Job Board.

Ms Paul: Out of all of those, we have the people we need here except for those who can answer questions about the changes to the parenting payment. People are coming in later for that. It is under program 3.5, 'working age payments', which, at the moment, is slated for a quarter past four today. And the National Workforce Development Fund has transferred, in the machinery of government change, to the Department of Industry, Innovation, Science, Research and Tertiary Education. Other than that, I think we are pretty right.

Senator CASH: In relation to staff numbers, how many contract managers are currently employed in the department?

Mr Parsons: I assume we are talking about employment services contract managers?

Senator CASH: Correct. My next question will be: can we have a breakdown between each of the programs in employment services?

Mr Parsons: I have a gross number, which is of the order of 280.

Senator CASH: When you say 'gross number', what do you mean?

Mr Parsons: It covers both Job Services Australia contract management and the Disability Employment Services contract management—both together.

Senator CASH: Do you have a breakdown between JSA and the Disability Employment Services?

Mr Parsons: I do not have it with me, but my colleagues behind may be able to find it.

Senator CASH: Are you able to provide a breakdown of how many staff are allocated to each of the programs in employment services?

Mr Parsons: That is in both contract management and national office?

Senator CASH: Correct.

Mr Parsons: Again, I might have to rely on some support for that.

Senator CASH: How many staff are working on the transition to the new contract?

Ms Parker: We have quite a small team doing the technical elements of the transition. If you are talking about Job Services Australia, we have a small team.

Senator CASH: Could we talk in totality—and then broken down into the individual components?

Mr Parsons: I have a table here which I think can answer your questions. We are working towards a total in state offices of 281 staff.

Senator CASH: That is gross?

Mr Parsons: Yes. For Job Services Australia, we have 185 and, for the Disability Employment Services, we have 96.

Senator CASH: In terms of the breakdown between programs and employment services, can you provide that?

Ms Parker: I do not think we have that with us.

Mr Parsons: No.

Ms Parker: Senator, we may need to take that on notice. We have many programs—work experience and so on—so we would need to break it down, I think.

Senator CASH: That is okay—and, in terms of the staff working on the transition to the new contract, in totality and then broken down into the components?

Mr Moore: As Ms Parker said, I have a small team that is managing both the JSA and DES transitions in the centre, in terms of the basic administration of that, and I think we have five staff in that team at the moment.

Senator CASH: And that is over both JSA and the DES?

Mr Moore: Correct. In addition, each state office has a coordinator for transition matters—so there is one per state.

Senator CASH: Does that include the territories?

Mr Moore: That includes the Northern Territory, but I think the ACT comes under our New South Wales state office, so there would be seven of them. In terms of the broader transition activities, though, we use the same contract managers, so there are no other additional staff. Those seven contract managers who are our coordinators are part of the totals that Mr Parsons mentioned.

Senator CASH: Okay. So, basically, five for the JSA and the DES plus seven in terms of the states and the NT are working okay. How many staff participated in the reallocation of business for JSA?

Mr Parsons: I could give you a ballpark figure.

Senator CASH: Okay.

Mr Parsons: When we did the business reallocation, our model essentially drew on local expertise, if you like, from our state network as well from a core within the national office. The national office core is about 30 and, when we brought in people to assist with that business reallocation and tender assessment—for the tender responses that came in—that number was boosted by about 40 from the state network. So, all up, it is around 70.

Senator CASH: Around 70. Could I get you to take on notice to confirm that figure?

Mr Parsons: Sure.

Senator CASH: Thank you. As for how many state based staff travelled to Canberra to assist with this, that would be the 40?

Mr Parsons: I think so.

Senator CASH: If you could just confirm that on notice too. I now turn to JSAs. What is the total case load to date?

Ms Drayton: The case load for JSA is 741,232. That is at 31 March.

Senator CASH: How many job seekers have been on the JSA case load since the commencement of the JSA contract in 2009?

Ms Drayton: What I have with me today is the figure for people who have been on the case load for more than two years, and that is 243,481.

Senator CASH: For more than two years?

Ms Drayton: Two years. They are two years unemployed.

Senator CASH: Okay. In terms, though, of the total figure regardless of time spent, how many job seekers have been on the JSA case load since the commencement of the JSA in 2009? Do you have a figure for the total number of people who have actually been through it? I understand the total case load to date is 741,232. That is those who are currently on it?

Ms Paul: Yes.

Senator CASH: Do we have a total for those who have actually been on it, in its entirety?

Ms Paul: In other words, how many individuals have been through since 2009?

Senator CASH: Correct.

Ms Paul: Possibly not with us.

Ms Parker: We will take it on notice, Senator. We do not have that here.

Senator CASH: Are you able to provide a breakdown of the number of job seekers in each stream?

Ms Drayton: Yes. There are 190,753 job seekers in stream 1 and stream 1 limited, which is a subset—sorry, I am looking at a different one. It is 174,831, sorry, for stream 1. For stream 2, it is 128,131. For stream 3, it is 118,896. For stream 4, it is 113,386.

Senator CASH: How have percentages in each stream changed since the start of the contract? For example, are there more in stream 1 job seekers now than there were previously? Are there fewer?

Ms Drayton: I would have to take that on notice, I would think, unless there is somebody here who has that. Senator, I am sorry we will have to take that on notice.

Senator CASH: How many job seekers have been unemployed for 12 months or more, how many job seekers have been unemployed for 24 months or more, and how many job seekers have been unemployed for more than three years?

Ms Drayton: For 12 months, 375,280.

Ms Parker: So that we can clarify, we are giving you figures for people who are in JSA.

Senator CASH: Correct.

Ms Parker: In terms of unemployment figures, the Australian Bureau of Statistics uses different figures—

Senator CASH: We are specifically talking about the stream services.

Ms Parker: That is fine.

Ms Drayton: The two-years figure is the one that I gave you earlier—243,481. I do not have a three-year figure with me, so we will have to provide that to you on notice.

Senator CASH: My next question was in relation to those. Of those who have been unemployed for three years or more, what percentage is stream 4?

Ms Paul: We can probably do two years.

Senator CASH: That was my next question.

Ms Paul: We would probably have to take the three years on notice.

Ms Drayton: Senator, someone is going to get that figure for us.

Senator CASH: Thank you. Ms Paul alluded to my next question: of those who have been unemployed for two years or more, what percentage is stream 4?

Ms Parker: We can tell you that in about five minutes, if that is all right.

Senator CASH: Thank you. What percentage of the stream 4 case load is in receipt of the disability support pension?

Ms Parker: Again, Senator, we will come back to you on that, if that is all right.

Ms Drayton: I have the total figure for DSP but not the stream 4 breakdown.

Senator CASH: So you have a general figure?

Ms Drayton: Yes, I do.

Senator CASH: That is fine. I will grab the general figure and perhaps someone could come back with the figure or you could take it on notice.

Ms Drayton: There are 4,481 DSP recipients on the case load.

Senator CASH: And then you will take on notice what percentage of the stream 4 case load is in receipt of that.

Ms Drayton: Yes.

Senator CASH: What determines whether a person in receipt of the DSP is streamlined into Job Services Australia or goes to a disability employment service?

Ms Parker: It depends on whether they have any work capacity or not.

Senator CASH: What is the definition of 'work capacity'?

Ms Parker: It is determined by how many hours they are assessed by an allied health professional in DHS, the Department of Human Services, as being able to work. So it is a medical assessment that is undertaken, and then if they are able to work—

Senator CASH: They go to the JSA?

Ms Parker: They can go to JSA. So DSP generally volunteer into JSA. There is not a requirement for people on DSP to have to work but they can volunteer and they can then work to their capacity.

Ms Paul: Do you want a bit more on eligibility for DES?

Senator CASH: Yes. So, basically, for disability support pensioners there is no requirement for them to work.

Ms Paul: No.

Senator CASH: They can voluntarily stream themselves into Job Services Australia, and that is fine—the voluntary component. In relation to the eligibility—

Ms Paul: For DES, not for DSP

Ms Buffinton: Just to get in this in proportion, I think I heard from my colleague that in JSA there were about 4,000—

Senator CASH: 4,481 on the DES case load—

Ms Buffinton: On the DSP in JSA. Does that make sense—all these acronyms?

Senator CASH: Yes.

Ms Buffinton: In Disability Employment Services the number of participants who get the disability support pension is 32,367, which is just under 22 per cent of the DES case load. So we are clear, the disability support pension is the minority. The Newstart allowance is the majority and the bulk of the participants are volunteering into the Disability Employment Service as well.

Senator CASH: Sorry, perhaps I am not being clear enough. If I am on a disability support pension, how do you determine whether or not I am streamed into JSA or DES? Is that the work capacity?

Ms Buffinton: When a person goes through an employment service assessment, which we mentioned earlier, or where there is a higher level of impairment, they may go through a job capacity assessment, which is a fuller and deeper assessment. That allied health professional then looks at a range of impairments on the impairment table and will then make a call on whether the number of hours that a person can work is appropriate for employment services. To get into the employment services they have to be able to work more than eight hours. They will then make a decision on what they would recommend and whether that is Job Services Australia. Usually a higher level of impairment would come into the Disability Employment Services.

Senator CASH: Can you provide me with a breakdown on the work capacity—for example, in terms of the number of hours—that are actually the components?

Ms Buffinton: Can I take that one on notice? I will be back this afternoon for Disability Employment Services.

Senator CASH: Fantastic. When you are providing us with the breakdown on the work capacity in terms of hours, could you also provide information on how many job seekers have a work capacity within each of the components?

Ms Buffinton: I will see if we can get that figure.

Senator CASH: Thank you. In terms of the determination of whether a person in receipt of the DSP is streamlined into JSA or goes to DES, are there any specific guidelines that you could table?

Ms Buffinton: There certainly would be, but that would be for the Department of Human Services assessment services. That is their role, so that could go on notice for them to supply.

Senator CASH: We are talking about streamed services here. What percentage of each stream has achieved a 13-week employment outcome?

Ms Drayton: There have been 447,203 employment outcomes since the beginning of the contract. Stream 1 is two per cent of that; stream 2 is 59 per cent; stream 3 is 24 per cent; and stream 4 is 15 per cent.

Senator CASH: Have you got the figures regarding what percentage of each stream has achieved a 26-week employment outcome?

Ms Drayton: I have a total. It is over the life of the contract. I am happy to go through that with you.

Senator CASH: Okay.

Ms Drayton: For 26-week employment outcomes, in total there have been 289,719. Two percent are stream 1; 63 per cent are stream 2; 23 per cent are stream 3; and 13 per cent are stream 4.

Senator CASH: And what percentage of each stream has transferred streams? For instance, someone who was in stream 4 went to stream 3, someone in stream 3 went to 2, someone in stream 2 went to 1 or someone in stream 1 went to 2.

Ms Parker: They do not go backwards; they will only go forwards.

Senator CASH: Forwards being 4 to 3, 3 to 2, 2 to 1?

Ms Parker: No, the other way.

Senator CASH: So 1 to 2, 2 to 3.

Ms Parker: Yes. In other words, you can be upstreamed but not downstreamed.

Ms Paul: That means you have been found to have more need.

Senator CASH: Do you have figures for that in terms of the percentage who actually have? Can you take you take on notice to have a look that?

Ms Parker: Yes.

Senator CASH: For stream 1 job seekers, what is the average duration of unemployment?

Ms Drayton: We are looking to see whether we have that information with us today.

Senator CASH: Can I also then get you to have a look at how many stream 1 job seekers have been unemployed for twelve months or more, and how this compares to 12 months ago?

Ms Drayton: On the first question, the average unemployment duration for stream 1, the figure that I have is only up to 30 November. If you like, we will update that for you on notice.

Senator CASH: What do you have in terms of the figure to 30 November?

Ms Drayton: Six months.

Senator CASH: Do you have how many stream 1 job seekers have been unemployed for 12 months or more and the comparison with 12 months ago?

Ms Drayton: We will have to take the comparison on notice. I am just being informed we will have to take that part of the question on notice as well, Senator.

Ms Parker: I can tell you now. For stream 1, the very long-term unemployed, we have got 8,085. That is actually two years or more.

Senator CASH: That is long-term unemployed.

Ms Parker: Very long-term unemployed.

Senator CASH: Can I confirm then: stream 1 are the most job ready of all the job seekers?

Ms Drayton: Yes, Senator.

Senator CASH: Can I also confirm that in the recent budget \$162 million was cut from the stream 1 servicing budget?

Ms Parker: Yes. There were a number of budget changes, one of which was a reduction in what we call 'intensive activity' for stream 1 job seekers. This was \$166.392 million over

the forward estimates. It basically reduces the hours for job seekers in stream 1 to undertake what we call an intensive activity. The government did make a change which pays for what we call 'job placement fees'. For stream 1 job seekers the change is that now, as soon as a job seeker is placed in a job by a provider, that provider can get a placement fee. That did not exist before. There was disincentive then to place them in jobs. That is quite a positive change in the budget.

Senator CASH: The issue that I have with the cut in funding from stream 1 is: how is cutting that amount of money, the \$160-odd million, going to improve their employment outcomes, given that you have 8,085 who are long-term unemployed for two years or more? I would have thought you would be focusing perhaps on providing additional service to these people to get those figures down and get them out into the workforce, given that they are the most job ready of the streams.

Ms Parker: Senator, the change reflects that the government has been very strongly focused in JSA on job seekers with multiple disadvantage. The model does quite strongly reflect that.

Senator CASH: So there is more of a focus on the lower streams than the higher streams—the higher streams meaning those who needed additional support.

Ms Parker: That is right. You could debate this. There has been a discussion for some time about how much support stream 1 job seekers actually need. They are described as 'job ready' and, as we said before, if their circumstances change and it is found that they do have further disadvantage or some crisis or something happens, they can be upstreamed and get more assistance. The model is tipped towards those who need the greatest help. In a constrained market and a constrained budget, the focus is on those who need it the most.

Senator CASH: So in terms of the 8,085 long-term unemployed in stream 1 of two years or more, can they be upstreamed?

Ms Paul: Yes.

Ms Parker: They can but they have to go through a test to be upstreamed. It is not a decision of the provider. It is not something the provider can say, 'They've been here for 12 months, I'm going to upstream them. It has to be an assessment on their—'

Senator CASH: Because these people could still be job ready within stream 1 but just cannot find work.

Ms Parker: That is right.

Ms Paul: Correct.

Ms Parker: There are a range of reasons, as Ms Paul explained last time. There are many areas in Australia where jobs are difficult to find. We do not force jobseekers to move to find a job. Assistance is provided but the view is that the effort for providers needs to go into those who are most disadvantaged.

Ms Paul: So those 8,000 out of the 700,000 could well already have been tested for this question and found again to be still job ready stream 1.

Senator CASH: But just cannot find work.

Ms Paul: That is it.

Ms Parker: We should point out that being in JSA does not mean you are not working. You can be working. You may be working part-time and on income support and you are in JSA to get other work, to increase your hours or to meet your requirements. So they are not all at home. A lot of people in JSA are working part-time.

Senator CASH: Is there any prohibition on the long-term unemployed in stream 1 being tested to be upstreamed?

Ms Paul: No.

Ms Parker: There is a prohibition in the sense that I mentioned before: we do not allow providers to decide that they should be upstreamed. There are clearly good reasons for that—the highest streams attract greater fees, so there is a moral hazard. If a jobseeker says to the provider, 'I've become homeless,' the provider can put that information into our IT systems which can upstream them through the system. The alternative is the next time they go to Centrelink for their appointment they tell Centrelink that they are homeless, Centrelink reassesses them and they will be upstreamed, but it needs to be done formally and properly.

Ms Paul: In other words, it can certainly be done but it has to go through a test.

Senator CASH: Exactly.

Ms Paul: And it is quite likely that maybe all or some of the 8,000 have already been through that test.

Senator CASH: Is it possible to get a statistic on how many out of the 8,000 have actually been through that test?

Ms Paul: Yes, we will take it on notice.

Senator CASH: If I am recommended for the test, are there any delays in undertaking a test?

Ms Parker: We have an agreement with the Department of Human Services—we are policy agency and they provide the services. They have key performance indicators and need to have appointments available within a certain time frame. The only delay would be something like that they might be in a remote area and it is difficult for them to come in for an appointment. We try very hard to ensure that those appointments are done face-to-face. Some are done by phone but the ideal for us is face-to-face. The delays are going to be something like that or the job seeker might get sick. There will be a range of reasons for delays.

Senator CASH: Were providers previously able to request upstreaming?

Ms Parker: Yes, they were.

Senator CASH: That was under the old contract?

Ms Parker: No, it was during the current contract and they were at one time able to put in what we called a change of circumstances assessment. It was not so much the provider could upstream them that they could send them off to get a reassessment. We did find that was happening a bit too often.

Senator CASH: How many were upstreamed?

Ms Parker: Not as many as the provider—

Senator CASH: Can you get the figure for how many requests there were from providers for upstreaming in the last 12 months and how many actually were upstreamed?

Ms Parker: Yes.

Senator CASH: In the light of the discussion we are having, did the weighting for star ratings need to be altered to motivate providers to place stream 1 job seekers into jobs?

Ms Parker: Not that I am aware. The star ratings are done in quite a scientific way and we review them on a systematic basis, not just every now and then. When we do a formal assessment and consult the sector and look at how the star ratings sit, part of the consideration would be what is going to work for the different streams and the different disadvantaged groups. Stars are very complicated. They take account of a whole range of factors.

Senator CASH: Is there any information you wanted to provide to me in relation to streamed services and JSAs before we move on?

Ms Paul: I think we have taken what we need to take on notice.

Senator CASH: I was not sure if you actually managed to get—

Ms Paul: Yes, because we said five minutes to see how we have gone.

Mr McDonald: We have the update on the DSP recipients split for stream 4. The figure we have at the end of March is 1,810 in stream 4.

Senator CASH: So we had a total of 4,481 and within stream 4 there is 1,810.

Mr McDonald: That is right.

Senator CASH: Thank you. I now turn to compliance failures. How many job seekers currently have a Centrelink-granted exemption from Job Search? Are you able to provide a breakdown by reason of exemption?

Ms Drayton: There are two figures that I am going to talk about in respect of this. There are job seekers who are under the JSA caseload who have an exemption granted by Centrelink and then there is the broader income support group that have an exemption granted by Centrelink.

Senator CASH: Those figures are separate figures? People do not —

Ms Drayton: They are a subset.

Senator CASH: They are two separate groups.

Ms Paul: There are overlaps.

Ms Drayton: The first group is a subset of the second group.

Senator CASH: So the JSA caseload is a subset of the total income support group?

Ms Drayton: That is right. Of the JSA caseload, which was 741,232, there are 48,123 Centrelink exemptions on participants. Just to give you an idea of the makeup of that, if that is of interest to you—

Senator CASH: It is. Is this the breakdown by reason of exemption?

Ms Drayton: Yes.

Senator CASH: Thank you.

Ms Drayton: It is a very long list, which I am happy to provide to you.

Senator CASH: If you could table that, thank you. But generally —

Ms Drayton: I will go through it. There are 1,522 people who have an exemption because they have got caring responsibilities and 1,251 because they are a large family, where there are four or more children.

Senator CASH: Four or more children constitutes a large family?

Ms Drayton: It does for the purposes of exemptions. There are 635 who have other special circumstances. There are 506 who are providing home schooling, which is an exemption category. There are 148 with major personal disruption.

Senator CASH: What is the definition of 'major personal disruption' for the purposes of an exemption?

Mr Stiller: Major personal disruption encompasses a range of things. It could be flood, break-in to a person's home, a range of other impacts in their personal lives that can affect their ability to participate for a short period of time.

Senator CASH: So there is actually a proper definition?

Mr Stiller: Yes there is; it is in the social security guide.

Ms Drayton: There are 1,930 people who are claiming DSP, so they are in the process of having that claim tested and they are exempt from the activity test requirements during that period.

Senator CASH: Of the 1,930 who are claiming DSP, is there a time frame in which that claim has to be determined in terms of the exemption?

Ms Drayton: Yes. There is certainly key performance indicator timeliness that DHS has in respect of finalising a DSP claim, and the exemption period will be set within that. But it could also be extended, if for whatever reason—

Senator CASH: By way of a discretion, I assume?

Ms Drayton: If the claim had not been assessed within the time frame of the exemption. There are 2,515 expectant mother exemptions; 124 who have a bereavement period extension; 649 who have a temporary incapacity exemption, a serious illness; 27,358 who have a temporary medical incapacity exemption; and there is a range of smaller groups as well.

Senator CASH: They are the main ones. I would appreciate if you could table that. Can you run through very quickly the average duration of the exemptions and what is the maximum exemption? You can table it if you need to.

Ms Drayton: The time frames vary depending on the exemption type. Some of them are what we call longer term, and they are for 12 months and are applied and reviewed and put back on. Others might be for a six-week period if they are for a specific illness or it might be for a shorter period, depending on the medical certificate. I do not have an average.

Senator CASH: Would you take that on notice. So it depends on the exemption, basically, but there will be the specific guidelines. Is 12 months the maximum exemption, or is there a longer period?

Ms Drayton: The maximum is 12 months.

Senator CASH: Thank you.

Senator ABETZ: I have a brief bracket of questions in relation to the enterprise migration agreements. Whilst I understand that these matters maybe canvassed later this evening with

the department, the mechanics of it I would like to discuss here. I understand that this is the appropriate area and time to ask. When was the department made aware that the Roy Hill proposal had been approved?

Senator Jacinta Collins: Senator Abetz, can I just clarify where else you thought these questions might go, because we do have the department?

Senator ABETZ: With the department this evening I will be asking about Mr Shorten's involvement.

Senator Jacinta Collins: We have the department here now so I am not sure why you think it needs to occur this evening.

Senator ABETZ: As I understand it, the people who would be dealing with the mechanics of this may not necessarily be here tonight.

Mr Kovacic: They are here now.

Senator ABETZ: Yes. The people who deal with the mechanics of it are here now and that is why I am asking about the mechanics now, and then tonight I will ask about what the minister knew et cetera.

CHAIR: Can I just clarify with you: is this area of questioning covering a number of different outcomes?

Ms Paul: It is probably all here.

Senator Jacinta Collins: I think it is all here now.

Ms Paul: We can probably give it a go all round.

Senator ABETZ: The time allocated will not be enough, but let us keep on. When was the department first made aware that the Roy Hill proposal had been approved?

Mr Kovacic: Last week was when we became aware.

Senator ABETZ: What day last week?

Mr Kovacic: We think it was Thursday, but we can confirm that.

Senator ABETZ: It is a pretty important initiative.

Mr Kovacic: It was on Thursday.

Senator ABETZ: What time Thursday?

Mr Kovacic: I imagine it would have been in the morning.

Senator ABETZ: Can you take that on notice? The announcement was made on Friday?

Mr Kovacic: That is correct.

Senator ABETZ: At what time?

Mr Roddam: I understand the announcement was made as part of Minister Bowen's speech to the Press Club on Friday.

Senator ABETZ: So around about the lunch time mark. In rough terms, you would have had 24-hours notice of this announcement?

Mr Roddam: That is correct.

Senator ABETZ: It would be fair to say that the actual principle of EMAs had been worked through with a department for a considerable period of time, and we could even say

years—could we not? Was it not Minister Gary Gray who first floated this idea three years ago?

Mr Kovacic: There were consultations that the Department of Immigration undertook in terms of the framework for enterprise migration agreements that commenced in late 2010 and continued in early 2011. The department was certainly part of those consultations, and further consultations occurred in September of last year as well.

Senator ABETZ: Those consultations would have started as a result of a policy initiative, so possibly two years can be agreed on. What issues still need to be dealt with?

Ms Paul: Or a year and a bit. If we started in late 2010, it is a bit hard to tell, but that is what we have got.

Senator ABETZ: I understand Mr Gray lays claim to having raised this as a proposal some three years ago. I am not going to argue. Let us make it over 12 months.

Ms Paul: Does he? In terms of our own involvement with the consultations from the other department.

Senator ABETZ: What still needs to be put in place? As part of this approval process there is going to be a jobs board. Has that been established as yet?

Mr Kovacic: The Prime Minister announced the government's intention to establish a jobs board associated with the Roy Hill project.

Senator ABETZ: Who will be administering that jobs board? Is it this department?

Mr Kovacic: It will be this department.

Senator ABETZ: How is that going to operate?

Mr Kovacic: In essence, it will be building on the existing platform of the Australian JobSearch platform. It is something that we are currently developing.

Senator ABETZ: What is the cost of that going to be? How many people are going to be engaged in running it?

Mr Kovacic: We will have to take that on notice.

Ms Paul: We are building off an existing platform. We can get that on notice for you.

Senator ABETZ: Thank you. We have been told publically that there are going to be certain outcomes. Indigenous work—100 jobs, if I recall correctly, in relation to the Roy Hill project, and 2,000 training positions. How is all of that going to be monitored and by whom?

Mr Roddam: That is essentially a matter for the Department of Immigration and Citizenship. Obviously, the Office of the Australian Building and Construction Commissioner will have a role, as will the Fair Work Building Inspectorate. The Australian Building and Construction Commissioner—

Senator ABETZ: Which this government is in the process of abolishing, so who is going to do the monitoring?

Mr Kovacic: In terms of pay and conditions issues it will be the Fair Work Building Inspectorate.

Senator ABETZ: Not in relation to pay and conditions at this stage.

Mr Kovacic: But in terms of employment outcomes, it is primarily the immigration department and we would imagine that they would be consulting with this department.

Senator ABETZ: Why would the department of immigration be concerned? How would they be able to monitor whether 100 Indigenous people have been employed at Roy Hill?

Mr Kovacic: DIAC has overall responsibility for the administration of the enterprise migration agreement, and they will be working with us in settling those arrangements.

Senator ABETZ: Yes, and they will be asking you, one would assume, under your Indigenous employment programs et cetera to look at the 100—undoubtedly, in relation to the skills and the training. I assume DIAC will not be setting up new areas within it. So please come to the point.

Mr Kovacic: But clearly too they would also be liaising directly with the contractors that are working on the project in terms of seeking information and advice from them.

Ms Paul: In a sense DIAC is responsible for the EMA. If they want to seek our help of course we will help them out; of course we will. We do work closely with—

Senator ABETZ: Has any indication been given to you that your assistance may be sought?

Ms Paul: We are still in the early days with this one. We work closely with DIAC on these things so I would expect that there would be interaction between us. But it is such early days and if you like I am happy to keep you posted on how that unfolds.

Senator ABETZ: Well, this has not been resolved as yet as to right, so that aspect is not resolved and of course if you are to be given extra responsibility in this area with a declining workforce and a declining budget can you tell us how you are going to manage that?

Ms Paul: At the minute what we have been given responsibility for is the jobs board and, as we said a minute ago, we are going to be springing that off an existing platform. In terms of liaising with DIAC on the rest as we have just been discussing, I would imagine we could cover that from within existing resources but it is not settled. So at the minute the clarity just right now in such early days is that DIAC is responsible for the agreement, we are responsible for the jobs board and we have yet to sort that through. So the best thing I can probably do it is to say we will keep you posted and, yes, it is in an environment of declining resources and so on. That is certainly the case.

Senator ABETZ: We were told 12 months ago at Senate estimates that enterprise migration agreements were being looked at, there were 13 eligible projects and 21 at the feasibility or approval stage. That was from the Department of Immigration and Citizenship. Clearly, 12 months ago this was being contemplated but we have got no further with a jobs board, we have got no further with training and with monitoring of the Indigenous content of the agreement.

Ms Paul: I think we are talking about this new agreement, are we not? So we are saying that the jobs board is a new thing, the jobs board has not been contemplated before although we can build off an existing platform. Other than that, we are talking about a particular agreement; we are not talking in general.

Senator ABETZ: All right, so when was the jobs board first notified to the department as an idea, as a concept—in the Prime Minister's statement or in Mr Bowen's statement on Friday?

Mr Kovacic: The concept of a jobs board has been around for quite some time, certainly in the consultations that DIAC undertook with a range of stakeholders around the principles for enterprise migration agreements.

Senator ABETZ: Can you please take on notice when it was first raised with you.

Mr Kovacic: Yes.

Senator ABETZ: Are you able to give us a rough indication as to when it was first raised?

Mr Kovacic: As I was going to say, certainly in those consultations about the EMA framework it was raised by some of the stakeholders in that sector at that time. That would have been early 2011. It was also an issue that was sort of flagged in the national resources sector employment task force and, again, last year's ALP National Conference made a commitment in terms of establishing a jobs board by the middle of this year, if I can put it that way. So it has been an issue that has been around for quite some time and we have certainly been looking at the Australian job services platform as the basis on which we can build the jobs board.

Senator ABETZ: Who were the stakeholders with whom you said you liaised?

Mr Kovacic: We did not liaise. That was a process that Immigration undertook in terms of settling the principles for the EMA framework. That included, and I am talking in general terms, Commonwealth and state government representatives, industry bodies, employers and unions.

Senator ABETZ: So did this department consult with anybody on the framework of the EMA in principle and, in specific terms, on the Roy Hill project?

Mr Kovacic: As we mentioned before, DIAC has policy responsibility for enterprise migration agreements.

Ms Paul: Yes, it is DIAC's responsibility.

Senator ABETZ: The question is: did you consult with anybody? I know who is responsible.

Mr Kovacic: In terms of the framework, DIAC involved us in the consultation process. In terms of the Roy Hill project, DIAC similarly consulted with DEEWR in terms of the proposal earlier this year and the department provided, I suppose, a number of considerations which it believed DIAC should take into account in assessing that sort of proposal. That occurred earlier this year. But we have not undertaken any consultation in our own right—

Ms Parker: We have not sponsored our own consultations.

Mr Kovacic: in respect of the program. It has all been initiated by DIAC.

Ms Parker: Yes. We have been consulted, as it were; we have been part of their—

Senator ABETZ: So you have been consulted, but you have done no consultation to inform—

Ms Parker: We have not done separate consultations.

Senator ABETZ: your input into DIAC?

Ms Parker: No.

Mr Kovacic: I should add that we had some conversations with Skills Australia in the context of our input to DIAC.

Senator ABETZ: Any advances on Skills Australia?

Mr Kovacic: No, that is all.

Senator ABETZ: So they are the only ones?

Mr Kovacic: That is correct.

Ms Parker: They were inside the portfolio, of course.

Senator ABETZ: All right. That takes us out to 10.30. Thank you very much.

CHAIR: We will now suspend until 10.45.

Proceedings suspended from 10:30 to 10:45

CHAIR: We will recommence. We might stay on the jobs board for a couple of minutes. Mr Kovacic, you indicated that it would be the new building inspectorate who would monitor wages and conditions. Is that correct?

Mr Kovacic: Certainly during the construction phase.

CHAIR: What will be the wages and conditions? How are they actually determined?

Mr Kovacic: Certainly the requirement is that any sorts of workers that come from overseas are engaged in accordance with Australian workplace law. In terms of pay and conditions, they would be paid and receive the same conditions as an equivalent Australian worker working on the project.

CHAIR: How do we determine that equivalency?

Mr Kovacic: In essence, in normal circumstances, it would be in most of these sorts of resource projects and they would be covered by an enterprise agreement of some form. That would certainly set the rates of pay for workers working on the project. In the absence of an enterprise agreement, clearly the relevant modern award or, alternatively, the sorts of minima that are set by the department of immigration through migration regulations would be applicable.

CHAIR: Who would an enterprise agreement be negotiated between?

Mr Kovacic: It would invariably be between the contractor and the relevant unions. Certainly, in terms of resource projects under the Fair Work Act, there is the capacity to enter into a greenfields agreement, in which case it would be between the contractor and the relevant union or unions—so depending on the form of instrument. But unions would certainly be involved in the negotiations around an agreement if it were a greenfields agreement and they would be able to represent employees who are members of the union in respect of a normal enterprise agreement.

CHAIR: Does the existence of an EMA exclude additional 457 labour on that particular project?

Mr Kovacic: No.

CHAIR: What is the objective of the jobs board?

Mr Roddam: The objective of the jobs board is that projects such as EMA projects will be required to use the jobs board and ensure that qualified Australians are provided job opportunities before overseas workers. We would expect that foreign workers would only be recruited after genuine efforts to first employ Australians.

CHAIR: Is provision made to allow for relocation assistance to Australian workers in that context?

Ms Paul: Yes, they could avail themselves. As you know, Senator, there are several programs under which unemployed Australians can be supported to move for a job, and we have talked about them here before. There would be nothing, I do not imagine, which would rule it out as a possibility here.

CHAIR: Would it be the jobs board that facilitated that or would that be done through a separate process?

Ms Paul: Certainly those opportunities would be identified through the jobs board. The jobs board is an internet based service. Then the workers, if they want to move with their families, would be supported to move under the various programs that support mobility in Australia which we have been using, for example, to bring people up to work on flood recovery and so on. So that is done separately from the jobs board itself. It is an existing program, if you like.

CHAIR: So will it be the jobs board that determines whether or not Australian workers have been given the opportunity to apply for the vacancies? Is that a decision simply made by the contractor? You said that the purpose of the jobs board is to ensure that Australian workers are given the opportunity to apply. I want to explore what the word 'opportunity' means.

Mr Kovacic: I think it is really about broadening the net in terms of the awareness of the sorts of vacancies that exist on resource projects such as Roy Hill and maximising the opportunity for Australians to apply for those sorts of positions. How that might be tested for compliance is something that we will work with DIAC on in terms of the information that will need to be provided by contractors about the extent to which they utilise the jobs board and the extent to which they draw employees from jobs that appear on the jobs board.

CHAIR: So will anyone anywhere in Australia be able to register on the jobs board for potential employment in these areas?

Ms Parker: That is right. The jobs board enables an employer to put bulk jobs on or individual jobs on, so it is quite flexible and we can monitor how many people go look at the jobs.

Ms Paul: You monitor the hits, the amount of interest and so on.

CHAIR: So a contractor looking for employers simply will not have to advertise in an obscure weekly community newspaper in a remote location to see how many applications they get as the provision of providing opportunity for Australians.

Mr Kovacic: That is correct. The jobs board really makes it available, because it is an internet based platform, in every corner of the country.

Ms Parker: Job Services Australia providers will use it every day for Australian JobSearch. I will be writing to the CEOs and telling them this jobs board is there and they should be looking at vacancies and matching job seekers to those vacancies.

CHAIR: So, if there is someone available to be matched to a vacancy, that will happen prior to it being filled by someone covered by an EMA or an individual 457 visa holder?

Ms Paul: That is the idea of it. It can canvass in real time people's interests right across Australia.

CHAIR: All right. Thank you.

Senator CASH: I apologise for not listening as intently as I should have been; I was reading something online. When did you say you expect to have the jobs board up and running?

Ms Parker: 2 July. In terms of the job search for this function?

Mr Kovacic: We expect it to be up and running fairly shortly. Ms Drayton is talking about an enhancement to the existing Australian job services platform, which will become available on 2 July and will mean that they will be able to advertise future vacancies on the platform as well.

Senator CASH: You know that, depending on whom I speak to, I get different definitions of 'fairly shortly'.

Ms Paul: We also know it is an IT thing, so you never quite commit to the final date!

Senator CASH: Can you elaborate on it? Are we talking in the next few days or the next few weeks?

Mr Kovacic: I would suggest that it would be in the next few days.

Senator CASH: Okay. You have really taken Senator Marshall through how it will actually work. Will people who currently have a job be eligible to post on there or will it be strictly for unemployed people?

Mr Kovacic: It is actually about advertising job vacancies. It is an opportunity for people to see what jobs are available. It is not necessarily about individuals saying, 'Hey, I'm looking for a change of job' or that sort of scenario.

Ms Parker: But they can if they wish.

Senator CASH: So any job seeker can. It is not restricted purely to people who do not have a job?

Ms Parker: No.

Senator CASH: So there are no restrictions on that. Could you take me through Job Services Australia again?

Ms Parker: Australian JobSearch is something that we run in the employment area. We require employment service providers to use it. Others can use it, but we require our providers to use it when they identify any vacancy. They lodge it on the Australian JobSearch website. In this case, the jobs board is a component of that. If they knew there was a vacancy and they had identified it, they would be required to put it on there. Then job seekers, who are required to be doing job search, need to be checking that. They go check it each day. They pick up a vacancy and go apply for the job.

Senator CASH: With Job Services Australia shouldn't they be undertaking that task anyway and already referring eligible job seekers to vacancies?

Ms Parker: That is right.

Senator CASH: So is there a doubling up of the process here?

Ms Parker: It is just one component of the process. This is a bit like we did for the Olympics. We set up a very specific component of the site to say there are jobs coming for the Olympics. There are a large number of jobs. There are all these different types of jobs. If you were interested as a job seekers in working in the Olympics, you went to this bit of the site and it told you all about it. Instead of going to a very boring website with a thousand jobs on it from A to Z, this says 'this will be resource jobs'.

Senator CASH: So this will be similar to that. It will say 'jobs in the resources sector: Western Australia, Queensland'—

Ms Parker: That is right. We have also done this for our priority employment areas. We have set up different ones. When we have run jobs expos, we have said: 'We're running an expo today; Gympie gets its own part of the website. If you're in Gympie or near Gympie, here are the jobs in Gympie.' So it is a very flexible website.

Senator CASH: In terms of a particular job being filled, how quickly do you take that position down so you are not creating an expectation that someone has a job there when there actually is not?

Ms Parker: It is automatic when the job is filled.

Senator CASH: So who is inputting that data? Is that the employer?

Ms Parker: Yes, it will usually be the employer because they will keep getting inundated with requests. So they will remove the vacancy.

Senator CASH: Okay.

Ms Paul: We need to correct the record. We said to Senator Abetz that we had heard about the finality of the Roy Hill EMA on Thursday morning, but I am advised that it was Wednesday night.

CHAIR: All right. Thank you. In terms of the skilled workforce, who will take responsibility for ensuring that the skills that are potentially being brought in under an EMA qualify for the Australian requirement for skills? I am thinking more particularly of the traditional trades areas. If you require electricians, we know that a Chinese electrician would not be an Australian equivalent. Who is going to ensure compliance with those requirements?

Mr Roddam: The Department of Immigration and Citizenship essentially determines as part of an EMA what skill assessments et cetera would need to be undertaken, so it is a matter for them.

CHAIR: Okay. Will there be an internal appeals process if someone thinks that their qualifications and name were on the jobs board yet they have not been provided a job and we know people have been imported to do the work anyway? How can we challenge the veracity of the process? How can an individual do that?

Mr Kovacic: I suppose that is normally not something that is associated with the processes in terms of filling vacancies from the Australian job search platform. But again it

might be something that DIAC, given its overall responsibility for the enterprise migration agreement, might have some approaches to. We will certainly take that on notice.

CHAIR: What happens in terms of accommodation and other facilities for people who would be coming in in these numbers on the EMA? Who takes responsibility for that?

Mr Kovacic: I think all of those sorts of issues would be issues that DIAC would certainly be talking with the contractors about. I am unable to provide any sort of detail on that.

Ms Paul: That is a matter between DIAC and the employer. We could take it on notice, but it is not something for us.

CHAIR: Are you aware whether the conditions of being brought in under an EMA will differ in any way to a 457 visa?

Mr Roddam: Yes, they can do.

CHAIR: In what way could they be different?

Mr Kovacic: That is really a case-by-case approach. We have not seen the final Roy Hill agreement, so we cannot give you any sense of to what extent they would differ.

CHAIR: I am looking for things like access to medical care, access to workers compensation or other issues.

Mr Kovacic: Certainly in terms of things like workers compensation, as I mentioned before, workers who enter Australia under an enterprise migration agreement would be subject to Australian workplace laws. I would think that would cover workers compensation arrangements, but I will take on notice to confirm that. In terms of some of the other issues in respect of access to social security, that is an issue that is better addressed to DIAC, which has overall responsibility for that aspect of the EMAs.

Ms Paul: Clearly DIAC will be monitoring this very closely, I should imagine. But we really would need to take it on notice for DIAC.

CHAIR: I have no idea where Roy Hill is. Does anyone here? Where is the Roy Hill project?

Mr Roddam: It is in the Pilbara.

CHAIR: Is there an existing township? My question goes to: it is okay to apply for a job, but if there is nowhere to live it is hard to apply for a job there. I am concerned that provisions may be made for accommodation for people under an EMA but no accommodation made for Australian workers who apply, which effectively would rule out Australian workers from applying for those positions—depending on what the employer was going to provide.

Mr Kovacic: My sense is that a company that wanted to attract workers to the locality, particularly if it is in a remote location—and without knowing precisely where Roy Hill is—would be making, or the contractors would be making, provision for accommodation for a workforce irrespective of whether they were recruited domestically or through the enterprise migration agreement. They would have to do that, I would imagine.

CHAIR: Will there be some process in the jobs board to ensure that, again, what is available to one group is available to another?

Mr Kovacic: That is not an issue. That is a jobs board process, if I can put it that way, in the sense that the jobs board is about promoting vacancies and the job opportunities that are

available through the resource project. As I said before, issues such as accommodation for the workforce are issues that we would imagine DIAC would have responsibility engaging with the contractors on, as part of its policy responsibility for Enterprise Migration Agreements. We can ask that question of DIAC on notice, if you like.

Ms Paul: Certainly right across Australia jobs are being advertised right now by resources companies in various locations. You would have to expect that the whole package of remuneration, whatever it contains, would want to be advertised by the employer; and that would be happening now across a whole range of different employment locations and different companies, presumably, whether they are seeking fly-in fly-out or whether they are seeking a static, live-in workforce.

Senator Jacinta Collins: There is a station, Chair.

CHAIR: Is there a fixed term for the life of an EMA?

Mr Roddam: Again, those questions are better addressed to the department of immigration; they have carriage of those issues.

CHAIR: If you came over as part of it originally, in May, are the bodies that come interchangeable? If someone seeks to return to their country of origin, will that vacancy necessarily have to be backfilled through the jobs board process or could they simply be replaced by someone else from the country of origin without going through that process?

Mr Kovacic: We would imagine that the jobs board process would continue to apply to the vacancies that would arise in the course of a project.

CHAIR: All right. Any other questions on the jobs board?

Senator CASH: The jobs board is not a new concept, though, is it? It is something that is already up and running, and you are merely extending it now to jobs within the resources sector.

Ms Paul: Yes, that is right. It is called Australian JobSearch, and it is as Ms Parker described, where we can target the Olympics or target jobs in a particular region, like Gympie. In this case, we would be targeting a particular project in the resources sector.

Senator CASH: Okay. Chair, could I turn to work experience activities?

CHAIR: Yes.

Senator CASH: Again, the majority of these questions are statistical in nature. How many job seekers are currently undertaking a certificate II level qualification as their work experience activity, and how many job seekers are currently undertaking a certificate III level qualification as their work experience activity?

Ms Drayton: We do not have it by certificate level. That is something that we could try and find out for you.

Ms Parker: We can cover wider accredited training. Accredited training covers the certificates I to IV and diplomas and advanced diplomas. We can cover that as a block, if that will help.

Senator CASH: Okay, but you cannot actually break it down by certificate?

Ms Parker: No.

Senator CASH: And why is that?

Ms Parker: We do not require providers to put into the IT system exactly what that certificate is. We do ask them to put it in the job seeker's Employment Pathway Plan, which I mentioned before, as free text. So I guess our data collection makes it hard. We would have to actually check every Employment Pathway Plan free text to see exactly what the training was to be able to answer your question.

Senator CASH: Do you have that information with you—the bulk or block information—that you can provide?

Ms Parker: On accredited training? Yes, we do.

Senator CASH: Thank you.

Ms Laker: Senator, I have figures around vocational training. That includes accredited training—the certificate level training you were asking about—but it can also include other vocational training that is not certificate level. So, for the contract period to date, there have been 476,556 placements in a vocational training activity. On 31 March, as an example of a point in time, there were 85,013 placements underway.

Senator CASH: When you say 'underway', what does that entail exactly?

Ms Laker: Because this is data on vocational training, some of that could be certificate level training which goes for a term or a semester, and some of it could be short courses—for example, sending a job seeker off to a two-day Excel training course. So this is data about the training that was underway on 31 March—that second figure that I gave.

Ms Parker: If they have not completed it, they are still doing it.

Ms Laker: Yes.

Senator CASH: How do you determine what a person is actually doing by way of their work experience activity?

Ms Parker: The providers are required to document what the job seeker is doing, and I mentioned before that job seekers have participation requirements. Part of the legislation is that they have to do what is in their plan; otherwise, their income support can be suspended. So the provider has to record what they are actually doing and they have to provide evidence in their files that that is what they are doing.

Senator CASH: In terms of the data that the department has available to it in relation to the types of activities that are undertaken during a work experience activity, what can you provide us with?

Ms Parker: We can provide you with numbers in each of the key categories. If they are doing Work for the Dole, unpaid work experience, Green Corps or Drought Force, we can tell you what proportion.

Senator CASH: Can you take that on notice to provide us with that information?

Ms Parker: Yes.

Senator CASH: If you have got I there, how many are doing Work for the Dole, because that is my next series of questions.

Ms Drayton: For the life of Work for the Dole there were 85,311 placements, with 10,298 as at 31 March. For Green Corps there were 2,151 for the life of the program, with 111 participants as at 31 March. For Drought Force, for the life of the program there were 788 and

eight participating as at 31 March. For voluntary work, the total is 22,687, with 3,869 participants at the end of March. For unpaid work experience there were 4,662 with 130 at 31 March. For the accredited and non-accredited training there were 476,556 with 85,013 as at 31 March. For non-vocational training there were 297,368 with 21,340 as at 31 March. For part-time, casual paid employment there were 179,270 with 21,373 as at 31 March. For other approved programs there were 157,332 for the life of the program, with 24,208 as at 31 March. A total figure for all work experience placements over the life of the program is 1,226,125 placements and 166,350 as at 31 March.

Senator CASH: In relation to Work for the Dole activities, how many activities are currently operating?

Ms Drayton: 10,298.

Senator CASH: Is that how many activities are currently operating?

Ms Drayton: That is how many placements.

Senator CASH: When I say 'activities', I mean what type of work are they actually doing? If you need to take that on notice, that is fine.

Ms Laker: In terms of the actual number of activities, bearing in mind that a Work for the Dole project would usually involve a number of people at the one time. I think what you are asking is the actual number of activities. On 31 March there were 1,160 different Work for the Dole activities —

Senator CASH: Combining 10,298 participants?

Ms Laker: Placements. Because, on a particular day, a person may or may not be doing their Work for the Dole.

Senator CASH: In terms of the volunteer work of the 3,869, what is the average duration of their volunteer work, or alternatively, if you have it, over the life of the 22,687?

Ms Laker: Voluntary work is where somebody may do an activity at a community organisation, and they would be meeting their particular hour requirements. As Ms Parker explained, there would be a participation requirement for the individual. They may complete their hour requirements in total from doing voluntary work, or they may have combined that with other activities. So, there is not a fixed amount of time for voluntary work and an average figure would not be terribly helpful because they are so varied.

Senator CASH: Okay. So you do not collect that type of information?

Ms Laker: No.

Senator CASH: How many Green Corps activities are currently being offered, and is it possible to get a breakdown of numbers in each state and territory?

Ms Laker: At the moment there is 31 discrete Green Corps activities. As at 31 March there were 111 placements in those Green Corps activities. By state, there were 18 placements in NSW, 44 in Queensland, 16 in South Australia, 16 in Victoria and 17 in Western Australia. On 31 March, there were none in the ACT, none in the Northern Territory and none in Tasmania.

Senator CASH: Of the job seekers who have been unemployed for two years or more, how many have not undertaken a work experience activity?

Ms Drayton: We will have to take that one on notice.

Ms Parker: I think it would only be those who were exempted. They are required to do work experience after they have been with Job Services Australia for 12 months. So it would be only those who have a medical or other type of exemption.

Senator CASH: Are we able to get figures, then, on how many are within the exemptions?

Ms Parker: Those who have not done work experience?

Senator CASH: Correct.

Ms Parker: We will come back to you on that.

Senator CASH: What percentage of job seekers have found employment within three months of completing Work for the Dole? While you are looking for that information, I will go back to Green Corps activities. There are only 31 activities with 111 participants. Why do you think there are so few activities on offer? Is this not something people want to do?

Ms Laker: There are probably several reasons. It is worth keeping in mind that a Green Corps activity is, to all intents and purposes, a Work for the Dole activity—the distinction being that a Green Corps activity must be 80 per cent focused on environmental matters. As far as a provider is concerned, they often do not make a clear distinction between Work for the Dole and Green Corps. So it is highly likely there are Work for the Dole activities which, by our definition, we would probably say could be called Green Corps activities. That is one of the reasons there are fewer Green Corps activities being identified specifically. At the end of the day, it is a matter for a provider to determine what types of work experience activities are best suited to the job seekers on their case load. Green Corps is only one of 10 different options available to the JSA provider and their job seekers.

Ms Drayton: I have the figure you asked about—25 per cent of people who participate in Work for the Dole are employed three months later.

Senator CASH: What percentage of job seekers have found employment within three months of completing a training course as their mutual obligation activity?

Ms Drayton: I have a figure here—and I will just check it, if that is okay, with my colleagues. Of people who have undertaken a training activity, 56 per cent—

Senator CASH: have found employment within the three-month period?

Ms Drayton: Either that or they are studying. The measure I have is 'either in employment or studying'.

Senator CASH: Are we able to break that down? I am happy for you to do that on notice.

Ms Drayton: Yes, we will have to take that one on notice.

Senator CASH: What is the average period a person remains unemployed for after completing a mutual obligation activity?

Ms Drayton: Again, the figure I have—

Senator CASH: combines the two.

Ms Drayton: Yes, it combines them both. So we will take that on notice.

Senator CASH: What is the total figure you have?

Ms Drayton: Of those who have participated in a work experience activity, 51 per cent are either working or studying after having been involved in that. But I do not have it broken down any further than that.

Senator CASH: You can break that down on notice. What percentage of JSA clients undertake a language, literacy and numeracy course?

Ms Drayton: We will have to take that one on notice as well.

Senator CASH: I now turn to the relocation pilot. How many job seekers have relocated to date?

Ms Drayton: There have been 452.

Senator CASH: And how many ceased employment within the first six months?

Ms Drayton: By that question, Senator, you are asking how many people have left?

Senator CASH: That is correct. They have relocated and then they have ceased their employment within the first six months of relocation. Do you have any figures for people who have relocated but who no longer actually continue with the job they relocated for?

Ms Drayton: The only information I have with me that goes to that is the number of people who have left the job and then gone into the job seeker compliance framework as a result.

Senator CASH: Why were they going to the job seeker compliance framework?

Ms Drayton: Under the relocation pilot there are specific categories. If you leave a job without a suitable reason, there is a 12-week waiting period before you are able to claim income support. So that is the only information on—

Senator CASH: So tell me, of the 452 who have relocated to date, how many are within the statistics you are talking about?

Ms Drayton: There were 10 job seekers being considered for a 12-week non-payment period out of the 452. Of those, nine were applied and one was not applied.

Senator CASH: What does that mean?

Ms Drayton: It means that nine people had a 12-week waiting period applied to them when they could not claim income support.

Senator CASH: Why was one being not applied? What does that mean? Does it mean that they did not have to wait 12 weeks?

Ms Drayton: Yes. DHS makes these decisions and, in the case of that one job seeker, they looked at personal limitations that the job seeker had.

Senator CASH: In terms of monitoring the outcomes of the pilot, whilst you are able to say that 452 job seekers have relocated to date, how do you monitor whether or not they actually do stay within their job? I understand you are able to give figures in relation to the 10 people and the 12-week period, but what happens if someone just decides to shoot through and they do not want a Centrelink benefit? Is there any way to monitor that?

Mr Watson: Not directly. We do focus on their returning to income support. In a sense we are helping them to relocate to an area of work. If they find an improved—

Senator CASH: Another job.

Mr Watson: position or some other way in the employment system of supporting themselves, then—

Senator CASH: So the test for you is whether they return to getting benefit?

Mr Watson: That is correct.

Ms Drayton: I would like to clarify something, for a more complete understanding. Of the nine people that have the 12-week waiting period applied to them, three are currently appealing the decision, so they are actually not serving the 12-week waiting period. There is only one of the nine who is currently serving that 12-week waiting period, and five have been waived under hardship provisions. I wanted to clarify for you the make-up of the group.

Senator CASH: How many of the 452, if any, have had to repay their relocation expenses?

Mr Watson: None as yet that we are aware of.

Senator CASH: When you say, 'None as yet,' are there cases that might be in the system as having to repay their relocation expenses?

Mr Watson: None that I am directly aware of. I make the point that we reimburse the provider, who might pay something for the job seeker. There are a couple of layers. The job seeker in this sense is one level removed from our visibility. We are not sure whether there is an interaction between JSA and the job seeker.

Senator CASH: For example, then, in relation to the 12-week period, would any of the 10 people who have been either applied or not applied have to repay their relocation expenses on the basis that they have returned to the system?

Mr Watson: It is difficult for me to see a circumstance where we would claim the money back, but I will take that on notice and have a look more closely.

Senator CASH: So what are the circumstances in which the job seeker would have to repay their relocation expenses?

Mr Watson: I am speculating, but if we had paid for a removal truck and they did not move we might look at recovery. Also, there might be circumstances where, further down the track, we find that the Job Services Australia provider or the Disability Employment Services provider did not properly check eligibility of the job seeker prior to the move, so we might claim that money back from the organisation but not from the job seeker. To this date, we have not done that.

Senator CASH: Okay. How much has the relocation pilot cost to administer to date?

Ms Drayton: There has been \$1,151,481 of expenditure as at 31 March.

Senator CASH: What was the anticipated spend for this financial year?

Ms Parker: Senator, we talked about this last time. Given it was a pilot, we did not actually do benchmarking. We did not say that the pilots were—

Senator CASH: X dollars?

Ms Parker: X and then divide it up. We were testing. So we cannot really answer that question.

Senator CASH: So, as of 30 June, you have a figure as to what it may well have cost?

Ms Parker: Yes.

Senator CASH: Is there a contract manager assigned specifically to the pilot program or do all DEEWR employment service contract managers have oversight for those who relocate?

Ms Parker: Stuart Watson from the national office is the manager of the program nationally.

Mr Watson: Senator, I have a team and a number of those team members look at connecting people with jobs and monitor the relocations. We also work closely with our state office network if there are any particular issues about an individual case.

Senator CASH: But you are the contract manager assigned specifically to the relocation pilot?

Mr Watson: I am. I am responsible for it and it sits within my branch.

Senator CASH: What percentage of the relocated job seekers have gone to work in the mining industry?

Mr Watson: Six per cent, but we categorise that as 'mining and heavy machinery'.

Senator CASH: Do you have a breakdown, and you can take this on notice, in relation to the percentages in all industries?

Mr Watson: I can run you through the list, bearing in mind that some of the percentages are quite small. Maybe if I do down to the five per cent?

Senator CASH: Thank you.

Mr Watson: So it is 12 per cent for the construction and retail trades; 10 per cent for agriculture and farming; 10 per cent also for general labouring; eight per cent for meat and fish processing; eight per cent for health and community services; seven per cent for retail and sales; six per cent for each of the following—administration, mining and heavy machinery, process worker factory hand; five per cent for hospitality; and then we move into the fours, threes, twos and the less than ones.

Senator CASH: What has been the average duration of unemployment for those who have relocated?

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

Senator CASH: Given the performance of the pilot to date, are there any thoughts surrounding whether or not it should be changed or modified? Is it going to continue in the way that it has been running?

Ms Parker: It runs until 31 December, Senator. The government has not made any decision around changing it at this stage. It has changed on the way through. We added the Queensland flood focus, for example, and other things, so it is possible that it may change focus slightly.

Senator CASH: So it is a moving feast, in other words, and constantly being assessed?

Ms Parker: Yes.

Ms Paul: Yes. Actually, in the context of the previous questioning about categories of employment, about half of these people have gone to the flood affected areas of Queensland, so you want to keep that in mind too.

Senator CASH: Given that only 452 job seekers have relocated to date, in the department's opinion is the program a successful one and should it be continued? Or are there other options that we could be looking at to get people into work?

Ms Paul: The question of whether or not it should continue will ultimately be one for government, so we cannot really go there. On the question of its success, we would certainly say it is a very responsive program. It is not the only program, of course, in the department that supports people to move. The EPF, for example, in JSA is used to support people to move; that is another way people are mobile across Australia. The jobs expos have done that to some extent, such as some of our particular work with, say, BlueScope, and some of the other employers losing people have done it too. This one was quite targeted. It is interesting because it has been quite a fast program, particularly in response to the floods. But all that being said—in a way, it is my view—we have to look at it properly, of course, as it comes to a close.

Senator CASH: Was funding for the relocation pilot given for 4,000 to relocate?

Ms Parker: Yes.

Senator CASH: So if you are looking at 452 out of 4,000, we are really only looking at 10 per cent and we have seven months to run.

Ms Paul: It was 'up to', and there are other ways too that people are supported to move. That is why Ms Parker said we are not having an estimate on how many might be supported because it was always going to be demand driven, in a way. It was a pilot and we wanted to see how it would work. That was the outer envelope for it but it was not ever necessarily going to reach that outer envelope.

Senator CASH: How did you then get to the figure of 4,000 in estimating the funding that was to be provided for the pilot program?

Ms Parker: We would need to check back. I suppose it does demonstrate that it is incredibly difficult to know what incentives will encourage people to move. What we are learning, and have learnt from previous programs like this, is that people really struggle to move. Moving families, particularly when they have multiple disadvantages because this is what we are talking about—job seekers who are unemployed for more than three months—is a really big decision. Hopefully we will learn more of what really will encourage them to move.

Senator CASH: Can I quickly ask three questions about the National Workforce Development Fund?

Ms Paul: That was shifted to the other department.

Senator CASH: I better put them on notice. What department? Was it Human Services?

Ms Paul: No. It is the Department of Innovation, Industry, Science and Research.

Senator CASH: Funding model changes, total percentage of provider broker outcomes?

Ms Paul: Yes, we can do that.

Senator CASH: I have one more question on the pilot program. If jobseekers have been reluctant to take up positions when there is what is considered to be quite a large funding attached for relocation, how will the job board further boost the number of domestic workers.

Ms Paul: Sorry, will you say that again?

Senator CASH: Based on the evidence—with 452 out of what was the total figure of 4,000, and you have said that it is a big thing for people to pack their bags and relocate, in particular in relation to the pilot where you had funding associated with the relocation—how will the jobs board then further boost the number of domestic workers and have people relocate? As you said before, you are advertising in Gympie so I assume that you will have to get people to relocate to Gympie. How is that going to interact given the relocation pilot?

Ms Paul: I do not think that the relocation pilot is particularly an indicator one way or another. I would not use the word 'reluctant' about people moving. As Ms Parker said, it is a big decision, which it is. Do not forget that this was, as I said, a very targeted program to quite disadvantaged job seekers. A jobs board is a tool to let people know about vacancies. How do they then move? For starters, some of these people may not be quite as disadvantaged as others—they may be more mobile, they may be single people, et cetera. It is drawing from a much broader pool. They may have only just come into the jobs market. They may be school leavers or university leavers or whatever. So we may be talking about quite a different category of person—a much broader category. Secondly, there are various ways that they then could be supported. For example, if someone sees a vacancy on a jobs board and it is in the Pilbara, then if they are already a JSA client, they may well be supported through EPF to move, or indeed, they could potentially be supported through here. The jobs board is the window, if you like, but it is not the mechanism.

Senator CASH: How will the success of the jobs board be measured compared to, say, the existing website?

Ms Parker: The jobs board is a tool. In terms of how many people are using it in these projects beforehand, again, the success in that sense will be for DIAC to measure in that the requirement to put job vacancies on the jobs board and ensure that people have had the opportunity to apply locally before you are getting overseas workers. We will be able to count. We will not have a target.

Senator CASH: In terms of the vacancies that you are referring to, are they already listed on the Australian job search site?

Ms Parker: It depends. Job Services Australia providers are required to use it. Employers across the board may use it. But they may also use Seek or they might use a local advertising approach in their local paper. They are not required to use it. Employers in the case that you are talking about will be required to use the jobs board. That is a different mechanism.

Ms Paul: The point about this announcement is, as Ms Parker was saying earlier, that certain projects like the Roy Hill project will have their own special part of this website and they will advertise their jobs on it. They are not there now. They will be there when we have built this part of the website.

Senator CASH: Instead of building a completely new website, why didn't the government tell employers to refer themselves to the job search website?

Ms Parker: That is what will happen. What we are saying is that, within the job search website, we will have a nice little section just for this so that it stands out and people can find it more easily. That is exactly what will happen. They will be required to use it.

Senator CASH: Aren't we reinventing the wheel then?

Ms Parker: No, it is just a component. It is a very simple thing for us to do functionally.

Ms Paul: You are taking the existing website. It is like Ms Parker was saying earlier: for the Olympics we had a particular part of the website which would advertise all the Olympics jobs. Ms Parker said earlier that this was so that, if you just wanted to work for the Olympics, you did not have to look at 5,000 jobs; you were looking at 1,500 jobs—and similarly for this. We do have to build it, but it is coming off an existing platform.

Senator CASH: In terms of the changes that need to be made for the jobs board, will they be tendered for building the actual components or rebuilding the website?

Ms Parker: We will build that.

Senator CASH: Did you say that the department will be doing that?

Ms Parker: I have a little picture here. It is probably not what it will look like but it will give you a sense of it. It is a page that will say maybe 'mining jobs' and then job seekers on one side and employers—

Senator CASH: Is this something that you will do internally as opposed to it being tendered out?

Ms Parker: We will do it internally.

Senator CASH: Do you have a costing to the department for the upgrade to the website?

Ms Parker: I think it is negligible. This is just part of our business as usual. There is no large cost to this at all.

Senator CASH: Could you take on notice to provide, even if it is negligible, what the actual cost in terms of both finance and staff time will be to rebuild the website.

Ms Paul: I think we took on something similar for Senator Abetz.

Senator CASH: I understand I am deferring to Senator Siewert for a line of questioning.

Senator SIEWERT: Thank you. You have probably already traversed some of this but I was next door, so I want to go back to job services.

Ms Paul: That is fine.

Senator SIEWERT: I want to ask an overall question. Have you published or undertaken any further evaluations of employment services this year?

Ms Parker: We do.

Senator SIEWERT: What do you have ongoing at the moment?

Ms Kidd: We have not published any further evaluations this year.

Ms Parker: I thought you said 'undertaken'.

Senator SIEWERT: Published and/or undertaken.

Ms Kidd: Certainly we have a series of evaluations underway constantly. We have got an evaluation of the Job Services Australia model, which has multiple components; that is underway. We are finalising the Jobs and Training Compact Evaluation Strategy. We have some evaluations around disability and the DES program. We are also kicking off a rather large evaluation around the Building Australia's Future Workforce package.

Senator SIEWERT: What are the time lines for completion for each of those?

Ms Kidd: For the jobs and training compact we are looking at December quarter 2012, so this year. These are indicative, obviously, these timings. There are some 2010 budget

measures related to DES and they will be reporting in September quarter 2012. DSP Employment Incentive Pilot will be reporting in September quarter 2012. The JSA program, as I said, is in a series of components, but the final will be June quarter 2013; Disability Employment Services, June quarter 2013; reforming the Job Capacity Assessments program, December quarter 2013; and, for the Building Australia's Future Workforce evaluation, there will be an interim report in December quarter 2013 and a final in December quarter 2014.

Senator SIEWERT: When was the reforming the Job Capacity Assessments? When will that be ready for completion?

Ms Kidd: December quarter, 2013.

Senator SIEWERT: Thank you. You said the Job Services Australia program is in components. You were undertaking that evaluation last time, which we talked about at length. Are you proposing, when you review the components, to release the details of those evaluations as they are done or together?

Ms Kidd: The timing of any release of evaluations is up to the minister, but certainly there is a rolling program of evaluation and we will be doing them progressively.

Senator SIEWERT: Maybe you could take on notice what the components are and the time lines for the components. Is the work that was initiated last year going to be released? The work that you are undertaking in response to some of the claims that were made last year about gaming, you have responded that that partly in the budget, I presume that is partly a response to that.

Ms Parker: To JSA, yes.

Senator SIEWERT: To the JSA. It sounds like you are expanding that evaluation or does it just happen to be coincidence that occurred at the same time as you were undertaking the broader evaluation?

Ms Parker: In terms of what we call sharp practices, there is not an evaluation as such. What we do is program assurance. An evaluation implies something a bit longer. When we have issues with sharp practices we want to deal with them immediately or as quickly as possible. There is two components. One is around Disability Employment Services, which you are well aware of. The other is Job Services Australia. The change in payment that you referred to before was around Job Services Australia and that was as a result of ongoing program assurance. We identified an issue and looked into it and are still in the process of finalising that.

In regard to Disability Employment Services, we have a program of program assurance and it is ongoing. So concerning the issues that were raised during the Senate inquiry into the tender, we have looked at each one of those issues and analysed those issues. We have assured ourselves where things were not an issue but were raised and we have reported back on those through the inquiry. Also, where we do have some issues—and there are always some issues—we will be dealing with those. There are a number on foot at the moment on specific matters that we would be looking into through our contract managers, through audits, through targeted approaches. The other thing we do when we find an issue is we will change guidelines and rules. Providers with JSA, for example, cannot make that claim anymore because it was ambiguous and some providers were not keeping the right evidence around it

to justify the claim. So, it is an ongoing thing and we have been doing this since employment services started many years ago.

Senator SIEWERT: Thank you. When do you expect to finish the ongoing evaluation, the assurance process that was commenced at the very end of last year?

Ms Parker: Are you referring to the Job Services Australia audit that was undertaken?

Senator SIEWERT: Yes.

Ms Parker: Right, that is fine. Anthony can tell us.

Mr Parsons: I think the last time we were here I mentioned that it was a multistage process whereby January of this year was the self-audit phase for the 14 providers that we sampled, February was then it for 'please supply documentary evidence' and the department has then worked through 2,300-odd claims to test the veracity of file notes and other things that the providers had maintained. That is one step beyond where we would normally go for program assurance. We felt we had to go that extra step basically to prove or disprove the public accusation that some staff were being coached by the Job Services managers to falsify information. We have reached the stage where we have tested, to the best of our ability, the assertions of the Job Services providers. Mr Butterworth's report has come out and has announced what it has announced. We are right now in the closing stages of a show-cause phase. That is right at the very end where we say to each of the 14 providers: 'We, to the best of our ability, have tested with jobseekers, have tested with employers and have looked at Centrelink data and we do not believe that these claims are, in fact, legitimate brokered claims. You have got your last chance, if you like, to stump up any additional information you might have before we make a final ruling and recover the money, the brokered loading, if you like.' I expect that process to be completed probably within the next month or so.

Senator SIEWERT: For them to get back to you.

Mr Parsons: Yes. So that is the 14, and that will be the conclusion of the Butterworth 14 audit.

Senator SIEWERT: So that is June, did you say?

Mr Parsons: Yes, the end of June, within the next month or so.

Senator SIEWERT: So that is when they get back to you.

Mr Parsons: Now separate to that one of Mr Butterworth recommendations—and he made nine recommendations in his report— was that the department should really consider going further afield and, based on the findings of the 14, should convince itself one way or the other that the same issue does not exist with all providers. So we are now following a similar approach where we have written to all 105 CEOs inviting them to do their self-audit. It is with a declaration says, during an amnesty period, that here are a range of claims that they have checked and that maybe did not quite meet the new documentary evidence guidelines and here are a set of claims that they would assert are indeed brokered outcomes. They have until 29 June to come back to the department with those statements. What the department will then do will probably be on a sample basis, because there will be up to 17,000 of those claims in scope. So the department will probably then take a sampling approach to try and test the veracity of those by checking with the jobseeker or the employer or by looking at Centrelink data to see how rigorous the self audit was.

Senator SIEWERT: And then what do you do? You are saying there is an amnesty.

Mr Parsons: What we have said to them in the letter is a bit similar to the Butterworth exercise: 'You've got the first chance to look over your own books yourself and you can write to us and you can volunteer claims that you think should be downgraded, so it is if you do that upfront and prove to us the rigour of your internal quality control and governance arrangements. If the department then, through its sampling approach, goes and finds further invalid claims, then that sends a signal to us that your internal quality control and governance arrangements might not be as rigorous as what you think they are.' Then depending on, I guess, the magnitude of the discrepancy, we would then be looking at getting into discussions with the sector about how to improve the rigour of those quality control processes.

Senator SIEWERT: Okay. Ultimately will you then be going to the same show-cause process?

Mr Parsons: Yes, the standard program assurance is that you ask for everything when you have made a determination and with last drinks, if you like, it is the show cause as to why we should not recover.

Senator SIEWERT: If you are testing the veracity of what certain providers have given you, how do you get from that sampling process to the show cause—it is the second week, even if it is only the second day of this week!

Mr Parsons: We have currently engaged an actuarial firm to give us some advice on, for example, if we had 17,000 claims across 105 providers in all the employment service areas around the country, what would be a statistically valid sample size for us to test. When we make our findings on that sample size, say we find a 10 per cent error rate. The actuarial firm will then advise us on whether we can draw conclusions on that first sample. They will tell us whether we need to grow the sample size or look at all claims to prove the 10 per cent, or whether we use proven mathematics to say that 10 per cent is indicative of the rest of the claims.

One of the things that we will look at, having gone through a very lengthy process of trying to validate each and every one of the 2,300 claims in the Butterworth exercise, is some heuristics, so we can go back and say that we know what the final readings were for each of those 14 JSA providers. If we were to look at some key indicators, for instance, one of the things we have drawn to the attention of CEOs is that, if a vacancy is created on the same day as a job seeker is referred and the referral is confirmed in a job placement, they might want to look closely at that to see if that vacancy was raised after they knew the job seeker had found their own job.

Ms Parker: It is a risk based approach, in other words.

Mr Parsons: Yes. If you look at those sorts of indicators you might be able to statistically prove that you only need to look at a sample size of 20 per cent.

Senator SIEWERT: I have questions I do want to ask, but I will put quite a lot on notice. I will probably put some more on notice following up on that. I did want to get to older workers, and, if I have time, I want to go back to some of the changes that have been made to the fee structure. But I would particularly like to look at the issues around some of the incentives for older workers that have already been operating and some that have been announced. Is this the appropriate place to ask about how the \$1,000 subsidy was determined?

Ms Kidd: Yes, that is right.

Senator SIEWERT: How was the \$1,000 subsidy determined?

Ms Kidd: In the recent budget we announced a \$1,000 jobs bonus, as we are calling it, which can be paid to employers who recruit a mature age job seeker—a job seeker aged 50-plus—as long as they have been unemployed for 13 weeks. We considered a range of amounts in the development of the policy. What we are trying to do is ensure that mature age job seekers get a go in the labour market. What we know about mature age job seekers is that once they become unemployed they remain unemployed for much longer than the average job seeker does. So this incentive is about providing a bit of a bonus to employers. It is not in the nature of a wage subsidy, it is more about acknowledging that when you take on a worker, particularly someone who has been out of touch with the labour market for a while, there are induction or training sign-on related costs. The \$1,000 was developed in that context.

Senator SIEWERT: Who did you consult and how did you arrive at the \$1,000 figure? You are probably already aware that I asked the Age Discrimination Commissioner, Ms Ryan, and she said she was not consulted. I know that she is taking a particular interest in discrimination in the workplace.

Ms Kidd: We have a range of similar measures that are seen as incentives for getting people back into work. Some of them are delivered through the Employment Pathway Fund—we have bonuses available through that—and we have very high wage subsidies like the subsidies that are developed through Wage Connect. In terms of developing the amount, it was more through our internal policy considerations around what we already have in place, what we know works and where the gaps are.

Senator SIEWERT: Have you got evidence that the \$1,000 would work?

Ms Kidd: We have evidence that wage subsidies work. They work if you use them in a very targeted manner. The actual amount is a judgment call. We have a range of subsidies and we know our providers from the Employment Pathway Fund use varying amounts when they are presenting job seekers to employers. Some will use amounts around \$1,000 and then we have stand-alone programs which have much greater amounts for much more disadvantaged job seekers.

Senator SIEWERT: I have spent a lot of time recently with older workers, talking to them about employment support. Their overwhelming response has been, 'We do not get the support from the JSPs. Even when we find training, they are saying no.' How have you been working with the JSA providers to ensure they are supporting older workers? As I said, older workers have, overwhelmingly, been telling me the same story.

Ms Kidd: It is a requirement for Job Services Australia providers to work with all job seekers and to tailor their services accordingly. We do know that mature age job seekers do not always feel comfortable going to a JSP, particularly if it is a young employment consultant assisting them. We have developed a new program just for mature age job seekers—almost \$26 million was set aside in the recent budget to trial an additional, more tailored service for mature age job seekers.

Senator SIEWERT: Yes, the silver service.

Ms Kidd: Yes, that is the shorthand name for it.

Senator SIEWERT: You might want to choose another name.

Ms Kidd: We have had that feedback. It is aimed at job seekers who are aged 55-plus. The idea is that it will be tailored specifically to their needs—having a peer based job search approach, rather than individual, and having consultants—

Senator SIEWERT: I am sorry, but I do not quite understand that one.

Ms Kidd: It means it is more in a group setting. Rather than just fronting up to Job Services Australia and having an individual appointment and going off to do job search, the support might be more group based, with people of similar age in similar situations. A lot of it is word of mouth, with people exchanging their stories about what training they have gone into or how they have linked into work. We think a peer type model in a more casual setting might be a better approach for this group.

Senator SIEWERT: How did you develop that? Was the idea that that would work based on feedback from older job seekers or from JSA providers?

Ms Kidd: It was probably a combination. We do have an advisory panel on mature age job seekers from which we get a lot of input and ideas for policy responses. We look at what is being done internationally—Germany, in particular, are doing a lot of innovative things with mature age job seekers, including using this sort of group based approach. We get feedback through our surveys and information on what discourages mature age workers, what barriers they face and how we overcome them.

Senator SIEWERT: From the budget papers, it is apparent that you are removing some of the training and job transition support programs to support the new Corporate Champions project. Is this because you have found there are problems with those programs or have you done it for some other reason?

Ms Kidd: We had a range of small programs looking to address mature age issues. A number of them had quite low take-up, so there were issues with their delivery. We also had a large pool of funds available—which has now moved to the other department—for training programs for mature age people. The budget broadens the scope of the training assistance that can be provided so that it pretty much covers the kinds of assistance we were delivering through these small programs attached to JSA and DES. So we have taken the small programs away, expanded the eligibility of the training and added a suite of new programs which we think are better targeted.

Senator SIEWERT: In terms of the department's experience, are the main problems lack of willingness for workplaces to take on older workers or is it work readiness?

Ms Kidd: There is a range of areas. There are certainly barriers with employers: there are perceptions employers have about older workers and we are trying to work on those barriers. Our Corporate Champions program goes to addressing those. But there is also quite a large number of older workers that are defined as discouraged job seekers—so they just give up in terms of job search. Our surveys tell us that one of the prime reasons they give is that they fear age discrimination. So whether it is there or not, they have a perception that they will be discriminated against because of their age and they just give up. There are a range of barriers around this. These are skills and training issues as well and our programs go to address those.

Senator SIEWERT: In terms of the phone-based career advice process that is being continued, how successful has that been? Have you measured its success?

Ms Parker: It is going very well. There are 7,500 users so far, hence the decision to extend it to 30 June, 2016. We are getting very positive feedback on the career advice.

Senator SIEWERT: So that is actually helping people find work?

Ms Parker: Yes, but not in terms of actually then finding the job. It is to advise the mature age job seeker about their options, what their skills are, what they might look for—it is that sort of career counselling.

Ms Paul: It is a confidence builder as well as straight out career advice.

Senator SIEWERT: I will put some questions on notice about how often people reuse it or phone back, and how long they are on the phone. I am going to have to put quite a lot on notice. Regarding the restructuring of stream 1 payments, is it primarily to stop—I know you call it something different—gaming?

Ms Parker: No, not this one. Remember we talked about the removal of that other payment?

Senator SIEWERT: Yes.

Ms Parker: That is a separate budget item to this stream 1 change.

Senator SIEWERT: So what is the purpose of this particular change?

Ms Parker: Under the current arrangement service, a stream 1 job seeker needs to undertake what we call 'intensive activity' when they have been in JSA for 13 weeks. This will change that servicing to push it out to 26 weeks. It will reduce the actual intensity of the 'intensive activity' in terms of time period. The number of hours will be reduced a bit as well.

Senator SIEWERT: I will put the rest on notice. Thank you.

Senator CASH: In relation to the jobs board itself, when did the department initially design the current JobSearch website?

Ms Parker: 1997.

Senator CASH: Has the design been undertaken on the jobs board website?

Ms Parker: We have certainly started work on the jobs board component of that?

Senator CASH: When did you start work on that?

Ms Parker: Immediately after the announcement.

Senator CASH: In the brief time we have left I want to turn to the funding model changes on provider brokered outcomes et cetera. As at 1 January 2012, what was the total percentage of provider brokered outcomes?

Ms Drayton: I have figures up until 31 March. This is for the life of the program—the provider brokered outcomes represented 40 per cent. Twenty-six week brokered outcomes represented 40 per cent of all 26-week outcomes. For the 13-week outcomes the brokered outcomes represented 41 per cent.

Senator CASH: How many providers were achieving more than 50 per cent provider brokered outcomes?

Ms Drayton: I would have to take that on notice. I do not have that data with me.

Senator CASH: My follow-up question is how many providers were achieving more than 40 per cent provider brokered outcomes.

Ms Drayton: We will take that on notice.

Senator CASH: You might need to take the rest of them as well then. What was the average percentage of provider brokered outcomes achieved by specialist organisations?

Ms Drayton: On notice.

Senator CASH: How many providers indicated concern regarding the funding model changes?

Ms Parker: I can answer that. The issue of regional providers was mentioned earlier today. We are aware of one provider who has raised an issue around regional providers. We had some correspondence yesterday from five providers expressing concern but asking for detail. I should correct that. That is in relation to the stream 1 changes, not the provider brokered outcomes. But we have had concerns expressed. We have been consulting providers, so some of that concern comes through discussions. So it is difficult for us to quantify. But I suppose it is fair to say that providers are not going to be delighted by having a higher payment removed.

Senator CASH: No.

Ms Paul: Nonetheless, as I said earlier on, because this is a change about a fee that in some cases should not have been claimed, the sector is coming along with us quite well. We have done a lot of talking to NESA, the National Employment Services Association. They might think, 'It's a shame we don't have that payment anymore'; but, on the other hand, because there is a recognition that there were mistakes being made, I think everyone has pretty well come along with us. So we have not had too many representations.

Ms Parker: Providers have been very good about it. They have understood the issue. They are concerned about the reputation of the program.

Ms Paul: Yes, it potentially goes to their reputation, so it is important that they understand why the change has been made.

Senator CASH: What are the expected savings as a result of merging provider brokered payments and the employment payments into one payment?

Ms Parker: The budget was \$44.262 million over the forward estimates.

Senator CASH: That is projected savings?

Ms Parker: That is the reduction in the JSA appropriation, so it is coming out of that program.

Ms Paul: Over the four years of the estimates.

Senator CASH: In terms of the providers who were audited, how many had to pay money back?

Ms Parker: Some of them voluntarily paid funds back, but we can answer that.

Mr Parsons: The process I was explaining earlier on was that, when we get to the stage we are at, it is show cause before we issue final invoice. Until we get the responses back to show cause, we cannot actually draw final invoices. Even if a provider were to say based on a new self-audit, 'Here is a quantum of claims we now reflect as being non-brokered; give us a cheque,' that is getting slightly ahead of the process. So at this point in time we have recovered no money.

Senator CASH: You have recovered no money so far?

Mr Parsons: At this point in time.

Senator CASH: Is there an expectation of what you might recover?

Mr Parsons: Yes. The Butterworth report, I think, forecast that based on the findings ahead of show cause. Assuming no further evidence comes forward, we could recover up to \$1.1 million.

Senator CASH: In terms of the expectation, where are you within the process of showing cause to the various providers at the moment?

Mr Parsons: So there are 14 providers in 18 employment service areas. That was the scope of the Butterworth audit. Each of those providers has been issued a show cause letter. Each of them has come back with, in some cases, additional information, in other cases no additional information. The department is right now in the closing stages of investigating what has come back.

Senator CASH: In terms of those who have voluntarily paid money back—

Ms Parker: Sorry I should have said identified—

Mr Parsons: They have identified; they have not paid yet.

Senator CASH: So they have identified that there were perhaps inaccurate claims. Is that separate to the 14 providers that were identified in the Butterworth report?

Mr Parsons: No.

Senator CASH: That is within that 14, is it?

Mr Parsons: Correct. There is a broader second phase which is doing a version of the Butterworth audit to the whole JSA community—the whole 105.

Senator CASH: What reasons are the 14 providers providing to you for the inaccurate claims?

Mr Parsons: A very common theme is that the department's guidelines about what differentiated a brokered outcome over an assisted outcome.

Senator CASH: Does the department agree with that, that the department's guidelines were at fault and there were people making inaccurate claims?

Ms Parker: We have made a number of changes to our guidelines over time. We can outline those if you wish.

Senator CASH: If you could take that on notice to outline them—

Ms Parker: We were aware there were ambiguities and it is one of those difficult issues. When you have a job seeker and the provider is assisting them, there is always going to be grey area around how much the job seeker did with the employer versus how much did the provider do behind the scenes. There is often some confusion about who was ultimately responsible for getting the job for that job seeker. Hence, removing the higher payment will provide the real clarity around this.

Senator CASH: Is there a penalty to be applied to those 14 who currently have the show cause letters for making inaccurate claims?

Ms Parker: We have not determined that yet. It depends on the extent of the issue.

Senator CASH: If the department admits that its guideline were not perhaps as clear as they should have been and people have relied on the departmental guidelines, and it is proven that yes that was the reason for the inaccurate claim, what will be the process there?

Ms Parker: I should clarify that for the period that we undertook the audit the department's view is that the guidelines were very clear. We have not done the audit period in the time where we would admit that the guidelines were perhaps a little ambiguous. At the time of the audit, our view is that the guidelines were pretty crystal clear, so we are not making them pay for things where we would say there was some responsibility on our part to be a lot clearer. In that sense we would say that any penalties or requirement to return funds to the department is absolutely justified.

Senator CASH: In the event that someone disputes that the guidelines were clear and the department says well, no, our opinion is that at the relevant time they were and you do need to now repay these monies, is there an appeal process?

Ms Parker: They have had a number of opportunities.

Mr Parsons: For the claims that we went to show cause for we typically would try and check the veracity of the assertion that it was brokered with first the job seeker to get their recollection. We would then, with their permission, talk to an employer typically to get the employer's recollection of the engagement and in a lesser number of cases we would triangulate by looking at Centrelink earnings declarations. For most of the cases that we would have said to providers that we did not think it constituted brokered outcomes, using information that we had available to us, we think we are on reasonably solid ground to say you can appeal all you like, but the data speaks for itself.

Senator CASH: But in other words they are able to appeal should they so choose to.

Ms Parker: It is not a formal appeals process but certainly we have had many conversations with them and feedback sessions and so on.

Senator CASH: I have some questions on the Family Centred Employment Project. How many families are currently part of this pilot, and have any since left the pilot?

Ms Hosking: Two hundred and one families have worked as part of the pilot. Of those families, 174 have signed a family care plan and are actively working as part of the program at the moment. Of the remainder, a small number have left the program but there are also some who are working with the provider to develop their plan. We are not able to break those down today.

Mr Kovacic: We will take on notice how many have formally left the program. To add to what Ms Hosking said, those numbers are as at end of March.

Senator CASH: In relation to those who have left the pilot, what reasons were given, and did they achieve successful employment outcomes, for example?

Ms Hosking: A range of employment outcomes have been achieved. As I understand it, and my colleague may wish to elaborate, achieving an employment outcome does not necessarily mean that you have left the pilot, because it is a family centred approach that is looking at employment outcomes, education outcomes and range of social outcomes such as housing. It is also looking at the needs of the children. There have been 80 employment outcomes achieved by 58 individuals but most of those would still be participating as part of the plan, and working closely with their providers.

Ms Innes: Families that have a family care plan under the Family Centred Employment Project who go on to achieve an employment outcome do generally stay with the project. They will get ongoing care and support throughout the time of the project, including working with their children.

Senator CASH: How many families have been successfully assisted into employment outcomes?

Ms Hosking: Fifty-eight individuals from 52 families have had an employment outcome during the time of the demonstration project.

Senator CASH: I am assuming that is a successful employment outcome.

Ms Hosking: That is right. Fifty-eight individuals have had at least one employment outcome. Some of them have had multiple placements.

Senator CASH: Are you able to break that down for me, on notice—in terms of how many have had the multiple employment outcome?

Ms Hosking: Yes, I think we can.

Senator CASH: What has been the total expenditure on the pilot to date?

Ms Hosking: The expenditure to the providers themselves and the early childhood expert officers as at 31 March was \$4.34 million.

Senator CASH: Has a review of the pilot been undertaken yet?

Ms Hosking: As part of the review we have an ongoing evaluation. It is in three stages. One is focusing on the implementation, which we are just finalising at the moment. The second will be midway and then there will be a final one at the end of the trial.

Senator CASH: How is the success of the pilot being measured?

Ms Hosking: When we look at the success of the pilot, we look back to the objectives which, as I said before, are multiple because they are looking not only at employment outcomes, although that is very much an important part of the project, but also at education training and social participation of the families in the community. So we are looking broadly at all those things.

Senator CASH: In terms of the evaluation to date, is the current program likely to continue past the current end date?

Ms Hosking: There has not been any decision made on that.

Senator CASH: That is all I have in relation to that outcome.

Ms Paul: I would like to add some information to something you were asking earlier on, Senator Cash. We were talking about the Connecting People with Jobs pilot and the 452 people, half of whom had gone up to work on the flood effort et cetera. You asked what was the average length of unemployment of those people before they went. The average time of unemployment for the people who have been part of that trial was 21 months. That means that that trial really is getting to quite disadvantaged people.

Senator McKENZIE: My question goes to an article by former senator John Black in the *Financial Review* in which he made claims that 'every second job created under Labor since 2007 has been in the public sector'. I refer particularly to a graph which included seven

Victorian regions in a list of 18 nationally which have experienced the largest jump. What strategies are in place to assist with this?

Ms Paul: To assist with which aspect?

Senator McKENZIE: To assist in increasing employment for Victorians, given that seven of the 18 regions most severely impacted are from Victoria.

Ms Paul: Just to be really clear, the seven regions are impacted by unemployment levels? What are the things that distinguish these regions?

Senator McKENZIE: I am happy to table the article, if you like, then you might be able to help.

Ms Paul: That would be great. Thank you.

Senator Jacinta Collins: Chair, while that is being circulated I will use the opportunity to file a corrected answer to a question on notice from the previous occasion. I think there was an administrative error in relation to EW106812, and I now table the corrected answer.

CHAIR: This is the question that was the subject of Senator Ronaldson's questioning yesterday?

Senator Jacinta Collins: I think it was, yes.

Senator McKENZIE: Ms Paul, while that data is getting here, it is the regions with the largest job losses.

Ms Paul: Industry restructuring or whatever?

Senator McKENZIE: Yes. Labour force restructuring. I understand that linguistics are important.

Ms Paul: I understand. That is good. I have just been reminded that you also asked some questions on notice which go a bit to this, don't they, by way of particular regions and what our regional education, jobs and skills coordinators are doing in those regions?

Senator McKENZIE: Yes.

Ms Paul: I am on the plan now, thank you.

Senator McKENZIE: Excellent, and the data will be arriving shortly.

Ms Paul: So you are asking what we are doing about it?

Senator McKENZIE: Yes. This is data that has been accruing over time, but I refer specifically to Victoria.

Ms Paul: That is fine. It is right around Australia, actually, but for those regions which have experienced particular job losses—you will know of particular companies in an area which have closed down or a particular industry that is restructuring in an area. I am probably more familiar with nearby so, say, BlueScope in the Illawarra but also BlueScope in Mornington et cetera. A range of things have been done. Local employment coordinators and the Jobs Fund were part of the response to that. More recently, you were asking questions on notice about the regional education, jobs and skills coordinators, and I will ask my colleagues to go into a bit more detail on the regional approaches to job losses, particularly for Victoria.

Senator McKENZIE: Yes. I think we now have a definition of region. For this particular question, the eight regions from Victoria include inner Melbourne, outer western Melbourne and south-east Melbourne, so it is not just rural and regional.

Ms Paul: Okay.

Senator McKENZIE: We will be getting to that, but that is part B.

Ms Kidd: I might commence with a little bit of an overview of the local employment coordinators, which are a key part of our priority employment area strategy. Across Australia the government has identified 20 priority employment areas. Indeed four of those are in Victoria. I will mention the regions for you. We have got Ballarat-Bendigo in central Victoria, we have also got a region of north-eastern Victoria, we have got north-western Melbourne and we have got south-eastern Melbourne. Each of these areas has been selected for particular additional attention based on the labour market situation there. So it is by analysing a range of indicators around unemployment rates, the proportion of people in the area on income support and by looking at things like industry composition in the area and where there is one dominant industry that might be in a downturn. So we looked at those factors and selected the areas most likely to suffer labour market disadvantage. What we have done in those regions is put in a local employment coordinator who plays a very central role in the area around bringing players together to tackle the local issues, so it might be bringing together Job Services Australia providers with training providers, using our labour market data and intelligence to work out where the jobs are likely to be and focus on retraining, for example. They also provide a rapid response capacity around retrenchments so where we know a company is experiencing retrenchments the local employment coordinator will get in their early—it is an early intervention strategy—to work with the workers to ensure that they are connected up rather than just disappearing into the system.

Senator McKENZIE: Ms Kidd, can I follow up something. You said there were four—

Ms Kidd: Yes, for Victoria.

Senator McKENZIE: You said Ballarat, north-eastern Melbourne—and central Victoria, was it?

Ms Kidd: So they included north-eastern Victoria, north-western Melbourne and south-eastern Melbourne.

Senator McKENZIE: Right. If you have got that article in front of you, would you go to the back, page four of four. Given the criteria you have just outlined around what gets a region a regional employment coordinator, when I run through those regions in Victoria—which are the regions with the largest job losses, hence probably the regions that would require the sort of assistance that you are talking about—I note only one of the four that you have identified is actually on this list. Can you explain why that may be the case? I guess my question goes to the regions that are on this list and what assistance is available to them given they are the ones with the largest job losses.

Ms Kidd: Yes, certainly. Certainly job losses are obviously of interest to us. I guess what we also look at is what the prospects are of getting a new job in the area and that goes to things like industry consultation. So if, for example, an area were dominated by manufacturing jobs and there were lots of job losses there and not much job growth in the area, certainly we would hone in there. If there were job losses and lots of opportunities in an area, so it is quite diverse and we could transition workers to different occupations or industries, it would not necessarily come up as a priority employment area. What we do

though is have regional coordinators—which Ms Cornish can talk about—which cover areas that are not our priority employment areas.

Senator McKENZIE: I am really conscious of time. I did want to go specifically to one of those regions, the Loddon Mallee region, which is using 'region' in both the ways that Ms Paul and I have been using it today. It is listed as an A on this particular table that has regions with the largest job losses. We have also as recently as yesterday had further job losses, with Hasties with 30 job losses. We have also had Murray-Goulburn in the region et cetera. There was Victoria Carpets in Castlemaine, with 32 redundancies. When you are talking about small country towns, that is quite a large proportion of our workforce. Yet Bendigo, the largest centre in the region, has been part of a government declared priority employment area for a long time, so I am just wondering, given reality as we see it played out on the ground in our region in this area, what actually has been happening.

Ms Cornish: I do have a bit of an update beyond the question on notice response that we provided in relation to Loddon Mallee. If I could follow on from what Ms Kidd has said—

CHAIR: We might have lunch now and then we will kick off with that update in answer to that question. Thank you.

Proceedings suspended from 12:30 to 13:36

CHAIR: We will now resume these estimates hearings. Before we recommence with questions, I want to formally advise particularly the parliamentary secretary but also the department that the committee has resolved to recall Fair Work Australia to provide further details on a response to a question taken on notice that was received last night. We anticipate that Fair Work Australia will attend this evening, and we will interrupt proceedings some time after the dinner break to hear from them again.

Senator Jacinta Collins: Chair, can I have the question number, please?

CHAIR: It is the answer to question on notice No. EW1075_12.

Senator Jacinta Collins: Thank you.

Ms Paul: Just for clarity, Chair, that part of the program tonight at the minute is for the department—on workplace relations, I think. So it will just be an interruption to that, will it?

CHAIR: We will simply interrupt that, yes.

Ms Paul: We will just sort of insert them. But we will stick to the program otherwise.

CHAIR: We do not anticipate that the questioning will take a long time, but that is in the hands of the committee. But it will be an interruption to the scheduled program.

Ms Paul: Okay. Thank you.

CHAIR: It will be in program 4. Senator Cash.

Senator CASH: Could I turn back to compliance failures, which we were dealing with a little earlier on today. What percentage of the total number of exempt job seekers are on Newstart allowance?

Ms Drayton: This is referring to the JSA case load exemption data I mentioned earlier as to—

Senator CASH: Correct. Absolutely. Is that something you will need to take on notice?

Ms Drayton: No, I have the figure here. For Newstart allowance, it is 80.46 per cent.

Senator CASH: Thank you. With the exemptions we referred to previously, how frequently are they reviewed?

Ms Drayton: As I was mentioning earlier, they are for different periods of time. Some of them are a fixed period of 12 months, unless there is a change of circumstances. Others might be for the length of a medical certificate in the case of temporary physical illness. Normally, when it gets near to the end of the exemption period, a notice will be sent out that will alert Centrelink, in this case, that an exemption is coming to an end and will need to be reviewed. That happens via a systems-based reminder.

Senator CASH: So you have a system in place that will automatically generate a reminder letter, depending on what exemption has been programmed into the system.

Ms Parker: And Centrelink can let the job seeker know through SMS and other means that they need to come in. They can alert them that they need to come back.

Ms Drayton: Most of the exemptions are for temporary short-term medical conditions where a medical certificate will determine the length of the exemption. If the condition had not improved or there was still a problem they would require another medical certificate in order for that exemption to be increased.

Senator CASH: We previously discussed the time frame for intervention and the maximum exemption, I understand, is 12 months. Does Centrelink have a discretion to grant a longer exemption and, if so, what is the maximum exemption Centrelink can grant?

Ms Drayton: Twelve months is the maximum period for some of the exemption categories. It would roll over to another 12-month period, for example, if the situation that warranted the first one was still in place. If there were children being fostered, for example. It depends on individual circumstances.

Senator CASH: In relation to the exemptions that are, say, for the longer period of time—12 months—is there a system in place which, let us say every quarter, says we have to follow up on this to see whether or not the exemption is still warranted?

Ms Drayton: That might be something that we will have to check with DHS. We can certainly ask for you. Even if someone is on an exemption, they are still required to maintain eligibility for income support through other review mechanisms, so there will still be other contacts in the system that will ensure that people retain their eligibility for income support. We can check for you what the actual process is outside of that normal eligibility review process.

Senator CASH: How many job seekers are suspended from the case load and what percentage of the total case load is this?

Ms Parker: The suspension from the case load is 152,688—20.6 per cent of the case load are suspended.

Senator CASH: Is that a figure to date for this financial year? Do we have a comparison, perhaps, over previous years to see whether or not it is going up or down?

Ms Parker: Yes, we can provide that. I think that would be on notice.

Ms Drayton: It would have to be on notice.

Ms Parker: The figure I just gave you is for the end of March 2012.

Senator CASH: In the last financial year, how many job seekers recorded a compliance failure? Perhaps a better question is for the financial year to date, if you have that information.

Ms Drayton: I do. Was the question: how many have had a participation failure applied?

Senator CASH: How many job seekers reported a compliance failure?

CHAIR: While that answer is being found, I need to correct my earlier statement in relation to the recalling of Fair Work Australia. I inadvertently read out the wrong question number to that which the committee is interested in. The actual question is EW1066-12, if you are interested in the answer to that question.

Senator CASH: There will be a number of questions flowing on from that question. I will read them out. What percentage of job seekers had a valid excuse? How many failures were recorded in remote areas? How many job seekers have had more than one compliance failure in the last six months?

Ms Parker: Senator, we might be able to go to the question about Indigenous job seekers first. We have some information here.

Senator CASH: That was: how many failures were recorded in remote areas?

Ms Parker: Yes. It might be useful to do a bit of defining because the use of the words 'failures' and 'suspensions' and those sorts of things can be a little bit confusing. In terms of failures there is a range of requirements—things like: if I am a job seeker and I cannot turn up to an appointment and I do not give prior notice that I cannot turn up to that appointment, a participation failure can be applied. That does not necessarily mean that as a job seeker I will end up losing income support. There is a reconnection exercise—trying to get in touch and letting you reconnect as a job seeker—and if you do not reconnect with a reasonable excuse then you can lose your income support. What I am seeking—

Senator CASH: Is there a difference between a participation failure and a compliance failure?

Ms Parker: Yes.

Ms Drayton: I will quickly run through them.

Ms Parker: It is just so that we know exactly what you are wanting.

Senator CASH: Yes.

Ms Drayton: There are participation failures, which result in a participation report being referred to Centrelink for investigation. That is made up of what we call 'No Show, No Pay' failures. That is when people do not attend an activity that they are required to attend. There are connection failures, where they do not attend an appointment. There are reconnection failures, where they do not attend. Those things would generate a participation report from a provider. DHS would become aware that someone has disengaged, the report would be submitted and they would investigate it and apply it or not apply it.

There are a range of other compliance failures involved in this which go to further parts of the framework. If somebody has had three or more applied failures they would generate a comprehensive compliance assessment, and out of that assessment they could get a serious failure or an eight-week non-payment period. There are unemployment non-payment periods, where someone leaves a job for no good reason or they are sacked from the job. There are

also eight-week non-payment compliance failures for refusing to start a job. So there are participation reports and compliance activities.

Senator CASH: I am particularly looking, then, at compliance failures. In the financial year to date how many job seekers recorded a compliance failure?

Ms Drayton: What I have is participation reports. They could involve the same job seeker. This is where we are getting a little bit tied up.

Senator CASH: Does the participation report refer to compliance failure?

Ms Drayton: Yes. I will give you a range of things. I will have to take some of them on notice, just to make sure we completely answer your question. If I start with the participation failures, for the year to date, to 31 March, there were 521,655 participation reports submitted for investigation. There were some compliance failures, what we call serious failures; there were 48,811 of those. Then we have the unemployment failures that I referred to; there were 42,557 of those. They were all submitted, so the total of all of those is 613,023. Some of those will be the same job seeker who has generated more than one failure; that is just submitted. Then they get investigated. For the applied rates, I will go through exactly the same data for the applied. Of the participation reports, the 521,655, there were 340,128 applied, and that gives us an applied rate of 65 per cent. That goes to one of your other questions about valid excuse. So the applied rate is actually 65.8 per cent.

Senator CASH: What percentage of job seekers had a valid excuse—65 per cent did?

Ms Drayton: No; 65 per cent did not.

Senator CASH: Sixty-five per cent did not, because they were applied.

Ms Drayton: Yes, they were applied. That would give answer to your earlier question. With the serious persistence non-compliance failures, of the 48,811 that were submitted for investigation there were, as at 31 March, 13,382 applied. And then of the unemployment non-payment period ones, 42,557 were submitted and 17,922 of those were applied. Again, a lot of these are in respect of the same job seeker. So we will have to get that figure for you separately.

Senator CASH: Thirty-five per cent had a valid excuse.

Ms Parker: Yes. That was your previous figure.

Ms Drayton: So 65 per cent were applied, which means that they did not have a valid excuse.

Senator CASH: How many failures were recorded in remote areas?

Ms Drayton: What I have here is not broken down to remote but we will look for that, because my colleague will be going through that. I have data for national and then it is broken down into Indigenous and non-Indigenous. If we look at that applied rate figure of 65 per cent, in remote areas that has certainly increased in the last 12 months. So we are applying more failures overall but particularly in remote Australia. We will just get that figure for you, Senator. For remote Indigenous, we have submitted participation reports—that is the no show, no pay conditions—of 29,493, and we applied 15,033 of those—the applied rate being 51 per cent. Sorry, Senator, I have to correct that. It is to 21 March. I was giving the wrong year. There were 34,928 submitted and 23,900 were applied. The applied rate is 68.4 per cent in remote Indigenous, which compares to 65.8.

Senator CASH: Which is exactly as you said. You said it was going up.

Ms Drayton: Yes.

Senator CASH: How many job seekers have had more than one compliance failure in the last six months?

Ms Parker: Overall? Not just Indigenous?

Senator CASH: Overall.

Ms Drayton: I have just been advised that we do not think we have the six-month data for more than one failure, so we will have to take that on notice.

Senator CASH: In taking that on notice, can you also provide a breakdown of the compliance failures by type.

Ms Drayton: Certainly.

Senator CASH: How many comprehensive compliance assessments have been undertaken?

Mr Stiller: For the financial year to date—so July 2011 to March 2012—46,419 comprehensive compliance assessments have taken place.

Senator CASH: And what have been the outcomes?

Mr Stiller: For those particular CCAs, I can give you percentage outcomes. Eleven per cent of those comprehensive compliance assessments resulted in a referral to an employment services assessment, 21 per cent resulted in a suggested update to the Employment Pathway Plan, 37 per cent resulted in no change in servicing arrangements—

Senator CASH: That was 37 per cent?

Mr Stiller: 37, yes—two per cent resulted in a referral to another stream and 29 per cent resulted in the application of an eight-week non-payment period.

Senator CASH: How many no show, no pay failures have been upheld?

Mr Stiller: For the financial year to date—again, from July 2011 to the end of March 2012—55,615 no show, no pay failures have been applied.

Senator CASH: How many connection failures have been applied to job seekers in the last six months?

Mr Stiller: I have a figure for the last nine months. Is that okay?

Senator CASH: Yes.

Mr Stiller: So, again from July to the end of March, 242,376 connection failures were applied.

Senator CASH: Are you able to take on notice to give me the latest six-month figure?

Mr Stiller: Yes.

Senator CASH: Thank you. How many financial penalties have been imposed in this period?

Ms Drayton: Again for the period up to 31 March, there have been 96,158 what we call short non-payment periods and 32,898 eight-week non-payment periods.

Senator CASH: What has been the maximum length of time for which a job seeker has lost their income support?

Ms Drayton: The eight-week non-payment period is a maximum of eight weeks. The short non-payment periods are usually one day—no show, no pays are one day. However, reconnection failures can be until the job seeker reconnects with their provider. I do not have the average number for you, but we can certainly find out.

Senator CASH: Can that eight-week period be rolled over?

Ms Parker: Into another eight weeks?

Senator CASH: Into another eight-week period?

Ms Parker: Not immediately, no.

Senator CASH: Okay, so it is an eight-week maximum.

Ms Parker: They may get more than one eight-week maximum, but not in succession.

Senator CASH: Is it possible for you to take on notice how many job seekers have had more than one eight-week penalty applied against them?

Ms Drayton: We can certainly take that on notice to be more specific, but it is going back to the more than one penalty question. So, for the period up until 31 March, there have been 32,898 eight-week non-payment periods, involving 30,209 job seekers. That gives us an idea of how many of them have received more than one. The 96,158 shorter non-payment periods involve 58,622 job seekers.

Senator CASH: Yes, I see what you mean; you can get an idea of how many have got more than one. What happens in relation to the eight-week period if someone does not re-engage?

Ms Drayton: In the eight-week non-payment period, job seekers have the option of undertaking a compliance activity; but, if they do not re-engage at the end of that eight-week period, their income support will not restart. There has to be an engagement back with the provider and with DHS to restart their unemployment period.

Senator CASH: For those who do not re-engage, do you have any statistics in terms of length of time? You have had your eight-week non-payment period and you have not re-engaged. Do you have any statistics that show for how long people have not re-engaged before they have come back into the program?

Ms Drayton: I am not aware of any. If they do not re-engage, it could be because they have got a job.

Ms Parker: They may already have been working part time and just increased their hours or started declaring all their hours. It can have the impact that people leave the system.

Senator CASH: So you are really concerned with the eight-week period and the re-engagement after that. If someone does not re-engage, until they reconnect with you—

Ms Parker: That is right. They may turn up in our post-program monitoring surveys—not that we name the job seeker. Some of them will say they are working. So it is a success in that sense.

Senator CASH: This question might be similar to what I have asked previously. You have given me the statistics in relation to financial penalties that have been imposed. Is that the same as how many job seekers have had their income support suspended?

Ms Parker: No.

Senator CASH: So what is the difference?

Ms Drayton: It stops someone's pay and they get back pay. When a financial penalty is imposed, they have lost the money. That money is gone. So it is usually used for when people do not attend one of their reconnection appointments or a connection appointment. Their income support is suspended until such time—

Senator CASH: But then they get it back.

Ms Parker: If they re-engage.

Senator CASH: Do we have figures for how many job seekers have had their income support suspended?

Ms Drayton: yes.

Senator CASH: Following on from that, what has been the average duration of the suspension of income support?

Ms Drayton: We do. Just give us a few seconds and we will find it for you. This is until March. There were 105,849 income support payment suspensions.

Senator CASH: And the average duration?

Ms Drayton: Sorry, that is from January to March.

Senator CASH: January 2011 or January 2012?

Ms Drayton: January 2012 to March 2012.

Senator CASH: Do you normally do it in quarters?

Ms Parker: In quarters. We can give you longer periods if you want.

Mr Stiller: You asked about the number of job seekers. For the period July 2011 to March 2012, the total number of job seekers who had been suspended under the new job seeker compliance arrangements—

Senator CASH: This is the income support suspended?

Mr Stiller: Yes. It was 179,170.

Senator CASH: Okay. And the average duration of the suspension of income support?

Mr Stiller: That is something we would have to take on notice.

Senator CASH: Then I turn to joint connection interviews. How many job seekers would technically be eligible for this joint interview?

Mr Stiller: The joint connections interviews are for job seekers connected to Job Services Australia who have been unemployed for 12 months or more and have had five or more participation reports submitted over a preceding 12-month period. At the time that particular measure was costed—it is through budget processes—the number of job seekers eligible was in the order of 11,300.

Senator CASH: Eleven thousand, three hundred were technically eligible for the joint interview?

Mr Stiller: Eligible job seekers, yes.

Senator CASH: How does the department expect to increase its engagement?

Mr Stiller: For those job seekers?

Senator CASH: Yes.

Mr Stiller: The purpose of those joint interviews is to have the DHS officer and the JSA provider sitting together around the same table with the job seeker. The intended outcome would be to talk about how this is someone who has obviously shown that they have difficulty in meeting their requirements. What is sitting behind that? What are the barriers that have not already been disclosed to either Centrelink or the provider? How can Centrelink and the JSA provider work together to ensure there is consistent messaging in relation to the importance of ongoing participation and adhering to requirements? It is to work out a joint plan of attack in terms of what should be in that job seeker's employment pathway plan. Further interviews in the future could also occur if that would be of further assistance to the job seeker. It is not just a one-off interview.

Senator CASH: Of the 11,300, how many do you anticipate will actually attend a face-to-face interview with the two people?

Ms Parker: Our anticipation is the full number.

Senator CASH: 11,300?

Ms Parker: That is our target.

Senator CASH: This commences on 1 July, 2012?

Mr Stiller: Yes.

Senator CASH: Within what time frame would you like the interviews take place?

Ms Drayton: We would be hoping they would start as soon as possible after the budget initiative comes in. It is something we have been working on very closely with DHS. We are very confident we will be able to start as soon as possible.

Senator CASH: Within what period of time would you hope to get through 11,300 people?

Mr Stiller: The way that particular measure is funded, it is a total number of interviews. We have expectations—it is not a fixed number—of the average number of interviews per job seeker.

Senator CASH: In terms of average numbers, what are we talking about?

Mr Stiller: We are looking at an average number of 33,900 interviews to take place per annum. That number of interviews would be in relation to that target number of 11,300 job seekers.

Senator CASH: If a job seeker fails to attend and has yet another compliance failure recorded, how will JSA and Centrelink proceed?

Mr Stiller: I should take a step back first. One of the key reasons for this budget measure from the 2011-12 budget was to provide another earlier form of intervention aside from the comprehensive compliance assessment. In the scenario you just mentioned where a job seeker does not attend the joint connections interview and does not give prior notice of a reasonable excuse, then a participation report could indeed be submitted by the Job Services Australia

provider. That may potentially trigger a comprehensive compliance assessment where there would be a separate other discussion with the DHS officers. The thinking in terms of approaching that is if other things occur instead of that interview—so the job seeker does not attend—potentially a failure is applied and possibly a comprehensive compliance assessment could also occur. The next meeting between the JSA provider, the DHS officer and the job seeker would discuss what has happened, how to go forward and how to get greater participation and engagement for that job seeker.

Senator CASH: Is it compulsory for the JSA to participate?

Mr Stiller: The measure to participate is voluntary for Job Services Australia providers. As a department, we have been working to ensure providers understand the benefits of the joint connections interviews which builds on the benefits of local connections to work to a certain extent, and providers have been very receptive to that.

Senator CASH: What is the policy rationale behind not actually making it compulsory for the JSA to participate in the process?

Ms Parker: The JSAs are not actually separately funded to do this. They receive funding to service job seekers. One of the things about a joint interview is that DHS has to go to the provider or the provider has to go to DHS—so there is travel and disruption around appointments and getting people together. We wanted it to be something that the provider would see as a strong benefit for the job seeker so that they would work happily with DHS. We did not want to force that.

Ms Drayton: Having said that, all the eligible job seekers and all the providers have agreed to participate in the joint interviews even though it is not compulsory for them.

Ms Parker: It is a very positive measure.

Senator CASH: Could I briefly now turn to the Employment Pathway Fund and the Employment Pathway Agreement? What has been the total expenditure to date from the Employment Pathway Fund?

Ms Drayton: Total expenditure to date for the life of the contract is just \$1.1 billion.

Senator CASH: Let me get that right. Is that the total contract or is that the total expenditure to date?

Ms Drayton: That is for the life of the contract.

Senator CASH: And what is the life of the contract?

Ms Drayton: 1 July 2009 until 31 March 2012.

Senator CASH: So, yes, that was the \$1.1 billion. And that is the Employment Pathway Fund?

Ms Drayton: Yes.

Senator CASH: What is the total amount committed to job seekers under the fund at present?

Ms Laker: To date—that same time frame, 1 July 2009 to 31 March 2012—JSAs have been credited with \$1.3 billion. So JSA providers are credited with an amount to the Employment Pathway Fund on a certain event like a job seeker entering their case load.

Senator CASH: What percentage of job seekers are having their maximum allocation spent on them under the fund?

Ms Parker: They do not actually have an amount per job seeker.

Senator CASH: How is it then worked out?

Ms Parker: When they come in to Job Services Australia, certainly if a person is a stream 1 job seeker they attract a certain amount of dollars, but the Employment Pathway Fund is more of a pool so a job seeker may have more than actually spent on them. It is up to the provider; they have to budget and work out what they think is appropriate. They can spend more on that job seeker. So when you ask how many job seekers have had that entitlement spent on them, it is not something we would answer because it is an entitlement but they often have more or less spent on them. Does that make sense? It is a flexible pool that a job provider determines based on the need of job seekers.

Senator CASH: A particular job seeker.

Ms Parker: And they might be in a group activity so it may be much cheaper to put a bunch of job seekers through something than individually through a training program, for example. They still have to work within their budget but it is flexible within that. We try not to be very rigid and say that they must spend exactly X on a job seeker.

Senator CASH: How do you ensure then that each job seeker is getting the requisite amount spent on them?

Ms Parker: We do not require a requisite amount to be spent on a job seeker. What we have determined over our experience in employment services over a long time, and working with providers, is that a job-ready job seeker will clearly not need as much spent on them as a stream 4 job seeker who has been unemployed for three years. Therefore the provider will work that out. What we find when we track the expenditure is that that is exactly what is happening. The providers are spending less on stream 1, the maximum on stream 4, doing a lot more interventions for stream 4, so it is being used as required. But we require them to keep records of everything they spend.

Senator CASH: Is it possible to find out what the maximum amount that has been spent under each stream?

Ms Parker: Yes.

Senator CASH: And what is the average amount spent under each stream?

Ms Parker: Yes, we can do average.

Ms Drayton: We can do that now.

Senator CASH: You can do that now? Thank you.

Ms Drayton: The expenditure under stream 1 is \$35.4 million, under stream 2 \$319.3 million, under stream 3 \$309 million, and stream 4 \$288.8 million. The average spend per job seeker within those streams is for stream 1 \$249, for stream 2 \$793, for stream 3 \$1,182, and for stream 4 \$1,455.

Senator CASH: Can you take on notice to provide the maximum amount that has been spent on a job seeker under each stream, as opposed to the average?

Ms Drayton: We will take it on notice.

Senator CASH: Can you also outline what the top five areas of expenditure have been?

Ms Drayton: Yes. Training is the top expenditure across all streams. I can do it by stream if that would help.

Senator CASH: That would actually help.

Ms Drayton: Across all streams, training is the—

Senator CASH: So we can go one, two, three, four.

Ms Drayton: Yes, I will start with stream 1. Training is the highest expenditure, followed by provider services and professional services. That includes things like allied health professionals and counselling. There are wage subsidies of \$1 million. That has been allocated for stream 1. For stream 2, training is \$131 million; wage subsidies are \$69 million; provider services, \$40 million; clothes and presentation, \$22 million; and transport and licences, \$17 million. For stream 3 job seekers, training is \$111 million; wage subsidies, \$81 million; provider services, \$42 million; clothes and presentation, \$19 million; and professional services, \$17 million. For stream 4, we have training of \$82 million; wage subsidies of \$70 million; professional services, \$44 million; provider services, \$29 million; and transport and licences, \$18 million.

Senator CASH: What is the wage subsidy component?

Ms Drayton: As an example, we have the Wage Connect initiative at the moment. That is where we pay the employer a subsidy up to \$2,600—but I will wait for one of my colleagues to confirm that for me—to help with settling into employment costs. When people have been unemployed for some time, that can be difficult and require support. It is paid to the employer and it is up to 6 months of the Newstart allowance. The job seeker is actually in employment and we pay the employer a subsidy in recognition of some of the difficulties—meaning more support is required—of putting a long-term job seeker into employment.

Senator CASH: In relation to the professional and provider services in stream 4, would you not expect that to be a higher expenditure given the needs of that particular stream?

Ms Parker: Training is high, but training can be quite short courses—for example, for job preparation.

Senator CASH: I am asking about professional and provider services.

Ms Parker: You would expect the amount to be higher?

Senator CASH: Yes.

Ms Parker: We contract the provider as the experts to work out what they think is best for the job seeker. So we probably do not have an expectation. In terms of the services we have read out and the priority of those, none of those are surprising. They are what you would expect to be being paid. In terms of proportion, I know what you are saying, but I do not think it is—

Senator CASH: When you see the amount, you sort of think, 'Perhaps it should be slightly heavier in that regard in that particular stream.'

Ms Parker: They do spend that on a range of things, such as personal support, self-esteem, mediation and so on.

Ms Drayton: I am not sure if Ms Parker has already said this, but professional services—

Ms Parker: I just went through what they are. I do not think we would necessarily have an expectation of that being higher. But I take your point.

Ms Drayton: There is a smaller number of people in stream 4 too. I have to correct something I just said. Wage subsidies are as I described them, but I specifically mentioned Wage Connect, which is outside of the EPF. There are wage subsidies included in the EPF, but Wage connect is not one of them. I apologise for that.

Senator CASH: Thank you for that correction. In relation to the employment pathway agreement, what percentage of employment pathway plans are not being entered into within the requisite time frame?

Ms Drayton: I will get the exact figure, but around 96 per cent of employment pathway plans are done within the time frames required.

Senator CASH: I thought you were going to say 'are not'. There was a slight pause there. Was it for dramatic effect?

Ms Drayton: No, I was just trying to get the figure in my head.

Senator CASH: All right. So 96 per cent are done within the time.

Ms Drayton: Within the time frames, but I will get the exact figure for you.

Senator CASH: Thank you.

Mr Stiller: Senator, we have got a figure for how many streams 2 to 4 jobseekers enter into an employment pathway plan within three months of commencement.

Senator CASH: With the requisite time frame being?

Mr Stiller: Sorry, that is what I was about to go on to say.

Senator CASH: Thank you.

Mr Stiller: As to the requisite time frame for streams 2 to 4 jobseekers, our expectation and requirement for our JSA providers would be that at the first meeting that they have with a jobseeker they sit down and negotiate an employment pathway plan. Of course, the employment pathway plan is a living document so we expect that whenever they see the jobseeker they would revisit the employment pathway plan and update it as required. The figure I can give you relates to that three-month period. However, that does not answer your question inasmuch as the required time frame.

Senator CASH: Exactly. So when we say 96 per cent?

Ms Drayton: It is 99.6.

Senator CASH: So 99.6 per cent. So, in terms of a time frame, they are entering into an employment pathway plan within a three-month period.

Mr Stiller: Yes.

Ms Parker: And that means finalising it and having it on the system as the official contract, if you like, between the jobseeker and the provider.

Senator CASH: Now the transfer of mothers to Newstart is at program 3.5?

Ms Parker: Yes.

Senator CASH: We have been through the funding model changes.

CHAIR: I will draw your attention to the time remaining, Senator.

Senator CASH: Actually, Chair, thank you very much for that indulgence and I have actually managed to get through all of those questions. Like you, I have questions on the Pacific workers scheme.

CHAIR: All right. Let us stay there and then we will conclude outcome 3.1.

Senator CASH: I turn now to the Pacific Islander seasonal work program. I refer in particular to the sugar industry. When did the department first receive a request from the sugar industry for an early start date to allow training?

Mr Roddam : We first received representations in relation to the issue on 22 February this year.

Senator CASH: When you say you received representations, did those representations entail a request?

Mr Roddam : They were representations from members of the opposition, so that was a request.

Senator CASH: Okay, that was from the opposition. What about the sugar industry themselves?

Mr Roddam : I understand that was the first time we had also received that request. That was the first time we were advised of that request.

Senator CASH: So you had not received any earlier correspondence?

Mr Roddam : I will take that on notice but my recollection is that we did not.

Senator CASH: When did the department first notify the sugar industry of the decision to not allow an early start?

Mr Roddam : In late April.

Senator CASH: And why did it take so long, perhaps not to make the decision as such but to actually notify the industry of that decision?

Mr Roddam: There are a number of things to consider in the request for early access. We consulted with stakeholders as well as within government to see whether this was feasible. There are various issues that we are working through with those industries that will be new to the Seasonal Worker Program, and the sugar cane industry is one of those. These issues include what type of work will be undertaken by seasonal workers, and also the migration framework will change very slightly for the Seasonal Worker Program as well, and there are changes to migration regulations to facilitate that. That will not be operational until 1 July. So there were consultations around that. Also, during that time staff from my branch spent time consulting on the general parameters of the program with the cane industry, and spent between two and three weeks in Queensland and northern New South Wales consulting with the industry.

Senator CASH: You said the department consulted with stakeholders. Who were those stakeholders?

Mr Roddam: Within government, other departments with an interest in the Seasonal Worker Program—the Department of Immigration and Citizenship, the Department of Agriculture, Forestry and Fisheries, as well as the relevant union, the Australian Workers Union.

Senator CASH: In terms of the decision not to allow an early start date, what was the policy rationale behind that, given that the industry is saying that it does need these workers.

Mr Roddam: Again, it relates to the work that needs to be undertaken between now and 1 July when the Seasonal Worker Program commences. The migration regulations are being changed to enable a sponsorship framework. At the moment it is the same visa that the workers will be on—subclass 416—but they are bringing in a sponsorship framework. So that needs to happen. And also, as I said, there is consulting on the type of work. There are four new industries participating in the Seasonal Worker Program that have not done so before, so we have been consulting with all those industries in the lead-up to 1 July implementation.

Senator CASH: And there was no way you could speed up that process to get the sugar industry within that time frame?

Mr Roddam: No, there was not.

Ms Paul: Senator, you were asking earlier about consultation. We were up in Queensland and northern New South Wales recently. You might want to know who was also up there. We could provide that on notice.

Senator CASH: That would help. Thank you. A complete list of stakeholders that you consulted with.

Mr Roddam: We worked with cane growers, the peak industry body, in those consultations as well. But I can provide a complete list on notice.

Senator CASH: That is enough for me on the Pacific Island Seasonal Worker Program.

CHAIR: How many workers have now been involved in the program.

Mr Roddam: As at 22 May it is 1,214 workers.

CHAIR: What is the breakdown of the country of origin?

Mr Roddam: There have been 966 from Tonga, 100 from Vanuatu, 84 from Papua New Guinea, 52 from Kiribati, and 12 from East Timor.

CHAIR: How many people have come back more than once?

Mr Roddam: I will need to provide that on notice.

CHAIR: Has the department conducted an evaluation of the success of the scheme?

Mr Roddam: Yes, there has been an interim evaluation completed some time ago which led to some minor changes to the parameters of the scheme. There has also been a final evaluation which is undergoing final editorial review.

CHAIR: Has that included an assessment of the actual workers—the participants in the scheme?

Mr Roddam: The evaluation I am referring to is a domestic evaluation. There has also been an evaluation undertaken by the World Bank in terms of the impacts on the workers and their families and communities back in their home countries, which shows that the money they have made and their remittances have made a very positive impact on their lives and that of their communities.

CHAIR: Are you able pull out the value of the remittances to each of the countries of origin?

Mr Roddam: I can do. I can also let you know that on average it has been \$A5,000. That will differ between countries, so I will provide that on notice.

CHAIR: What is the average length of stay?

Mr Roddam: Until December 2011, there was a minimum of six-months' stay and up to seven months for the workers who are in for that period. In December 2011 that minimum stay was reduced to four months, so they can be here for between four and seven months. We can provide that on notice but the average will be around that five- to six-months mark.

CHAIR: Does the department provide an ongoing monitoring process?

Mr Roddam: Yes. All approved employers on the scheme are required to submit recruitment and pastoral care plans, which are assessed by both ourselves and the Department of Immigration and Citizenship. There is also a monthly reporting regime for approved employers for each placement of workers in the country.

CHAIR: Does that involve onsite inspections?

Mr Roddam: At times it does, yes.

CHAIR: Is there an accommodation standard?

Mr Roddam: Accommodation is something that is assessed as part of the recruitment and pastoral care plan, so that is assessed by both ourselves and the Department of Immigration and Citizenship.

CHAIR: Is there an onsite inspection to ensure that the accommodation is in fact the accommodation in the plan?

Mr Roddam: In the majority of cases, yes.

CHAIR: What processes are put in place to ensure that the selection process in the country of origin is free and fair and not subject to any form of corruption?

Mr Roddam: In each country there is a different worker selection process. Some countries have a worker-ready pool where there is a pool of workers that the government organises ready for selection. In other countries, they might have a recruitment agent model. So, we work with the country on their preferred recruitment model. The approved employer selects the workers each time before they come to the country. Each time a new country sends workers to Australia for the first time, we have a training and facilitation team visit with officials from our department and from the Department of Immigration and Citizenship. They go over and assess the labour-sending mechanism, as we call it, in each country and make assessments on the kinds of issues you are referring to.

CHAIR: Is the employer or anyone else allowed to accept a fee for getting onto the program?

Mr Roddam: No, not Australian employers.

CHAIR: Is anyone else, from the country of origin able to accept a fee?

Mr Roddam: I might provide on notice the details of the recruitment agent arrangements and the countries that have recruitment agents, to get that right.

CHAIR: How are wages and conditions monitored?

Mr Roddam: They are monitored in those monthly reports. Also, any irregularities or concerns that we become aware of are referred to the Fair Work Ombudsman and they can make a decision on whether or not to conduct an audit.

CHAIR: What form of employment contract do they work under?

Mr Roddam: Just to separate, almost all workers have been in the horticulture industry. We have had a small trial running in Broome in the accommodation sector and part of the tourism industry there. In the horticulture industry, they are paid according to the horticulture modern award.

CHAIR: So there is no enterprise agreement?

Mr Roddam: No.

CHAIR: It is simply the award.

Mr Roddam: I do not think any of our approved employers would have enterprise agreements. It is generally the award. I might just take that on notice.

CHAIR: Have there been any overstayers as a consequence of people being on the scheme and then not returning?

Mr Roddam: There has been a small number. If you would like details on that we would need to go to the Department of Immigration and Citizenship because that becomes a visa conditions matter once a worker has overstayed.

CHAIR: What does a pastoral plan involve? Are meals provided as part of the employer plan, or is that an option?

Mr Roddam: That would not typically form part of that plan. Issues that go to the recruitment of the workers, how they are to be supported within the community, who will provide pastoral care, what the recruitment arrangements will be, are. As you might be aware, senator, under the horticultural award you can be paid an hourly rate or a piece rate, so details like that would be examined at that time.

CHAIR: Are employers allowed to withhold wages or expenses that the employer may say the workers incur?

Mr Roddam: They are in certain cases. For instance, they are able to recoup part of the cost of the air fare from the worker and also part of the cost of internal transfer once they reach Australia, and perhaps other authorised deductions.

CHAIR: What about accommodation?

Mr Roddam: The cost of accommodation as well.

CHAIR: What checking is done to ensure that the price of accommodation is within market standards?

The reason I ask is that a lot of the locations I suspect are outside of towns and the accommodation is actually owned and provided by the employer. How do we determine what the market rate of that accommodation is?

Mr Roddam: There is an examination done by our department and by immigration around what is a reasonable price within the area, what is a reasonable standard of accommodation and those sorts of things, and to make sure that it is of reasonable cost to the worker. Obviously, there is some judgment involved in that.

CHAIR: Is the employer allowed to withhold any other moneys—not necessarily permanently but, say, hold back money to be paid out at the end of the contract term?

Mr Roddam: Why don't I take on notice other deductions that are authorised and provide you with details of those.

CHAIR: That would be fine. What are the healthcare arrangements for these workers while they are in Australia?

Mr Roddam: They do purchase health insurance while they are here. I cannot remember the details, but there is a recommended healthcare provider that provides that at a reasonable cost.

CHAIR: But it is a condition of being in the program—that health insurance is taken out?

Mr Roddam: That is right.

CHAIR: There are no further questions. That completes 3.1. We will now move to program 3.3, disability employment services.

Senator CASH: I have a number of statistical questions. What is the current case load for ESS?

Ms Buffinton: The current case load for DES-ESS at the end of March was 75,157.

Senator CASH: What is the current case load for DMS?

Ms Buffinton: At March 2012, 73,646.

Senator CASH: Will CRS maintain their market share in the next contract period from 2013 to 2018?

Ms Buffinton: Just to be clear, CRS Australia provide services under what used to be known as the rehabilitation service, now known as disability management service. That is not up for tender. Those contracts are being rolled over through to the end of June 2015. DMS is rolling over, and it is only DES-ESS, the Employment Support Service, that is currently part of the tender.

Senator CASH: Where does CRS sit?

Ms Buffinton: They are in disability management service. From memory, I think they have one site in a remote location in DES-ESS, but the bulk of their focus is the disability management service, in that rehabilitation type service.

Ms Parker: They will retain those contracts as part of that rollover.

Senator CASH: What is their current market share?

Ms Buffinton: The notional market share that was reserved by government was 55 per cent. They can run on a tolerance of up to 130 per cent of that market share or down to a base of 70 per cent. I would have to take on notice the exact current market share that they have.

Senator CASH: But you are saying that the 55 per cent will be maintained?

Ms Buffinton: That is right.

Senator CASH: How many ESS providers are there currently?

Ms Buffinton: There are 200 ESS providers.

Senator CASH: How many DMS providers are there currently?

Ms Buffinton: There are 62. There is quite a bit of crossover, not surprisingly.

Senator CASH: That was my next question. How many providers offer both services?

Ms Buffinton: The total of providers in DES is 211. My quick calculation is, therefore, the crossover must be somewhere around 51.

Senator CASH: Which means they are providing both services?

Ms Parker: That is correct.

Senator CASH: What percentage of ESS providers are also JSAs?

Ms Parker: One moment, Senator, we have a chart that shows all our different contracts and how they operate.

Senator CASH: Okay. My next question in relation to this is: what is the average spend per participant in ESS from the commencement through to sustainable job outcome? And the same for DMS.

Ms Buffinton: We do not have that figure available.

Senator CASH: You mean available today or available generally? Can you take it on notice?

Ms Buffinton: We can take that on notice.

Senator CASH: Do you have the percentage of ESS providers that are also JSAs?

Ms Parker: We will get that for you; we are just waiting for the data.

Senator CASH: What proportion of job seekers for ESS and DMS separately achieve the following: the number of commenced who have been placed at least once; the number of commenced who have achieved a three-month full outcome; and the number of commenced who have achieved a six-month full outcome?

Ms Buffinton: In simple terms, I think you are asking about those that have had at least one job placement, those that have had a 13-week outcome and those that have had a 26-week outcome.

Senator CASH: So three months and six months are referred to as 13 weeks and 26 weeks?

Ms Buffinton: Yes. Now, the figures that I have are since the beginning, when the program began on 1 March 2010.

Senator CASH: Okay.

Ms Buffinton: I will start with the Disability Management Service. The number of disability employment service outcomes claimed since 1 March 2010 in Disability Management Service is 53,381 for a job placement. For a 13-week outcome it is 34,085. For those with a 26-week outcome it is 23,454.

Senator CASH: Okay.

Ms Buffinton: Just to help you: the total is just under 111,000 in that line, if you like. On the employment support service, the job placement is 55,504, the 13-week outcome is 36,382 and the 26-week outcome is 24,891. The total is just under 117,000 on that line.

Senator CASH: In terms of the number of commencements to be placed at least once and then comparing that to a three-month and a six-month outcome, does that mean that people are dropping out progressively?

Ms Buffinton: It would.

Senator CASH: How do those figures compare with JSA employment outcomes?

Ms Buffinton: If I could describe, first up, how it compares with the previous disability services, the outcomes. It is hard to compare them because the Disability Employment Service is very much focused on employment outcomes, not just activities and services surrounding people with disabilities. It really requires a certain skill set of the provider—to be someone who not only can work very effectively with people with disabilities but also is very effective in their engagement and matching the job needs of an employer. So it is quite a different service. But we are actually getting much better outcomes in the DES than in the previous service. It is quite hard to compare. I would be happy take that on notice. To try and compare the DES and JSA as like for like is something we would need to look at as to whether we can give you something meaningful.

Senator CASH: If you could take it on notice—even if it is just a straight-out comparison. I understand what you are saying in terms of comparing like with like, but perhaps if I could get the comparison in terms of the figures I can at least provide that to—

Ms Parker: The closest comparison may well be stream 4, Job Services Australia clients with multiple disadvantage.

Senator CASH: Compared to?

Ms Parker: These are people who are permanently disabled. That would probably be the closest comparison.

Senator CASH: If we could have a look at that.

Ms Parker: That is what I was thinking too; it is probably stream 4.

Senator CASH: What percentage of job seekers commence but do not achieve 13 weeks of service in these programs? The next question is: what percentage of job seekers commence but do not achieve 26 weeks of service?

Ms Buffinton: It is probably easiest for me to take that one on notice because I have to do a backwards—

Senator CASH: A reverse?

Ms Parker: We look at the positives rather than the negatives!

Senator CASH: What do you have there? You have got the percentage of job seekers who commence and do achieve a 13 week outcome and do achieve 26 weeks of service?

Ms Buffinton: Yes. So if I gave you the job placements and outcomes since its inception. We were talking about outcomes for the whole period. If we want to talk about what happened, say, from March 2012 as a point in time, the number of those who got a job placement was 3,197; those who got a full 13-week outcome, 2,353; and those who got a full 26-week outcome was 3,140. This is just for one month.

Senator CASH: That is fine. I am not actually looking for the 'point in time' figure; I am looking for the total figure.

Ms Buffinton: They were the original figures that I read out to you.

Senator CASH: Okay. So, in terms of the number who commenced who achieved a 13-week full outcome, and the 26-week outcome, those are the two figures—and you are right;

you then need to work in reverse. So if you could take on notice to give me the opposite: the numbers of those who have not achieved the 13 weeks and have not achieved the 26 weeks. What percentage of job seekers exit servicing due to finding employment? What is the average number of hours of employment achieved for ESS job seekers?

Ms Buffinton: We do not have that.

Senator CASH: You do not have it or you will take it on notice?

Ms Buffinton: We will take it on notice, but I am not sure that we have that.

Senator CASH: What is the average number of hours of employment achieved for DMS job seekers? Will you take that on notice?

Ms Buffinton: Yes.

Senator CASH: What is the average wage for DMS job seekers?

Ms Buffinton: We do not have those figures and I do not believe we will have.

Senator CASH: Why is that? Similarly, what is the average wage for ESS job seekers?

Ms Buffinton: Because we do not collect the wage figures at this point in time.

Senator CASH: Why do you not collect the wage figures?

Ms Buffinton: Again, what we are looking for is people moving off income support and into jobs. What they actually earn is up to the employer who has to pay them at the minimum wage or pay them at whatever is under the agreement within that organisation. It is not something we would think was relevant.

Senator CASH: So you just do not have the information?

Ms Parker: We do not use it.

Ms Buffinton: What we do know is when they are not paid at the full wage, where they are using a supported wage.

Senator CASH: What proportion of each case load is on a supported wage subsidy?

Ms Buffinton: I am happy to take that on notice.

Senator CASH: What is the average supported wage paid?

Ms Buffinton: To clarify, a supported wage, which is an industrial relations instrument, is when somebody who, due to their impairment, cannot work at the same level of productivity. That is different from the use of a supported wage subsidy, which is when somebody is working at a productive wage but their employer is using a wage subsidy to assist in their employment.

Senator CASH: And you will take that on notice as well?

Ms Buffinton: I am happy to take that on notice.

Senator CASH: What percentage of each case load undertake unpaid work experience?

Ms Buffinton: Again, we will take that on notice.

Senator CASH: We were referring to the average wage for DMS job seekers and the average wage for ESS job seekers. Is there anywhere in the department where that wage detail appears, or is it just not kept by the department?

Ms Parker: No, we would not keep that information.

Senator CASH: How many job capacity assessments have been undertaken in the last 12 months?

Ms Buffinton: Just to clarify, when a job seeker is going either into stream 4 in Job Services Australia or into the Disability Employment Services, they go through a form of employment assessment.

Senator CASH: Yes. Is that the job capacity assessment?

Ms Buffinton: I was just going to explain. Since 1 July 2011, what I will call the standard assessment, the employment service assessment, or ESA, is for coming into disability employment services. The JCA, as we mentioned this morning, is a fuller assessment, and that is used to look at whether somebody qualifies for the disability support pension or not. So a portion of disability support pensioners actually do volunteer into DES. But, to be clear, the major form of job capacity assessment is for DSP.

Senator CASH: It is for DSP? Okay.

Ms Buffinton: There are about three times more employment support assessments done compared with job capacity assessments.

Senator CASH: Okay. Could I get figures for both of them: how many job capacity assessments and how many job support assessments have been undertaken in the last 12 months?

Ms Buffinton: That is now part of the Department of Human Services, since 1 July last year. We are happy to get that, but the Department of Human Services have the DHS assessment services, and they undertake both of those assessments. It is actually going to be their numbers that we will be drawing from.

Senator CASH: You may then also need to take these questions on notice: what percentage of job capacity assessments were undertaken by Centrelink?

Ms Buffinton: That is 100 per cent now.

Senator CASH: It is 100 per cent now, is it?

Ms Buffinton: Up to 30 June 2011 there were 18 providers of assessment services. There were 15 private providers and then three government providers. From 1 July that has been 100 per cent DHS Assessment Services.

Senator CASH: So clearly CRS Australia no longer undertake job capacity assessments.

Ms Buffinton: It has been separated out quite clearly in the Department of Human Services. CRS Australia do a range of things but, amongst other things, they are a disability management service provider in their own right. Another part of Human Services runs what is like their Centrelink. There is another arm, which is DHS Assessment Services and which is separate.

Senator CASH: So in terms of my question of what percentage of these was undertaken by Centrelink—and if we talk about the last financial year—it is now 100 per cent.

Ms Buffinton: But not Centrelink. It is another arm of Human Services.

Ms Parker: It is part of the Department of Human Services.

Senator CASH: Okay.

Ms Paul: What we are trying to say is that the assessment is separate to the provision because there could be potential conflict.

Senator CASH: In terms of the actual job capacity assessments, do you know what percentage have been conducted over the telephone?

Ms Buffinton: We know that the KPI for assessments by phone—so if I refer to these as being the employment services assessments—in non-remote areas is five per cent. Throughout the year the average has probably been running at closer to 10 per cent.

Senator CASH: So, unfortunately, you are not meeting your KPI there. Why is that?

Ms Buffinton: I think the best thing is going to be ultimately for Human Services—it is their service—to make those comments. We have also been working with them as to actually how we can streamline the assessments. So we did undertake, prior to Human Services taking over, this role. One of the problems with assessments is often the high level of 'no shows' despite doing a lot of things like SMS and texting and explaining how important it is. Obviously, taking in 'no shows', it is very hard for any assessment service to have assessors available but then find that the person is not there. So in terms of doing a second round after they have missed the first assessment, more often the assessment has been done by phone to break through and make sure that we actually get the person. But DHS can make further comment.

Senator CASH: This may be a question that I need to put to DHS but I will ask you in the event that you do have knowledge of these types of allegations. We have heard reports of the one individual in a community answering the JCA questions for multiple people in an effort to thwart the system. Is DEEWR aware of such allegations? If so, have you investigated the allegations?

Ms Parker: No, we are not aware of them but we would like to hear about them.

Senator CASH: Okay, I will put it all to DHS then as well and see. So you are not aware of the allegations?

Ms Parker: DHS may be aware because, of course, the complaint will probably go to them.

Senator CASH: I just thought I would put it to you.

Ms Parker: We had not heard it.

Senator CASH: My second question is then redundant.

Ms Parker: Senator, if I can answer a question you asked before. You asked about the providers who were delivering multiple services. Colleagues have added those up. At the moment we have eight providers who jointly deliver Job Services Australia and disability management services. We have 14 who deliver JSA and employment support services. We have 21 who have JSA and both the disability services, DMS and ESS. So there is a total of 43 who are delivering more than one service in employment services.

Senator CASH: Thank you for that. I now have a number of questions which I will ask on behalf of Senator Boyce. I am sure she has been in the committee before, so you might be familiar with the types of questions that I will be asking. The first lot is in relation to the Employment Support Services and the funding for it. One of the issues that has been raised is that the ESS program has not had service and outcome fees adjusted for indexation or wage

costs since December 2007. My understanding also is that the ESS draft exposure tender document provides no increase in service fees or outcomes to address indexation or wage costs from March 2013 to March 2018. Does the department have any thoughts in relation to what has been termed a 'funding inadequacy' affecting the disabled clients of this service when, according to the Australian Institute of Health and Welfare, expenditure per employment service user fell by 17 per cent between 2004-05 and 2009-10? Should the projected indexation of wage cost increases over the period of the next ESS contract be responded to with extra funding? Clearly, Senator Boyce has concerns in relation to the adequacy of the funding under the contract.

Ms Parker: We undertook consultation on the ESS request for tender and putting the service out for tender. There were a number of providers who were very opposed to having any kind of tender and wanted the service to be rolled over. In that sense I guess you would say there would not have been any indexation if the contracts had been rolled over. We are rolling over some of the contracts. So the providers that are the highest performers—four and five star—are having their contracts renewed without having to re-tender, so it is a continuation of service. The others will tender and it is true that there is no increase. However, in the budget for Building Australia's Future Workforce last year there were a number of additional measures that were put into the program to assist job seekers with disabilities. They included employer brokers and there are a number of others we can run through which provide additional injection of funding for disability employment services—not directly to their service fees, if you like, but certainly putting more money into services for job seekers. Our view in the department is that the fees are generous and certainly we are expecting DES-ESS to possibly get thousands of applications to run the program. We have a huge interest in it from overseas and locally. We do not think that it is going to stop anyone applying to run the program. Clearly, government has to make a decision about what it will fund and we would all like to see a lot more money in every program, but it has to be a decision of government.

Ms Buffinton: In DES-ESS in particular there are two levels of funding—taking into account, not surprisingly, funding level 1—of people who have a high level of impairment but possibly will not need quite as much ongoing support and so forth. Whether you are a JSA provider or a DES provider, certainly a lot of people who came to those consultation processes looked at the fees. We pay our quarterly fees in the DES-ESS at twice that of the funding level 1 and they are higher than those for the disability management service. On top of that, we also understand that for those who help people with moderate intellectual disability, it often takes a lot more support. There is a pilot at the moment which is a 70 per cent additional funding level weighting. Within the DES fees, if you were to look at the JSA fees, the disability management service fees and the employment support fees, you would see quite a major escalation—understanding that these are people who do take a great deal of support. There is a lot of base funding in there.

Ms Paul: The best test in the tender will be, as Ms Parker was saying, to see how much interest there actually is. So far there is quite a lot.

Senator CASH: In relation to performance data transparency, the minister has told parents of people with intellectual disability that contracted ESS services are able to achieve high-performing employment outcomes for all disability groups. Why hasn't the national/state

labour market region employment service area and provider performance data by primary disability groups been published to verify the minister's statement? Are you able to provide that data?

Ms Parker: We are aware of the issue. We have a disability employment services reference group and we work with all the peaks and other interest groups. We are certainly aware that there are different groups that want very specific data. We do not try to withhold data, but disability is an area that is quite difficult to break down into very specific data. A lot of people have multiple disability. There are groups that want data on one specific type of disability and others that want data on multiple disability. We are working through this and we are trying to provide as much data as we can to people. In the end, it is not a simple exercise.

Senator CASH: On the national/state labour market region employment service area and provider performance data by primary disability groups, do you have that data and are you able to provide that to the committee?

Ms Buffinton: We do have that data—in fact, as part of this tender. We are two years into the Disability Employment Service, so now we have a whole range of providers, if you like, with sufficient data. As part of this tender, we want to make sure that, whether you are part of DES-ESS or from some other background coming into this tender, people know their potential case load by employment service area and whether there is a need for a specialisation in that area. What we are undertaking as part of the tender process—now that we have two years of data which we needed to build—is to put that information on the labour market information portal.

Senator CASH: Whatever data you can provide will be good.

Ms Parker: We can provide it to you, noting that it is a work in progress. We are very well aware of the sector.

Senator CASH: All people are saying is that they want the data.

Ms Parker: Yes, absolutely.

Senator CASH: It also goes back to the minister's statement. Upon what basis is the minister able to say that contracted ESS services are able to achieve high-performing employment outcomes for all disability groups, if the minister has not actually seen data that would support such a statement?

Ms Parker: I am not aware of the statement or when it was made, but we can look into it.

Ms Buffinton: Regarding four- and five-star providers, for example, it is actually slightly higher for those who are specialist, and certain categories actually get a slightly higher outcome rate than generalists.

Ms Parker: I imagine the minister was referring to the previous program. We have said fairly clearly that it is achieving much better results. There is no question about that result.

Senator CASH: According to the ESS exposure draft, the Commonwealth grant guidelines require demonstration of value for money through purchasing high-performing services, which meet the needs of specific groups. Why does the ESS exposure draft not require tenderers to list past performance outcome data by primary disability groups?

Ms Parker: It depends what they are tendering for. If they are putting in a tender and they want to run a specialisation by primary disability then we certainly want to know about their past performance. We want to know what they are able to do. In general terms, we do not say to each one tendering, 'Tell us everything you have done with every disability group.' The tenderers will mostly be providing general services. For those who put in and say, 'I want to be a specialist; I'm a mental health specialist,' we will clearly be requiring them to tell us why they are-

Senator CASH: There will be some circumstances in which you actually do require that level of data, it is just not across the board in relation to-

Ms Parker: No, not in every sense. Many of them will be required to service a range of disability.

Senator CASH: How can the delegate from the department making purchasing decisions in the interests of all job seekers with disabilities, if performance outcome data of existing ESS providers by primary disability is not published and the selection criteria does not require tenderers to demonstrate past performance for primary disability groups?

Ms Parker: That is the answer to my previous one. I am the delegate. What I will be looking for through the process, and there are a range of steps obviously, is that providers have answered very specific selection criteria. Part of that is to tell us about their expertise and understanding of disability employment services and part of it is about their governance arrangements. There are criteria about their relationships with other services and there is past performance. Past performance asks them to tell us whether they have already been a disability employment services provider, in which case we have our own data and we know how they have performed, and to tell us if they have delivered somewhere else, overseas. If they are a JSA provider then we will take that into account because they have worked with job seekers. They are all weighted slightly differently.

If they are someone tendering to be a specialist provider then they do need to provide evidence of how they have performed for that cohort. As I said before, we do not require every tenderer to put in what they know about every primary disability. The aim of this is to get job seekers with a disability into quality, sustainable jobs and to support them to stay in those jobs. That is what I am looking for as the delegate.

Senator CASH: Is the department aware of the petition that was presented to the minister by the National Council on Intellectual Disability requesting that the minister publish current provider participant numbers and outcome rates by job seeker characteristics, including intellectual disability and moderate intellectual disability at the labour market regional level?

Ms Parker: Yes, and that is the same question we have been discussing. We are getting the better data, so we will look to what we can provide. There is nothing to hide; it is about having quality data that we feel is defensible.

Ms Paul: For a reasonably new program too—these things take some time to get records.

Senator CASH: Is the department able to explain why you are unable to publish ESS past performance outcome results by primary disability groups at a national/state, LMR, ESA and provider level as at 31 March 2012, prior to the release of the ESS request for tender, and every quarter thereafter, so as to enable job seekers with disabilities and their families to make informed decisions about their employment assistance, to enable current generalist providers

to demonstrate past performance for all primary disability groups when tendering and to inform the minister or the department of any gaps for service for specific disability groups that need to be addressed by the purchasing strategy?

Ms Parker: I think we have answered that. Ms Buffinton did mention that we are putting up information where we have it. There are two parts for tenderers to put in if they want to be a specialist. Part of that is to demonstrate to the department and to myself as the delegate that there is a need for that service in an area. So, part of the information we have is what has already been in the area. Have we been running services that are for mental health and a whole range of disability services? Are they getting outcomes? Therefore, we would probably want to continue to have them. In other words, there are enough job seekers with that disability in that ESA so we would want to continue to have a service. We also have labour market information. None of it is perfect. We tell providers whatever we have, what labour market information we have, population, the types of disadvantage in an area and we also require that person tendering to say to us, 'I want to run a mental health service; I know I have the clients in that area and I know that people will come and there are jobs to be found in that area'. So there are two parts to that. As I said before, we provide the data. But we do require people tendering to pitch for the service, if you like.

Senator CASH: I suppose the issue that Senator Boyce is pursuing—and I know she does a lot of work in this particular area—is the fact that the Australian Federation of Disability Organisations and the National Council on Intellectual Disability have repeatedly requested that the department publish this data, particularly in relation to the guidelines under the ESS exposure draft and what the tenderers must meet by way of Commonwealth guidelines, and the point that they do not seem to be able to have that data.

Ms Parker: No, as I said, we have provided some data and we are working to provide more data. But there is another component to this. We are encouraging providers who do not yet exist to reply. That includes, where appropriate, international providers. It is open for them to do so. We really do not want to create a tender that is so complicated and based on past performance in an area in Australia that will exclude other providers from applying. There is a balance here between how much information you give people and very specific details—'we want exactly this here'—to tell us what you can provide and what you can bring that is different and will get people jobs, and keep them in jobs.

Senator CASH: Do you consult with the Australian Federation of Disability Organisations and the National Council on Intellectual Disability in this regard?

Ms Parker: Very regularly.

Senator CASH: So you do know of their calls to provide this information?

Ms Parker: Yes, and they are on our Disability Employment Services—

Ms Paul: They have two members.

Senator CASH: They do regularly bring this up with you?

Ms Parker: Yes. It is a very positive relationship. They bring enormous expertise to the table and we work well with them. We know that they would like more and we are certainly doing our best to provide more.

Ms Paul: It is also fair to say we are very confident in the selection criteria and the approach to the tender. We were very confident that we went through a lot of consultation just

to get to that RFT. We do confidently believe that we will have the right rigour in being able to select the successful providers. On the other hand, you have this data question—which is a range of questions—and those two issues are not completely overlapping. We can still be confident in the tender while certainly saying that we are improving our data effort. We want to improve our data effort. That, in a way, is not too surprising with a new program and with only a certain amount of history of provider records coming in. It is a work in progress. It is probably worth making that distinction as well.

Ms Buffinton: In fact, AFDO and the NCID are supportive of the tender because, at the end of the day, they feel that this is an opportunity to look at the whole variety because we have never had that opportunity to look at those who might like to enter. The other aspect is with the star ratings. Both the programs are currently using and going ahead with specialisation. Something that is very important to AFDO is that clients with disability can pick the best possible providers. Now that we are publishing those stars quarterly, and they are cumulative over time—it is not just how you have been in the last three months—clients can make an informed choice of the best providers in the current system, which is an important part of what AFDO wants.

Senator CASH: That concludes my questioning.

CHAIR: That is the conclusion of our questions in program 3.3.

Proceedings suspended from 15:19 to 15:31

CHAIR: We now go to outcome 3.5.

Senator BERNARDI: Ms Paul, I will address this to you because it relates to some questions that I asked in the previous committee, the Community Affairs Committee, of FaHCSIA. It concerns the youth allowance and the schoolkids bonus. Officials in FaHCSIA told me that the number of people receiving income support payments who will receive the schoolkids bonus total approximately 80,000 with most of these on youth allowance. They also said that you would be able to tell me how many of those 80,000 are receiving youth allowance—they did not say you specifically, but they said this department.

Ms Paul: They said us. Actually, youth allowance (student) is now with the department of innovation but nonetheless we will see if we can answer the question. Sorry to give you such a bureaucratic answer but anyway—in the machinery of government changes before Christmas, youth allowance (student) went to the department of innovation et cetera. We have only youth allowance (other), which is a small proportion. If you want to get the whole picture for the whole of youth allowance, we have to take it on notice and we will join up our numbers with their numbers basically.

CHAIR: But the new department is actually on today, but not in this committee.

Ms Paul: They are in the Economics Committee. We would have to take it on notice from here.

Senator BERNARDI: My ever-diligent office may indeed be forwarding some similar questions to the—which committee would it be, Senator Marshall?

CHAIR: We can find out when that might be, if they have not done it yet. We will get some information to you very shortly.

Senator BERNARDI: Thank you, Chair. Are you able to give me any information about youth allowance?

Ms Paul: We can talk about youth allowance (other), which is the people who are not studying, but responsibility for the young people who are studying—which is the largest part—transferred.

Senator BERNARDI: My questions relate to the schoolkids bonus and that would only apply to those who are intending to study—it does not even have to be that they are studying, just that they intend to study.

Ms Paul: It is probably the other department mainly, I would guess.

Senator BERNARDI: What about 16- and 17-year-olds that are dependent? If they are not studying, do they receive Youth Allowance directly into their bank account?

Ms Milliken: Youth Allowance (Other) recipients are generally dependent on their parents and we describe them as Youth Allowance (Other) because they are job seekers, they are not full-time students. They would generally receive the payment through their parents' bank account. There are some circumstances where they can receive the payment independently, predominantly where their parents cannot be relied on to support them if the Youth Allowance was paid into the parents' bank account.

Senator BERNARDI: And that is because of dysfunction or substance abuse?

Ms Milliken: Essentially, yes.

Senator BERNARDI: Something along those lines. Is it age dependent? I specifically wanted to know about 16- and 17-year-olds because they are not adults.

Ms Milliken: When a young person is 18 years old, their Youth Allowance would normally be paid directly to that person.

Senator BERNARDI: At 18?

Ms Milliken: At 18.

Senator BERNARDI: You may want to take this on notice, but are you able to let me know how many in that age bracket, 16- and 17-year-olds versus 18- and 19-year-olds, are getting Youth Allowance paid directly into their own bank accounts?

Ms Milliken: We could take that on notice.

Senator BERNARDI: Does Youth Allowance (Other) include apprentices?

Ms Milliken: Apprentices sit with Youth Allowance students so that is within the Innovation portfolio.

Senator BERNARDI: Economics committee, here I come. Perhaps we can go to parenting payment. What are the total current number of recipients of the parenting payment?

Ms Taylor: The number of parents who are currently receiving parenting payments is singles 320,828 and partnered 115,350.

Senator BERNARDI: How many single parents will no longer receive the parenting payment as a result of the change of eligibility for grand-fathered recipients?

Ms Taylor: There are currently 122,630 grand-fathered parenting payments, single, and 24,738 parenting payments, partnered. Of those, there will be recipients who will immediately cease their eligibility from 1 January next year. It is 60,315 on 1 January 2013. That is the

total of parenting payment single. Parenting payment partnered is 12,576. Those who will progressively cease to be eligible over the forward estimates—there will be some who on 1 January 2013 immediately reach that limit—will flow through over that four years. Parenting payment single, 27, 728, will flow through progressively, while parenting payment partnered is 8,314.

Senator BERNARDI: That is on top of the respective figures of 60,315 and 12,576?

Ms Taylor: That is right.

Senator BERNARDI: How much, on average, will a single parent with two children over the age of eight and who is working part-time and earning \$15,000 per year—there are more conditions yet—lose as a result of these changes?

Ms Taylor: There is a whole raft of other things that are attached to that and other allowances as well. We can take that on notice and I will see if we—

Ms Paul: We will have to paint a scenario because, as you can imagine, they will be getting family tax benefit and they might be getting some of the allowances like rent assistance et cetera.

Senator BERNARDI: There is a whole range of scenarios according to ages of the children so if I could give you two scenarios and if you could provide that information for me. The first one is as I described: a single parent with two children over the age of eight working part time earning \$15,000 per year. How much are they likely to be affected by this in a quantum? Second, a similar scenario but this time a couple with two children over the age of six; one parent working part time, earning \$30,000 per annum. What would the impact be on them in that scenario?

Ms Paul: We will take that on notice.

Senator BERNARDI: Thank you. Will parents who lose access to parenting payment as a result of these changes receive any additional assistance to help them find work or acquire further skills to assist with finding work?

Ms Paul: Yes, there was quite a bit of additional assistance delivered through some of the budget measures in Building Australia's Future Workforce last year actually. We might go through some of those. In particular, there were beneficial changes to taper rates but then there is a range of other supports through the jobs and other systems but I will ask my colleagues to go into the details.

Ms Taylor: Additionally, there is the new supplementary allowance which for single people is \$210 dollars per year.

Senator BERNARDI: Could you just clarify that? What is the eligibility for the supplementary allowance?

Ms Taylor: The supplementary allowance will provide additional support to the Newstart allowance and parenting payment. That is a new allowance that comes in.

Senator BERNARDI: A one-off payment?

Ms Taylor: It is paid twice a year, so it is an ongoing allowance. It is \$210 for singles and \$175 per person per year for each in a partnered couple. As Ms Paul mentioned, there were several measures under the Building Australia's Future Workforce package which go to the more generous income test taper rates and we can go into that in some detail if you would

like. Single principal carers who transfer to Newstart are able to retain access to pensioner concession cards, and that gives you reductions on a whole range of both state and territory government fees.

Senator BERNARDI: So there are financial compensations for people affected by this?

Ms Paul: Yes. There is also support through access to Job Services Australia. There is also a special professional career advice for parents. There is also, and has been of course, childcare assistance provided through the Jobs, Education and Training Child Care Fee Assistance. There is a whole raft of training initiatives that were announced as part of Building Australia's Future Workforce. But one of the important elements of that is the new national partnership that has been signed with states and territories which produces an entitlement to working age Australians to access government subsidised training and that is about building skills from foundation and lower qualifications right up the qualification chain. There is, of course—and you mentioned—the education tax rebate. And there are changes to the tax-free threshold.

Senator BERNARDI: Thank you for the comprehensiveness of your answer; I appreciate that.

Senator Jacinta Collins: I am not sure we have exhausted it yet.

Senator BERNARDI: You may not be exhausted, perhaps I am exhausted. So there are financial compensations and there are also some program compensations as far as training goes. Have any cuts been made to job services programs that were in existence before these grand-fathering changes were made?

Ms Paul: No, these are all either the same or actually extensions of supports that were brought in last year. So they have kept going.

Senator BERNARDI: Can you tell me when the department was first directed to undertake work on modelling changes to eligibility for grand-fathered recipients of parenting payment?

Ms Paul: We model potential changes on an ongoing basis, actually. I know that the modelling on these sorts of things has happened in successive budget contexts, for example. It would have been this year, it would have been in the budget context. We would have to probably take on notice what the dates were and we are happy to do so.

Senator BERNARDI: Can you also take on notice when you were directed to undertake work on modelling the income support supplement?

Ms Paul: Do you mean the supplementary allowance, the \$210 et cetera?

Senator BERNARDI: Yes.

Ms Paul: We will take that on notice.

Senator BERNARDI: What is the rationale for this increase being delivered in the form of a supplement and not an increase in the overall rate of payment?

Ms Taylor: The decision around the supplementary allowance goes to providing for those occasions where parents face a number of peaks and troughs in terms of income. The supplementary allowance, which is paid twice yearly, allows a bit of extra money to address those peaks and troughs. There has not been any decision about increasing the base limit.

Senator BERNARDI: Are you able to advise me how many current recipients of parenting payment (single) will miss out on the income support supplement as a result of change in eligibility for grand-fathered recipients?

Ms Paul: None of them will because —

Senator BERNARDI: — none?

Ms Paul: Yes, none of them. The supplementary allowance will cover more than parenting payment, unless they go off income support altogether. If they go onto Newstart they will still be eligible.

Senator BERNARDI: They will still get the supplement?

Ms Paul: Correct.

Senator BERNARDI: And that would be the same with the parenting payment (partnered)?

Ms Paul: Yes.

Senator BERNARDI: How did the department come up with the figure of \$210 per annum for singles and \$175 for couples?

Ms Paul: We did not come up with it. It was a government decision, which we were informed of. I have taken on notice the dates that we were asked to do that.

Senator BERNARDI: I have nearly finished my questions in this regard.

CHAIR: I have some sad news for you, Senator Bernardi: that the area in the Economics Committee that you are interested in was in fact dealt with yesterday. The good news is that October is not really that far away.

Senator BERNARDI: Dear me, thank you, Chair. I will put some questions on notice. I know Senator Siewert has some expectations that she is going to ask some questions. It might be wise if someone checks with her.

CHAIR: Senator Bernardi, you have finished with disability services?

Senator BERNARDI: Absolutely finished.

Senator BACK: How many mothers are expected to make the transition from a parenting payment to Newstart under the new policy?

Senator Jacinta Collins: I assume some fathers will also be eligible, so it is both parents.

Senator BACK: Yes. It would be nice to see a division of the two. It would be nice to see if grand-parents were involved too.

Senator Jacinta Collins: They may not have a break up of—

Ms Paul: We gave the numbers globally a couple of minutes ago for Senator Bernardi and I do not know that we have a gender breakdown, if that is what you are after.

Senator BACK: I was not after it. It was just that Senator Collins made that suggestion.

Ms Paul: Would you like us to run through that again?

Senator BACK: If it is available, I would be appreciative.

Ms Taylor: Certainly. We do not have the gender breakdown. I could probably take that on notice. As I said earlier, in Parenting Payment single, there are 122,630 grandfathered

recipients in Parenting Payment single and 24,738 Parenting Payment partnered but you just want the single?

Senator BACK: Yes. These are the ones expected to make the transition?

Ms Taylor: The numbers that will make the transition immediately on 1 January, whose eligibility ceases on 1 January, is 60,315. That is Parenting Payment single. There will be 27,728 Parenting Payment single who will make the progression progressively over the forward estimates. There will be some, of course, who have children which are very young at the moment who will progress past that time.

Senator BACK: I wonder, have you answered already the question how many in the last 12 months have shifted from the Parenting Payment to Newstart? Is that something you have canvassed already?

Ms Taylor: No, we have not. We will have to take that on notice. Over the last 12 months to March or just over the last 12 months?

Senator BACK: In taking that on notice, would you also be good enough to provide the advice to us of those who have switched from the Parenting Payment to Newstart in the last 12 months, could you tell us how many have actually achieved an employment outcome as part of that process?

Ms Taylor: We will take that on notice, Senator, but just a point of clarification—these would be the parents whose youngest child has turned 16?

Senator BACK: Exactly.

Ms Taylor: Okay, just making sure.

Senator BACK: Yes, that is correct. The other one, again as an adjunct to that, is the number who are now off income support exactly in line with the question you have asked me.

Ms Taylor: Yes, certainly. We will get that for you, Senator.

Senator SIEWERT: What number will be changing this year to Newstart from Parenting Payment single?

Ms Taylor: This year?

Senator SIEWERT: When in starts.

Ms Taylor: 1 January 2013. So, the recipients who will immediately cease to be eligible for Parenting Payment partnered, that was the 60,315.

Senator SIEWERT: And then we have got the 27-odd thousand the following—

Ms Taylor: That is right.

Senator SIEWERT: Then how many beyond that?

Ms Taylor: So it will be the difference—in my maths—between 122,630 and—

Senator SIEWERT: That is okay, I will do that.

Ms Taylor: Yes, and the combination of those. Sorry, I have not added that up.

Senator SIEWERT: You were actually saying that figure as I walked in, so thank you. I can do the maths beyond that. You have already taken on notice the number of people that have already found full-time employment. Do I understand that correctly?

Ms Taylor: Yes, that have gone off income support.

Senator SIEWERT: Can you tell me how many people on Parenting Payment single who are already in part-time work?

Ms Milliken: As at the end of March, of the grandfathered Parenting Payment single recipients, 55,600 reported earnings in the last fortnight. I am not sure whether that was full time or part time but they had earned in the previous fortnight.

Senator SIEWERT: That is of the 122,630—so we are talking upwards of 50 per cent.

Senator Jacinta Collins: Senator Siewert, I think we are partly confused about what we are talking about here because in one context your first question was not asking grandfathered or not, it was all recipients. The department is now talking in terms of those that were grandfathered. It might be helpful if we were clear on exactly what we are providing the proportions for.

Senator SIEWERT: I beg your pardon, can we take a step back then and go back to the 122,630. Are they the grandfathered cohort?

Ms Taylor: That is the grandfathered cohort.

Senator SIEWERT: Yes, that is what I thought.

Ms Taylor: Do you want the total cohort? The 122,630 is the grandfathered cohort of Parenting Payment single.

Senator SIEWERT: What we were just talking about, the 55,600, that is of the grandfathered or is that on Parenting Payment single?

Ms Milliken: Of the grandfathered.

Senator SIEWERT: So my calculation was in fact correct, yes. Thank you. Could you tell me please, of those single parents on Newstart, how many are employed?

Senator Jacinta Collins: This is the point that I was trying to clarify, whether we are talking about grandfathered, or everyone.

Senator SIEWERT: Now I want to know, specifically, of the single parents that are already on Newstart, how many of those report earnings? I will obviously need the full cohort and then the cohort that are employed.

Ms Paul: The measure from the last budget has not started.

Senator SIEWERT: I know, since we only passed it in May.

Ms Paul: We will not have any figures on the Newstart for that cohort.

Senator SIEWERT: But we will for the single parents. Welfare to work has been operating now since 2006, so we will have a substantive cohort of single parents.

Ms Paul: Post 2006.

Senator SIEWERT: That is what I am trying to work out.

Ms Taylor: We do not have that figure with us but we can get that for you. We will take that on notice.

Senator SIEWERT: That would be much appreciated. Could you tell me how much we are expecting to save from this new measure?

Ms Taylor: In relation to the grandfathering?

Senator SIEWERT: Yes.

Ms Taylor: The expected savings is \$701.6 million over the four years.

Senator SIEWERT: Is that how long you are anticipating it will take to transfer the 122—

Ms Paul: No, that is the way budget is going.

Senator SIEWERT: How many do you expect will be transferred over that period of time?

Ms Taylor: That is the 60,315 Parenting Payment single plus the 27,728 who over that forward estimates ceased to be eligible. That is over the four years.

Senator SIEWERT: But the cohort is 122—

Ms Taylor: That is right because their children are younger.

Senator SIEWERT: But eventually they will move in to this new—

Ms Taylor: That is right.

Senator SIEWERT: When we are talking about the \$701.6 million we are actually talking about that over the cohort of the essentially 90,000?

Ms Taylor: Yes, and the Parenting Payment partnered as well.

Senator SIEWERT: How many are we talking about in the Parenting Payment partnered?

Ms Taylor: The cohort is 24,738 grandfathered recipients. Those that will cease eligibility on 1 January 2013 is 12,576, and then those that will progressively move over the forward estimates is 8,314.

Senator SIEWERT: And they are included in the \$701.6 million?

Ms Taylor: They are.

Senator SIEWERT: Can I be a pain and go back to this single parents on Newstart? How soon do you think you could get those figures?

Ms Taylor: We will do it as quickly as we possibly can, I cannot give an estimate today.

Senator SIEWERT: I am just wondering if they are accessible today before the end of estimates or whether I am going to have to wait for you to take it on notice.

Ms Taylor: I think we would take it on notice.

Ms Paul: We are here for another few days, though, so even if we may get it to you tomorrow or the next day. We will undertake to do our best and if we can I can read it into the record or whatever when you are here for the schools area.

Senator SIEWERT: I will be here for schools.

Ms Paul: But otherwise if we cannot pull it out that easily we will just take it on notice in the normal way.

Senator SIEWERT: Thank you, that would be appreciated. Obviously, to get to that sum of \$701.6 million you have done sums on what is the weekly average reduction for payments for somebody moving from Parenting Payment single on to Newstart.

Ms Paul: Yes, to do this calculation we have had to make that sort of stab but actually what we were talking about with Senator Bernardi before was that it was quite hard. We have actually taken on notice coming back with some scenarios because as you know it depends on, say for a single mum, how many kids, what income, family tax benefit, rent allowance et

cetera. For the impact on the person I would say that what we have taken on notice will cover what you want.

Senator SIEWERT: Thank you. I will look at that when it comes in. In terms of the JET Child Care Fee Assistance, can you take me through where we are now?

Ms Taylor: The changes to the JET Child Care Fee Assistance that were announced a part of the budget saw the provision of an extra \$220-odd million over the forward estimates to provide for the increase in the numbers of parents and others, but mainly parents, who are accessing the childcare fee assistance. There were some changes and we have seen those numbers go from in 2009 around 18,600—and I will get those figures exactly for you when we are on tomorrow—to predictions for this year of around 32,000 or 33,000. Of course, that provides fee assistance for people for up to 50 hours child care per week. Currently there is a contribution of 10c an hour, that is the cost to the parent of 10c an hour, of which they get back 5c an hour through childcare rebate. There is a very loose test applied, if any, to the sort of activity that is undertaken. The changes to JET go to several things. An increase in the co-contribution to a dollar an hour, of which parents are entitled to childcare rebates, so that is 50c an hour. Child care over 24 hours a week, so between 24 and 50 will have the work training study test applied.

Senator SIEWERT: Can you go back and say that one again, sorry?

Ms Taylor: To access child care for more than 24 hours a week, between 24 hours and the maximum of 50 hours a week, there will be a requirement for the person to be studying, working, or training more than 15 hours a week. That is similar to the childcare benefit test. The study will be accredited training. At the moment it can be anything, so it will be changed to accredited training.

Senator SIEWERT: And that is the normal accredited training process?

Ms Taylor: Yes. There will also, though, be provision for teenage parents doing their year 12 or equivalent and also the language literacy and numeracy program and also the Adult Migrant English Program as well.

Senator SIEWERT: Has that teenage parent program changed from what was announced last year about what they could access, or is that essentially in line with—

Ms Taylor: No, it is essentially in line. But the accreditation and the training does not remove the year 12 or equivalent. To access more than 24 hours child care a week, up to 50 hours, those requirements have to be met.

Ms Paul: Basically the changes to JET Child Care Fee Assistance represent a response to a doubling in demand. It is incredibly interesting to us, actually, that the demand has basically doubled over the last year. We can go into this more tomorrow, perhaps, but we are seeing a range of changes. For example, we are seeing parents seeking longer day care, not just out-of-school-hours care, and seeking assistance to get younger kids into child care, which is a great outcome actually because it means that those parents are seeking training or work. To us it indicates a success by way of trying to encourage participation among parents with younger kids.

Senator SIEWERT: What is the period of time you can access JET?

Ms Taylor: In terms of?

Ms Paul: Are you asking whether there are time limits?

Senator SIEWERT: When you are studying, what is the time limit that you can access JET?

Ms Taylor: Per week?

Senator SIEWERT: No. How many years can you access it when you are studying?

Ms Taylor: 24 months for the study limit.

Senator SIEWERT: It is just two years?

Ms Taylor: It is maintained at that.

Senator SIEWERT: If I am doing a three-year degree, I have got Buckley's. And if I am trying to get higher education, I have got Buckley's.

Ms Taylor: That is what it is.

Ms Paul: It is a two-year program.

Senator SIEWERT: Do you know any two-year degrees you can get?

Ms Paul: It does not mean you stop doing the degree; it means that the 50c an hour is lasting for two years—the highly subsidised part.

Senator SIEWERT: Why have two years been set? I know we have had this argument before. It was one year and it has now changed to two. What is the rationale behind this? Why can't you do a higher degree?

Ms Taylor: You can; it is not saying you cannot do the higher degree. It is saying that this assistance is there to enable you to take this opportunity for 24 months. Post 24 months then the eligibility is still there for childcare benefit and childcare rebate—and the childcare rebate pays 50 per cent of out-of-pocket expenses after that. In the first two years it is to provide a higher level of support during that period.

Ms Paul: Because presumably after the third year some of the people you are interested in would be receiving FTBA et cetera. In terms of the policy rationale, I suspect we would have to go back in time, so we may have to take that on notice.

Senator SIEWERT: That would be appreciated. Regarding the 701.62 million, have the number of people come down from 12 to eight or 16 to eight. Do you see what I am getting at?

Ms Milliken: It is 12 to eight. It assumed the changes that are already passed into legislation for 1 January.

Senator SIEWERT: So it is on top of that not including?

Ms Milliken: Yes.

Senator SIEWERT: Have you looked at what happens to single parents who move onto Newstart in regional areas where in particular more flexible child care is not available? I know there are areas in Western Australia where almost the vast majority of work is shiftwork and you cannot get child care after 5:30 and you can get it until 5:30 if you are lucky.

Ms Taylor: We are more into the childcare space with this.

Senator SIEWERT: I can deal with child care tomorrow, if you want. The government made this policy decision—moving those single parents to Newstart once their child turns

eight—supposedly because it will help them get a job, even though nearly 50 per cent of them already have earnings. The assumption is that they are not looking for work. In a lot of these places you cannot get work because it is shift work and the child care is not available.

Ms Taylor: In terms of the flexible arrangements around child care, there are flexible forms of child care and there is in-home care for shiftwork. There is about to be another release of in-home care places—an additional number of places, and I will get you the exact figure tomorrow so I do not mislead you. There are also additional occasional care places about to be released as well. We have advertised and received applications for those.

Senator SIEWERT: In regional areas as well?

Ms Taylor: Part of what we were looking at with both the in-home care and the occasional care placements particularly were the needs of regional areas. They are capped programs—it is not an uncapped program. There are certainly other forms of flexibility that have been offered in some of the regional areas. For example, in the wheat belt in Western Australia, waivers were given to some of the childcare providers who did not meet the normal approval test for childcare benefit to be approved for occasional care which offers care that is not over the longer term but sporadically over a couple of days just when the demand is there. We have looked at those. I can give you a whole list of those sorts of flexibilities that are in the marketplace. If you would like, I am happy to do that tomorrow—and they are the sorts of things that go to the provision of in-home care and occasional care, and the fact that there are arrangements for support that can be put in place. There will be no occasions when there is no childcare available. But there are other services like of course our budget base funded services, which are directly funded by the federal government—and there are around 330 of those around Australia. There are a number in remote and Indigenous communities, but particularly in regions where there is no other form of child care.

Senator SIEWERT: What does it do?

Ms Taylor: It provides a childcare service. For example, in the remote communities it could do outside school hours care if there is no other outside school hours care. It will do long day care, which is a normal type of service. It acts as a childcare centre. They are in communities where there is no other child care available generally. It is not wholly Indigenous but they have a large Indigenous focus because of the communities in which they operate. In terms of flexible provision of child care, I should have mentioned family day care. Of course, family day care is in the home but they are able to pick up the children from school, for example, or take them to the home. That is all part of the service that family day care offers as well.

Senator SIEWERT: It does not deal with night-time care when you are working shiftwork, in communities where the only work is shiftwork.

Ms Paul: The expansion of in-home care goes directly to that.

Senator SIEWERT: If you do not have family day care in your town—

Senator Jacinta Collins: We certainly understand your point, but what the department is highlighting is a range of measures we have undertaken to attempt to ameliorate the problem you refer to.

Senator SIEWERT: The town I am talking about apparently does not have any of that. On the Newstart allowance supplement, I presume it was your agency that provided advice to government?

Ms Paul: We have taken on notice the dates on which we were asked to model that.

Senator SIEWERT: I am more interested in the model itself and how you came to the particular amount that you did. Have you covered that?

Ms Paul: Yes. Just to be clear, we are talking about the supplementary allowance which goes beyond Newstart?

Senator SIEWERT: Yes, the amount of the supplement.

Ms Paul: The amount was a decision by government and we received that decision and we modelled the cost impact of the amounts—the \$210 and the \$175. We have taken on notice already the dates on which we did that work.

Senator SIEWERT: I am interested in the amount.

Ms Paul: Yes.

Senator SIEWERT: The government decided and then asked you to model it?

Ms Paul: Yes.

Senator SIEWERT: Regarding the changes to the current parenting payment system, can you tell me if foster parents are included in the changes and what is happening with foster parents during this process?

Ms Paul: I am not sure what arrangements there are, but there has not been any stated change to that.

Senator SIEWERT: Foster parent arrangements continue the same?

Ms Paul: Yes, as I understand it.

Senator SIEWERT: Concern has been raised with us regarding the changes to limiting exemptions to parents in special circumstances, including those caring for a child with a disability.

Ms Milliken: There are no changes to the exemption arrangements.

Senator SIEWERT: No changes for foster parents or in general?

Ms Milliken: In general—no changes. The changes to parenting payment or the changes to grandfathering arrangements do not carry with them any different exemption arrangements for people with participation requirements.

Senator SIEWERT: Thank you. I think there must be some misunderstanding in the community.

Ms Paul: It is really just literally the grandfathering change.

Senator SIEWERT: Okay. Just to be clear, there are no other changes to the exemptions; they remain the same?

Ms Paul: Yes.

Senator SIEWERT: Thank you.

CHAIR: Thank you. That concludes our questions in program 3.5.

Proceedings suspended from 16:18 to 16:38

CHAIR: The committee will now deal with outcome 4.

Senator ABETZ: Parliamentary Secretary, could you tell us when the questions that were provided to the committee yesterday at 5:16 pm by the minister's office were first received by the minister's office?

Senator Jacinta Collins: That understanding is not with me at the moment. I am quite happy to take it on notice and during the evening get you some more precise details.

Senator ABETZ: If you could as a matter of some urgency because it will be material to the questioning of Fair Work Australia later this evening. I thank you for that. Let's move on and see where we are at with the jobs target of 500,000, which we were promised two budgets ago and which has now been revised down to 300,000.

Mr Kovacic: I think it is 360,000.

Senator ABETZ: I assume that the department does not blame itself for that inflated figure, because it was a Treasury estimation. Is that correct?

Mr Kovacic: I think there is a response to a question on notice from the last estimates which goes to this issue. I cannot find the number, but those questions of employment in budget estimates are better directed at Treasury.

Senator ABETZ: I do not have the number in front of me either, but the answer clearly shows that, if you delay answering a question for long enough, another budget comes along and you can answer a completely different question. I asked a question about the 500,000 target, and the answer came back to me saying that in the most recent budget this figure was readjusted to the figure you just mentioned.

Senator Jacinta Collins: Who did you ask the original question?

Senator ABETZ: The department during the last estimates process.

Senator Jacinta Collins: DEEWR?

Senator ABETZ: Yes. We were then given advice as to what the new estimate was in this budget, but I wanted to know how we were tracking in relation to that initial estimate of 500,000 new jobs over two years. We as a coalition always said it was fantastic, and of course we were berated that we were questioning the robustness of Treasury estimates, only to find out 12 months later that they had reduced this fantastic estimate of 500,000 new jobs to 360,000.

Mr Kovacic: I have a number now. It is 0895_12.

Senator ABETZ: Thank you. Was this department consulted in relation to this new figure of 360,000?

Mr Kovacic: As I mentioned before, because this is a budget forecast, those forecasts are developed by Treasury.

Senator ABETZ: Yes, but the question was whether you were consulted in the development of that forecast.

Mr Kovacic: I will take that on notice, but my general sense based on responses to similar questions at previous estimates is that the department is not consulted about those forecasts.

Ms Paul: Yes, that is my understanding of it too.

Senator ABETZ: All right. So there is no advice sought from Treasury as to the likelihood of such a target being achieved.

Ms Paul: No. Mr Kovacic has already taken it on notice, but my recollection is that, because the Treasury is presumably basing this on, as we said in our answer, its estimate of how unemployment rates might track, that is absolutely, wholly a matter for them. We do not get into that side.

Senator ABETZ: All right. Is there an interdepartmental working group on statistics or things of that nature?

Ms Paul: There are a range of groups, but this part of this analysis is absolutely a Treasury matter.

Senator ABETZ: You deny all knowledge?

Ms Paul: I do, but we have taken it on notice.

Senator ABETZ: But then it is usually the Minister for Employment and Workplace Relations who dines out on these predictions. The creation of 500,000 new jobs over two years sounded good until the figures started coming in.

Senator Jacinta Collins: My understanding is it has not really changed that much from when we were in opposition. I had to seek such information from Treasury. Certainly the government of the day would have felt some attraction to—

Senator ABETZ: But, being conservatives, we usually underestimated and overdelivered; you guys always overestimate and overdeliver!

Senator Jacinta Collins: Oh, I don't think Treasury has changed that much across governments!

Senator ABETZ: That is one of the fundamental differences between our two sides of politics.

Ms Paul: I am sure that, if Treasury were here, they would reiterate that they have always done it this way.

Senator ABETZ: All right. So you take no responsibility for getting it so wrong.

Ms Paul: We do not do the estimate. We receive the estimate, so we will receive the latest unemployment figures, for example. Unemployment has been tracking down. It is currently at 4.9 per cent—a very low unemployment rate. We will advise our minister on that when we get it, but we get it in a lockup arrangement. So it is really a Treasury matter.

Senator ABETZ: You receive them but not on the basis of any analysis that you do.

Ms Paul: Correct.

Senator ABETZ: And you do not even have the opportunity to say to Treasury, 'We think this is a rubbery figure or unlikely to be achieved' because you are not asked.

Ms Paul: We would not say that any rate, because this is the way Treasury has modelled it, as Senator Collins said, forever. So I am sure Treasury would stand by its figures, but I do not need to do that here.

Senator ABETZ: But it is funny: Treasury under us always underestimated the surplus, but under Labor they always underestimate the deficit. One wonders, if it is the same

department, what the difference is. Do you know what the difference is? The government. But we will not go there.

CHAIR: No, and I am sure that is not conceded by anybody.

Senator Jacinta Collins: I do not think I would want us there anymore either, Senator Abetz.

CHAIR: Let's move back to questions.

Senator ABETZ: Yes, it is passing strange that this department that is responsible for employment is not able to have an input into the employment projection figures that are in the budget, but that is a comment, in fairness.

Mr Kovacic: I think that is a longstanding arrangement that predates this government.

Senator ABETZ: It is funny. We always used to estimate what the unemployment rate would be and we would get it wrong just like this government—but the other way around. We used to drive unemployment down further than we had anticipated, whereas this government always gets the figures the other way around.

CHAIR: I do not hear anybody complaining about 4.9 per cent.

Senator Jacinta Collins: There certainly was not greater communication between this department and Treasury. Take my word for it.

Senator ABETZ: Let's go to the Federal Court of Australia, fair work division, and case No. NSD613 of 2012, which is an application by the Minister for Employment and Workplace Relations intervening in a matter—namely, the Health Services Union. Can we be told when the potential of this intervention was first raised by the minister with the department?

Mr Kovacic: We will take the precise date on notice, but I would say it would be early April.

Senator ABETZ: If you can give us the exact date of that, that would be very helpful. It was the minister approaching the department about the possibility of such an intervention?

Mr Kovacic: My recollection is that it was.

Senator ABETZ: So it was not a department initiated suggestion.

Mr Kovacic: It was a request for advice from the minister, from my recollection.

Senator ABETZ: Thank you. Can you advise us when the minister's intended intervention was first publicly announced?

Mr Kovacic: I would have to take that on notice; but, from memory, it would be pretty close to Anzac Day or shortly thereafter.

Senator ABETZ: Also in the month of April.

Mr Kovacic: That is correct.

Senator ABETZ: Did the minister indicate to the department why this was such an important matter to him or the government?

Mr Kovacic: All I can say is the concerns that the minister has publicly expressed as the grounds for the intervention, which are concerns about the capacity of the organisation to

service its members interests and represent its members interests appropriately. That was the rationale that was given to the department.

Senator ABETZ: I think he used the word 'dysfunction'.

Mr Kovacic: Certainly dysfunction in terms of the organisation is a factor bearing on the capacity of its to service members' interests, yes.

Ms Paul: The same concerns you have seen publicly were expressed to us too.

Senator ABETZ: It seems strange that it should be in the month of April 2012 that the minister should wake up one morning and say, 'The Health Services Union is dysfunctional.' This had been in the media week after week, month after month, year after year, and all of a sudden the minister came to the realisation that there was dysfunctionality within the HSU national executive.

CHAIR: The officers cannot respond to that sort of comment.

Senator ABETZ: The parliamentary secretary could if she was so minded.

CHAIR: If you have a question, you should present the question.

Senator ABETZ: I do have a question. Parliamentary Secretary, it is strange that the minister found dysfunctionality within the HSU shortly after Ms Jackson had applied for certain Federal Court orders in relation to the administration of the Health Services Union. Was there any connection between that?

Senator Jacinta Collins: I will take that on notice. I have no idea.

Senator ABETZ: You will take that on notice.

Mr Kovacic: The precise date in terms of the minister's announcement was 26 April.

Senator ABETZ: Very close to Anzac Day, is it not? Well done. So on 26 April the minister announced that. When did the minister reach the conclusion that the HSU was dysfunctional?

Ms Paul: We have taken on notice when we first discussed it with him. We will come back with that.

Senator ABETZ: Senator Collins will need to take that on notice because that is a question direct to the minister—

Ms Paul: We could answer the timing question. We have already taken that on notice.

Senator ABETZ: Yes, as opposed to the department. Are we able to be told with whom the minister had met or discussed this intervention prior to the actual intervention?

Mr Kovacic: I have to take that on notice.

Senator ABETZ: Parliamentary Secretary, are you able to tell us because you represent the minister?

Senator Jacinta Collins: I will have to take that on notice.

Senator ABETZ: Did he meet with anybody from the Health Services Union or the ACTU prior to taking this action?

Senator Jacinta Collins: Who the minister may have met with is not to my knowledge. I will need to take that on notice.

Senator ABETZ: Is anybody able to tell us or remind us when Ms Jackson filed her proceedings in the Federal Court on this matter?

Mr Kovacic: The date I have is on 23 April there was an urgent directions hearing in the Federal Court in relation to Ms Jackson's claim that 17 members of the HSU East branch are not entitled to vote at a meeting of union council. I am not sure if that coincides with the date of the application itself, but we can take that on notice. Certainly, there was a directions hearing in the Federal Court on the 23rd.

Senator ABETZ: It stands to reason that it would have been filed beforehand and the parties given notice for this directions hearing.

Ms Paul: We will get the date for you.

Senator ABETZ: We are getting close to the beginning of April, which is when the minister just happened to discover that this particular union was dysfunctional.

Mr Kovacic: The reference I have here is that urgent directions hearing suggests that the actual application that may have been made by Ms Jackson may have been shortly before the 23rd as opposed to earlier that month.

Senator ABETZ: But there had been talk about it in the media prior to that. Did the department provide advice to the minister about this intervention?

Mr Kovacic: My recollection is that we did, but I take it on notice to confirm that.

Senator ABETZ: The date of that advice and if there were a number of advices—if that is the correct term—and the dates of those would be helpful.

Ms Paul: Yes.

Senator ABETZ: Parliamentary Secretary, was there any discussion with the Prime Minister's office by Minister Shorten's office prior to this intervention?

Senator Jacinta Collins: I will need to take that on notice.

Senator ABETZ: When was legal advice obtained in relation to this intervention and from whom was it obtained? Who has been briefed in relation to this matter? Is it the Australian Government Solicitor?

Mr Kovacic: No, we have engaged Corrs Chambers Westgarth as solicitors and counsel is Herman Borenstein, SC. I am advised he is supported by Richard Niall. In terms of the questions you asked about when we obtained legal advice and from whom, we will take that on notice.

Senator ABETZ: In taking on notice with whom the minister met prior to intervening in this court action, please also advise us whether or not he met with Ms Kathy Jackson, the HSU national secretary. If not, was any request made to meet with her, and if so, was that request denied? Please take that on notice.

Senator Jacinta Collins: Yes, we will take that on notice.

Senator ABETZ: I think I asked about the ACTU? I did and we have no answer on that. Please also take on notice asking the minister to respond to this: on what basis did he find that the HSU had fallen into 'dysfunctionality', the term he used in talking to the media; when did he find that 'dysfunctionality'; and was it related to Ms Jackson taking court proceedings, seeking to remove certain individuals from the HSU national executive?

Senator Jacinta Collins: Certainly.

Senator ABETZ: Can somebody assist me with the National Disability Insurance Scheme?

Ms Paul: Maybe; it is not our portfolio.

Senator ABETZ: No, but I am seeking information on the wages component that might be required to be paid. Has that been canvassed in an interdepartmental committee looking at the National Disability Insurance Scheme?

Ms Paul: We will take that on notice.

Senator ABETZ: Is the department part of an interdepartmental committee?

Ms Paul: Yes, we are.

Senator ABETZ: Why would you be part of that interdepartmental committee?

Ms Paul: We have an interest both from the disability employment services angle—it actually has not come so much from the workplace relations angle. It has come from the disability employment services angle and the schoolkids angle. We have donated two of our staff to the overall task force effort and they come from those two areas.

Senator ABETZ: What about the community sector pay case? Have you been asked about that?

Ms Paul: In terms of the NDIS?

Senator ABETZ: The interdepartmental committee on which you sit and the National Disability Insurance Scheme.

Ms Paul: The person who sits on it for us is not here, so I will take that on notice.

Senator ABETZ: Alright, because there is the suggestion that the community sector pay case may add about \$1.5 billion to the recurrent cost of the National Disability Insurance Scheme.

Ms Paul: One of my deputy secretaries sits on a steering group—I do not know the correct name for it—and I think there have been two meetings. The reports I have had have not canvassed that with me, but that is not to say it has not been there. I will take that on notice and confirm what has been discussed.

Mr Kovacic: Might I add that from our involvement from the social community services sector pay case, the equal remuneration case, and the issues we are still working on on that front, I have not heard the suggestion that you have raised in terms of that implication.

Ms Paul: We will take it on notice. We are not at the centre centre of it, so there may have been something that I just have not heard of.

Senator ABETZ: Let's just wind back then. Did the Productivity Commission's report into the National Disability Insurance Scheme come down before the community worker's pay case?

Ms Paul: Not sure.

Mr Kovacic: Not sure. I would imagine it probably would have.

Senator ABETZ: Yes, I am pretty sure that it did and that is why there is this discussion in the marketplace amongst disability service providers et cetera as to the estimate that was

put on running a national disability insurance scheme that is now going to be considerably higher, and then the issue is where that money will be found.

Ms Paul: As I say, it has not come to me and obviously not to Mr Kovacic either. But we do have people who are more involved than either of us, so we will check it out for you.

Senator ABETZ: Thank you. Regarding the government's decision to make registered organisations somewhat more accountable, how did this start? Was it like the interaction of the court proceedings where the minister approached the department and said, 'This would be a good idea; let's get things moving'? Or did the department send a brief to the minister suggesting this might a good idea?

Mr Kovacic: My recollection is that the minister sought advice from the department on possible options.

Senator ABETZ: On what date?

Mr Kovacic: In terms of the precise date, I will take that on notice, but my recollection was that it was probably late March, possibly early April—that sort of time frame.

Senator ABETZ: Was it after Mr Abbott made his announcement about changes to registered organisations?

Mr Kovacic: Well in advance of that.

Senator ABETZ: Well in advance?

Mr Kovacic: Yes.

Senator ABETZ: It is amazing how all these matters are so serendipitous. Has this announcement by the government been criticised by the ACTU?

Mr Kovacic: In terms of the proposed changes to the registered organisations act?

Senator ABETZ: Yes.

Mr Kovacic: My recollection is that at the time of the minister's initial announcement, the ACTU gave cautious support—and, to be fair, perhaps I should check the precise wording of their statements—if I can put it that way. But, more recently, regarding the changes that the minister is proposing, they were canvassed at a meeting of the National Workplace Relations Consultative Council last week, at which the ACTU is one member together with a number of organisations. The communique that was issued following that meeting indicated in principle support to the proposals put forward by the minister—

Senator ABETZ: That was on Friday?

Mr Kovacic: That is correct.

Senator ABETZ: I just make this observation that when Mr Abbott made his announcement, it was a terrible exercise in union bashing by the coalition. Yet, when virtually an identical announcement was made, it got a cautious welcome from the ACTU. Which just goes to show it depends who the messenger is as opposed to what the actual message is. But I do not expect the department to comment on that.

Ms Paul: The only thing we would say is that the evidence before us is that the communique from Friday's meeting of the NWRCC is all members—both employer and union members.

Senator ABETZ: Yes, but when the initial announcement was made by Mr Abbott and by Mr Shorten—

Ms Paul: I cannot comment on that.

Senator ABETZ: the reaction of the ACTU to relatively identical proposals—other than, of course, the stiffness of the penalty; that may have been the distinguishing feature—the strength of the penalty is what—

Senator Jacinta Collins: Accumulated credibility might be a factor, as well if it was Mr Abbott.

CHAIR: That was not helpful, Parliamentary Secretary. But I would also draw your attention, Senator Abetz, to the process of asking questions. If we can keep it on questions, it will run much more smoothly.

Senator ABETZ: Chair, I am sure you realise the need to contextualise certain matters before one asks questions.

CHAIR: I understand that we are not devoid of politics in these hearings.

Senator ABETZ: Can we be told the date that the department was first approached by the minister as to how to react? Can we also be told what motivated this?

Ms Paul: That is a question for the minister. We have already taken the date on notice.

Senator ABETZ: Yes, but what motivated this approach?

Senator Jacinta Collins: You cannot expect me to answer about what motivated the minister.

Senator ABETZ: Yes.

Senator Jacinta Collins: I can take it on notice and ask him what motivated him.

Senator ABETZ: As his representative here, you may have been briefed by him, but clearly not so.

Senator Jacinta Collins: All I can do is make some general observations. Even some of the matters that have appeared before this committee have informed the minister about some of the concerns, such as referrals to the police. There has been an accumulation of issues in this respect.

Senator ABETZ: With whom did the minister consult, if anybody? Please give proper, specific answers and not, 'The minister consulted with a variety of stakeholders.' That is the sort of nonsense we are getting by way of answers in a whole range of endeavours at Senate estimates, not only this department but a whole range. I invite specific answers in this area.

Senator Jacinta Collins: What was the question?

Senator ABETZ: With whom the minister consulted prior to deciding to take action in relation to registered organisations amending legislation and, after announcing it, with whom he consulted. Whilst we do not need 100 per cent detail, organisations would be helpful rather than 'various stakeholders' which would tell us nothing.

Senator Jacinta Collins: As the previous discussion highlighted, there are obviously members of the NWRCC that were consulted prior to the meeting on Friday, but I will respond more fully on notice.

Senator ABETZ: All the announcements were made before. I acknowledge we had the ministerial council last Friday, but certain legislation may have been drafted by that time. A whole schedule was put to the council.

Senator Jacinta Collins: I will take that on notice.

Senator ABETZ: If you can advise us as to when departmental work was started. I trust we will not do this under the cover of a response to the findings of Fair Work Australia on the Health Services Union No. 1 branch.

Ms Paul: We have already taken on notice the dates on which we first heard from the minister and the dates on which we offered advice.

Senator ABETZ: Has the department provided any advice to Fair Work Australia as to its capacity to cooperate with police?

Mr Kovacic: No, not that I am aware of.

Senator ABETZ: Has Fair Work Australia asked you for advice?

Mr Kovacic: No, my recollection is that Fair Work Australia sought advice from the Australian Government Solicitor.

Senator ABETZ: We know all that. All I am asking about is the department.

Ms Paul: No.

Senator ABETZ: I take you to Senate parliamentary question 1570.

Mr Kovacic: Senate estimates questions?

Senator ABETZ: No, Senate parliamentary question 1570, which was asked on 28 February, and the answer came in on 20 April.

Mr Kovacic: I am endeavouring to get a copy of it.

Senator ABETZ: The question I asked was:

Does the Minister consider that Fair Work Australia's investigation into the Health Services Union has taken an unreasonable amount of time?

The very last paragraph of the answer tells us:

As the investigations are completely independent of the government, the government will consider the findings of the KPMG review before deciding whether to comment publicly on this matter.

Can we be agreed that the KPMG review has not been finalised?

Mr Kovacic: That is correct.

Senator ABETZ: Can we also be agreed that this answer was provided on 20 April 2012?

Ms Paul: It does not say here when it was provided. I would have to confirm that.

Senator ABETZ: I would invite you to accept from me that the answer was provided to me on 20 April at 3.24pm from the Senate Table Office. On 13 April—seven days prior—the minister for workplace relations, Mr Bill Shorten, described the delays as 'unacceptable'. Here we have a question asked on notice—do we consider that the time taken was an unreasonable amount of time?—and we are told in a written answer provided on 20 April that we are going to consider the findings of the KPMG findings before deciding to comment publicly on this matter.

Ms Paul: But that is a different thing. I think we are splitting hairs slightly. The previous paragraph quotes the acting general manager acknowledging that, on the face of it, 'the inquiries and subsequent investigations have taken an unreasonably long time'. The way I read the last part is not a comment on how long it has taken—the minister has been perfectly clear on that in the public eye. I read that last part as talking about the KPMG review and the minister saying that he is not prepared to comment on it until he has actually seen it, which of course he has not because it has not been finished.

Senator ABETZ: Ms Paul, a great attempt—and very good. Undoubtedly, that is why you get paid the big bucks, but let us have a look at the actual question that was asked:

Does the Minister consider that Fair Work Australia's investigation into the Health Services Union has taken an unreasonable amount of time?

That was the question. We were then told all sorts of things—as is the wont with these answers—not all relevant to that which is specifically asked, until the last paragraph.

Ms Paul: I do not think that it contradicts anything else.

Senator ABETZ: Of course it does. Look, the answer:

The Minister for Employment and Workplace Relations has provided the following answer to the Honourable Senator's question.

The General Manager ... an independent statutory office holder, is responsible for the conduct—

That does not answer at all whether or not the minister believes it has taken an unreasonable time, so we can delete that paragraph from the answer as being irrelevant. We move to the next paragraph:

I note however that at the recent Additional Estimates hearings the then Acting General Manager acknowledged "that, on the face of it the inquiries and subsequent investigations have taken an unreasonably long time."

That is the acting general manager, not the minister—

To that end, the Acting General Manager announced that KPMG will be undertaking an independent review into the conduct of the investigations and that the outcome of the KPMG review will be made public.

Still—even after all those words—we are not given an insight as to whether the minister believes that the investigation has taken an unreasonable amount of time. We then go to the last paragraph, the final sentence:

As the investigations are completely independent of the Government, the Government will consider the findings of the KPMG review before deciding whether to comment publicly on this matter.

The matter being the unreasonable amount of time, which is the question. So we still do not have an insight into what the minister believes, yet we do know from the media that he does accept that it described the delays as unacceptable.

Disaggregating all this spin and nonsense, we have a non-answer here, Parliamentary Secretary. The head of the department has done a good job to try to spin it for you, but it has spun out, having gone through it step by step. Can we please be advised, on notice, whether the minister actually believes that it has taken an unreasonable amount of time—that is, the FWA investigation into the Health Services Union? Does the minister believe that has occurred?

Why did the minister say that the government would consider the findings of the KPMG review before deciding whether to comment, when he in fact did comment on 13 April. And just in case you need to know, that was an AAP story on 13 April at 8:59am, where we are told that that is the case. The minister is in the media seven days before we finally get the answer, which might be another example of answers hanging around far too long in the minister's office. In relation to question 1570, can I be advised when the department provided the draft answer to the minister's office?

Ms Paul: We can take that on notice.

Senator ABETZ: I think it will be shown that although it is non-responsive it was provided earlier and then there was clearly a change of mind by the government—

Ms Paul: I do not know that until we take it on notice.

CHAIR: The question has been taken on notice. There is no benefit in then speculating on what the answer may be.

Senator ABETZ: If you took it by the chronology, we have a minister saying publicly that the delays were unacceptable and then a week later putting down in the parliament an official answer saying the government will not comment until the KPMG review. That is—

CHAIR: But you said yourself that this answer is non-responsive to the question.

Senator Jacinta Collins: And Senator Abetz—pass me the question please.

Senator ABETZ: Yes it is.

CHAIR: This is clearly a dispute about the—

Senator ABETZ: No, no. This is responsive in as much as the minister has committed himself in answer to this question not to answer until the KPMG review is completed, and only then will the government decide whether to comment publicly on the matter of delay. Clearly a mislead of the parliament given that he has already commented.

Senator Jacinta Collins: I think you are going to extremes in that interpretation. It may well be that this question was drafted before the minister's earlier statement. We may find that out.

Senator ABETZ: And then hung around and he has now been embarrassed.

Senator Jacinta Collins: And it may well be an alternative reading of it. What it does not say is that on the face it, the minister agrees with the acting general manager's statement but does not want to comment in any further specificity until after the KPMG review. That would be consistent as well.

Senator ABETZ: How could that be consistent with him saying that the delays are unacceptable?

Ms Paul: I do not think there is any particular conflict necessarily, but we have taken on notice the dates.

Senator ABETZ: Oh well, lockdown. If you do not think there are problems, then I dare say Mr Thomson's speech is looking great as well. Can we talk about the media story in the *Age* of 12 April 2012 on page 7?

A pre-emptive story by Michelle Grattan stated:

The federal government is expected to consider strengthening the penalties against union leaders who are found to have acted corruptly, after it sees the full extent of breaches by the Health Services Union.' Are we able to be told, Parliamentary Secretary, whether the minister's office provided a brief to Ms Grattan as to what was on the government's mind?

Senator Jacinta Collins: I will have to take that on notice.

Senator ABETZ: And can we be reminded as to when the minister made the announcement about getting tough on corruption?

Ms Paul: Which announcement?

Senator ABETZ: The change to the registered organisations' legislation.

Ms Paul: Okay.

Mr Kovacic: My recollection is that it was early May, but we are just trying to get a precise date on that for you. We will come back to you on that.

Senator ABETZ: Thank you. Did the department have any prior information or any prior knowledge about the allegations swirling around about the Health Services Union prior to the Fair Work Australia report coming down, apart from that which was generally within the media?

Senator Jacinta Collins: I do not quite understand that question.

Senator ABETZ: Had the department been separately briefed? Was the department approached by, say, officials from the Health Services Union saying: 'We've got this problem in our union. How do we go about trying to fix it?'

Mr Kovacic: We were certainly not approached by officials of the HSU.

Senator ABETZ: Any other people?

Mr Kovacic: I will take that on notice just to confirm it, but my recollection is we were not approached by any other people.

Senator ABETZ: Can somebody remind me when the Health Services Union was suspended from the ACTU?

Mr Kovacic: It would have been late March, early April. Again, we can take that on notice. I am just trying to see whether we have that information here.

Senator ABETZ: Could I suggest to you it was Wednesday, 4 April 2012?

Mr Kovacic: That sounds reasonable.

Senator ABETZ: Yes. The day the ACTU suspends the Health Services Union, that would not have been the day that Mr Shorten serendipitously thought, 'This union is now dysfunctional because it no longer got the imprimatur of the ACTU on it?'

Mr Kovacic: No. Certainly the discussions that we had with the minister and his office predate that sort of decision within the ACTU.

Senator ABETZ: Let us wait and see what the actual date is. Thank you.

Senator ABETZ: Can the department advise as to any reason why the Fair Work Australia reports into the Health Services Union—and there were two of them—should not have been released?

Mr Kovacic: All I can do is reiterate the comments of the general manager of Fair Work Australia and the reservations that she expressed prior to providing them to the committee, and concerns that they may prejudice any subsequent prosecutions. However, in the general manager's view, in providing the committee with those reports, clearly those concerns were dissipated once her consideration of the delegate's report had been concluded.

Senator ABETZ: Her concern was not about a prosecution but prejudice during the time that she had to consider what action needed to be taken.

Mr Kovacic: I think that is correct.

Senator ABETZ: Did you provide any advice to the minister or parliamentary secretary about the wisdom or the foolishness of releasing the report?

Mr Kovacic: Not that I can recall. I can take that on notice, for reasons of comprehensiveness.

Senator ABETZ: All right. Parliamentary Secretary, can you please take on notice why, not armed with any advice from the department, Minister Shorten went public seeking to ensure that the Fair Work Australia report into the HSU's national office was not made available publicly?

Senator Jacinta Collins: I am sorry, Senator Abetz. I am not sure what you are referring to.

Senator ABETZ: Minister Shorten's public statement requesting—

Senator Jacinta Collins: As of when?

Senator ABETZ: I am sure Minister Shorten would have it. I will find it, hopefully, during the course of these estimates.

Senator Jacinta Collins: I would have to see those comments in their context to accept that that was the position that Minister Shorten—

Senator ABETZ: I have said it many time in interviews and, surprisingly, Minister Shorten has never come back to deny that that is what he said.

Senator Jacinta Collins: If you give us the reference I can take that on notice and get a response for you.

Senator ABETZ: I am sure you do not need a reference for it. If the minister cannot recollect saying that, by all means get back to me. But if the minister cannot recollect, I think he will have some further issues to deal with at further estimates. I will leave it at that. Did the minister have any contact whatsoever with the law firm Holding Redlich, who were being funded by the Labor Party to help run Mr Craig Thomson's defence, or with any other persons within the Labor Party or government as to him making the call that the report not be publicly released? And the reason—

Senator Jacinta Collins: Senator, I am still not with you that he ever did make that call. You said you will provide us with that statement.

Senator ABETZ: I can assure you that he did and I am sure that his very expensive media monitoring service, which he refuses to share with the opposition, will be able to ensure that those reports are found very easily.

Senator Jacinta Collins: I do not recall ever, as a shadow parliamentary secretary, having access to that 'very expensive media service' either.

Senator ABETZ: So questions have been taken on notice.

CHAIR: I understand the parliamentary secretary. That does not mean anyone is necessarily accepting the premise of the question.

Senator ABETZ: That is right.

CHAIR: Nonetheless, the question is there and it has been taken on notice.

Senator ABETZ: It seemed somewhat coincidental that the minister's public call for its nonrelease was at the same time as the Labor funded lawyers Holding Redlich wrote to the Senate committee expounding exactly the same argument, saying that the report should not be released. Once again, I am sure it is serendipity, just coincidental, but some of us get a bit suspicious and are wondering whether the minister may have had some discussion with others. Could you take that on notice, please, and let us know what discussions the minister may have had. Let us try the *Australian Financial Review* of 27 April 2012, page one, middle column, with a story headed 'Judge queries Shorten move against HSU'.

Senator Jacinta Collins: Before we go into any more detail in terms of these press articles, I am happy to go with you whilst we may only be making a cursory reflection of what is in an article, but if you are going to go into any detail to what was referred to, I ask you to go through the normal practice, which is to actually make available to us the copy of the article.

Senator ABETZ: The department and you representing the minister's office asserted that you did not necessarily know whether Mr Shorten had made such a statement. I find that a surprising response—

Senator Jacinta Collins: No. I am saying that I would like to see the context of the statement and I would be very surprised if the minister was not—

Senator ABETZ: but I have now found, without the expense of media monitoring services, the particular article. I am just drawing your attention to that to assist Mr Shorten in his response.

CHAIR: That is the article in relation to the question?

Senator Jacinta Collins: I will look at it in the context in which those comments were made.

Ms Paul: It is hard for us to comment without having it in front of us. My expectation is that we will find that the minister was reflecting on the general manager's comments, which were of no particular surprise.

Senator ABETZ: Secretary, you should be above these political statements, with respect.

CHAIR: That was not a political statement.

Ms Paul: That was not a political statement.

CHAIR: We are rehashing this same issue—that was just a repeating of Ms Paul's earlier evidence in terms of the context of the letter that you have referred to. Let us just get back to some questions.

Senator ABETZ: Happy to, but when, with respect, the secretary seeks to provide an explanation without anything before her, it is a bit concerning. The question has been taken on notice, all I did was refer to the media article, the reference and what was said in it and I take that no further.

CHAIR: Yes, but that was a media article that was to form the basis of the discussion that we have been having for the last ten minutes—is it not?

Senator ABETZ: Sorry?

CHAIR: Is that not the media article that forms the basis of the discussion that we have been having for the last ten minutes.

Senator ABETZ: Yes, that is right, of which the department and the parliamentary secretary asserted they had no knowledge of, they had no idea that this sort of statement may have been made by the minister. I have now finally found it and am advising them where they can look.

CHAIR: It is a press report?

Senator ABETZ: That is right; that is what the *Australian Financial Review* is. I provided the date and the page number. I am happy to move on, Chair, you will be pleased to know.

CHAIR: I am pleased to know.

Senator ABETZ: Can it be confirmed that for the purposes of the Fair Work (Registered Organisations) Act that the ACTU is not a registered organisation?

Mr Kovacic: My understanding is that that is the case. It has been a longstanding situation.

Senator ABETZ: In drafting the amendments to the Fair Work (Registered Organisations) Act legislation that is currently in the gestation process, was any thought given to the fact that simultaneous with this announcement there has been a call by the ACTU—approved by its constituent members—to basically double the money the constituent unions put into the ACTU? That money will therefore not be subject to the registered organisations act. That is correct is it not that monies paid by constituent bodies to the ACTU is not covered by the Fair Work (Registered Organisations) Act regime?

Mr Kovacic: I frame the response this way: seeking registration under the registered organisation act is a voluntary process because it brings a range of protections for the organisations, both rights and obligations, and it is not mandatory that organisations are registered under that legislation. It is similar to any community organisation. Again, it is a matter of choice for that particular organisation as to whether they seek registration under the relevant legislation.

Senator ABETZ: But what you could have is constituent members who are registered organisations, simply park the money with the ACTU and put it out of reach of the registered organisations.

Mr Kovacic: We are getting into the realm of hypothetical here. To the extent that a registered organisation has a transaction that transfers money—whether it is to the ACTU or any other organisation for that matter—the financial reporting obligations that apply to that organisation would capture that sort of transfer of money, as would the rules of the organisation in terms of how it needs to be dealt with and how it would need to be approved. I

do not necessarily accept the premise of what you are getting at. There is arguably two transactions.

Senator ABETZ: Does Fair Work Australia have any capacity to go through the financial affairs of the ACTU?

Mr Kovacic: The ACTU is not a registered organisation so it is not covered by that.

Senator ABETZ: Thank you. Therefore monies that go to the ACTU from registered organisations would also then begin to fall out of the jurisdiction of Fair Work Australia.

Ms Paul: But the transaction would not necessarily. I think that is where Mr Kovacic is coming from.

Mr Kovacic: There are two transaction. There is an incoming transaction for the ACTU in terms of the money it might receive from any organisation, but there is equally an outgoing transaction and if it is a registered organisation—

Senator ABETZ: Of course.

Mr Kovacic: that outgoing transaction would be covered and I am—

Senator ABETZ: And you describe it as an affiliation fee which just happens to have been doubled at the time that this new regime of extra penalties is being talked about. Once it is an affiliation fee, this Fair Work Australia organisation, as I understand it, is not able to undertake—and if I might say, chances are quite properly so—fishing expeditions. Therefore, if an organisation says this is our affiliation fee, here is the account from the ACTU, that has to be accepted at face value. That is the situation is it not?

CHAIR: I do not know how the officers could really answer that question for you. You are putting a hypothetical scenario, and then asking them to confirm whether that is right. I am not sure anyone can do that.

Senator ABETZ: The department has been very helpful—

CHAIR: They are trying to be helpful but there comes a time when it is ridiculous.

Mr Kovacic: We are really getting into the realms of hypotheticality because there are a range of factors which would come into play here; what the rules of the relevant organisation might say in terms of transactions and the approval processes for those sorts of transactions as well as financial reporting obligations that would be dealt with through accounting standards.

Senator ABETZ: Can you tell me how the powers of the Fair Work Act dealing with registered organisations vary depending on the rules of the organisation?

Mr Kovacic: What I am saying is that the rules of an organisation may differ in terms of the approval mechanisms. The obligations of the legislation would apply equally to registered organisations; however, the rules of registered organisations may vary between organisations.

Senator ABETZ: Of course it does, and I think we all know that. That is a pretty basic point to make.

Ms Paul: There is probably not any further we can take this.

Senator ABETZ: The suggestion was made that somehow, if rules differ, Fair Work Australia's jurisdiction differs.

Ms Paul: I do not think that is what was suggested. Mr Kovacic was explaining the context around the hypothetical—

Senator ABETZ: The powers of Fair Work Australia are set in legislation and are not determined by the particular rules of an organisation. Can we be agreed on that?

Mr Kovacic: I think that is correct.

Senator ABETZ: Thank you.

Mr Kovacic: The point I was making is that the rules of the organisation may actually go to some of the factors that Fair Work Australia may need to take into account in terms of making judgments as to whether an organisation has complied with the rules.

Senator ABETZ: Yes, but it does not increase Fair Work Australia's power in relation to investigation and undertaking what might be described as 'fishing expeditions', which they are not allowed to undertake. Let us move on. We have Minister Shorten doing his best in the parliament on 19 March in question time in answer to the member for Sturt. He was asked about the Fair Work Australia report into the HSU Number 1 Branch in Victoria and whether he would refer it to the appropriate authorities, and Mr Shorten said:

No, I said that I would draw it to the attention of the ATO, which was the earlier question asked.

Can I ask, has the minister referred the Health Services Union Number 1 Branch report to the Australian Taxation Office?

Ms Paul: I will have to take that on notice.

Mr Kovacic: My recollection is that certainly there were further questions the next day in parliament where the minister answered that and certainly indicated that he had, but we will take it on notice to confirm that.

Senator ABETZ: He was then asked by the member for Farrer, Ms Ley, and I think you are right, on the next day:

... has the minister referred the findings of this report to the Australian Taxation Office for further investigation?

I think that may have been the previous day, in fact, and he said:

We are certainly drawing it to the attention of the regulatory authorities to which we can.

What is being done in this space by the minister?

Ms Paul: I think we have just taken that on notice to check that out.

Senator ABETZ: I draw your attention to Senate parliamentary question No. 1728. Can that be shown to the parliamentary secretary, please? Look at question 2a. You will note that this question was asked on 20 March 2012, after the minister's answers in the House of Representatives. In regard to the report's referral to the Australian Taxation Office, I asked:

(a) when did the Minister decide to refer the report to the ATO;

(b) what was the date and time of referral; and

(c) can a copy of the accompanying covering letter be provided.

The answer read:

I informed the Parliament that, in relation to the report I 'would draw it to the attention of the ATO'. The report is a public document and, as such, is available to any interested agencies.

Parliamentary Secretary, are we to believe that the fact it is on Fair Work Australia's website is drawing it to the attention of the Australian Taxation Office, especially when the minister personally promises the parliament, 'I said I would draw it to the attention of the ATO'?

CHAIR: That question has been taken on notice.

Senator Jacinta Collins: We have taken that question on notice.

Ms Paul: As to whether there was a particular referral, we have just taken that on notice.

Mr Kovacic: That is right.

Ms Paul: In other words, if there was something that went beyond this, we will come back to you and let you know.

Senator ABETZ: Once again, we are not going to be given an answer as to what the minister has done to refer this to the ATO.

Ms Paul: Yes, you will be given the answer. We have taken it on notice.

Senator ABETZ: It is clear from the minister's answer that he did not provide the date and time of referral, and whether a copy of the accompanying covering letter could be provided. That question was not responded to in any way, shape or form, was it?

Ms Paul: We will follow up on that.

Senator ABETZ: Parliamentary Secretary, can you please ask the minister why he did not deign to respond to that? Is it because he, in fact, has not personally referred the report, as he promised in the House of Representatives on 19 March?

Senator Jacinta Collins: I will take that on notice.

Senator ABETZ: Thank you. The minister also told us in an answer:

We are going through it and we are certainly drawing it to the attention of the regulatory authorities to which we can.

I then asked in writing the next day:

Can details be provided as to which other agencies the Minister has referred the report, including:

- (a) the time and date of each referral; and
- (b) a copy of the covering letter accompanying each referral.

I was told, 'The report is a public document and as such is available to any interested parties.' But the minister had promised:

We—

whoever that is, undoubtedly the royal plural here—

are certainly drawing it to the attention of the regulatory authorities to which they can.

What did the minister do?

CHAIR: That is what has been taken on notice.

Ms Paul: We will take that on notice.

Senator Jacinta Collins: We will take that on notice more broadly than in your question with respect to the ATO, in the spirit of this parliamentary question.

Senator ABETZ: I also then asked:

Why has the report not been referred to the Victoria Police Fraud Squad.

Answer, 'The report is a public document and as such is available to any interested agencies.' Here we have, Parliamentary Secretary—and this is very serious—a minister knowing he is being broadcast to the Australian people saying: 'Of course we are cooperating. Of course I

am giving it to the ATO. Of course I will give it to all the other agencies.' Let me not misquote him. He said:

... we are certainly drawing it to the attention of the regulatory authorities to which we can.

Then when we ask for the detail, we are told he has done nothing—

Senator Jacinta Collins: No, that is not what you are told.

CHAIR: That is not what the answers say at all.

Senator ABETZ: I am sorry?

CHAIR: I do not think you should misrepresent the answer. The answer is on the record and it is there, and you are not to present it as something that it is not.

Senator ABETZ: Can you tell us what the answer tells us in relation to the minister's actions? Can somebody tease this out? If the minister has done something, please tell me.

Ms Paul: It is clear on the record what his answer is, and we have taken it on notice.

Senator ABETZ: And what has the minister done?

CHAIR: That has been taken on notice.

Senator Jacinta Collins: We have taken that on notice.

Senator ABETZ: It is quite clear that all the minister is relying on is the fact it is a public document on the Fair Work Australia website. That is clear, is it not Parliamentary Secretary?

Senator Jacinta Collins: We have taken it on notice. I do not think that is clear at all. That is why we have taken it on notice.

Senator ABETZ: The minister was specifically asked:

- (a) when did the minister decide to refer the report to the ATO;
- (b) what was the date and time of referral; and
- (c) can a copy of the accompanying covering letter be provided.

One assumes that, if the minister had lived up to his promise and had done so, we would have been given the courtesy of the date and time and a copy of the letter of referral.

CHAIR: There you have it. It is an assumption that you are making. The question has been taken on notice, and I am not sure that it can be taken any further.

Senator ABETZ: Chair, I have made an assumption. Can you just assist the committee as to what that assumption is in the absence of the minister providing us with any detail whatsoever as to the follow-up that he has undertaken when he has been specifically asked to provide that information.

CHAIR: The minister is not here, and for the last 15 minutes you have been asking the same question and it has been confirmed and confirmed and confirmed that it has been taken on notice and you will get a response.

Senator ABETZ: In circumstances where this question has already been taken on notice, the minister has been provided the questions in writing, the minister has responded in writing and the written answers confirm that he misled the parliament in answering questions to Ms Ley and to Mr Pyne.

CHAIR: That is clearly not what the answers confirm at all, Senator Abetz. That may be what you want to believe, and that is fine; and you have made some assumptions about that,

and that is fine too. But the process here before us is that you are asking questions and those questions have been taken on notice. Clearly we understand that you are not satisfied with the completeness of the answers that you have been given. That is abundantly clear to everybody. But all the officers can do here and all the parliamentary secretary can do here is to take your question on notice and seek an answer for you. No-one can speculate about what is in the minister's mind or why the answer was the way it was. They will do their best to get an answer for you.

Senator ABETZ: Given that the department has been so anxious to assist in relation to these matters, which were specifically directed to the minister's representative, can I ask the department—

Senator Jacinta Collins: I am sorry, Senator Abetz, I do not know where you are going there. I am not aware that—

Senator ABETZ: The minister's representative is you.

Senator Jacinta Collins: I understand that, Senator Abetz, but your suggestion that the department has been responding to questions to me—

Senator ABETZ: No, they have been very willing to assist and—

CHAIR: Because you did directly ask the officers these questions, too, in the early stages.

Senator ABETZ: Can they advise us as to whether or not they drafted any letters to the ATO for any other agency or authority drawing their attention to the Fair Work Australia report into the Health Services Union.

Ms Paul: We will add that to the question on notice, if you like, Senator.

Senator ABETZ: Oh, please, Secretary!

Ms Paul: That is our answer. We have answered your question.

Senator ABETZ: Secretary, are you telling this committee that you do not know the answer to that question?

Ms Paul: I am saying I am taking it on—

Senator Jacinta Collins: We are surprised that you did.

Ms Paul: Yes, I am taking it on notice and I am finding out the question we have just taken on notice. We have answered the question several times, Senator.

Senator ABETZ: No. I did not asked you before, Secretary, as to whether or not the department had drafted any letters referring the report to various agencies. That has not been asked before.

Ms Paul: Correct. That has not been asked before.

Senator ABETZ: You have now taken the question on notice.

Ms Paul: Yes, I have.

Senator ABETZ: I am entitled to ask you: why do you find it necessary to take the question on notice? Is it that neither you nor anybody in the department is able to answer the question?

Ms Paul: Not here, not right now; that is correct. So we will take it on notice.

Senator ABETZ: You are telling us that a matter of that gravity of referring Fair Work Australia's report to an authority such as the Australian Taxation Office and to other authorities is something that neither you nor any of your departmental officials can advise this committee about right now?

Ms Paul: That is right. We have taken on notice the question of whether the minister referred and we have taken the question on notice of whether there has been correspondence.

Senator ABETZ: Whether the department drafted or provided any letters for the minister referring the report.

Ms Paul: I am happy to take it on notice.

Senator ABETZ: I know you have taken it on notice. I am specifically asking you as to why you are taking it on notice.

Ms Paul: Yes, and I just answered that.

Senator ABETZ: And it is because you honestly have no recollection of whether it occurred or not.

Ms Paul: I think it is best for us to take it on notice and get the facts for you.

Senator ABETZ: If you honestly cannot recall—and we have to accept that at face value—can I ask you what departmental involvement was there in the answer to parliamentary question 1728 that we have just been discussing?

Ms Paul: I am not sure of that either. That goes back to April, so I cannot answer that off the top of my head either.

Senator Jacinta Collins: And especially as the Chair just indicated that it was clear to the committee that you are not satisfied with the answer, it is quite reasonable that Ms Paul would want to take it on notice.

Senator ABETZ: I asked specifically what was the date and time of referral and can a copy of the accompanying covering letter be provided. So the issue of letters must have been considered in the drafting of the answers by the department.

Ms Paul: Presumably so.

Senator ABETZ: Then can I ask whether this answer to 1728 remains in the original form as it emerged from the department to the minister's office?

Ms Paul: I certainly would not know that; we would have to check that, too.

Senator ABETZ: No, take that on notice as well.

Mr Kovacic: Can I come back to an issue you raised before about the date the minister announced his intention to amend the registered organisations act. It was 7 May. In announcing it he also foreshadowed his intention to raise the issue with the National Workplace Relations Consultative Council.

Senator ABETZ: Just for completeness, can we be told whether the answer to 1728 was altered in the minister's office prior to its tabling.

Senator Jacinta Collins: I will take that on notice.

Senator ABETZ: Let us move to the review of the Fair Work Act. I asked during the last estimates in 0900_12:

How many people or organisations were on the shortlist to conduct the review of the Fair Work Act? Please provide a breakdown – by category – of each person or organisation shortlisted. (ie. Employer, employee, government, academic etc.)

From the answer, I understand that 10 individuals were on the department's shortlist of potential candidates, so I assume no organisations were.

Mr Kovacic: That is correct.

Senator ABETZ: How do we describe the three people who make up the review panel in the categories that have been provided? Is there one former judge?

Mr Kovacic: Yes; the academic, which is Professor McCallum; and arguably I would say Mr Edwards has a business/government background.

Senator ABETZ: It is a pity Hansard cannot record your smile. You are saying 'arguably business/government background'. I was wondering how we would describe him. It was obvious to me that one was a former judge and one was an academic but the description of business/legal background or business/government background? The way these people are categorised is very interesting.

CHAIR: Mr Kovacic, do you need to respond to any that??

Mr Kovacic: Part of the reason is certainly the list of candidates. The number changed a little bit over time, if I can put it that way.

Senator ABETZ: I understand that. It was just that, with the categories you provided and knowing the three who were appointed, I thought one might be a bit of a mismatch with the categories. That is all. Nothing much revolves around it other than the description that was provided. That is the panel that is undertaking the review.

Let us go to the terms of reference for this review of the Fair Work Act. We have had some discussion in another committee about that and about the FOI documentation that has been presented. What was the rush in getting these terms of reference concluded?

Mr Kovacic: My recollection is that, at the time, broader government consideration was a factor. There was also some contemplation of an imminent government announcement of the inquiry.

Senator ABETZ: You know I have the FOI documentation. Can we cut to the chase?

Mr Kovacic: Sure.

Senator ABETZ: I ask again: what was the rush?

Mr Kovacic: It was about government consideration of the terms of reference.

Senator ABETZ: 'I need to get these to my minister early tomorrow morning.' Was that an email from you to Mr Jason McNamara?

Mr Kovacic: That was certainly covered off in an email, but I am giving you the sense of what is not in the email—the rationale for why it was indeed urgent to get this to the minister.

Senator ABETZ: All of those things that you did not think to put into the email. But you did think to say, 'I need to get these to my minister early tomorrow morning.'

Senator Jacinta Collins: But, Senator Abetz, that is your question.

Mr Kovacic: I needed to get it to my minister early the following morning for the reasons I outlined just a moment ago.

Senator ABETZ: Of course it was. What time was that email sent?

Mr Kovacic: I think it was 10.14 pm.

Senator ABETZ: It was good to see—

Mr Kovacic: I think, as Mr McNamara indicated in evidence before another committee last week, the email followed on from a conversation I had had with him earlier that evening—a conversation in which we had certainly spoken about some of the issues that had been raised by some of his staff about an earlier version of the terms of reference for the enquiry. Mr McNamara's evidence included that, arising out of that conversation, I had undertaken to send him an email, which I did later that evening.

Senator ABETZ: If you are working those hours, you are clearly working lot of overtime. Do you qualify for any flexibility arrangements or not?

Mr Kovacic: I work for a person who is very good in terms of providing time off in lieu, so that flexibility is something that is very well practised.

Senator ABETZ: I am sure you are referring to the secretary there rather than the minister.

Ms Paul: Yes, that is right.

Mr Kovacic: Yes, I am.

Senator ABETZ: Ms Paul was most anxious to ensure that it was her—

Ms Paul: We have to make that important arrangement clear,

Senator ABETZ: on the record as opposed to the minister. That is most definitely appropriate. Was the department ever advised about the concern expressed about the drafting of the terms of reference by at least one person in the Department of Finance and Deregulation:

We are not requiring DEEWR to discuss other options for “improving” IR policy if the department does not wish to (but noting that in some cases, they may look silly if they do not explore options).

Was that ever communicated to the Department of Education, Employment and Workplace Relations?

Mr Kovacic: It was never communicated to me personally, Senator. I am just checking as to whether it was communicated to any other officers. It was not, as the officers involved recall it.

Senator ABETZ: We have notes for discussion with DEEWR on the Fair Work Act. Who was involved in the discussions with the department of finance in trying to settle the terms of reference?

Mr Kovacic: It would have been a branch manager as well as some of the staff.

Senator ABETZ: Who would that branch manager have been? Is that branch manager available?

Mr Kovacic: Yes.

Senator ABETZ: I think she was the person who was just talking.

Mr Kovacic: That is correct, yes. It is Ms Shelley.

Ms Shelley: At that time I was involved in discussing the terms of reference with the Office of Best Practice Regulation along with the director at the time.

Senator ABETZ: Were issues of productivity raised during the discussions?

Ms Shelley: I am sorry, Senator; I have not been involved in this for quite some time, so I am trying to recall. I think it might have been broadly touched on.

Senator ABETZ: It was only in December last year, wasn't it? I know a lot happens in the department, but this was December last year.

Ms Paul: A lot does happen in the department.

Mr Kovacic: We had ongoing discussions with the Office of Best Practice Regulation across the course of 2011 about the terms of reference for the review as well as about a range of other things.

Ms Paul: It is always reasonable for an officer to take time to recollect, Senator.

Senator ABETZ: Of course it is. Was the issue of productivity raised as a specific item that should be included in the terms of reference by the department of finance?

Ms Shelley: I do not recall it being raised as a specific point that needed to be included.

Senator ABETZ: What about a non-specific point?

Ms Shelley: Only as being part of the objects of the act.

Senator ABETZ: Was the topic of fairness raised as being important in the terms of reference?

Ms Shelley: I honestly cannot recall.

Senator ABETZ: Are you able to shed any light on the discussions as to how these terms of reference came into being?

Mr Kovacic: The departments drafted a draft terms of reference which we provided to our then minister's office. As I mentioned a moment ago, we had ongoing discussions with the Office of Best Practice Regulation relating not only to the terms of reference but also to how the review would be conducted to ensure that it complied with OBPR's requirements in terms of the Best Practice Regulation Handbook. In the context of those discussions, clearly the terms of reference was an element that was discussed with OBPR.

Senator ABETZ: Who drafted the terms of reference—the initial draft?

Mr Kovacic: It would have been drafted within the department.

Senator ABETZ: Yes—who? I was assuming it might happen within the department.

Mr Kovacic: It would have been with Ms Shelley's branch.

Senator ABETZ: Ms Shelley, did you draft the initial terms of reference?

Ms Paul: It usually would not be just one person, by the way, Senator. It is always a bit awkward to try to pin it on one person when most of these things are a team effort.

Senator ABETZ: This is the greasy pig syndrome, isn't it? You can never catch it or pin it down; it always slides out.

Ms Paul: It is our job to support our people. I am a bit shy of pinning on one person what would have been a team effort. Nonetheless, we are answering the question for you. I am just putting it in context, Senator.

Mr Kovacic: I would have cleared the draft terms of reference before they—

Senator ABETZ: Yes. I am not asking about the clearance; I am asking about drafting the terms of reference.

Ms Paul: It would have been in Ms Shelley's branch.

Senator ABETZ: Ms Shelley, did you do it or did you have somebody within your section doing it?

Ms Shelley: I had people within my branch doing it. It was not necessarily one person. There were people within the team doing it. As is the usual way in which things work, things were then provided, comments were made and it ended up with Mr Kovacic for his clearance.

Senator ABETZ: The usual way things work—hopefully one day I might find out how that all occurs within the department. Were you made aware of the email traffic—and discomfort, if I can describe it as such—within the department of finance about the final terms of reference?

Mr Kovacic: I think in the material that was released under freedom of information there is a email trail which has attached to it an email from an officer in .which sets out a range of concerns.

Senator ABETZ: I know that chances are you would have found out about this courtesy of the FOE. What I am trying to find out is, but for the FOI, would you have known about that concern?

Mr Kovacic: Is that the issue of the department of finance?

Senator ABETZ: Yes.

Mr Kovacic: Sorry. No, but for that documentation—

Senator ABETZ: So that was not communicated to the department at all?

Mr Kovacic: No.

Senator ABETZ: But you of course found out about it when the FOI came out?

Mr Kovacic: That was the first occasion that I became aware of it.

Senator ABETZ: I was assuming that would be the case, but I just wanted to check off on that. Is the 31 May deadline going to be met? I understand a statement has been made indicating the chances are it will not and there will be a—I will not call it a blow-out—delay of about a fortnight. Is that correct?

Dr Morehead: Yes, that is correct.

Senator ABETZ: What has necessitated this slight delay?

Dr Morehead: The extensiveness of the panel's work and the requirement to spend a lot of time going over the extraordinarily large number of submissions that were presented to the panel—probably higher than one might expect—some 250 odd submissions, which is certainly higher than what was received on the initial bill. The panel did a very extensive round of consultations and made sure that anyone who wished to participate in a hearing with the panel got that opportunity, which took up basically a good four weeks. The need also for the panel's report to meet the requirements of a post-implementation review; so the involvement of course of OBPR from the department of finance as well. And the high-quality

of work that the three members of the panel insist on producing has meant that yes, they have asked for a few more days.

Senator ABETZ: Can I indicate I am not critical of the delay. It is understandable and I am sure these three gentlemen were appointed because it was anticipated they would provide very high quality work to the department or to the government?

Ms Paul: To the government.

Mr Kovacic: To the minister.

Senator ABETZ: To the minister. The real reason is and it is pretty obvious and you said that as part of your answer Dr Morehead, that it was the number of submissions that really has occasioned a surprising workload that had not been considered initially when the timeline was set.

Dr Morehead: It was a welcomed number of submissions. It was good to see so many engaged and offering to submit.

Senator ABETZ: And of course they were very extensive submissions were they not?

Dr Morehead: Some were. Some were short.

Senator ABETZ: All right.

Dr Morehead: Some were from individuals. Some were from small organisations and some were from the usual key stakeholders.

Senator ABETZ: Yes. And they were quite extensive.

Dr Morehead: From the key stakeholders, yes.

Senator ABETZ: Has the department had the opportunity of perusing any of these submissions?

Dr Morehead: Yes. The public has as well. They have been posted on the website.

Senator ABETZ: Yes, I am aware of that, but I am wondering whether or not the department has had the opportunity of reading or considering some of those submissions.

Dr Morehead: Yes. The secretariat has read some of the submissions and quite a few staff—

Senator ABETZ: The secretariat. They would be, in fairness, the service provider to the panel?

Dr Morehead: Yes.

Senator ABETZ: So I would not necessarily put them into the departmental category, because that reading of the submissions is being done for the benefit of panel—or is the secretariat also providing advice to the department about the flavour of some of the submissions?

Mr Kovacic: It is certainly servicing the panel. In response to your initial question, certainly I and, I imagine, some of my staff as well would have read a number of the submissions from key stakeholders, if not in some cases all of the submissions.

Senator ABETZ: I am sorry; there are bells ringing. What did you say?

Mr Kovacic: I was just saying that the secretariat very much is servicing the review panel. In terms of your initial question about whether the department has looked at the submissions,

I myself, together with a number of other people, would certainly have looked at a number of submissions, particularly those from key stakeholders; and, in some cases, there might be some individuals who have looked at all them.

Senator ABETZ: And it would be fair to say that, from the flavour of them—and I do not pretend to have read them all—there have been some very serious concerns expressed about the way the Fair Work Act is currently operating.

Mr Kovacic: There are certainly a wide range of issues expressed in those submissions, yes.

Senator ABETZ: Including expressions of concern about how the Fair Work Act is operating?

Mr Kovacic: I think the submissions speak for themselves, Senator.

Senator ABETZ: I am not asking you to make a judgment as to whether those concerns are right or wrong—

Ms Paul: We do not need to make a judgment. You are asking for an opinion.

Senator ABETZ: I am just asking whether, from your reading of them, you would see them as expressing concern.

Ms Paul: I think you are asking for an opinion, Senator. We would have to go to the submissions. But, clearly, they raise issues which are of prime importance to the submitters and, naturally, are taken very seriously.

Dr Morehead: And they have obviously made suggestions. So you have suggestions on the union side, on the business side and on the community sector side; and, as I was saying before, some businesses or employees themselves have come up with a range of suggestions since the act came into operation two years ago.

Senator ABETZ: All right. Can you recall any submission that says, 'Everything is good in the world ; don't change anything'?

Dr Morehead: Generally, if you have asked for submissions on how people think something is going, it would probably be unusual—at least in any submission process that I have been aware of—that someone would spend a lengthy period of their time writing a document just to say how well everything was going. What we have within the submissions, certainly, are examples of where the act is working well. There are examples of where the act is working well in probably the majority of submissions. Where they made suggestions was as to whether, after two years of operation, the act was in fact meeting its original objects.

Senator ABETZ: But we cannot adopt the word 'concern'?

Ms Paul: I think you are asking for an opinion. Clearly, if the submitters are concerned, they will have expressed their concerns. But you are asking us for our opinion, and we will not do that. But of course we take all of their issues extremely seriously.

Senator ABETZ: In relation to the conduct of the review—and I think this is correct—17 February was the closing date for submissions, wasn't it?

Mr Kovacic: I think that is correct.

Senator ABETZ: And then there were 14 days to respond to submissions that were put up on the website?

Dr Morehead: Yes, the submission process was open for four weeks.

Senator ABETZ: Yes—and closed on 17 February?

Dr Morehead: Yes, and then we had supplementary submissions due two weeks later, on 2 March.

Senator ABETZ: Supplementary submissions, all right—rather than responses. Would it be fair to say that most of the supplementary responses were because, let's say, the ACTU wanted to respond to something that an employer organisation had submitted or vice versa?

Dr Morehead: Usually, yes.

Senator ABETZ: Right. Can you confirm to me—I am getting this from question No.0903 from last estimates; clearly an answer that the minister had no input to because it is nice and detailed and clear—do you have that in front of you?

Mr Kovacic: I do.

Senator ABETZ: There were 203 submissions that had been received as at 10 am on 6 March 2012. Quite a few had been received late, is that right? Or, do we call the submissions also the supplementary submissions?

Mr Kovacic: I think they would also include the supplementary submissions.

Senator ABETZ: Can we have that confirmed please by somebody, or take it on notice?

Mr Kovacic: I will take that on notice.

Senator ABETZ: I asked: were all submissions published on or before 20 February, and we were told 'no'. I accept a lot of work was involved in putting them up but we were told that some were placed on 21 February, some on 20 February.

Dr Morehead: Some submissions were received around that time and it did take a few days, sometimes, to get submissions up.

Senator ABETZ: Which I am not critical of and I understand that. But, given that the 14 days to provide a supplementary ran from 17 February, and they were only made publicly available as late as—when was the last one posted, 21 February?

Ms Paul: No, 27 February.

Mr Kovacic: And some on 5 March.

Senator ABETZ: Sorry, 5 March, but in fairness to you, were they supplementary submissions, or initial submissions?

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

Senator ABETZ: If they were supplementary submissions being posted on 5 March, that would be understandable. I suppose the point I am trying to get at is the 14-day window for the supplementaries started running from 17 February but some of them were not on the website to be responded to for at least—four days into 14 days—one-third or one-quarter of the time allocated.

Dr Morehead: We did accept submissions that came in after 2 March as supplementary submissions.

Senator ABETZ: As supplementaries?

Dr Morehead: Yes.

Mr Kovacic: Indeed, if you go to the response to question 4 of the question, in one case there was a party that sought an extension but they were advised that the panel would not reject a supplementary submission made after the deadline.

Ms Paul: This looks like the vast bulk were uploaded by the 24th, then three came on the 27th and one on the Thursday.

Senator ABETZ: It still meant that the time was truncated. Was there anything posted on the panel's website indicating that late supplementaries would be accepted or received?

Mr Kovacic: We would have to take that on notice.

Senator ABETZ: I think the answer is just 'no'. Is that correct?

Mr Kovacic: I do not know for sure.

Senator ABETZ: I think Dr Morehead has an answer.

Dr Morehead: There was an official notification put up on the website that anyone who sought—

Senator ABETZ: Yes, somebody asked and it was granted, which I welcome and congratulate you on. The question is—and we will never know this, will we—whether some may have been dissuaded from putting in a supplementary having read something and said, 'We have now only got 10 days to respond to this.' Clearly somebody did ask for an extension. That was granted. That is welcomed. Has there been any feedback to the department that people were dissuaded from putting in a supplementary because of the curtailment of the time allocated?

Mr Kovacic: There is feedback from people like Peter Anderson of ACCI, who has been extremely complimentary about the way the panel is engaged with stakeholders and the way they have conducted the process. To the best of my knowledge, the feedback has been really positive about the process, as opposed to getting negative comments.

Senator ABETZ: I can confirm that stakeholders with whom I have spoken have indicated that the panel have been quite engaging on a number of the issues that were of concern to them, so I have had similar feedback to yours. But, as everybody reminds me, the proof will be in the pudding; the proof will be in the actual report. In answer 3 we were told: 'Non-confidential submissions were received from'. Of course I do not want to know who submitted confidential ones; otherwise, they would no longer remain confidential. But how many confidential ones were received, if any? Without spilling the beans on anybody, can you give us the reason or rationale for their seeking confidentiality?

Mr Kovacic: We will take that on notice.

Senator ABETZ: All right. You cannot assist now?

Mr Kovacic: No, we are not aware of—

Senator ABETZ: Any confidential?

Mr Kovacic: I do not know. We will take it on notice.

Dr Morehead: It was around a couple—maybe two or three. They were commercial in confidence.

Senator ABETZ: That is satisfactory. Only come back to me on notice if that answer needs to be expanded upon. EW0904_12 deals with a Qantas dispute. I asked in question 3 of that:

Given legal advice was provided to the Minister prior to 29 October 2011, was the Government aware of the damaging affect that the continued industrial disputation was having on the economy?

I was told in the second sentence of the answer:

The Government's awareness of the effect of Qantas industrial disputation on the Australian economy was evidenced by the continued decisive action it took in making an application to Fair Work Australia to terminate impending industrial action ...

Can somebody please flesh out for me the 'continued decisive action' that the government was taking by seeking Fair Work Australia's intervention?

Mr Kovacic: My recollection is that some of the other initiatives that the then minister took were having conversations with the parties involved and encouraging them to seek to resolve the dispute through negotiation. From memory—and I will take on notice any other actions beyond that—

Senator ABETZ: If you could, because having a discussion as Senator Evans did, which I understand was quite minimal, would hardly be described as decisive or 'continued decisive action'.

CHAIR: Senator Abetz, that may be your assessment, but it is not what is being said in evidence.

Senator ABETZ: The answer told us it was 'evidenced by the continued decisive action'. I want that fleshed out a bit so that we can told exactly what this continued decisive action was.

Mr Kovacic: Subsequent to Fair Work Australia's decision to terminate the industrial action, the pilots association initiated an appeal. The minister was involved in that appeal as well.

Senator ABETZ: Responding to an appeal is hardly decisive action. You have agreed to take that on notice.

CHAIR: We will take that as an opinion, not as a question for the officers. We will now suspend for the dinner break.

Proceedings suspended from 18:30 to 19:32

CHAIR: We will resume our hearing and we are still on outcome 4. Ms Paul, I go to you first.

Ms Paul: Did you want us to run through the dates on our handling of the question on notice—which is Fair Work Australia 1066_12? You asked us when we saw it, when it went to the minister et cetera. We have most of those dates now. I know you want to get on with Fair Work Australia, but we thought we could start with this.

Senator ABETZ: Yes.

Mr Kovacic: I can assist there. There were a number of questions on notice that Fair Work Australia drafted responses to, which were provided to Minister Shorten's office in March, I think it was, and one of which was 1066. The minister's office asked the department if it could have a look at those draft responses to ensure their accuracy. In respect of the draft proposed response to EW1066, the initial draft that had been provided by Fair Work Australia

to the minister's office was in very different terms to the version that was tabled in the Senate yesterday evening. It did not have the memorandum attached to it. At that stage, given that the investigation to the national office was continuing the line of not proposing to provide that sort of memorandum to the committee, I subsequently had conversations with the general manager of Fair Work Australia in respect of the four questions on notice to clarify their accuracy and to confirm the fact that they were comprehensive. In respect of question on notice EW1066, I suggested to the general manager that she may wish to consider, given where things were at with her consideration of the national office report, whether it might be appropriate for a copy of the memorandum to be provided to the committee. She undertook to do so. I subsequently had a further conversation with the general manager, probably in late April, in which she indicated that a revised response had been provided. The next development was an internal email from the department's parliamentary area which highlighted a number of outstanding questions on notice, of which EW1066 was one. When I returned from interstate in the latter part of that week, I clarified the status of that and was subsequently provided with the revised draft response which Fair Work Australia had drafted and which had only been provided to the department as a result of our request. It had not, at that stage, been provided to the minister's office. I cleared that suggested response the weekend before last, before I went on leave last week. It was the first time that I had actually seen the memorandum. It subsequently went through internal clearance processes within the department last week. It was cleared by the secretary on the 24 May and was provided to Minister Shorten's office in hard copy yesterday. That is my understanding.

Senator Ludwig: It is worth adding that, from there, I am advised, at approximately 2.30 pm yesterday the hard copy was given to the adviser in Minister Shorten's office to review. At approximately 3 pm yesterday it was approved by that adviser on behalf of Minister Shorten and returned to the DLO. The DLO then sent it to the minister's department at about 3.21 pm. The department finalised it in its system at 4.59 pm.

Senator ABETZ: We know how these things sometimes work, but Mr Shorten was given the original draft answer some two months ago. That is correct, is it not?

Mr Kovacic: It was a draft response but it certainly did not have the memorandum attached to it. The draft did not propose to provide the memorandum to the committee. As I indicated, the office asked the department to look at a number of draft responses that had been prepared by Fair Work Australia to ensure they were accurate. That is the last interaction I have had with the office in respect of those questions.

Senator ABETZ: Can you explain the extra clearance processes that were needed after you, Mr Kovacic, had looked at the answer? Who is above you in the department that could have provided clearance?

Ms Paul: All questions come through me. That is the only other step.

Senator ABETZ: How long did it take between you, Mr Kovacic, and Ms Paul to get the answer?

Ms Paul: It looks as if it were about three or four days. As Mr Kovacic just said, he cleared it on the weekend and I cleared it on 24 May, which was a Thursday.

Senator ABETZ: Then it took another two days or more to get to the minister's office?

Ms Paul: It goes into a parliamentary document system, but the only person who actually cleared it after John was me.

Senator ABETZ: I am sure there is such a thing as—what is it called? The internet or something? You could have provided the answer to the minister's office—

Ms Paul: We use something called a parliamentary document management system and we are replying to hundreds and hundreds of questions. We could go into the technicalities of that, but basically it would have been batched up, I should imagine.

Senator ABETZ: Fair Work Australia left this committee at 2 pm yesterday and the minister's office happened to get the answer at 2.30 pm yesterday. Is that right?

Mr Kovacic: That is the advice the minister has provided.

Senator ABETZ: Some people might believe that that is just sheer coincidence. I am not sure how many people actually do, but—

CHAIR: The question was asked and now it has been answered. If you have further questions now, we should deal with them; otherwise, we should move to Fair Work Australia.

Senator ABETZ: If Fair Work Australia are here, that ought be the area we deal with and we will deal with this matter later.

CHAIR: We will now interrupt our program and call Fair Work Australia.

Fair Work Australia

[19:42]

CHAIR: Welcome, Ms O'Neill and Ms Carruthers. The committee early this afternoon decided it would be worth asking you to return to the estimates, given a question had been taken on notice at a previous estimates that we did not actually receive for reasons that have been canvassed already with the department, until after you had left yesterday. I thank you for responding to the request of the committee to attend and for doing so expeditiously. I did notice a media report during the dinner break saying you had been hauled back before the committee, but you had certainly been requested back and the committee does appreciate your prompt response to that request and in particular to you Ms Carruthers. I know you had to make some childcare arrangements in order to accommodate the committee and we do very much appreciate your cooperation with committee in that respect.

I will always ask whether you have anything to say to the committee before we start but I am not sure you do, unless you do?

Ms O'Neill: No.

CHAIR: In that case we will move straight to questions and I give Senator Abetz the call.

Senator ABETZ: Thank you, Chair. At the outset can I indicate that the absence of Senator Michael Ronaldson is because he is the shadow Minister for Veterans' Affairs and his portfolio responsibilities are currently up before that particular committee. Can we have it clarified, Ms O'Neill, that the document we are talking about—how will we describe it?—the attachment to answer No. 1066, so that we know what we are talking about, was not made available at Senate estimates yesterday.

Ms O'Neill: When you say 'not made available', I am not sure what you are precisely asking me, Senator.

Senator ABETZ: That is fine. Minister, can you please take on notice why the Prime Minister today during question time asserted that this document was handed over during estimates yesterday during five hours of questioning and that it was the opposition's problem that it could not make proper use of the document during estimates yesterday. Can you inform the Prime Minister of that and why did she say that to the parliament. If you can take that on notice.

Senator Ludwig: I am happy to take it on notice. I want to clarify the question from yesterday. You might want to explain the document that is in particular question.

Ms O'Neill: I think I am clear now as to what you are asking, Senator. I can certainly say that, in giving evidence before this committee yesterday, we did not provide the committee with a copy of the email in question. I should say that I understand that the email from Mr Williams was included in the documents that were provided to the Senate committee on 7 May. It was one of a number of documents but it was one of the documents provided on that date. I have got a document reference, if that would assist.

Senator ABETZ: That remains to be seen, and I am willing to accept that that is the case. If that is the case, why is Fair Work Australia still objecting to my officer's freedom of information request for the release of this document?

Ms O'Neill: I am not aware of it. I will take that on notice.

Senator ABETZ: It is currently with the Office of the Information Commissioner appealing against Fair Work Australia's refusal to release the document, putting us through all this, and here we are getting the document in response to a question on notice.

Ms O'Neill: These things are always a point in time, and certainly in relation to providing the memo in the form that I have in response to the question on notice was open to me, in my view, because at that date the investigation had been concluded. If it had been an earlier date, when the investigation was ongoing, the answer may well have been different. So that may or may not be the explanation in relation to the original FOI request, but I can take that detail on notice and clarify that.

Senator ABETZ: If you could.

Senator Ludwig: Let us be clear then: I do not need take it, as I understand it, on notice as to whether you had the document or not. It appears that it was available to you through the committee, provided by Ms O'Neill, as I understand her evidence this evening. The committee has had that document, together with a range of other documents. You could have availed yourself of the opportunity of questioning on that document and other documents, as you did yesterday.

Senator ABETZ: No, because those documents have not been publicly released, Minister, and there were seven volumes of those documents provided to the secretariat. But given this information was so freely available, as you now claim, Minister, on 7 May, we will come back to this. The response we got from the department about the delay of the answer is starting to look a little bit sick.

Senator Ludwig: I am not going to be verbally by you. I did not say those words. What I did say was 'made available'—

CHAIR: Come to order. I want everyone to have an opportunity to ask their questions. If people dispute the premise of the question or feel that they have to respond to that, I will give

them the opportunity to do so, too. So everyone will get an opportunity. I would prefer people did not speak over each other. Did you need to say something, Minister.

Senator Ludwig: I think I said all I needed to say, Chair.

CHAIR: We will do it one at a time from now on. Senator Abetz.

Senator ABETZ: Ms O'Neill, can I ask you in which folder of the seven extra folders this document may be found in?

Ms O'Neill: I do not have that information at hand. What I have is the document reference number which is FWA.024.0076.

Senator FIERRAVANTI-WELLS: Ms O'Neill, I perused that material. I spent four days reading that material— not only the report including the seven volumes—and I have gone back today to have a look at those documents. And this document does not appear amongst the material that is in those seven folders—certainly the seven folders that I have seen. So we appear to have a bit of an issue there. If you could go back and have a look at that because I have certainly not found it amongst the material I have looked at as late as this afternoon.

Ms O'Neill: I will do that, but I sought that information and clarification this afternoon and that is the information I have been provided.

Senator FIERRAVANTI-WELLS: That begs the question though, Ms O'Neill, that if this document is not there what other documents may not be there? If this document is not amongst the documents that are supposed to be in those seven folders, could you also please check to make sure that there are other documents that you assert ought to be in those seven folders that are not there.

Senator Ludwig: Chair, I think we should slow down a little bit here. If FWA say the document is there, we should verify that before we start making hypothetical questions about whether the document is or is not there and what other documents are or are not there. I think we should at least establish whether or not the committee has the document in question. That is easily done but I cannot do that.

Senator ABETZ: That is fair enough, but let us also remind ourselves that the committee has not authorised the public release of any of those seven volumes and therefore it was not appropriate for any senator to seek to refer to that document in public.

Senator Ludwig: They are clearly matters for the committee to deal with.

Senator ABETZ: Minister, we know that is the procedure. So the suggestion that if we had had this document and could have used it yesterday, you know to be a flawed assertion, because we would have been in breach of privilege if we had referred to a document that the committee had not authorised for public disclosure. That is just for the record. But if I may ask some questions about this particular document. Can we be agreed that it was dated 30 June, 2009?

Ms O'Neill: Yes, Senator.

Senator ABETZ: And it was directed to Mr Nassios?

Ms O'Neill: Yes.

Senator ABETZ: And he regrettably is not with us but it was cc'd to Ms Carruthers, a Mr Schultz and a Ms Hagen. I think we know about Ms Carruthers, but can somebody fill us in about who Mr Schultz and Ms Hagen may be and how they fit into the scheme of things.

Ms O'Neill Mr Schultz is another member of staff of FWA who has had peripheral involvement in the investigation from time to time but generally of a minor nature. Ms Hagen is another employee of FWA who I believe at the time was Mr Williams' assistant.

Senator ABETZ: Thank you for that. Can you explain, Ms O'Neill, your reluctance to even acknowledge the existence of this document which of course is different to releasing its contents?

Ms O'Neill: I am not sure. Could you elaborate a little more.

Senator ABETZ: At Senate estimates you were not prepared to even concede the existence of the document when we asked you to take it on notice as to whether it could be released. You told the committee, 'I am not even conceding the existence of this document,' or words to that affect. Why was the existence of the document such a top secret that you could not even reveal its existence to us?

Ms O'Neill: I mentioned a few moments ago that my view as to the release of the document changed once the investigation was concluded.

Senator ABETZ: Ms O'Neill, sorry to interrupt you. The issue is not about the release and how much of the content you are divulging. Why would you not confirm the existence of the document? Whether we were entitled to it or not, and in what form, we will come to that later. But you refused to even acknowledge the existence of the document.

Ms O'Neill: This particular question was the subject of earlier questions on notice. My recollection is that the answer that was provided was that privilege was claimed on the basis of legal advice.

Senator ABETZ: Sorry. Once again, the issue of privilege is that you do not have to disclose its content. The issue of its actual existence is the issue that I am seeking to pursue with you this evening. In case you need assistance, on 15 February 2012 at pages 20 and 21 of the Senate estimates *Hansard*, in answer to Senator Ronaldson you said, 'I will take that on notice.' In answering the question on notice: 'We do not confirm the existence of that document.' The fact that you referred to it as 'that document' as opposed to 'a document' told us what we needed to know anyway, but that aside, why were you not willing to confirm the existence of the document on 15 February 2012?

Ms O'Neill: The approach I have taken in the estimates hearings that I have been present at has been to take a very cautious approach to providing information about matters relating directly to the conduct of the investigation. It would have been on that basis.

Senator ABETZ: We know there has been a very cautious approach undertaken with the release of information. That is why we have had to appeal to the Information Commissioner, not once but twice, and why answers have had to be corrected. So you think it is justifiable to say to the estimates committee and to the parliament that you will not confirm the existence of a document just because you do not want to release its content. Do you understand that there are actually two steps: first of all, whether the document exists and, secondly, whether or not the contents of that document might be released for a specific purpose?

Ms O'Neill: I believe that I ultimately took that question on notice and have provided a written answer.

Senator ABETZ: That you did, but it was always in the context that you were not confirming the existence of the document and then, when we put in the first FOI, you were

not willing to acknowledge the existence of any documents, which required us to appeal to the Office of the Information Commissioner, as a result of which we then were able to extract a schedule of documents.

Ms O'Neill: They are two different things. In relation to the FOI applications then, that was not a decision of mine; it was a decision of the relevant FOI officer. I am speaking in relation to the evidence that I have given and the answers to questions on notice at estimates.

Senator ABETZ: We have this bizarre situation: on 15 February this year you were studiously avoiding confirmation of the existence of the document but after our successful appeal to the Information Commissioner on 24 February we finally did have it confirmed that the document existed. At that stage you claimed it was exempt in full. We now basically have it in full but within nine days of nonconfirmation of the existence of the document via another process we finally are told that the documents exists, which is part and parcel—if I might say, Ms O'Neill—the difficulty that we have had in obtaining whole answers out of Fair Work Australia over the past number of years. Let us move on in relation to the freedom of information aspect—

Senator Ludwig: Before we do, I just went back and had a look at the transcript from yesterday in question time. You may not have meant to do this, Senator Abetz, but it does appear that you reflected adversely in relation to the statement the Prime Minister made.

Senator ABETZ: Sorry, are you looking at yesterday's *Hansard*? I am talking about today's question time.

Senator Ludwig: Sorry. Today, at 4.40 pm, to a question from Mr Pyne, the member for Sturt, the response from the Prime Minister was:

I think the member for Sturt's questioning means that they asked questions at senate estimates yesterday. They had five hours of opportunity with Fair Work Australia there. As a result of their questioning, they did not get the document that the member for Sturt refers to.

I think you have just changed the way that wording was reflected.

That is what Senate estimates is there for. Should Senate estimates want to reconvene, than that is a matter for it.

Senator ABETZ: How could we have referred to the document and obtained the document when it had not been provided to us? Who advised the Prime Minister to make that assertion? Take that on notice, I do not think we will get much further unless you claim to be able to fully understand the Prime Minister's mind. You would be the only one in caucus if you made such a claim.

Senator Ludwig: We can always engage in this banter. What I am saying is that I am correct in the record. I think what you then said at first in relation to what I should take on notice was incorrect. The Prime Minister did not, as you described, mislead. It was an accurate reflection and I have just confirmed that on transcript. Thank you very much.

Senator ABETZ: Are you taking that question on notice or not?

Senator Ludwig: Which part of the question?

Senator ABETZ: The question that was put on notice.

Senator Ludwig: I thought I might have dealt with it then.

Senator ABETZ: No, you have not.

Senator Ludwig: I thought I had.

Senator ABETZ: I thought you might be under that misapprehension. That is why I am asking whether or not you have still taken that initial question on notice.

Senator Ludwig: You may have to rephrase it, because I think I have answered it.

Senator ABETZ: We will pursue that in the House tomorrow. That is easy. Ms O'Neill, can you confirm to us the process? I have to be careful of the words I use. If there is a complaint made about a registered organisation, it progresses to an inquiry and after a certain threshold is reached, the inquiry morphs into an investigation and certain powers come with that decision to morph the inquiry into an investigation. Is that correct?

Ms O'Neill: Generally speaking, it is. It is not always the case that an investigation follows an inquiry, but certainly in relation to this matter it did.

Senator ABETZ: But an inquiry needs to precede an investigation.

Ms O'Neill: Not in every case.

Senator ABETZ: That is fine, but suffice to say with the HSU we had two inquiries that then morphed into investigations.

Ms O'Neill: That is right.

Senator ABETZ: In relation to Mr Williams' email of 30 June 2009, can you advise whether or not Mr Williams forwarded any other emails to Fair Work Australia between the time of 30 June until—I think he left the AIRC as of 1 January 2010?

Ms O'Neill: His last day with the AIRC was 31 December.

Senator ABETZ: 31 December 2009. Between 30 June and 31 December 2009, did he provide any further emails to Fair Work Australia?

Ms O'Neill: One of the significant points is that 30 June was the very last day that Mr Williams had any role.

Senator ABETZ: The question was, did he send any further emails to Fair Work Australia between 30 June and 31 December?

Ms O'Neill: To anybody within Fair Work Australia about this matter?

Senator ABETZ: Yes, to anybody in Fair Work Australia.

Ms O'Neill: I would have to take that on notice. I am not aware of anything.

Ms Carruthers: I am not aware of anything having been sent, but we could take that on notice.

Senator ABETZ: Could you please take that on notice? I would be much obliged. Do you have the 1,100-page report in front of you?

Ms O'Neill: Only three or four pages.

Senator ABETZ: Only three or four pages? I am not going to ask for a copy to be made as we usually do at these estimates proceedings. I will try my luck. On page 36 of the report—

Ms O'Neill: That is one of the pages I have.

Senator ABETZ: Good. We are told that on 30 June 2009, in paragraph 78, footnote 30, 'The Industrial Registrar sent an email to me in relation to the conduct of the inquiry.' I

assume we are agreed that the document referred to in paragraph 78, footnote 30 is in fact the document that is attached to answer 1066.

Ms O'Neill: I believe so.

Senator ABETZ: Thank you, I wanted to clear that up. Regrettably, Mr Nassios of course is not here to explain this footnote and paragraph 78, but we might try and get there later. I understand Mr Nassios is on extended leave until—

Ms O'Neill: Until 31 January next year.

Senator ABETZ: Can you tell me how the KPMG inquiry is going in the absence of Mr Nassios if he is not available to inform that inquiry as to the decisions he made, the reasons he made them, et cetera?

Ms O'Neill: I understand that KPMG will be making contact with him. Mr Nassios is, apart from some periods, generally still in Victoria and would make himself available.

Senator ABETZ: Would that courtesy have extended to Senate estimates?

Ms O'Neill: I cannot answer that. There was no request or invitation for him to attend.

Senator ABETZ: If Mr Nassios happens to be listening, or if you talk to him, he might be prepared to receive an invitation.

Ms O'Neill: Certainly, Senator.

Senator ABETZ: We have made him available for the KPMG inquiry, but we have not made him available for Senate estimates.

Ms O'Neill: I just make the point that prior to the last estimates hearing there were informal requests from the committee, or from some members of the committee, for other officers to attend. Those requests were accommodated without any formal steps needing to be taken.

Senator ABETZ: Who?

Ms O'Neill: This was in relation to the attendance of Ms Hughes and Ms Gibbons, as I recall.

Senator ABETZ: But the request for Mr Lee, that was not acceded to—was it?

Ms O'Neill: That was not a matter that I had any control over.

Senator ABETZ: In Mr Nassios's absence regrettably, Ms Carruthers, you were also a recipient of this email.

Ms Carruthers: Yes.

Senator ABETZ: In light of its content, would you like to revisit or clarify the evidence you gave yesterday as to when you were first alerted to the potentiality of criminality in the Health Services Union matters?

Ms Carruthers: Are you particularly referring to paragraph 3 where it talks about identified malfeasance?

Senator ABETZ: You got it in one.

Ms Carruthers: In my view—and this is my view not the view of Mr Williams or Mr Nassios because I cannot speak on behalf of them—I would say that as at 30 June 2009, we were not in a position to have identified any malfeasance. We had not interviewed any

witnesses at that point in time. We still had a lot of documents that we were yet to receive from the Health Services Union. I think we only received the BDO Kendalls report on 1 or 2 June of 2009. We actually did not have a lot of evidence in front of us at that point in time.

Senator ABETZ: We will go to that later if we may. But surely that email must have alerted you to the potentiality of criminality.

Ms Carruthers: In any inquiry or investigation there is the potential that you will uncover potentially criminal behaviour, but in my view—and this is my view—we were a long way in June 2009 from being able to have any view as to whether there was potentially criminal behaviour in this matter.

Senator ABETZ: If I recall your evidence yesterday, when I asked about your attention being drawn to the potential criminality you referred me to chapter 21 of the report. I then reminded you of chapter 13 of the report that you had drafted, then I took you even further back to Mr Lee's correspondence and the phone call by the fraud squad to you.

Ms Carruthers: I think that may have been August 2011, Senator.

Senator ABETZ: And so we then got ourselves back to August 2011, where criminality or the potential of criminality had entered your mind. Can I suggest to you that this email of 30 June 2009—nearly some three years ago—would have also alerted you to the potentiality of criminality in this Health Services Union matter?

Ms Carruthers: I do not read the email that way. It is talking about referrals that can occur. Now you can read that as saying: 'If during the forward conduct of this inquiry'—and as it turned out, subsequent investigation—'you come across malfeasance—or something that may be malfeasance—then it may be appropriate to refer it to the police.'

Senator ABETZ: Yes, but would not that email have alerted you—as of 30 June 2009—that potential criminality was a live issue to be considered.

Ms Carruthers: No, Senator, I do not agree with that characterisation. As I said yesterday—I have just been handed the *Hansard*—I am not saying that I was never conscious of the potential for criminality, I am simply saying that that was not something for me to determine. I think I conceded yesterday that—as I said—in any inquiry or investigation there is a potential for criminality.

Senator ABETZ: Yes, but I asked you at the time—did I not—when was the first time you turned your mind to the possibility of criminality?

Ms Carruthers: Well, Senator, I do not think that that was on 30 June 2009. I would have dismissed the possibility of criminality on 30 June 2009 because we simply did not have sufficient evidence. As I have said previously, we had not interviewed anyone, we had very few documents from the Health Services Union, we had only just recently received the BDO Kendall Report. We had actually only started this inquiry on 6 April 2009. We had a long way to go in gathering evidence.

Senator ABETZ: We can deal with the actual content—

Senator FIERRAVANTI-WELLS: One question if I may, Ms Carruthers? Did you read very carefully the correspondence that was sent to you by Slater and Gordon on 16 June?

Ms Carruthers: Which correspondence?

Senator FIERRAVANTI-WELLS: The letter from Slater and Gordon to Mr Nassios dated 16 June 2009, which enclosed the BDO Kendall Report and various attachments to it.

Senator Ludwig: In fairness to Ms Carruthers, could we have a copy of that?

Senator FIERRAVANTI-WELLS: I asked a simple question, did she read the correspondence and the attached report?

Senator Ludwig: We just need to identify that she knew which document you are talking about. That is my point.

Senator FIERRAVANTI-WELLS: I am precluded from doing so, thank you for the comment. Ms Carruthers, sorry, it is a simple question.

Ms Carruthers: Senator, I actually do not specifically recall having done so but I would imagine that I certainly did.

Senator FIERRAVANTI-WELLS: Are you aware whether that correspondence and that BDO Kendall Report made any reference to potential criminal convictions?

Ms Carruthers: In the BDO Kendall Report?

Senator FIERRAVANTI-WELLS: Yes.

Ms Carruthers: I do not specifically remember any more, Senator.

Senator Ludwig: Chair, just to be clear—I have not been following the earlier hearings as well as perhaps I should have been—do I understand that the questions now by Senator Fierravanti-Wells relate to documents that have not been released?

CHAIR: If I knew that, I would be concerned. Of course, I do not know that myself.

Senator Ludwig: I just wanted to check the record as to whether or not the questions that are being asked now in relation to documents which were not made public and which Senator Abetz earlier inferred that he could not ask questions about, in which case he has already put Senator Fierravanti-Wells on notice that she would then be potentially stepping over into privileges matters if she asked questions in relation to documents which have not been released. I was just trying to make it plain in my mind.

Senator FIERRAVANTI-WELLS: I have been very careful in the questions that I ask because I am very conscious of the parameters of the documents that are available and are with the committee. So I have been very, very careful.

CHAIR: In some respects the committee is constrained by its own rules and the procedures of the Senate. I think Senator Abetz has some questions and so we will proceed and see how we go. I am glad you raised it. I think everyone is now more aware of the issue itself. Let us proceed. It is a difficult situation because of the volume of documents.

Senator ABETZ: Ms Carruthers, were you part of a teleconference on 30 June 2009?

Ms Carruthers: Not that I recall.

Senator ABETZ: Have you got the document in front of you that we have been talking about.

Ms Carruthers: Yes.

Senator ABETZ: Mr Williams starts off the email:

As discussed by teleconference this morning, this is my view about the state of play and next actions required in relation to the two HSU inquiries ...

Were you part of that?

Ms Carruthers: I do not believe so.

Senator ABETZ: You were more senior than Mr Schultz.

Ms Carruthers: Yes.

Senator ABETZ: Was Mr Schultz part of it? Well, if you were not part of it, you would not know necessarily who else was part of it.

Ms Carruthers: No. It is quite possible it was a telephone call between Mr Nassios and Mr Williams.

Senator ABETZ: But Mr Williams was then ensuring that it got a wider circulation than just to Mr Nassios.

Ms Carruthers: Yes. Senator, as you can see, the email was cc'd to me; it was not sent to me directly. So I am presuming because I had some involvement in the inquiry, as did Mr Schultz and his executive assistant, Ms Hagen, he wished to make sure that we were all aware of the document.

Senator ABETZ: It says:

... it is intended to be clear about certain actions in my capacity as Industrial Registrar.

Ms O'Neill, can you confirm this was in fact the last day that Mr Williams was the industrial registrar for the purposes of registered organisations?

Ms O'Neill: Certainly for the purposes of this inquiry and investigation.

Senator ABETZ: Yes. So this was, if you like, a bit of a—we do not know because Mr Nassios is not here—summary by the then, if I might say, predecessor to the FWA manager as to where he thought things were at and future actions needed to be taken.

Ms O'Neill, we see a nice big black line redacting or deleting certain aspects of this email. Can you advise us as to why that was so redacted or deleted?

Ms O'Neill: On the basis of the information in those two or three lines, it is subject to legal professional privilege.

Senator ABETZ: Legal privilege. The 21-page or 18-page opinion from the Australian Government Solicitor of 22 March 2012 could also have been refused to us on the basis of legal privilege, but you kindly allowed us to have a copy of that. What was it about this particular legal advice or assertion that made you believe that you should be exercising your right to legal privilege?

Ms O'Neill: I would put it more the other way, Senator. I took what I considered to be an unusual and exceptional decision to waive privilege in providing the advice of Mr Orr. That is not a decision I took lightly but I thought the circumstances warranted it.

Senator ABETZ: So why not in this case?

Ms O'Neill: As a general proposition, outside exceptional or some compelling circumstances, I do not think it is appropriate to waive privilege.

Senator ABETZ: Your legal privilege that was waived in relation to the Australian Government Solicitor was in relation to a matter on which you had obtained legal advice. Is that correct? That is the legal advice of 22 March.

Ms O'Neill: Yes, it was legal advice.

Senator ABETZ: What in the nature of this document was legal advice being provided to you?

Ms O'Neill: It is a reference to some legal advice.

Senator ABETZ: So it refers to some legal advice. Let me take a punt: from the Australian Government Solicitor no doubt, but from whom it came will not necessarily take us further. Further down in this email, in paragraph 1.b.ii we are told: 'The principal targets for investigation should be clearly identified', and we go along right to the very end, '...the previous National Secretary and the (past and present) bookkeepers for the national office and the Victorian No. 1 Branch'. The previous national secretary referred to would be one Mr Craig Thomson?

Ms O'Neill: That would be Mr Thomson, I would guess.

Senator ABETZ: Good, thank you, just so we do not labour under any misapprehension. Then, 1.b iii, Mr Williams suggests that the forms of notification to parties of the instigation of the two investigations should be drawn up and issued. Are we able to be told if that occurred and when?

Ms O'Neill: I will take it on notice. I believe so.

Senator ABETZ: Well, chances are the forms were drawn up and issued. The issue is, when?

Ms O'Neill: I will have to take that on notice.

Senator ABETZ: Because it seems clear that on 30 June, Mr Williams, who used to be in your position, Ms O'Neill, was of the view that this should be happening. I then take you to paragraph 3, and let us have some discussion about that. I cannot see, with respect Ms Carruthers, as to how we can interpret it any other way than on its face. Allow me to read it. I am sorry but this will be somewhat extensive.

There should be a clear plan and actions arising from the outcome of the inquiries to date

a. Including *inter alia* any actions and referrals to other authorities (e.g. to the police because of identified malfeasance—

.....

which can occur on the strength of discoveries from inquiries which do not require further investigation. That is pretty clear, is it not, that the inquiry stage of this had identified malfeasance which did not require further investigation.

Ms Carruthers: It is possible that Mr Williams was of that view but I certainly would not have been of that view.

Senator ABETZ: At that time, was Mr Williams your boss?

Ms Carruthers: Indirectly, yes.

Senator ABETZ: Yes. You did not seek to protest this analysis by Mr Williams?

Ms Carruthers: It was not a question for me. The next day the delegate took over that role as the delegate of the general manager, since on 1 July 2009 under the transitional provisions the conduct of inquiries transferred to Fair Work Australia from the Australian Industrial Registry and, specifically, to the General Manager of Fair Work Australia. Mr

Nassios was conducting the investigation as the delegate of the general manager. I think Mr Nassios' view is set out in the footnote that you referred to earlier.

Senator ABETZ: All right, let us go to that. Mr Nassios told us in that footnote:

... it is unclear what Mr Williams sought to achieve.

I would have thought it was pretty clear what he sought to achieve: that the strength of the inquiries did not require further investigation and that the outcome of the inquiries to date allowed for this matter to be referred to the police because of identified—

Senator Ludwig: I think we are in conjecture now. Senator Abetz is putting himself in Mr Williams's shoes. You are entitled to ask a question of the witness. As to that, I—

Senator ABETZ: All I am doing is reading—it is not me asserting, I am reading from the memo.

Senator Ludwig: No, you brought two issues together. You brought a footnote and that issue together and you conjoined them.

CHAIR: Senator Abetz is free to put his interpretation on that, but it is clear, and I think everyone understands and that *Hansard* will show, that this is his view of what Mr Williams sought to achieve. It is obvious to everybody that he is not speaking on behalf of Mr Williams in that respect, and there will be opportunities for people to respond.

Senator Ludwig: There seems to be conjecture. That is my point. I do not object to questions being asked, but I do worry about people making—

CHAIR: This is not a court of law.

Senator Ludwig: I understand that.

CHAIR: People are exploring a proposition and Senator Abetz can do so. If you wish to respond when he has concluded his line of questioning I will certainly give you the opportunity.

Senator Ludwig: He is thinking out loud.

Senator ABETZ: I will be careful of having too many thought bubbles. Mr Nassios gratuitously told us:

... it is unclear what Mr Williams sought to achieve.

I would have thought the email speaks for itself as to what he wanted to achieve and, clearly, on his last day in office he wanted to leave a memo as to where things were at and what actions he believed should be taken. Mr Nassios then very helpfully—and I dare say Mr Williams would be happy with this—said:

In exercising those powers from that date—

that is, as of 1 July—

I did not, and could not, accept instructions from any other person about the exercise of those powers. In my view, it is clear that to do so would fundamentally compromise the conduct of any investigation. For the sake of completeness, I state that I have not taken Mr Williams' "direction" into account.

You know what? We did not need that footnote to tell us that Mr Nassios had not followed that, because Mr Williams, at the very end, said:

I am happy to discuss these directions, but otherwise anticipate that the actions identified will be implemented expeditiously.

I think we can all be in heated agreement that nothing about this was done expeditiously. Are we agreed that this has taken some time?

Ms O'Neill: I have put on record before that on its face it has taken an unreasonable amount of time.

Senator ABETZ: So I think we can be agreed that Mr Nassios, at least, is willing to acknowledge that he did not accept Mr Williams's advice that these matters should be dealt with expeditiously. Ms Carruthers, to your knowledge did Mr Nassios or anybody else in the then Fair Work Australia seek to discuss this direction—and when I say 'direction' I mean directions planned by Mr Williams—with him?

Ms Carruthers: With Mr Williams?

Senator ABETZ: Yes.

Ms Carruthers: Not that I am aware of.

Senator ABETZ: He does say:

I am happy to discuss these directions, but otherwise I anticipate that the actions identified will be implemented expeditiously.

He was happy to discuss that direction or suggestion that things be moved on quickly, but nobody from the new Fair Work Australia ever availed themselves of that opportunity. Here we are all these years later, wondering why matters were not referred to the police three years ago.

Senator Ludwig: Again, Chair, it seems a reflection by Senator Abetz rather than a question, but I do raise this from time to time.

CHAIR: It is. Ms Carruthers has already responded to that proposition that Senator Abetz has put earlier.

Senator ABETZ: Now, Mr Williams was the industrial registrar for about four years, to your knowledge, Ms O'Neill? Would that be about right.

Ms Carruthers: I am not sure that it was that long.

Ms O'Neill: I do not think it was as long as four years, but I would struggle to give you precise dates.

Senator ABETZ: Can we have an insight into what occurred in Fair Work Australia when the former industrial registrar, in a quite an unprecedented and I do not think followed-up statement to the media, warned:

... FWA's reputation could be tarnished and its effectiveness undermined because the inquiry into the Health Services Union was taking way too long.

You would be aware of those comments by the former industrial registrar?

Ms O'Neill: It is ringing a vague bell. I cannot recall the timing.

Senator ABETZ: Just a vague bell? What about you, Ms Carruthers?

Ms Carruthers: Are you referring to a newspaper article, possibly by Ian Higgins?

Senator ABETZ: Yes. I am not sure by whom it was, but it appeared in the *Courier Mail*.

Ms Carruthers: I would not normally read the *Courier Mail*.

Senator ABETZ: Even if it appeared in the *Australia*, the *Daily Telegraph*—

Senator Ludwig: Chair, in fairness to Ms Carruthers and Ms O'Neill, if people are going to read statements at them and ask them whether they recollect them, they should identify the document, provide the document and give the person opportunity to say whether they can recollect it. If they cannot recollect it, I think that ends the matter.

Senator ABETZ: Thank you. There had already been a degree of public disquiet, would you not agree, about the length of time Fair Work Australia was taking with Health Union Services Union reports?

Ms O'Neill: I am just not sure of the timing you are speaking about. Certainly, from when I became acting general manager it was apparent that there was public concern about the length of the investigation.

Senator ABETZ: You cannot recall Mr Williams's public intervention?

Ms O'Neill: As I said, I have got a vague recollection, but I cannot recall timing or the detail of it.

Senator ABETZ: Did Mr Shorten's office contact you about this particular article?

Ms O'Neill: I do not believe so. Sorry, Senator. I am not sure. I think there was a public statement in January of this year.

Senator ABETZ: I do not have the exact date in front of me, so I cannot assist.

Senator Ludwig: Chair, this is the confusion we get into.

Ms O'Neill: I did get a call. I have spoken about this at previous—

Senator ABETZ: There was only one public intervention by Mr Williams, the former industrial registrar. We can be assured that we will not be confused with other interventions by Mr Williams. Therefore, if Ms O'Neill has a recollection of an intervention, that will be the only intervention.

Senator Ludwig: The point I am making, Chair, is that usually in estimates hearings, in fairness to witnesses, if you are going to quote from documents you provide the document so that the witness does have an opportunity of apprising themselves of the document and having a proper recollection upon the document itself, rather than a guess as to whether they can recall it or not. That is the only point I make.

CHAIR: I think that is fair enough and it is a good point and especially from such an obscure publication.

Senator Ludwig: As the *Courier Mail*.

Senator ABETZ: I was just looking around for the Queensland senators, to see if you were going to get a fight Senator Marshall. Are we aware of Mr Williams's public intervention about the length of time this report was taking?

Ms O'Neill: I think so. I am just trying to recall. I have a recollection that at the February estimates I gave evidence about a call from the minister's office asking if I was aware of a public statement. I think that was in respect to a statement by Mr Williams.

Senator ABETZ: I had asked about the contact that had been had with Fair Work Australia and the minister's office. And you, Ms O'Neill, told me:

There is something further, Senator. In relation to my own contact since I have been acting general manager, I received a telephone call from the minister's office on, I believe, 6 January 2012. I was

simply asked whether I was aware that the former industrial registrar, Mr Williams, had issued a public statement concerning the investigation.

Does that refresh your memory?

Ms O'Neill: Yes it does, Senator.

Senator ABETZ: Good. So we now know about the intervention that Mr Williams made. Does that ring a bell with you Ms Carruthers?

Ms Carruthers: I think I may have read this article in our press clippings. But in the absence of actually seeing the article I could not be 100 per cent certain. But when your former boss—

Senator Ludwig: Again Chair, we have clearly had a request from the witness to have a look at the document if we are going to be asked questions about her recollection in respect of the document. In fairness to Ms Carruthers, either the document is provided to the committee so that Ms Carruthers can have a look at the document and refresh her memory, or we move on.

CHAIR: I think Ms Carruthers has answered the question to the best of her ability, Senator.

Senator ABETZ: And when your former boss, the former industrial registrar, comes out publicly saying that he is concerned about the delays, that would be something that would attract your attention would it not Ms Carruthers?

Ms Carruthers: Yes, Senator.

CHAIR: I do not read anything Mark Latham says.

Senator FISHER: Touché.

Senator ABETZ: That is an indicative comment about what happens within the Labor Party. Can I tell you, I read the comments of all my former leaders.

Senator Ludwig: Even Malcolm Fraser?

Senator ABETZ: What I think of them will be kept quiet. Are you aware, Ms O'Neill, as to the specifics of the commentary by Mr Williams that it might tarnish the reputation of Fair Work Australia?

Ms O'Neill: I do not have a very clear recollection of what he said publicly.

Senator ABETZ: I am sure you will Fair Work Australia's new president's evidence from only yesterday.

Ms O'Neill: Of course.

Senator ABETZ: He, without paraphrasing him, believes that the reputation of Fair Work Australia has in fact been—I am not sure he used the word 'tarnished' like Mr Williams did, but 'diminished' would be a relatively neutral term to describe what the new president, Mr Ross, told this estimates committee. He said that the reputation had been diminished because of the delay and the circumstances surrounding this Health Services Union enquiry. You recall that?

Ms O'Neill: I do.

Senator ABETZ: It seems as though Mr Williams's prediction has in fact now been accepted by the new President of Fair Work Australia, that the slowness of this inquiry has in

fact tarnished all of Fair Work Australia. Is that an observation that you would share or agree with?

Ms O'Neill: Very much so, Senator.

Senator ABETZ: Would it be fair to say that Fair Work Australia did not do a very good job in this area?

Ms O'Neill: That is my view, yes.

Senator ABETZ: When did you come to that conclusion?

Ms O'Neill: I cannot give a precise date.

Senator ABETZ: Before or after you became acting general manager?

Ms O'Neill: I had perhaps an uninformed view before I became acting general manager.

Senator ABETZ: What was that uninformed view?

Ms O'Neill: My uninformed view was, without any knowledge of any of it, the length of time at that point seemed like an extended period of time.

Senator ABETZ: That was before you took on the role.

Ms O'Neill: Yes.

Senator ABETZ: Now that you have taken on the role you have a more informed view. Do you still hold to the view that it was an extended period of time, to put it at its most neutral?

Ms O'Neill: Very much so.

Senator ABETZ: When you took over as acting general manager, did Mr Lee provide you with a handover brief?

Ms O'Neill: He gave me his files in relation to the matter.

Senator ABETZ: One assumes that he did not take them with him, so you would have been left with them in any event. Did he provide you with notes or a handover brief in relation to those files.

Ms O'Neill: My recollection is it was not a detailed document setting out the state of play, as such. It was a discussion about where it was up to. He pointed me to some particularly relevant documents in the material that he provided.

CHAIR: We have asked Fair Work to return to respond to the answer to the question on notice 1066. Have we now passed that?

Senator ABETZ: Absolutely not.

CHAIR: I ask you come back to that, if you could.

Senator ABETZ: There was an injunction, a suggestion, a request, a direction that the matters contained in the document of 30 June 2009 be 'implemented expeditiously'. I am canvassing whether or not the matters that Mr Williams has referred to have been implemented expeditiously. I think we can be in heated agreement, at least on this one, that they were not so expeditiously implemented.

Senator Ludwig: It does seem so from the footnote to that record from the point of view of the new general manager who '... was delegated the General Manager's investigative powers under Part 4 of Chapter 11 of the RO Act by the Acting General Manager to exercise

those powers from that date ...' They assumed the responsibility as the delegate from that date on. I think it has been conceded by Ms Neill that there was a delay—I have heard that more than once, so that is uncontroversial. We were recalled to deal with the document and we have dealt with that document. We now appear to be searching for something better. I am not averse to that during estimates, but not for a recall. We had a five-hour opportunity yesterday and Senator Abetz used the majority of that time to question witnesses. I wonder why we are delaying the witnesses who have questions on notice to take. They have been recalled and came from a long way away to deal with the document, and we have dealt with the document.

Senator ABETZ: No, we have not.

CHAIR: I have drawn Senator Abetz's attention to that. He says he has more questions on the document and we will continue on that basis.

Senator ABETZ: Thank you, Chair. Ms O'Neill were you not provided with a formal debrief from Mr Lee?

Ms O'Neill: Certainly not a written one, as I recall.

Senator ABETZ: Was the issue of timeliness and the potential need to speed up the process, slow down the process or keep it going as it was with the Health Services Union raised in the handover?

Ms O'Neill: I am sure it was. In a sense, it did not need to be, because I had in my previous capacity been at an earlier estimates hearing and was well aware of both the evidence of Mr Nassios earlier, which was to the effect that he anticipated the investigation being concluded by the end of last year. That had been the case from memory around February or May of 2011. I was well aware of those views and the need for it to be dealt with quickly.

Senator ABETZ: Chair, I now have the article and copies of it. It even has a colour photograph of Mr Thomson for the witnesses and committee members. The staff only gave me a black and white version, so the committee members should be happy they have got a colour photo of Mr Thomson. But that is an article by Mr Steve Lewis, 6 January 2012, that was posted at 12:00 am. The source of that happens to be *Adelaide Now*, so undoubtedly it was a syndicated story. Having read that now, Ms Carruthers, does that remind you that your former boss went public saying that over two years in the overall scheme of things is unaccountably protracted? He said:

I would have been exceedingly reticent to allow proceedings to drag on.

Ms Carruthers: I have actually never seen this article before. I was overseas on 6 January of this year.

Senator ABETZ: You were overseas on 6 January.

Ms Carruthers: And happily in a media block out.

Senator ABETZ: I can understand that.

Ms Carruthers: I needed a rest.

Senator ABETZ: What happens whilst you were on leave? Did somebody else take over or was the investigation then just put on hold until you came back?

Ms Carruthers: I was only on leave for—

Senator ABETZ: Wait a minute, this is this year.

Ms Carruthers: Yes.

Senator ABETZ: This is this year, of course. Yes, sorry.

Senator Ludwig: 6 January. I suspect that would be called the Christmas period.

Senator ABETZ: That was when Mr Thomson already had engaged his Labor-funded lawyers to respond to the draft report. Is that correct?

Ms O'Neill: He had been provided potential findings and an opportunity to respond.

Senator ABETZ: After which, further time was sought and granted. Can I take it that Mr Williams's suggestion of 30 June 2009 that amongst other things:

... referrals to other authorities, e.g. the police, because of identified malfeasance, which can occur on the strength of discoveries from inquiries which do not require further investigation.

Can I assume that that was not done?

Senator Ludwig: The question was asked earlier. The answer from Ms Carruthers, if I remember correctly, was that she disagreed with that version of the question put by Senator Abetz. We are now re-exploring the same question again in a different way, by asserting it be true. Whereas the evidence to date does not concur with that view. I am not trying to stop your line of questioning, but I would ask it to be reworded to reflect what the question—

CHAIR: We do seem to have already gone there.

Senator ABETZ: Can it be confirmed to me that the matters that had already become clear as a result of inquiries to date—namely 30 June 2009—whatever those outcomes might have been, were not referred to the police?

Ms O'Neill: Ms Carruther's evidence was that there were no such findings in her view at that stage, as I recall it.

Senator ABETZ: Clearly, her then boss clearly disagrees with her assessment.

Senator Ludwig: That is your view.

Senator ABETZ: What I am asking you is: was anything referred to the police as a result of this memo sent by Mr Williams to Mr Nassios?

Ms Carruthers: Not that I am aware of.

Senator ABETZ: Was an active decision taken not to refer anything to the police around about 30 June 2009?

Ms Carruthers: Are you asking me whether the delegate discussed with me whether or not he should refer something?

Senator ABETZ: Yes.

Ms Carruthers: No, we did not have a conversation about that.

Senator ABETZ: Once again, we might have something for Mr Nassios if he is happy to return.

Senator FIERRAVANTI-WELLS: After receipt of correspondence from Slater & Gordon—

CHAIR: Senator Fierravanti-Wells, we asked Fair Work Australia to come back in respect to the answer to the question on notice 1066, which goes to the document that Senator

Abetz has been discussing. It is not reopening the estimates; we did more than five hours with Fair Work Australia yesterday. It is simply not a reopening; we have asked them to come back for that specific reason. I do not see your question to be in any way relevant to that question or the decision of the committee.

Senator ABETZ: Would it be fair to say that it was not only Mr Williams that referred attention by Fair Work Australia staff, or Australian Industrial Relations Commission staff charged with this inquiry, to the potentiality of criminality?

Ms Carruthers: I am sorry, Senator; I do not actually understand the question.

Senator ABETZ: It is pretty easy: was it only Mr Williams as at 30 June 2009 that talked about the possibility of criminality in this HSU investigation or were you alerted by other sources to the possibility of criminality in these two investigations?

Ms Carruthers: Are you referring to the BDO Kendall report?

Senator ABETZ: There is a good start. Any other source that you can think, of like lawyers, letters from anybody?

Ms Carruthers: Not that I am aware of.

Senator ABETZ: Ms O'Neill, have you been in contact with Mr Lee in recent times?

Ms O'Neill: I was today.

Senator ABETZ: What about?

Ms O'Neill: Once we were invited back, I asked whether he could look at the document in question and whether he had ever seen it or what, if anything, he had done with it. He looked at it and called me back and said that he has absolutely no recollection of ever having seen it before. I can certainly say that it was not one of the documents in the folders of materials that he provided to me when I became acting general manager.

Senator ABETZ: So it was on 30 June. What was Mr Lee's position?

Ms O'Neill: He had no position at that stage.

Senator ABETZ: That is the right. But Mr Nassios had a position that transferred over to Fair Work Australia, did he not? On 1 July, Mr Nassios's bosses changed from Mr Williams to Mr Lee, did they not?

Ms O'Neill: No, Senator. There was an acting general manager prior to Mr Lee's appointment.

Senator ABETZ: Who was?

Ms O'Neill: Ms van Rooden. I cannot recall the precise date of Mr Lee's appointment. I think it was in late July.

Senator ABETZ: So a few weeks after that event?

Ms O'Neill: I believe so.

Senator ABETZ: It is understandable that Mr Williams did not provide that document to Mr Lee because Mr Lee, I assume, had not been officially announced, let alone appointed, at that stage. Is that correct?

Ms O'Neill: As I understand it, Mr Lee was not appointed as of that date.

Senator ABETZ: Yes, but sometimes appointments follow the announcement of the appointment.

Ms O'Neill: I do not know when the appointment was announced.

Senator ABETZ: Understood. So if there was a duty by anyone to pass that on, and I am not saying that there necessarily was, one would assume that it may have been Mr Nassios.

Senator Ludwig: We do not know. That question is conjecture. I know you have tried, Senator Abetz, but it is.

Senator ABETZ: No. This line of questioning has arisen because of the witness's indication that she had spoken to Mr Lee, who had never seen this document before. If people were under the misapprehension that on 30 June there was one body and then on 1 July, the very next day, Mr Lee took over, questions may have arisen. But we have now established that Mr Lee took over at least four weeks afterwards, and chances are it was five or six weeks—but sometime in July—therefore it is not surprising that Mr Lee has never seen this document.

Senator Ludwig: I think that was the evidence.

Senator ABETZ: Yes, and so the person to whom this document was given was one Mr Nassios. I think we can be agreed on that—at least it was emailed to him.

Senator Ludwig: I think that is uncontroversial.

Senator ABETZ: Good.

Ms O'Neill: It is the case that whilst from 30 June Mr Williams had no responsibilities or role—

Senator ABETZ: That is right.

Ms O'Neill: he remained an appointee through until the end of December that year. So there was a period of time where both Mr Lee and Mr Williams were in the same building, if I can put it that way.

Senator ABETZ: Yes, and there was a sort of shared responsibility as well, wasn't there?

Ms O'Neill: Not in relation the registered matters.

Senator ABETZ: At what other times did you speak to Mr Lee about these HSU investigations?

Ms O'Neill: Since I was appointed, conversations about this have been generally limited to where, for example, there have been questions on notice or questions raised that relate to Mr Lee's knowledge or involvement or possession or otherwise of documents in relation to FOI applications and discussions with him about providing access to his email, computer accounts and things of that nature.

Senator ABETZ: So on a fairly regular basis, or not?

Ms O'Neill: No, I would not say that.

Senator ABETZ: Have we tracked down whether the email may have been passed on to anybody else? Has such an inquiry being undertaken?

Ms O'Neill: The email of Mr Williams?

Senator ABETZ: Yes.

Ms O'Neill: Whether it was passed on to anyone else within FWA?

Senator ABETZ: Yes. It would be surprising if it had been, but I am just asking. It has not, to your knowledge?

Ms Carruthers: I certainly did not forward it on to anyone else within Fair Work Australia.

Senator ABETZ: In relation to the FOI request that had been previously made, do you have that schedule of documents with you?

Ms O'Neill: I am sorry, but I do not.

Senator ABETZ: Document No. 17 is listed as 'Various agendas titled "Fair Work Australia Weekly Meeting. Terry Nassios"'. Are you aware of the documents I am referring to?

Ms Carruthers: I believe so.

Senator ABETZ: They are neatly redacted and all we are really told is that it is 'Fair Work Australia Weekly Meeting. Terry Nassios. Agenda'. Sometimes we are lucky to be told 'HSU update'—usually that is the case and there are numbers of them. Ms O'Neill, are you aware of what those meetings were?

Ms O'Neill: Yes. In answer to your question on notice SQ1228EW, I refer to those meetings in there. It was essentially a meeting between the then general manager and Mr Nassios as his direct report—

Senator ABETZ: With Mr Lee?

Ms O'Neill: Yes.

Senator ABETZ: So there were quite a number of these meetings?

Ms O'Neill: They were generally weekly, and I maintain the same practice, but on a number of occasions since I have been in the role the meetings did not proceed.

Senator ABETZ: We have in this schedule of documents item 24, description: meeting minutes, titled 'HSU strategy meeting exempted in full'. Can you explain to me the material difference between the agendas and the minutes given that so much of the agendas were redacted? At least we were given a bit of paper as a bit of comfort, but we do not have any document provided in relation to the meeting minutes titled 'HSU strategy meeting'.

Ms O'Neill: That was a decision of the FOI officer following legal advice. I am not sure I can take it much further.

CHAIR: Senator Abetz, can I draw your attention to 1066, which is the question we are here for.

Senator ABETZ: Right. The following question, which was also delivered, dealt with the irregularity of meetings, and in fairness I thought we were dealing with that answer as well—1075, which was delivered today as well.

CHAIR: We were not. It was specifically about this email.

Senator ABETZ: That was clearly the majority of what we were going to talk about, but I thought it was 1075 as well. We were provided with an answer to 1075_12: do you happen to have that handy as well? It was on the weekly meetings with the Australian Government Solicitor.

Ms O'Neill: Yes, I have that.

Senator ABETZ: Is there any reason now that those minutes cannot be released in full given that you have finished your investigation? With this email, you are saying that now the investigation is over you can release most of it. Is it appropriate to revisit the agendas and also the minutes?

Ms O'Neill: I will certainly take that on notice and obtain some advice. That may well—

Senator ABETZ: Can you possibly assist us with whether those full minutes and agendas appear in those seven volumes of information.

Ms O'Neill: They would not.

Senator ABETZ: What those documents disclose is that there seem to be a fairly regular number of meetings between the general manager and Mr Nassios dealing with the progress of this inquiry.

Ms O'Neill: Are you referring to the weekly meetings or the strategy meetings?

Senator ABETZ: Both. If you add them all up together there seem to have been quite a few meetings:

The former General Manager had a regular, generally weekly, meeting with each of his direct reports, including Mr Nassios as the Director ... These meetings were general purpose discussions and an opportunity for Mr Nassios to raise any matters or issues. Usually a short agenda ... included the progress of the HSU investigations.

That would indicate that there were a number of meetings and that Mr Lee was keeping a very close watch on what was occurring. I have not in the brief time available located the evidence in *Hansard*, but Mr Lee basically gave us the impression that Mr Nassios was the delegate and he dealt with the issues. That might be a time for another estimates. These agendas were released in part or in whole in response to the FOI request. Over the dinner break, I had a look and I am not sure that any of them were released in whole.

CHAIR: We now seem to have moved completely off the question that Fair Work has been brought back for. I want to be as tolerant as I can, but I think Ms O'Neill has taken on notice whether she can release all of things to you. Again, I am just hoping we might be able to wind up now.

Senator ABETZ: We are told the answers were released in part or in whole, and those that were not redacted had an asterisk with 'papers attached', but of course no papers were attached to the FOI. Clearly, the agenda was not provided to us in whole on any occasion.

Senator Ludwig: It would seem to be, Chair, that the general questions could be put on notice at this point unless they relate.

Senator ABETZ: I am just wondering what the convoluted explanation is going to be for the delayed response for answer 1075. Chair, I laboured under the misapprehension that we could deal with both of the questions that were tabled at the same time. You clearly were not of that view. I can understand that. There was a miscommunication and I do not want to take it any further than that. Chances are it is a 50/50 blame. But if Ms O'Neill is in a position to be able to deal with this matter, it would be helpful, because we had the minutes denied to us. Exempted in full, yet we were given a summary of the minutes. Why were they exempted in full, but in the list of documents that we were then given there was a paraphrased version of the minutes?

Senator Ludwig: Chair, for my clarity, are we talking about FOI released documents by FOI officers according to the FOI legislation or, secondly, documents provided at estimates as requested by senators? They are two different requests. You may find that in a proper constructed FOI request, you may get a redacted document or you may not get the document at all. You may get the full document. In estimates, you might find a much different answer.

CHAIR: I think we may well be, but I think Ms O'Neill, you will take that question on notice.

Ms O'Neill: Yes, Senator.

CHAIR: I think I would like to finish up there, Senator Abetz.

Senator ABETZ: The four points of these regular meetings of Mr Nassios with the general manager were interesting. In paragraph three it says,

... avoid a situation where significant chunks of information enter the public arena with the potential of appearing, for instance, to place public pressure upon the outcome that is expected from FWA ...

And paragraph four says:

... maintain the integrity of the process.

As you go through in order, media management for the general manager at the time was clearly a more important consideration than the integrity of the process, which is a matter of concern. You cannot answer for that, because Mr Lee was the general manager at the time.

Ms O'Neill: I cannot answer in relation to that, but Ms Carruthers may be able to, given that she was involved in those matters—in terms of whether there was any priority in relation to the terms of reference for those meetings or otherwise.

Ms Carruthers: I think the best description that I can probably give you of my understanding of the purpose of these meetings was principally to preserve the integrity of the investigation. Fair Work Australia found itself in a situation where there was a small team of people conducting the investigation, but the issue of the Health Services Union investigation was much bigger for Fair Work Australia as a whole. We were getting media inquiries. We had subpoenas served upon us in the defamation proceedings. As you have referred to early, we received contacts from police forces. As I understand it, the general manager was very conscious that in him dealing with these broader issues that emanated from the investigation, but were not actually part of the investigation, he did not ever want to do anything that was going to adversely affect the investigation, in particular, the powers that he needed to exercise under section 336(2) at the conclusion of the investigation.

Senator ABETZ: Were you a direct report to Mr Lee?

Ms Carruthers: No.

Senator ABETZ: You were not included in these meetings?

Ms Carruthers: I did attend the meetings.

Senator ABETZ: We were told he 'had a regular general meetings with each of his direct reports'.

Ms Carruthers: Sorry, I may have confused you. I am referring to the strategy meetings, not to the weekly meetings between Mr Nassios and Mr Lee.

CHAIR: I really think we need to wind. I ask senators to place any further questions on notice.

Senator ABETZ: Can I just ask whether any of the officers at the table received advice from any solicitors or the Australian government solicitor about their appearance here this evening?

Senator Ludwig: No.

Senator ABETZ: No advice was sought?

Ms O'Neill: No.

Ms Carruthers: No.

Senator ABETZ: Ms Carruthers, so that there can be no doubt, I refer again to paragraph 3(a) of the email of Mr Williams dated 30 June 2009, into which you were cced. He said:

There should be a clear plan and actions arising from the outcome of the inquiries to date

a. Including ... any actions and referrals to other authorities (e.g. to the police because of identified malfeasance ...) which can occur on the strength of discoveries from inquiries which do not require further investigation ...

You do not read that on face value as requiring or suggesting that these matters should have been referred to the police shortly after the 30 June 2009?

Senator Ludwig: Chair, I understand that this is a desperate attempt to—

CHAIR: We have dealt with this. I will let Ms Carruthers respond to that. Then we will finish.

Ms Carruthers: As I have said previously, in my view there was no identified malfeasance.

CHAIR: Thank you, Fair Work Australia for your recall.

Senator ABETZ: I am sure Mr Thomson would be pleased. Nobody else agreed.

Senator FISHER: Do I request a private meeting, Chair?

CHAIR: You can do whatever you like. Senator Fisher, there was an agreement between me and the deputy chair how this would be handled. You regularly do this. I am not going to tolerate it. I have been very tolerant through the whole process.

Senator FISHER: I request some clarification.

CHAIR: Thank you, Fair Work Australia for your attendance and for returning at the committee's request.

Senator FISHER: Can I request some clarification?

Senator ABETZ: Chair—

CHAIR: We will now take a short suspension.

Proceedings suspended from 21:13 to 21:30

CHAIR: I call the committee to order. Thank you, Ms Paul, for your indulgence with that change to the program. We now resume questioning, and I think we are in outcome 4.

Senator ABETZ: Does the government or the minister stand by the findings of the Fair Work Australia report into the HSU national office?

Ms Paul: Which of us are you asking?

Senator ABETZ: I am asking the Parliamentary Secretary.

Senator Jacinta Collins: I am not sure that it is a matter of standing by them, I will take that on notice for the minister.

Senator ABETZ: When we asked it, under Fair Work Australia yesterday, the minister at the table said to wait until outcome 4 and we will then give you an answer when the department is present. We are now here with the department and guess what, the question is taken on notice. There is nothing we can do; let us move on. Can we be told, Secretary, as to whether you read every answer that is provided to the parliament?

Ms Paul: Do you mean questions on notice? Generally.

Senator ABETZ: Generally. Which ones do you not read?

Ms Paul: Sometimes if I am interstate, for example, and I am not here to have a look at them as they go through I might miss some, but on the whole—I literally mean generally—I would see them. There are hundreds and hundreds so I would not claim necessarily to spend too much time on them but generally I do see them.

Senator ABETZ: Right. So you do not read them word for word?

Ms Paul: Some of them I do.

Senator ABETZ: Some of them you would, special ones that are brought to your attention, where you think there might be certain sensitivities, for example. That would be, if I might say, a reasonable thing for you to do.

Ms Paul: I generally read all of them. Unless, as I say, I am not here.

Senator ABETZ: Quite honestly, I hope you do not. As the secretary of the department, given the limited hours in the day, I would have thought that might be a stretch on your day. You tell us you do.

Ms Paul: Our responsibilities to the Senate are important to me and so I do put that time into them when I can, yes.

Senator ABETZ: What about agency answers. Independent agencies that we are always told are independent.

Ms Paul: I see them going through but I would not pay as close attention to them as I do to our own answers.

Senator ABETZ: Tell us, what attention did you pay to question 1066?

Ms Paul: I actually do not remember it, even though it was last week; my in tray is very high each day.

Senator ABETZ: You do not remember it?

Ms Paul: I do not remember it, but the record shows that I cleared it on the 24th so I presume I looked at it and sent it on.

Senator ABETZ: Mr Kovacic, can you again tell us about the process that was gone through on question 1066?

Mr Kovacic: Certainly. As I indicated there were several questions on notice that the minister's office asked the department to have a look at to ensure their accuracy. One of those was EW1066. The other three were 0884, 1075 and 1078. They came to the department in mid April. Shortly after that, I had a conversation with Ms O'Neill in terms of those various

questions. I subsequently had a conversation with Ms O'Neill towards the end of April, as I mentioned earlier this evening, and she indicated in respect of 1066 that it had been finalised, if I can put it that way.

Senator ABETZ: What date was that?

Mr Kovacic: It would have been late April. I cannot give you a precise date. Then, as I mentioned again earlier this evening, the week before last there was an email from the parliamentary area inside the department highlighting outstanding questions on notice, of which one was 1066. I think the other three were also listed as being outstanding. I again followed up where the version of 1066 that had been put through, if I can put it that way, was up to. I cleared the versions of those responses to those four questions over the course of the weekend before last, before I went on leave last week—

Senator ABETZ: So what date was that?

Mr Kovacic: I would have cleared them—Monday would have been the 21st—so I would have cleared them on the weekend of the 19th and 20th. They would have then been processed through our parliamentary area and also been cleared by the Secretary in our parliamentary area over the course of last weekend. As I mentioned this evening, a hard copy was provided to Minister Shorten's office yesterday. Minister Ludwig indicated that was at 2.30 yesterday afternoon.

Senator ABETZ: Where were the changes made to these answers?

Mr Kovacic: The changes were made by Fair Work Australia.

Senator ABETZ: In your discussions with Ms O'Neill, did she ever reveal to you that the document that we were talking about had already been made available to the Senate on 7 May, some two weeks earlier?

Mr Kovacic: No.

Senator ABETZ: No, she had not.

Mr Kovacic: That is because the conversations I had with Ms O'Neill were in late April, as I mentioned before.

Senator ABETZ: But you then had further conversations with her, did you not?

Mr Kovacic: No, I did not. I authorised the versions and, because I was away interstate for the first part of the week before last, I asked my assistant to chase up the latest versions of the draft responses to those four questions.

Senator ABETZ: Wait a minute. We had a draft version from Fair Work Australia provided to the department.

Mr Kovacic: There were initial drafts of responses to those four questions that were provided to the minister's office in March. In respect of 1066, the draft response did not seek to provide a copy of Mr Williams' email and did not have attached to it a copy of the email, on the basis that at that stage the investigation was still continuing. When I spoke initially with Ms O'Neill around about the middle of April I said, 'You may wish to consider, given where the delegate's investigation had concluded and Ms O'Neill was considering what action to take in respect of the investigation report, that she may wish to consider whether it was now appropriate to provide a copy of that email in response to the question on notice. The first time that I saw a draft response which had attached to it the redacted version of the email

late the week before last. As I mentioned, I prepared that together with the other three questions on notice over the course of the weekend 19-20 May

Senator ABETZ: Did you see an unredacted version of the email?

Mr Kovacic: I do not think so. I cannot recall. I am pretty sure I did not.

Senator ABETZ: I think you have already agreed to take on notice, but can you give us an accurate timeline of all the discussions you have had with Ms O'Neill with that particular answer?

Mr Kovacic: I can do my best, in the sense of trying to be as precise as I can, but it would rely on whether I took notes of the conversations.

Senator ABETZ: I bet I know what the answer will be. What other contact have you had, Mr Kovacic, with Fair Work Australia?

Mr Kovacic: Most recently, I represented the Commonwealth in the Union Wage Review. I have had a number of conversations with the president in respect of matters going to some questions that were taken on notice—if I can describe it that way—at that particular hearing. In terms of discussions with other members of the tribunal, that occurs from time to time depending on whether there are particular matters—

Senator ABETZ: What about Ms O'Neill?

Mr Kovacic: I had a conversation with Ms O'Neill, as I do with all the portfolio agency heads in the lead-up to Senate Estimates to assist in briefing of the ministers for Senate estimates. I would have also, at various stages, spoken to Ms O'Neill about the timeframe for conclusion of the process—if I can put it that way—of the various HSU investigations and where those might be. But those conversations never went into the substance of the investigations or any of the matters dealt with in the investigations in their reports.

Senator ABETZ: Did you then report or advise on any of those investigations to the minister's office?

Mr Kovacic: I probably informed the office in terms of timelines, but because those conversations were limited to that, that is all it would have been.

Senator ABETZ: Would anybody else from the department have been in contact with Fair Work Australia?

Mr Kovacic: Not on those issues, Senator.

Senator ABETZ: It seems each time we ask more questions we discover more contact with Fair Work Australia and the minister's office, and now we find—and I do not say that the department has withheld this information—the department makes inquiries of Ms O'Neill that are given back to the minister. A short but direct question has not been asked before but we now see even more contact being revealed between Fair Work Australia and the minister's office.

Ms Paul: Just to be clear for the record, Mr Kovacic has just said—and I would like to reiterate as it is very important for the record—that, on this matter, we have never discussed the content of the investigation. We have discussed things like timing and so on. I know I am repeating Mr Kovacic, but I think it is important to note.

Senator ABETZ: I did not assert that you had.

Ms Paul: No, thank you, Senator. I appreciate that.

Senator ABETZ: Ms Paul, you indicated that a lot of these questions you do not really read, but, nevertheless, you sign off on them.

Ms Paul: I do not think I quite put it that way—it would be a bit unfortunate to put it that way—but there would be some I would spend more time on than others. I do not spend as much time on questions from the agencies because they are a matter for the agencies.

Senator ABETZ: But on this occasion, the department did intervene did it not?

Ms Paul: Mr Kovacic has described that. In terms of my own role, I have already answered that.

Senator ABETZ: So why was this particular question intervened upon, as opposed to all the others?

Ms Paul: Mr Kovacic has described exactly that.

Senator ABETZ: We know what happened, I want to know why this one was picked up on.

Ms Paul: This is not the only one that was picked up, of course. Mr Kovacic has already named four.

Senator ABETZ: This is the only one, is it?

Mr Kovacic: There were four, Senator, and I read out the numbers before.

Senator ABETZ: We have dealt with a lot more questions over the years with Fair Work Australia than just four questions. What I am trying to figure out is how often departmental intervention occurs in relation to agency answers that are provided in draft form—where the department intervenes and makes a suggestion.

Ms Paul: You are asking in a general sense?

Senator ABETZ: Yes.

Mr Kovacic: It is not unknown—if I can describe it that way.

Senator ABETZ: Clearly it is known now.

Mr Kovacic: Perhaps 'uncommon' would be a better word. There have been previous occasions where, with draft responses to questions on notice from portfolio agencies, I have been asked by the relevant minister's office to cast an eye over it, if I can put it that way, to ensure the accuracy of those responses.

Senator ABETZ: Let us move to some other questions on notice. What about No. 1154? Can I be told on what date the department provided the briefing material in question to the minister's office?

Mr Kovacic: I would have to take that on notice, but I think it would coincide fairly closely with the actual date of the release of the AHRI report.

Senator ABETZ: If you can tell us on notice that would be helpful. Turning now to question No. 1158, on whose instruction or suggestion was I given the benefit of bold type in the answer? It is sort of humorous, yet it is very sad that this sort of nonsense goes on. Let us first of all discover who it was that thought I needed the benefit of bold type to have certain matters of an answer highlighted to me.

Mr Kovacic: I cannot recall the suggestion but in terms of—

Senator ABETZ: You have the answer in front of you?

Mr Kovacic: I have it in front of me.

Senator ABETZ: You will note that in the answer we have three sections where the type is bolded, so on whose initiative was this bolding undertaken?

Mr Kovacic: I cannot recall on whose initiative it would have been provided but can I give you an indication as to why it is there. This question was a follow-up question to a previous question on notice where I think you expressed—without wanting to verbal you—that you did not believe that parts of the question had been responded to in the form you that you would have liked, so the emphasis was added I think to highlight the information that we might have that goes to the core issues that were asked in question Nos. 6, 7 and 8.

Senator ABETZ: All right. So on whose initiative was this? We do not know.

Mr Kovacic: I cannot answer that.

Senator ABETZ: Ms Paul, did you notice the strange bold typing that would not occur on a regular basis in answers? As it came across your desk, did that alert you that this might possibly be an answer worth reading?

Ms Paul: I do not remember my reaction. I do not know when I would have looked at this.

Senator ABETZ: Mr Kovacic, will you take on notice whether this initiative of bolding the type was from the department or from the minister's office?

Mr Kovacic: Certainly.

Ms Paul: I do remember the context as Mr Kovacic has described.

Senator ABETZ: The context is this: at what time did the telephone conference with ministers take place and which ministers were involved? 'Which ministers were involved' was the question. We have gratuitously bolded for me:

We immediately had a telephone meeting of ministers.

That tells me straightaway, doesn't it, which ministers were involved? You then bold another one:

I had a discussion with the Prime Minister and we had discussions between ministers.

Once again, it does not tell me which ministers. Then, we have another bolding:

When the Minister for Infrastructure and Transport was informed of their decision, which they said was non-negotiable, he rang me—he rang the Treasurer—and I then spoke to him. I subsequently spoke to the Prime Minister and to a number of other ministers ...

Which of those bolded sections tells me which ministers, which is what I had specifically asked originally? I then asked again in this question and you have the audacity to come here and tell me that I have misunderstood the answers and so to highlight the actual answer we have them bolded to let me know which ministers. Can you tell me—from the bolding of these answers—which ministers were involved in these telephone hook-ups?

Mr Kovacic: From the bolding, no. In terms of the answer itself, one could assert Minister Evans, Minister Albanese, the Prime Minister, and the Treasurer, would have been involved in the conversation.

Senator ABETZ: Amongst others.

Mr Kovacic: I do not know about that.

Senator ABETZ: No, amongst others because—

Mr Kovacic: I cannot say.

Senator ABETZ: It looks as though I will have to bold some of my questions for you, Mr Kovacic. The answer reads, in part:

When the Minister for Infrastructure and Transport was informed of their decision, which they said was non-negotiable, he rang me—

That was Senator Evans—

—he rang the Treasurer—and I then spoke to him. I subsequently spoke to the Prime Minister—

They are all the ones you have just mentioned.

and to a number of other ministers ...

Who are these other ministers? Which ministers? Where am I told?

Ms Paul: I do not want to split hairs, but you are exercised about this. You asked which ministers were involved in the teleconference. You did not ask which other ministers. So we have answered. As Mr Kovacic indicated, I am not sure of the number of other ministers who were part of the teleconference. It is not to say we cannot answer that question, but I just want to be clear.

Senator ABETZ: Ms Paul, please. It says:

We immediately had a telephone meeting of ministers.

That was the teleconference, was it not? A telephone meeting of ministers. Which ministers are included in that? We are not told, are we? We are then told later:

When the Minister for Infrastructure and Transport was informed of their decision ... he rang me ... I then spoke to him. I subsequently spoke to the Prime Minister and to a number of other ministers ...

They are all individual telephone calls, not the telephone conference or teleconference.

Ms Paul: If you wish, we will take it on notice.

Senator ABETZ: Third time lucky, we might be told which ministers.

Ms Paul: We need to ask Minister Evans as again, presumably.

Senator ABETZ: I trust the bolding was not an initiative of the department—

Senator Jacinta Collins: We will not forget the bolding, Senator Abetz.

Senator ABETZ: given the non-answer and the agreement now to take it on notice, yet again.

Ms Paul: You appreciate it is not an answer which we would know, so we need to go to the relevant ministers to ask.

Senator ABETZ: The little bolding exercise, which we have now agreed did not provide any answer or the material as to which ministers partook in the teleconference.

Ms Paul: It probably was not the purpose of the bolding.

Senator ABETZ: I am sorry, Mr Kovacic just told us that it was—that the purpose of the bolding was that the question I had asked previously had in fact been answered and that is why this was bolded to alert me to the fact that it had been answered. We are now agreed that it was not answered.

Mr Kovacic: Can I add, there are three strands to the questions: firstly, around time; secondly, ministers who were involved in any teleconference; and, thirdly, any other people who are not ministers who might have been involved in a teleconference. If the bolding was instigated by the department, it certainly was not intended to offend. It was to highlight those elements of public statements, as indicated in the question, 'Can you please draw my attention anywhere where in public statements Minister Evans and Albanese ...' They told us who else was involved in the teleconference. In terms of the specifics, we have endeavoured to do that the best we can, but, as Ms Paul has indicated, we were not involved in the teleconference.

Senator ABETZ: Of course you were not, but in the desire to defend the government and the minister—I was told that this had been drawn to the public's attention by the department. But when I ask where in the public domain this is, you are unable to answer. That is the difficulty—with respect—you get yourself into when you run to the defence of ministers and government.

Senator Jacinta Collins: Senator Abetz, I think you are being quite outrageous here. Mr Kovacic has given you a reasonable answer to your question.

Senator ABETZ: Senator Collins, can you tell me where in this answer I am told which ministers were involved in the teleconference.

Senator Jacinta Collins: That is not the only content of the question.

Senator ABETZ: No, but where in the answer—

Ms Paul: That is not the nature of bolding either.

Senator ABETZ: Oh, I see. So if I ask 10 questions and you give me an answer to one, it obviates the need to answer the other nine.

Senator Jacinta Collins: That is not being suggested either.

Senator ABETZ: Can you then tell me where I am told in this answer which ministers were involved in the teleconference? We were told publicly who they were and so when I ask again because I did not know that we had been told publicly, you are unable to tell us? How about taking it on notice? Let us have a third crack at being told who, or which ministers, were involved in this teleconference.

CHAIR: Let us establish a position of no bolding in answers to questions and no exclamation marks either.

Senator ABETZ: I must say I reckon most senators around this table when they get letters that have—

CHAIR: Twenty-seven exclamation marks—

Senator ABETZ: And excessive bolding in it, one immediately takes a second look and wonders who wrote it. I hope we do not have to start exercising those judgments about the department's answers. I suspect it may well be the ministers. But we shall see. Let us turn to the incoming minister brief that was prepared for Mr Shorten. It is nice to know that the department in its welcoming letter to the minister, in the very first paragraph, reminds the minister that your portfolio has a key role in the Australian government's efforts to improve Australia's productivity and enhanced wellbeing for all Australians. The importance of productivity being recognised by the department, can I simply say on the way through, is

welcomed. Mr Kovacic, I think you prepared the incoming minister's brief, did you? Ms Paul signed off on it, but who did the brief?

Ms Paul: It comes from a range of areas in the department that service Mr Shorten, of which of course Mr Kovacic's is one.

Senator ABETZ: Was any of the incoming brief redacted?

Ms Paul: Yes, I think some of it has been.

Senator ABETZ: In the good old days when things were redacted, you had the old black texta obliterating things, whereas I am suspecting now somebody who has got some PR credentials just whites it out so you get these nice looking pages just with white blanks on it but it is not necessarily indicative as to whether anything has been removed or blanked out.

Ms Paul: It is indicative, and if—

Senator ABETZ: Whoever has changed from blacking out to whiting out, I must say, it does not make it as exciting to hold to a TV camera anymore. Well done to the PR person who has made that suggestion. But, can I say, it does then make it difficult, for example, on the overview page, whether there should be an item 6 or 7. I suspect not.

Ms Paul: I think not.

Mr Kovacic: I do not think there was anything redacted on that page.

Senator ABETZ: What about current key issues? There seems to be a bit of a suspicious gap in there.

Ms Paul: Something has been redacted.

Senator ABETZ: Can you understand that, while I like the idea of whiting out rather than blacking out for PR purposes, it does not immediately advise the reader that something has actually been removed.

Ms Paul: Right.

Senator ABETZ: Can I invite you to consider going back to blacking out so that we can understand what has actually been removed?

Ms Paul: I do not mind and we had not really thought about it in that particular way but I take your point. That is fine, if it would make it clearer.

Senator ABETZ: Thank you for that.

Senator Jacinta Collins: Is this the first time you have seen whiting rather than blacking out?

Senator ABETZ: I think so, yes.

Ms Paul: I think we did another one of these earlier on which have had a similar approach.

Senator ABETZ: Fair Work Australia blacks out, so at least we know what they do. Chances are you are right, Chair, that my innocent mind never thought that somebody would change from blacking out to whiting out and thus possibly mislead me. But on this occasion I did come to that conclusion that regrettably may have occurred.

Ms Paul: Certainly there was no intention to mislead in any way, obviously, and I am quite happy to consider doing it the other way.

Senator ABETZ: If I may, I will finish working on this incoming ministerial brief and then hand over to Senator Siewert. Can I go to page 29 of the incoming ministerial brief which has hot issues? I am sure, Ms Paul, you did not proofread this incoming ministerial brief because we are told about the department of employment and industrial relations. That is about halfway down—the fifth bullet point—not that it matters; we know what we are talking about. But more seriously, further down it says:

The Minister is required to consult with the opposition spokesman for industrial relations—

I thought we had changed the terminology but that is all good—

and the head of Fair Work Australia prior to making any decision about appointments to recommend to Cabinet.

Are we able to advise whether that actually happened? I know I received a phone call from Mr Shorten.

Ms Paul: You received a phone call.

Senator ABETZ: Which was to tell me who he had decided to appoint and that he was going to announce it in about—I hope I do not do him any injustice but I think—in a couple of hours or three hours.

Ms Paul: I think it was a bit longer than that.

Senator Jacinta Collins: A bit longer than that—a couple of days.

Mr Kovacic: My understanding is that the minister wrote not only to you as the opposition spokesperson but also to state and territory ministers regarding a number of proposed appointments. I understand that the letter was undated—if I can put it that way—but we understand that it was dispatched from Minister Shorten's office on 20 February.

Senator ABETZ: I was given a list of names in a letter about seven days before the announcement was made, but in the letter I was not given any timeline by which to respond to the minister's office in the event that there were any concerns or objections. Then out of the blue I got a phone call—as we were still undertaking due diligence, might I add, including on Mr Bernie Riordan and the Supreme Court actions against him. I received the phone call from Mr Shorten advising me who was appointed. So, just for the record, that is the consultation. Was Mr Ross consulted? Or was it Mr Guidice?

Mr Kovacic: My recollection was it was Justice Guidice.

Senator ABETZ: Right, so the previous president; understood.

Mr Kovacic: Without wanting to be pedantic, the typo that you picked up before, I think that might be a reflection of the language of the Forward With Fairness policy which goes to the merit selection process so it is probably an exact quote from that. Just to set the record straight for our proofreading capabilities.

Senator ABETZ: So this is from the ALP, is it?

Ms Paul: It is the government commitment.

Mr Kovacic: Forward With Fairness is the policy document that was set out.

Senator ABETZ: That is all good. Page 32—changes to the ALP platform. The minister is being advised about the changes to the ALP platform. Parliamentary Secretary, can you advise whether the changes to the platform are binding on the parliamentary party?

Senator Jacinta Collins: I have not seen the brief.

Senator ABETZ: But are changes to the ALP platform binding?

Senator Jacinta Collins: First of all, I would like to see the context. It says:

A number of changes to the ALP Platform ... were endorsed by the ALP National Conference—

Senator ABETZ: Are they binding on the ALP government?

Senator Jacinta Collins: Binding in what respect?

Senator ABETZ: As in, they are required to change the legislation as requested.

Senator Jacinta Collins: Various aspects of the platform have different timeframes envisaged and you would have to respond to that sort of question in context of what measure you are talking about.

Ms Paul: Even this brief here talks about suggesting the minister engage with a wide range of stakeholders.

Senator ABETZ: Who is suggesting that?

Ms Paul: I think we are, in the brief.

Senator ABETZ: So it is not the ALP resolution, thank you, Ms Paul. That is what we are talking about. The resolution did not talk about consulting with stakeholders?

Ms Paul: I am going to your point about whether it is inevitable—or whatever the words were that you used—

Senator ABETZ: Is it binding? Clearly you are not the expert.

CHAIR: Senator Abetz is now asking the parliamentary secretary a pure issue about ALP processes.

Senator ABETZ: Exactly.

CHAIR: I think Ms Paul was actually thinking that you were still asking about the broader context of the brief to the minister. Let us just be very clear, this question is to the parliamentary secretary. I am also keen to hear the answer.

Senator Jacinta Collins: Firstly, I am responding to 'How is it binding?' It depends on the nature of the measure. If you look at the first measure here, we are talking about 'examining additional measures to support the activities of workplace delegates'. The government will be doing that.

Senator ABETZ: Right, as they will be doing all the other dot points because the resolution is binding. Thank you. Then can I ask about the possible criticism that has been identified by the department? It reads:

Changes to the workplace relations system will be implemented without sufficient consultation with all stakeholders and consideration of their views on the impact of any changes.

That is a possible criticism that the department identified, is that correct?

Ms Paul: What we are identifying there is the possibility— that does not mean it is going to happen.

Senator ABETZ: That is right, possible criticism was identified. Parliamentary Secretary, were these matters referred to the Fair Work Act review? It is clear that the ALP National Conference has now determined that certain things should change irrespective of what the

Fair Work Act review might find. For example, 'strengthening the laws which prohibit sham contracting'—that is just an example. I do not want to get into the rights and wrongs of that, but if the Fair Work Act review were to find that there is no problem in the area of sham contracting, yet we have got a National ALP Conference Policy that says there is, which one gives?

Senator JACINTA COLLINS: We are talking hypotheticals here, Senator. I will take that on notice.

Senator ABETZ: Has the department set about in any way seeking to implement these six measures that have been identified as emerging from the ALP National Conference?

Mr Kovacic: No, Senator, they are all issues that we anticipate are likely to be canvassed as a result of the Fair Work Act review. As Senator Collins has indicated, as to whether any of those issues have been brought to the panel's attention by the government, that is a question that the minister has taken on notice. That is not to say that they may not have been raised by other stakeholders in terms of their submissions.

Senator ABETZ: Of course, and I was not asking about that. Let us see what that tells us then. I move to page 37 of the Hot Issues brief. Can I have confirmed that, on the abolition of the Australian Building and Construction Commission, the photocopier did not give in, but in fact a certain section was redacted?

Mr Kovacic: That would be my assumption, just looking at the document.

Senator ABETZ: If it were all dark black, you would not have to make any assumption, would you, Mr Kovacic?

Mr Kovacic: I think that the absence of the margin line—if I can describe it that way—would suggest to me that it has been redacted.

Senator JACINTA COLLINS: I think we have already accepted your point, Senator Abetz.

Senator ABETZ: Under this, we were told, 'The department will provide a copy of its draft submission to your office for consideration shortly.' That occurred? That was approved? Has that happened?

Mr Kovacic: I would have thought so, since the department made a submission to that Senate committee inquiry.

Senator ABETZ: And then there is the possible criticism, Senator Siewert, that the Australian Greens might raise—but we will not canvass that one tonight. It is a spooky thought, trying to get into the mind of the Australian Greens as to what they might come out with next. Can I ask in relation to that with the ABCC, did you brief the minister? I am now going off the incoming brief into the topic of the new building inspectorate, as to where the idea came from that, if you were to arrive at a private settlement as between parties—let us say like John Holland and the CFMEU did in relation to the Westgate Bridge—the building inspectorate would no longer be able to pursue its prosecution in the matter?

Mr Kovacic: You are asking whether—

Senator ABETZ: Where that originated from. Did that arise from departmental consultations? Was it as a result of union representations, employer representations, Australian Greens representations—which I suspect.

Mr Kovacic: It was not a suggestion from the department. In terms of precisely where the proposal came from, I am not entirely sure. I am happy to take that on notice.

Senator ABETZ: Was the department consulted about the change?

Mr Kovacic: Yes, we were.

Senator ABETZ: When?

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

Senator ABETZ: When the debate was already taking place in the House of Representatives?

Mr Kovacic: To be precise, I would really prefer to take that on notice.

Senator ABETZ: I know you would, but what about the gentleman next to you? Does he know the answer?

Ms Paul: I think we have just answered the question.

Senator ABETZ: If the gentleman—and I am sorry, I cannot see your name—Mr Willing, is it?

Mr Willing: Yes.

Senator ABETZ: The glasses were in the way.

Ms Paul: Senator, we have answered the question. I am not happy about trying to get a different answer from someone else. We have answered the question.

Senator ABETZ: Secretary, you can just say 'We'll take it on notice' to every single question that is asked; that is your right.

Ms Paul: We never do that.

Senator ABETZ: But we are entitled to ask why the question is being taken on notice?

Senator Jacinta Collins: Mr Kovacic already answered that.

Ms Paul: Mr Kovacic is being absolutely responsible in saying that he prefers to take that on notice to get—

Senator ABETZ: But Mr Willing had—

CHAIR: Senator Abetz, let the officers finish. I think that was an unfair assessment. This committee does go out of its way to be very helpful, really.

Ms Paul: We always go the extra mile, if we can. Mr Kovacic just wants to get it right. I think that is fair enough and I am not happy with trying to split up witnesses in this way. If you do not get the answer you want from Mr Kovacic, you ask someone else.

Senator ABETZ: What we have is an oversight officer, Mr John Kovacic, and Mr Jeff Willing, who clearly had from all appearances carriage of the matter and might have actual detailed knowledge that can be provided now, which then allows further questions to flow. Does Mr Willing know when the department was first consulted by the minister about the amendment that was moved in the House of Representatives?

Mr Willing: I do not know for sure; I would need to check.

Senator ABETZ: What is your best assessment?

Senator Jacinta Collins: We have taken it on notice.

Senator ABETZ: Was it when the House of Representatives was debating the bill, or was it before?

CHAIR: The question has been taken on notice and we do need to leave it there.

Senator Jacinta Collins: This question has already been asked and taken on notice.

Senator ABETZ: What is the difficulty? The witness either knows whether it was or was not and—

Mr Kovacic: We do not have specific recollection of the dates. We have taken the question on notice so that we can actually provide the committee with accurate advice as to that. And we are not in a position to add to that, unfortunately.

Senator ABETZ: I can understand that the date may escape us from time to time. But when it is contextualised in the debate that it occurred in the House of Representatives, the official may well be able to say, 'I can't recall the date, but I do recall that the amendment was moved by a Green in the House of Representatives and after it was moved in the House of Representatives the minister asked the department for advice,' without telling us what the date was, but it might provide a recollection for the official. That would be very helpful.

Mr Kovacic: My recollection is that it was a government amendment that was moved to the bill. But in terms of the precise date either Mr Willing or I will be able to give you a sense of that or the general timing; but, clearly, it was part of the parliamentary debate. I cannot be any more precise than that. We have taken that question on notice, and we will answer that as best as we can and as quickly as we can.

Senator ABETZ: Can we be agreed that it was not part of the initial building inspectorate bill that was tabled about two years earlier?

Mr Kovacic: Yes, that is correct.

Mr Willing: Yes.

Senator ABETZ: Is it agreed that that amendment was only floated after the senate committee inquiry into the bill for a second time had provided its report and finalised its hearings on the bill?

Mr Willing: I would have to check those dates.

Senator ABETZ: All right. Take that on notice and then please take on notice as to who came up with the idea. Clearly, it was not—

Ms Paul: We already have. We have taken the dates and who.

Senator ABETZ: and why. Can you take that on notice as well.

Ms Paul: Sure.

Senator SIEWERT: I understand that of the \$2.1 billion that has been set aside for the case, FaHCSIA has been allocated \$1.2 billion. How much has DEEWR been nominally allocated for its—

CHAIR: Senator Siewert, we are having trouble hearing you.

Senator SIEWERT: Sorry. As you are probably aware, I have been chasing this through estimates. I asked FaHCSIA this morning about, what I understand to be, their nominal proportion of the \$2.1 billion that has been set aside for this. The \$1.2 billion of that funding is nominally for their projects. How much has been nominally allocated to your agency?

Ms Boundy: We have only one program affected by the case we have identified. That is Youth Connections. I do not have the exact figures with me, but it is a very small program in the whole scheme of the \$2.1 billion. I can on notice the exact amount.

Senator SIEWERT: Okay, that would be appreciated.

Senator Jacinta Collins: Just for completeness, there is also the education program.

Mr Kovacic: That is correct. That education information program, from memory, is \$1.2 million.

Senator SIEWERT: \$1.2 million.

Mr Kovacic: \$1.2 million.

Senator SIEWERT: Okay. So, again, it is relatively small one compared to—

Ms Paul: Very small part.

Senator SIEWERT: However, you are playing a key role, as I understand it, in helping determine the process for how this is going to be rolled out. I am specifically interested in Western Australia—because we are such as special case!—and what is happening in Western Australia and also how have you assessed how many people may be in scope. Can you take me through that process and some of the thinking around it, because we have not referred our powers.

Ms Boundy: Yes. Certainly in WA it is only constitutional corporations that are covered by the case. We provided some estimates to assist the Department of Finance and Deregulation when they did the costing. In estimating the coverage of SACS employees in WA under the case we provided an estimate of 31.2 per cent.

Senator SIEWERT: Has that been tested against what is happening in reality?

Ms Boundy: Yes, we are currently having a look at that now. We are still working through implementation issues associated with the funding allocation, which will be finalised once we have an equal remuneration order. In relation to Western Australia, we are consulting with the sector and we are also talking to the Western Australian government to assist our funding decisions for Western Australia.

Dr Morehead: We had already collected a fair bit of evidence around the types of employers in Western Australia which might come under the order and have some Commonwealth funding involvement. So for that type of data, in order to come to the 31.2 per cent figure, we were looking at ABS data and also some survey data. So we did our initial planning based on those types of data sources. Now, as we get closer to the implementation, we are becoming more specific in exactly which organisations would be applicable for this order from the Commonwealth's perspective.

Senator SIEWERT: When you say 'specific organisations', who is making that determination?

Dr Morehead: What we do is work with the Commonwealth agencies who fund the programs that deliver SACS services. We go to the major agencies which, as you know, are FaHCSIA, for example, or DoHA, the department of health, and we say to them: 'What programs have you got? Where are they located? What type of money are you paying them at the moment?' We determine, for example, what out of their program funding would go

towards wages. We then calculate what the Commonwealth is funding and use that as our data.

Senator SIEWERT: Would you be doing that with all states?

Dr Morehead: Yes.

Senator SIEWERT: So how does Western Australia differ in terms of the proportion, the 31.2 percent, from the other states?

Ms Boundy: We applied the same costing methodology to Western Australia as we did to all the states and territories, but the percentage referred to earlier was then applied to determine the proportion of funding that we think flows to programs in Western Australia that are affected by the case.

Senator SIEWERT: Did you say that you did not think it was?

Ms Boundy: No. We determined the overall supplementation for Western Australia, using the same methodology as we did for the other states and territories, but then we applied a proportion, using that percentage figure that I referred to earlier, to determine the proportion of the Western Australian sector that we think is within the scope of the case and, therefore, within the scope of the funding commitment.

Senator SIEWERT: Which is smaller than the other states?

Ms Boundy: Yes, because the other states have referred powers we have 100 percent coverage of the sector.

Senator SIEWERT: What happens if you have it wrong?

Dr Morehead: The Commonwealth has made a commitment to fund its share, and so whatever turns out to be in scope and the programs identify their employers and exactly what they fund—obviously we are waiting on the final order to be ticked off so we know exactly what we are doing.

Senator SIEWERT: Yes, of course.

Dr Morehead: We cannot really make those sorts of decisions before that time comes about. Once it does, the Commonwealth has committed to then fund its share, so its share will be funded.

Senator SIEWERT: So that I can be clear, because I am hearing on the ground—there is obviously nervousness across everyone but, in particular, in Western Australia services are nervous because of that calculation around 31.2 percent. They are worried that, if that calculation is wrong—I do not have any proof yet to say that it is wrong but some services are anecdotally saying, 'Gee, we think it might be higher than that.' They are worried about whether those services will still receive funding if it is higher than the 31.2 percent that you estimate is covered.

Ms Boundy: Yes, they will. As I said before, while we are still working through the implementation process, one of the issues we are considering is comeback and how we deal with concerns with the funding amounts that we might ultimately determine.

Senator SIEWERT: I will come back to that later. The \$2.1 billion that has been allocated was based on only 31.2 percent coverage in Western Australia?

Dr Morehead: Yes.

Senator SIEWERT: So that is the cake. What you are saying is that, if that is wrong, organisations will not be squeezed out of the cake and that they will be accommodated?

Dr Morehead: That is correct.

Mr Kovacic: I would like to add one point here. We devoted a lot of effort and energy to trying to ensure the robustness of our costings, if I can put it that way, and I would have to say that we would be pretty confident that they are close to the mark, if not on the money.

Senator SIEWERT: Overall or in WA?

Mr Kovacic: I would say overall because clearly the issue of the integrity of those costings was something we worked on in close collaboration not only with program agencies but also with the Department of Finance and Deregulation and the Department of the Prime Minister and Cabinet. Ensuring the integrity and robustness of those costings was really a key consideration for all of the agencies, so we actually think we have managed to do a pretty good job in that regard and we would be pretty confident about the numbers.

Senator SIEWERT: My concern is for WA where there are some estimations involved. It is not 100 per cent, whereas you have used that for the other states. I think, justifiably, organisations in WA are concerned about those particular calculations.

Mr Kovacic: I understand that.

Senator SIEWERT: You are saying that if it is wrong then they will get funded—I am happy to hear that. Can we go to the comeback process in general. I understand that that has not been finalised yet—that is, if organisations have some concerns about their offer. I will come to the letters in a minute to see how many letters we are getting to see if I get another answer. You are still working on that process.

Mr Kovacic: We are still working on the process. Really, as Dr Moorehead has indicated, the threshold issue in terms of settling that process is having the final order.

Senator SIEWERT: I appreciate that, yes.

Senator Jacinta Collins: I should add that in relation to the issues around the order, Minister Collins is continuing consultations with providers about the nature of the supplementation which will need to deal with issues over whether the estimations have been accurate in WA as well.

Senator SIEWERT: Could you just go into that. There is still consultation going on about how that process will operate?

Senator Jacinta Collins: About how the supplementation will be provided to providers.

Senator SIEWERT: Do you mean whether it is just a straight offer?

Senator Jacinta Collins: There are a range of options about how the payments can be made to providers that have been worked through under the auspice of the office of Minister Collins.

Senator SIEWERT: Do you mean what the payments will be used for?

Senator Jacinta Collins: Not what they are used for—they are used for supplementing wages—but how agencies receive those payments.

Mr Kovacic: The mechanism for getting the money to the provider; the best way of doing that is still a matter of consultation.

Senator SIEWERT: Whether it is in instalments, you mean, or—?

Senator Jacinta Collins: Yes.

CHAIR: Senator Siewert, could you wrap it up soon.

Senator SIEWERT: Yes. I just want to check these letters. How many letters am I getting if I am a provider and I work with DoHA, FaHCSIA and—

Senator Jacinta Collins: This is one of the consultation issues.

Senator SIEWERT: What is your answer?

Ms Boundy: The intention is to streamline the communication process with the sector as much as we possibly can. For example, there will be providers that have multiple contracts for its relevant agencies. So what we are hoping for, and what we are planning on—this is my understanding—is that at least for each agency that is providing funding to a particular organisation, that agency will provide one letter. But it might have multiple programs covered in that letter.

Senator SIEWERT: It is whether you get one letter from one agency or one letter than incorporates all the agencies. I think the most common response I have had is that you get one letter from each agency.

Ms Boundy: That is my understanding.

Senator ABETZ: Can I quickly turn to the review of the Fair Work Act? Is it intended to release the report of the review panel?

Mr Kovacic: That is a matter for government.

Senator ABETZ: Parliamentary Secretary?

Senator Jacinta Collins: I will have to take that on notice, Senator Abetz.

Senator ABETZ: All right. Then also whether it is intended to release the report or whether it will be released with a government response simultaneously? If you can take that on notice for us, please. Enterprise migration agreements—who knows about that? Undoubtedly, you are part of an interdepartmental committee, Ms Paul—or not you, but the department is?

Ms Paul: I am not sure of the mechanism. Certainly, as you know, it is under Immigration's auspice but we do have quite a bit to do with them.

Senator ABETZ: Everybody seems to be running away from knowing about it.

Senator Jacinta Collins: I think the department gave you answers to your questions this morning and I encouraged you to continue at that time.

Senator ABETZ: Just including some of your colleagues as well, Senator Collins. We will not go there. We have the department here. Who will be responsible for the jobs board? We canvassed that this morning.

Ms Paul: We spoke about that this morning, and that is us.

Senator ABETZ: What about the EBAs that might be negotiated in conjunction with the EMAs? Would the department have any oversight of that to make sure that the EBAs link into the EMAs?

Mr Kovacic: This morning in answering some of the questions around EMAs I made the point that Australian workplace law applied to the workers that come from overseas under an EMA. In that regard, any enterprise agreements that might apply on a particular project that is subject to an EMA would need to be negotiated and approved in accordance with the Fair Work Act. My sense would be that the department would not have any role in that. The key issue is from a compliance perspective and ensuring that the relevant contractor meets their obligations to their workers under Australian workplace law, whether they are migrant workers or Australian workers.

Senator ABETZ: The department was made aware of the imminent announcement of the Roy Hill EMA?

Mr Kovacic: I think I mentioned that this morning or Wednesday evening.

Senator ABETZ: How many more are in the pipeline?

Mr Kovacic: We understand that there are a number of applications with the Department of Immigration and Citizenship.

Senator ABETZ: Have you seen those applications?

Mr Kovacic: No.

Senator ABETZ: When I say 'you', I mean the department.

Mr Kovacic: No, we have not. The only proposal we have seen is the Roy Hill one.

Senator ABETZ: So how do you know that there are a few others in the pipeline? From the interdepartmental committee?

Mr Kovacic: No. We understand that there are several others that DIAC has indicated it has received but in terms of the specifics of those—

Senator ABETZ: Yes, but how do you know that?

Mr Kovacic: Because DIAC has sort of indicated that it has received a number of other proposals.

Ms Paul: In other words, they have told us.

Senator ABETZ: Via the interdepartmental committee?

Mr Roddam: The relevant officials from DIAC gave that evidence to estimates last week.

Senator ABETZ: You found out because DIAC told estimates last week! I do not think so.

Mr Kovacic: I just make the point that there is no interdepartmental committee.

Senator ABETZ: All right, what is it called?

Mr Kovacic: There is no committee as such. It is largely bilateral conversations that DIAC will have with individual agencies that might be relevant in the context of—

Senator ABETZ: So when were you told about these others in the pipeline? It was not at estimates that you were told; it was in these bilateral discussions that we have just been told about.

Mr Kovacic: The only bilateral conversations we have had with DIAC around an enterprise migration agreement proposal is in respect of the Roy Hill proposal. But as Mr Roddam—

Senator ABETZ: But we know there are others in the pipeline.

Mr Kovacic: Excuse me, Senator. As Mr Roddam indicated in terms of others being in the pipeline, that was something that we learnt as a result of DIAC's appearance before estimates last week.

Senator ABETZ: Could I encourage you to open the channels of communication between the two departments. For you to find out courtesy of Senate estimates I would have thought is not necessarily the best way for government to be conducted, Parliamentary Secretary.

Senator Jacinta Collins: There has been information in the media also about what projects might be in the pipeline. DEEWR will be consulted at an appropriate stage in relation to those further applications.

Senator ABETZ: The chances are that we have a differing definition of what the appropriate occasion is. I turn now to the appointment of members to the fair work tribunal. What liaison and what advice occurred in the appointment of one Mr Reardon?

It just seemed very serendipitous that Mr Reardon happened to settle his outstanding \$1.8 million lawsuit with the Electrical Trades Union the very day before Mr Shorten made the announcement of his appointment as a commissioner of Fair Work Australia. Is the department able to advise as to whether the minister contacted Mr Reardon in relation to this outstanding legal matter?

Mr Kovacic: I would have to take that on notice. I am not aware of whether—

Senator ABETZ: Parliamentary Secretary, are you aware from your internal ministry discussions or whatever whether the minister had discussions with Mr Reardon about his legal matters?

Senator Jacinta Collins: I am not aware, so I will take that on notice. I should indicate that I was actually representing the Commonwealth at the swearing in of a new member, but I am not aware of the question you ask.

Senator ABETZ: Having a \$1.8 million lawsuit outstanding against you, with a lot of media publicity, and then it just happens to be settled the day before you are publicly announced would suggest that the minister at least had been advised that a settlement was imminent; or it was just, once again, so very coincidental that the minister happened to announce the appointment and on the previous day the lawsuit had been settled. One cannot help but think there must have been some discussion that made these two timelines coincide. If we can have a fuller answer, please, Parliamentary Secretary, as to the circumstances surrounding Mr Reardon and his appointment. Can I ask—but I think I know the answer—I trust Mr Reardon was not one of those personally approached by the minister?

Mr Kovacic: No. Mr Reardon applied in response to the ads that appeared in the press last year.

Senator ABETZ: Could I just quickly go back and ask: have you provided, as a department, any advice to the minister on EMAs?

Senator Jacinta Collins: I think we covered it this morning.

Senator ABETZ: On Enterprise Migration Agreements. I am just interposing that question.

Ms Paul: I think we went into that this morning.

Mr Kovacic: We have.

Senator ABETZ: Thank you for that. Coming back to the appointment of Mr Reardon.

Senator Jacinta Collins: Sorry, you are confusing us here.

Senator ABETZ: What involvement did the department have, if any, in discussions with Mr Reardon about his lawsuit.

Mr Kovacic: I had no discussions with him about his lawsuit.

Senator ABETZ: What about any other officer?

Mr Kovacic: The process in terms of providing a short list of applicants to the minister is handled by me. We would have undertaken as part of the appointment process a due diligence process. I would need to take on notice whether it was raised in that sort of context.

Senator ABETZ: You would not have had to look too far because it was splashed through the media that the Electrical Trade Union was suing him for \$1.8 million for director's fees.

Ms Paul: We will confirm.

Senator ABETZ: It just miraculously discontinued and he got a nice little soft landing in Fair Work Australia. If you can advise when the department was first advised that the matter between Mr Reardon and the Electrical Trade Union had been settled.

Ms Paul: Okay.

Senator ABETZ: If the matter was coincidental, the settlement of the case and Mr Reardon's appointment, can we then be told, Parliamentary Secretary, if the matter had not have been settled, Mr Shorten would still have made the appointment?

Senator Jacinta Collins: We are talking in hypotheticals here but I will take it on notice.

Senator ABETZ: No, it will go to the point as to whether the outstanding court case against Mr Reardon may have disqualified him from being able to take up the post.

CHAIR: That is a slightly different question.

Senator Jacinta Collins: That is a different question but I will take it on notice anyway.

Senator ABETZ: But that is clearly the issue that is being gone to. We have been told that Ms Anna Booth and Mr Gregory expressed interest after they were approached by the minister. They were assessed as suitable for appointment by the selection panel and, surprisingly, were subsequently appointed. Now, as to the other three that were approached by the minister, did they simply decline? I do not want to name names, I stress that. Did they simply decline or were they found to be inappropriate?

Mr Kovacic: They chose not to submit an expression of interest.

Senator ABETZ: Yes. Because it would be highly embarrassing, wouldn't it, if the Minister had approached someone and then the department were to find that they were inappropriate? So I am asking, before the minister approached these five people, was the department consulted as to the advisability of approaching them? Was any due diligence done by the department on the five individuals approached before they were approached by the minister?

Mr Kovacic: My recollection is not, but I will take that on notice just to confirm.

Senator ABETZ: Alright, thank you. Can I go to the textile, clothing and footwear sector. Are you aware of concerns that the new legislation is now causing issues in relation to taxation matters? Because people who normally were described as 'contractors' with an ABN number, and then they account to the tax office accordingly, are now redescribed as 'outworkers' and 'employees' for the purposes of the Fair Work Act. Can we be told how that interacts? Which law prevails, or can you be both an employee and an independent contractor: an employee for workplace relations law and an independent contractor for taxation law?

Senator FISHER: Those in the industry know best; it is special.

Senator Jacinta Collins: I seem to recall, Senator Fisher, that many of your colleagues have recommended same—that this industry is special—

Senator FISHER: Well, what have you done in response to that?

Senator ABETZ: It is a special sector, and I think we have had bipartisan support about that—

Senator Jacinta Collins: Precisely.

Senator ABETZ: until recently, with the legislation, which we did express very real concerns about and now those real concerns have been given expression to by organisations that possibly should have spoken out before, but they did not. Can anybody in the department tell me whether they are aware of this situation?

Mr O'Sullivan: Perhaps the first point I should make is that the amendments have not taken effect yet. I will just make that point.

Senator ABETZ: Yes, they will do.

Mr O'Sullivan: Perhaps go to—sorry.

Senator ABETZ: But they will do, won't they?

Mr O'Sullivan: Yes. I was going to anticipate your next question, which I took to be: 'What affect does the TCF outworkers act have in relation to other legal obligations under Australian law?' I think the key point to note is that the TCF act deems contract outworkers to be employees for purposes of the Fair Work Act only, and so the provisions of the act do not deem TCF contract outworkers to be employees for the purposes of other legislation, such as—and the example you gave was tax.

Senator ABETZ: Can you confirm to us that the TCFU Victoria total income is whatever it is? The total revenue for 2010 was \$1.8 million and \$1.1 million or about 60 per cent of its total income in fact came from the federal government. Can somebody confirm that for me?

Mr Kovacic: I am not aware of that, Senator, but we will take that on notice.

Senator ABETZ: Can you take that on notice and then also if you can tell us whether the Australian Labor Party received from the TCFU Victoria the sum of \$10,627 by way of a kind donation?

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

Senator ABETZ: All right, if you could. Over to Senator Fisher.

Senator FISHER: Thanks, Senator Abetz.

Senator ABETZ: Sorry, if I may just quickly table some questions arising from Ms O'Neill's evidence about her comment that Mr Nassios could have appeared if he had been

asked to and was not aware that there were public calls for Mr Nassios to appear. There was an article of 19 May 2012 in the *Australian* which quotes:

A spokeswoman for FWA yesterday confirmed that Mr Nassios was "currently on leave" and would not be attending the next Senate estimates hearing. "Ms Ailsa Carruthers, acting director, organisations, research and advice, will be attending in his place," she said.

I will just table all that. Thanks, Chair.

Senator Jacinta Collins: That does not amount to a request that he appear.

Senator ABETZ: When you are told he is not going to appear and that somebody else is going to appear in his place, it is hardly conducive to the suggestion that you could call him.

Senator Jacinta Collins: You know you could call him. You have done so previously.

CHAIR: This is a response to a journalist. Senator Fisher.

Senator FISHER: In terms of answer to question on notice 1066—which, kind of like the Battle of Hastings, has had a lot of discussion tonight—at whose feet do you put the responsibility for the provision of that answer to this committee some three or four hours after Fair Work Australia had finished its appearance before the committee yesterday?

Mr Kovacic: Senator, I have outlined the process that was undergone in terms of developing the response. I am really not in a position to add to what I have said.

Senator FISHER: At whose feet does the responsibility for that lie? Your department's, the minister's office, Fair Work Australia?

Mr Kovacic: Certainly, based on the evidence that led earlier this evening where a hard copy of the response was provided to Minister Shorten's office at 2:30 pm yesterday afternoon. I do not think it could be indicated there, or any responsibility could be attributed there—

Senator FISHER: So not the minister's office?

Mr Kovacic: I do not think so.

Senator FISHER: That leaves you and Fair Work Australia.

Mr Kovacic: Clearly, in terms of the process, arguably it could have been streamlined or whatever, but in the circumstances I do not think that I would be wanting to attribute the blame to anyone, frankly.

Senator FISHER: But you have taken the minister out of the equation so, other than ghosts, that leaves Fair Work Australia and your department as bearing responsibility for it.

CHAIR: Or aliens.

Ms Paul: Yes, that is right. Each of these questions goes to the same sort of parliamentary document.

Senator FISHER: The process. Thank you, Ms Paul. Yesterday President Ross talked to us about seeing the need, in his statement, to increase the efficiency and accountability. The tribunal must become more efficient and accountable. Was it more efficient to fly Ms O'Neill and Ms Carruthers here within 24 hours after they had been and gone yesterday?

Ms Paul: We could not comment on that; that was a request by this committee. We have no comment.

Senator FISHER: It is hardly efficient, is it?

Ms Paul: That is not a comment for us to make.

Senator FISHER: It does not make much sense in terms of—

Senator Jacinta Collins: If we are going to talk about efficiency, how efficient is it for the committee to request them to return with respect to a document that—

Senator FISHER: I get to ask the questions, Parliamentary Secretary. President Ross also talked about the reputation of Fair Work Australia having been significantly damaged by its investigation of the HSU and associated matters. He said 'my task is to repair the reputational damage to the tribunal'. Do you have any comment on the fact that many people are going to see this and the provision of the answer to question on notice 1066 yesterday, four hours after Fair Work Australia had left us, as yet further evidence of Fair Work Australia's inability to be efficient and as further damage to the reputation of Fair Work Australia?

Ms Paul: We could not comment on that. For starters, we are not Fair Work Australia, secondly, you are asking for an opinion, and thirdly, the parliamentary secretary just noted that the committee has been in possession of that document since the beginning of May. There is just no way that we can help you out with that.

Senator FISHER: Nonetheless, the answer came some four hours after the event yesterday afternoon. President Ross must be livid, I reckon.

Senator Jacinta Collins: Senator Fisher, I think we need to look at some of the other behaviour with respect to the Industrial Registrar that I am sure you are familiar with, such as Minister Reith appointing his chief of staff to be the Industrial Registrar.

Senator FISHER: I want to ask some questions about the amendments in respect of the building and construction industry. When will those changes be proclaimed?

Mr Kovacic: That is a matter for government.

Senator FISHER: I am not sure if Senator Abetz asked this question. I was listening to him asking about the amendments that were proposed by the Greens in the House the night before the bill came to the Senate. Did the department provide the minister with advice about those amendments at any stage?

Mr Kovacic: We did canvass this with Senator Abetz earlier this evening and we took a series of questions relating to those particular amendments on notice.

Senator FISHER: I will leave that, then. I missed that bit. On the occupational superannuation and the looming increase to superannuation, has the department provided the minister with any advice about his announcement of his expectation to the trade union movement and the world at large that workers will offset or absorb the superannuation increases in wage increases?

Mr Kovacic: I cannot recall any such advice but I will take it on notice to confirm that.

Senator FISHER: Did the department provide the minister with any advice as to the wisdom or otherwise of the government putting, in its submission to the national wage case, the fact that superannuation increases should be in part absorbed as part of this increase under this coming wage case?

Mr Kovacic: The government submission to this year's annual wage review noted that, given that the first increment—if I can describe it that way—in terms of increasing the superannuation guarantee charge does not take effect until next financial year, that was not an

issue that was relevant to this year's annual wage review. But it would be an issue that would be canvassed in next year's review.

Senator FISHER: Thank you. Is the department planning any structural organisational changes for when the textile, clothing, and footwear changes, the Fair Work Amendment (Textile, Clothing, and Footwear) Bill becomes law? Are you changing anything and, if so, what and how?

Mr Kovacic: There is no intention for structural change as a result of a that bill being proclaimed and coming into effect.

Senator FISHER: Thank you. Has the road safety remuneration tribunal bill been proclaimed?

Mr Kovacic: Yes.

Senator FISHER: When does that take effect?

Mr Kovacic: The tribunal comes into operation on 1 July this year.

Senator FISHER: Right. Before we get to the tribunal itself, is the department making any structural changes for when that bill becomes law?

Mr Kovacic: No.

Senator FISHER: No organisational changes?

Mr Kovacic: No.

Senator FISHER: The explanatory memorandum talks about Fair Work Australia assisting the tribunal with dual appointments. Do you know whether that process has started in expectation of 1 July?

Mr Kovacic: It is in train.

Senator FISHER: How many officers will be on the tribunal?

Mr Cully: At this stage it would be a presidential member, two other members of the tribunal and two industry members.

Senator FISHER: Does the legislation say the industry must be employer and employee or driver? I cannot recall.

Mr Cully: It sets out that there is a range of qualifications that they can have. But it does not specify them. It specifies what sort of experience they must have, but they can have experience in a range of areas. That is the criteria that is used.

Senator FISHER: Does it mean that one will be an employer and one a driver?

Mr Cully: No.

Senator FISHER: Is the department progressing the appointment of the two individuals that are not to be sourced from Fair Work Australia? Who is doing that? Who is driving that?

Mr Kovacic: There is a merit selection process in train.

Senator FISHER: Within the department?

Mr Kovacic: The positions were advertised and the department has convened a panel to provide a shortlist of potential candidates suitable for appointment.

Senator FISHER: Is the panel internal or external to the department?

Mr Kovacic: It is a panel comprised of a departmental representative together with a representative of the Public Service Commissioner and also a representative from the department of infrastructure and transport.

Senator FISHER: Thank you. The tribunal secretariat is to be provided by the general manager of Fair Work Australia. Do you have any knowledge of what is happening in that respect?

Mr Kovacic: No.

Senator FISHER: In terms of the compliance functions being performed by Fair Work Australia, are you involved in that process at all? Are you involved in the setting up of that process or is it all in the lap of the Fair Work Ombudsman?

Mr Cully: We are not involved in setting up the process but we have certainly been working closely with the Ombudsman to share our knowledge of the legislative framework and so on.

Mr Kovacic: If I may, I will just correct an answer that I provided. I have been advised that the building legislation has, in fact, been proclaimed.

Senator FISHER: Between today and yesterday? Mr Johns told us yesterday—

Mr Kovacic: It has now appeared on the FRLI, the Federal Register of Legislative Instruments.

Senator FISHER: When does it take effect?

Mr Kovacic: 1 June.

Senator FISHER: Thank you for that advice. You had better let Mr Johns know.

CHAIR: The committee stands adjourned.

Committee adjourned at 22:58