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SENATE

EDUCATION, EMPLOYMENT AND WORKPLACE RELATIONS LEGISLATION COMMITTEE

Estimates

TUESDAY, 4 JUNE 2013

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SENATE
EDUCATION, EMPLOYMENT AND WORKPLACE RELATIONS
LEGISLATION COMMITTEE
Tuesday, 4 June 2013

EDUCATION, EMPLOYMENT AND WORKPLACE RELATIONS PORTFOLIO

In Attendance
Senator Jacinta Collins, Parliamentary Secretary for School Education and Workplace Relations
Senator Wong, Minister for Finance and Deregulation
Senator Conroy, Minister for Broadband, Communications and the Digital Economy, Minister Assisting the Prime Minister on Digital Productivity

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
Mr Craig Storen, Chief Financial Officer, Finance and Business Services
Mr George Kriz, Chief Lawyer, Legal and Investigations
Mr Geoff Kimber, Principal Government Lawyer, Legal and Investigations
Ms Helen Willoughby, Group Manager, Communication and Parliamentary
Mr Tim Pigot, Branch Manager, Communication and Parliamentary
Ms Meredith Fairweather, Branch Manager, Communication and Parliamentary
Ms Vicki Rundle, Group Manager, People and Organisational Development
Mr Benjamin Wyers, Branch Manager, People and Organisational Development
Ms Michelle Cornish, Group Manager, State and Regional Services Strategy
Ms Helen McCormack, Branch Manager, State and Regional Services Strategy
Ms Susan Monkley, Group Manager, Technology Solutions

Outcome 1—Early Childhood, Working Age and Indigenous Participation
Ms Jennifer Taylor, Deputy Secretary
Mr Michael Maynard, Group Manager, Early Childhood Care Support
Ms Gillian Mitchell, Branch Manager, Early Childhood Care Support
Ms Robyn Priddle, Branch Manager, Early Childhood Care Support
Mr Jeff Willing, Branch Manager, Early Childhood Care Support
Mr David De Silva, Group Manager, Early Childhood Initiatives
Ms Suzanne Northcott, Branch Manager, Early Childhood Initiatives
Outcome 2—Schools and Youth

Mr Martin Hehir, Deputy Secretary
Mr Tony Cook, Associate Secretary
Ms Alex Gordon, Group Manager, Curriculum, Assessment and Teaching
Dr David Atkins, Acting Branch Manager, Curriculum, Assessment and Teaching
Dr Amanda Day, Acting Branch Manager, Curriculum, Assessment and Teaching
Ms Jan Febey, Branch Manager, Curriculum, Assessment and Teaching
Ms Deborah Efthymiades, Group Manager, Evidence and Innovation
Ms Rhyan Bloor, Branch Manager, Evidence and Innovation
Ms Wenda Donaldson, Branch Manager, Evidence and Innovation
Mr Stephen Goodwin, Branch Manager, Evidence and Innovation
Dr Gabrielle Phillips, Branch Manager, Evidence and Innovation
Ms Susan Smith, Group Manager, Infrastructure and Delivery
Mr Tony Zanderigo, Acting Group Manager, Infrastructure and Delivery
Ms Jenny Harrison, Branch Manager, Infrastructure and Delivery
Ms Cathie Maguire, Acting Branch Manager, Infrastructure and Delivery
Mr David Pattie, Branch Manager, Infrastructure and Delivery
Ms Hilary Riggs, Branch Manager, Infrastructure and Delivery
Mr Stewart Thomas, Branch Manager / SA State Manager, Infrastructure and Delivery
Ms Louise Hanlon, Group Manager, Schools Funding Taskforce
Mr Patrick Burford, Branch Manager, Schools Funding Taskforce
Ms Margaret Sykes, Branch Manager, Schools Funding Taskforce
Ms Yvonne Uren, Acting Branch Manager, Schools Funding Taskforce
Mr Matthew Davies, Group Manager, Youth and Inclusive Education
Mr Anthony Fernando, Branch Manager, Youth and Inclusive Education
Ms Helen McLaren, Branch Manager, Youth and Inclusive Education
Ms Renae Houston, Acting Branch Manager, Youth and Inclusive Education
Ms Joanne Skinner, Acting Branch Manager, Youth and Inclusive Education
Mr Robert Kominek, Director, Youth and Inclusive Education
**Outcome 3—Employment**

Ms Sandra Parker, Deputy Secretary  
Mr Anthony Parsons, Group Manager, Employment Services Management and Procurement  
Ms Stephanie Bennett, Branch Manager, Employment Services Management and Procurement  
Ms Alison Durbin, Branch Manager, Employment Services Management and Procurement  
Mr Stephen Moore, Group Manager, Employment Systems  
Mr Ty Emerson, Acting Group Manager, Income Support  
Mr Cameron Brown, Acting Branch Manager, Income Support  
Ms Kellie Hippit, Acting Branch Manager, Income Support  
Ms Jo Wood, Group Manager, Indigenous Economic Strategy  
Ms Brenda Love, Branch Manager, Indigenous Economic Strategy  
Ms Tania Rishniw, Branch Manager, Indigenous Economic Strategy  
Ms Moya Drayton, Group Manager, Job Services Australia  
Ms Linda Laker, Branch Manager, Job Services Australia  
Ms Julie Polson, Branch Manager, Job Services Australia  
Mr Derek Stiller, Branch Manager, Job Services Australia  
Mr Stuart Watson, Branch Manager, Job Services Australia  
Mr Graham Harman, Director, Job Services Australia  
Mr Alexander Kerr, Director, Job Services Australia  
Ms Margaret Kidd, Group Manager, Labour Market Strategy  
Mr Ali Jalayer, Branch Manager, Labour Market Strategy  
Ms Debbie Mitchell, Branch Manager, Labour Market Strategy  
Mr Ivan Neville, Branch Manager, Labour Market Strategy  
Ms Marsha Milliken, Group Manager, Remote Jobs and Community Programs Implementation  
Ms Ingrid Kemp, Branch Manager, Remote Jobs and Community Programs Implementation  
Mr Mark Roddam, Acting Group 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 Jane Press, Director, Social Policy and Economic Strategy  
Ms Rose Verspaandonk, Branch Manager, Social Policy and Economic Strategy  
Ms Fiona Buffinton, Group Manager, Specialist Employment Services  
Ms Melinda Hatton, Branch Manager, Specialist Employment Services
Ms Lis Kelly, Branch Manager, Specialist Employment Services
Ms Sharon Stuart, Branch Manager, Specialist Employment Services

**Outcome 4—Workplace Relations and Economic Strategy**

Mr John Kovacic, Deputy Secretary
Ms Julie Randall, Branch Manager, Strategic Priorities Branch
Ms Kylie Emery, Group Manager, Workplace Relations Implementation and Safety
Mr Alan Edwards, Branch Manager, Workplace Relations Implementation and Safety
Ms Joanne Hutchinson, Branch Manager, Workplace Relations Implementation and Safety
Ms Sue Saunders, Branch Manager, Workplace Relations Implementation and Safety
Mr Steve Kibble, Group Manager, Office of Asbestos Safety
Mr Jeremy O'Sullivan, Chief Counsel, Workplace Relations Legal
Mr Adrian Breen, Branch Manager, Workplace Relations Legal
Ms Janey Kuzma, Branch Manager, Workplace Relations Legal
Ms Justine Ross, 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 Tara Williams, Director, Workplace Relations Policy

**Australian Curriculum Assessment and Reporting Authority**

Mr Robert Randall, Chief Executive Officer
Mr Peter Adams, Group Manager
Dr Phil Lambert, Group Manager

**Australian Institute for Teaching and School Leadership**

Ms Margery Evans, Chief Executive Officer
Mr Edmund Misson, General Manager

**Comcare**

Mr Paul O'Connor, Chief Executive Officer
Ms Cathy Skippington, Deputy Chief Executive Officer

**Fair Work Building and Construction**

Mr John Casey, Chief Financial Officer
Mr Brian Corney, Acting Chief Executive Officer
Ms Heather Hausler, Group Manager
Mr Tim Honey, Acting Chief Counsel

**Fair Work Commission**

The Hon Iain Ross, President
Ms Bernadette O'Neill, General Manager
Tuesday, 4 June 2013

Committee met at 08:59

ACTING CHAIR (Senator Bilyk): I declare open this public hearing of the Education, Employment and Workplace Relations Legislation Committee. The Senate has referred to the committee the particulars of proposed expenditure for 2013-14 and related documents for the Education, Employment and Workplace Relations Portfolio. The committee must report to the Senate on Tuesday, 25 June 2013 and has set Friday, 19 July 2013 as the date by which answers to questions on notice are to be returned. Under standing order 26, the committee must take all evidence in public session, which includes answers to questions on notice. Officers and senators are familiar with the rules of the Senate governing estimates hearings. If you need assistance, the secretariat has copies of the rules. I particularly draw the attention of witnesses to an order of the Senate of 13 May 2009 specifying the process by which a claim of public interest immunity should be raised and which I now incorporate in Hansard.

The extract read as follows—

Public interest immunity claims

That the Senate—

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

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

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

(1) If:

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

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

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

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

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

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

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

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

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

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

[09:01]

The committee will begin today's proceedings with representatives of the Department of Education, Employment and Workplace Relations and then will follow the order as set out in the circulated program. Proceedings will be suspended for breaks as indicated on the program.

I welcome the Parliamentary Secretary for School Education and Workplace Relations, Senator the Hon. Jacinta Collins and officers of the department. Parliamentary Secretary, would you like to make an opening statement?
Senator Jacinta Collins: No, thank you.

ACTING CHAIR: Ms Paul, would you like to make an opening statement?

Ms Paul: No, I am fine. Thank you.

ACTING CHAIR: We will move on to outcome 3: Enhanced employability and acquisition of labour market skills and knowledge and participation in society through direct financial support and funding of employment and training services.

Senator SINODINOS: I have some questions on Job Services Australia and a few other things. How many JSA providers are there currently?

Mr Parsons: The answer to your question is 93 JSA as at today.

Senator SINODINOS: What is the total case load at the moment?

Ms Parker: Senator, I will answer the first question. As at 31 March 2013, the total case load for JSA is 788,634 job seekers.

Senator SINODINOS: That has gone up since February. Was it 732,000 then? What was the date of the 788,000?

Ms Drayton: It has increased slightly. I have got that from several years back, if that would help.

Senator SINODINOS: No, it is okay. What was the date of the 788,000?

Ms Drayton: 31 March.

Senator SINODINOS: I had an earlier figure here of 732,187.

Ms Drayton: That is possibly from the February estimates, but we will check on that for you.

Senator SINODINOS: There is a difference here, isn't there, between the total case load and the active case load?

Ms Drayton: The case load that we have—the 788,000—has all the job seekers on it. It does include people who are suspended or exempted.

Senator SINODINOS: What would be the active case load?

Ms Drayton: I will have to get someone to work that out, because we have 146,161 suspended job seekers on the case load. I will get somebody to work out that difference.

Senator SINODINOS: They can follow that up later. That is fine. Broken down by number of jobseekers in each of the four streams?

Ms Drayton: Do you mean in total for caseload?

Senator SINODINOS: Yes.

Ms Drayton: In stream 1, there are 239,292, and that represents 30 per cent of the caseload. In stream 2, there are 193,978, which is 25 per cent of the caseload. In stream 3, there are 167,771, which is 21 per cent. In stream 4, there are 162,448, which is 21 per cent. And there are 19,699 in stream 1 limited, which represents two per cent of the caseload.

Senator SINODINOS: What was the latter one?

Ms Drayton: Stream 1 limited. That is for jobseekers who are not fully eligible. They get a limited service. They are often people who have work rights but are not income support recipients.
Senator SINODINOS: Of the stream 4 jobseekers who have been placed in employment since January 2012, how many have not achieved a 13-week outcome?

Ms Drayton: I have the number who have achieved a 13-week outcome. I could give you that and we can work backwards. In stream 4 we have 24,434 people who have achieved a 13-week outcome. That is for the 2012-13 financial year. In total, 106,872 stream 4 jobseekers over the life of JSA have achieved a 13-week outcome.

Senator SINODINOS: For those who do not achieve the 13-week outcome, do you track how they come back onto the JSA caseload?

Ms Drayton: We do not track individuals the whole of their life when they leave JSA. A lot of people are still on JSA but are earning. So, just because they achieve an outcome does not necessarily mean that they are completely off. What we do know is that 80 per cent of jobseekers who have achieved an outcome are not on the caseload 26 weeks later. For stream 4 that it is 71 per cent, so that is slightly lower than the caseload average.

Senator SINODINOS: That was for a 26-week outcome?

Ms Drayton: Yes.

Senator SINODINOS: What about stream 1, those who have been placed in employment since January 2012? You will not have those who have not achieved a 13-week outcome but you will have the others?

Ms Drayton: Yes. I will just return to your active caseload question. There were 642,473 people. The 13-week outcomes for stream 1—was that your question, Senator?

Senator SINODINOS: Yes.

Ms Drayton: Again, for the 2012-13 financial year, there were 4,475 people and, in total, 14,084 over the life of JSA.

Senator SINODINOS: What about the 26-week outcome? Do you track that?

Ms Drayton: I will go through via stream, if that will help. I will do the 2012-13 year first. Two thousand nine hundred and twenty-seven stream 1 jobseekers have a 26-week outcome; 38,285 stream 2; 19,735 stream 3; and 15,068 stream 4. In total, there were 8,716 stream 1; 239,408 stream 2; 94,701 stream 3; and 58,881 stream 4.

Senator SINODINOS: You have stats for the total jobseekers placed in the last 12 months. What percentage went into full-time employment?

Ms Drayton: Full-time employment is 30.7 per cent.

Senator SINODINOS: What have the rest of them done?

Ms Drayton: Permanent employment, 34.9 per cent; self-employment, 9.3 per cent; and temporary employment, 55.9 per cent.

Senator SINODINOS: Of the people who go into full-time employment, do you have a breakdown between rural and regional versus city?

Ms Drayton: I do not; I just have it broken down by stream and cohort.

Senator SINODINOS: That is fine. How many job seekers on the caseload have been unemployed for more than 12 months?

Ms Drayton: The figure is 404,715. That represents 51 per cent of the caseload.
Senator SINODINOS: Do you have stats for people who have been three to five years or something like that?

Ms Drayton: More than two years if 254,215 and more than five years is 80,407.

Senator SINODINOS: More than five years?

Ms Drayton: Yes; 80,407.

Senator SINODINOS: I think we have had this discussion before. What are those very long-term unemployed, over five years, doing?

Ms Drayton: It does not mean that they have never had a placement or they have not had a job.

Ms Parker: They may be working but not enough to get them off income support and off JSA. In JSA they have activity requirements depending on who they are. If they are mature age, for example, they could be doing volunteer work, part-time work or study. If they are other job seekers then they will be doing work experience. There are a range of activities.

Senator SINODINOS: Are these people who may have particular issues which mean structurally it is very difficult for them to overcome their labour market disadvantage?

Ms Parker: You would assume so. It is not always the case, but you would assume that. If they are not working at all, there is a fair bit of evidence that, the longer they are away from the labour market, the more disadvantaged. If they are working part-time it may be that they just have not been able to increase their hours. So they are still in JSA and looking for extra work but they have not been able to get off income support and the participation requirement. It depends on the individual. If they have severe disadvantage they will be exempted and need to be receiving other treatment. So it will vary.

Senator SINODINOS: Would, for example, an increasing proportion be older workers who may face discrimination in the labour market—people do not want to invest in them and that sort of thing?

Ms Parker: Yes. The older mature age workers can meet participation requirements, as I said, by volunteering or doing part-time work or study.

Senator SINODINOS: So we give them another let-out.

Ms Parker: Yes. They do not have to be doing anything other than that.

Senator SINODINOS: Also people locked into particular areas?

Ms Parker: Yes, there is definitely regional disadvantage as well and structural differences there.

Senator SINODINOS: Can I now turn to work experience. Of the total caseload of Job Services Australia, how many people are in the work experience phase?

Ms Drayton: The work experience phase is 206,868 job seekers, which represents 26 per cent of the caseload.

Senator SINODINOS: Do you have a breakdown by JSA stream? Are there particular streams in which these characters are concentrated?

Ms Drayton: Work experience for stream 1 is 22,379, and that represents nine per cent of stream 1. For stream 2 it is 41,807—22 per cent; stream 3 is 76,327, which is 45 per cent; and stream 4 is 66,355, which is 41 per cent.
Senator SINODINOS: So it is focused more on streams three and four.

Ms Drayton: The higher streams—three and four.

Senator SINODINOS: Of the total number in the work experience phase are there many who have an exemption?

Ms Drayton: In total there are 74,298 job seekers with an exemption. We do not have it broken down by the work experience or stream services phase.

Senator SINODINOS: Can you provide a breakdown by activity type?

Ms Drayton: The exemptions or the work experience?

Senator SINODINOS: The work experience.

Ms Drayton: As of 31 March, in total there are 15,729 job seekers doing Work for the Dole; 166 doing Green Corps; 6,913 doing voluntary work or work in the community; 553 doing unpaid work experience; 91,355 doing accredited or non-accredited training; and 35,608 are having non-vocational interventions and getting assistance.

Senator SINODINOS: What are non-vocational interventions?

Ms Drayton: It could be non-vocational training in job seeker techniques. It could be getting assistance for some non-vocational issues they have. I can give you a breakdown.

Senator SINODINOS: No, I think I get the general picture.

Ms Drayton: I will keep going with the work experience ones. A total of 35,435 are doing part-time casual employment.

Senator SINODINOS: In cases like the part-time casual employment, do you find some employers actually specialise in employing people on that basis, who may be coming from this sort of background?

Ms Parker: Is your question about employers taking on people in an ad hoc way for casual work, or do you mean work experience?

Senator SINODINOS: For people who are in this work experience phase who are in part-time casual employment do you find there are certain employers who keep coming back to the well, as it were? They are specialising in this part of the labour market.

Ms Parker: Work experience placements are a component of the program. We do track them, so if you are looking at the issue of the potential for some employers just to keep putting people on as shelf packers at the supermarket and using job seekers in that way, we do track that and we do not allow it. It is not part of the program. When we see instances of people being churned in that way we would stop the practice and stop the employer if they were to do that. But the work experience rules vary from state to state. There are industrial issues around the types of work experience.

We have limits on the number of weeks people can do work experience like that. It needs to lead to a job and it is not to replace genuine workers. So there are rules around that but it does vary slightly from state to state. Ms Laker is our expert, if you would like to hear a bit more about it.

Ms Laker: In relation to your original question about whether employers are taking on part-time workers who are job seekers, we do not have any evidence to suggest that employers are doing that as a deliberate strategy—using job seekers from the Job Services
Australia case load. It is quite common that job seekers will have a part-time job, but we do not have any evidence that suggests that employers are doing that on purpose rather than giving them a full-time job.

Senator SINODINOS: And getting the churn that comes with that.

Ms Parker: Yes. With disability employment services we do in some ways encourage part-time for some workers because they have reduced work capacity. It is acceptable in some instances to job-share.

Senator SINODINOS: Where a job seeker is attending an unpaid work experience placement as their activity, what insurance is provided to cover them in the workplace?

Ms Laker: For our work experience activities, the Commonwealth purchases insurance to cover work experience activities and has an insurance broker who handles any incidences. If a branch of Job Services Australia becomes aware of an incident that is reported to the insurance broker.

Senator SINODINOS: How many weeks of unpaid placement does that cover?

Ms Laker: If you are referring specifically to an unpaid work experience placement, the limit of those placements is a maximum of 50 hours a fortnight and for four weeks.

Senator SINODINOS: I turn to Work for the Dole. I think you covered this before—in the last 12 months there were 15,729 doing work for the dole. Is that right?

Ms Drayton: On 31 March, 15,729 job seekers were participating in Work for the Dole. Over the life of JSA it has been 78,371.

Senator SINODINOS: Was that over the last 12 months?

Ms Drayton: No, that was 1 July 2009 to 31 March 2013.

Senator SINODINOS: Do you have a Work for the Dole figure for the last 12 months?

Ms Drayton: We have the life of the contract and to 31 March.

Senator SINODINOS: What is the attendance rate at Work for the Dole?

Ms Drayton: That is a good question. I am fairly certain we do not have it broken down by activity type, as far as the flows into compliance framework. We have the compliance framework broken down by failure type rather than activity type. We will take that on notice and see if we can find something.

Senator SINODINOS: Okay. How many job seekers have had a compliance failure recorded against them for failure to attend a work experience activity in the last 12 months?

Ms Drayton: We have them broken down by failure type, so not attending an activity would be covered under our short-term failure type. I can go through all of those if it would help.

Senator SINODINOS: Yes.

Ms Drayton: Normally not attending an activity type would come under our 'no show, no pay' failures. We have had submitted from July to December 54,373 'no show, no pay' failures; in total, 316,228 over the life of the contract. Those have been submitted by providers. Applied 'no show, no pay' failures for July to December 2012 are 39,028, so out of the 54,000, 39,000 were applied. Over the life of the contract, 174,619 'no show, no pay' failures have been applied.
Ms Parker: Those figures are since 1 July 2009.

Ms Drayton: Specifically 'no show, no pay' failures have an applied rate of 72 per cent.

Senator SINODINOS: How many Green Corps activities are currently being undertaken nationally?

Ms Drayton: On 31 March there were 166 job seekers undertaking Green Corps activities. Since 1 July 2009, there have been 2,071.

Senator SINODINOS: Do you have a breakdown of where these are and with how many participants?

Ms Drayton: Yes. On 31 March there were seven in New South Wales—and these are the activities underway, not the job seekers. There were seven in Queensland. There was one in South Australia. There were three in Victoria. That is all at the moment—18 activities on 31 March, involving 166 job seekers.

Senator SINODINOS: That is all on Green Corps. I am happy to defer to Senator Siewert.

Senator SIEWERT: I want to ask Job Services Australia the usual question, to take on notice, and that is an update of the figures on job seekers who are currently in each JSA stream and in a work experience phase, broken down by duration of employment—less than a year, one to two years, two to three years, and three or more—and by participation in different types of work experience activities. I know you cannot do that now.

Ms Drayton: We can if you like.

Senator SIEWERT: Is it possible to get those without reading them out now but tabling them so that we have got them without taking a long time? Does that make sense?

ACTING CHAIR: Those questions have been asked already this morning. I think if you go to Hansard, you can find the answers there.

Senator SIEWERT: Have they? By that level of breakdown?

ACTING CHAIR: I think so.

Senator SIEWERT: I am interested in an update of the place based employment trials and how many are working now. Has that been dealt with already?

Ms Parker: No, we have not talked about those.

Senator SIEWERT: How many are in operation?

Ms Parker: There are a number of place based activities that are happening under what we call Building Australia's Future Workforce. Is that what you are referring to?

Senator SIEWERT: Yes.

Ms Parker: In those, there are two sets of places. Across Australia, the government declared 20 priority employment areas, and they were areas of assessed disadvantage relative to other areas of Australia. Then, as part of the Building Australia's Future Workforce package, the government identified a subset, if you like—it is not entirely a subset—of 10 areas, 10 extra places, if you like, some of which overlap with the 20. They are running a number of pilots and trials in those 10. The 20 really relate to—I know it is a little bit confusing—our local employment coordinators. There is a local employment coordinator, just a person, attached to each of the 20 local priority employment areas across Australia, and you
may have seen that the government announced an additional priority employment area in response to the Ford redundancy, so another one in Geelong. So there will be 21 of those. They are working very closely with each of those 20 areas and they run jobs expos. You may have seen some of those. They have been very successful. We can talk to you about how many people have attended those, how many people have been attached to jobs out of those.

**Senator SIEWERT:** Do you then track each of the people that attend?

**Ms Parker:** Each person?

**Senator SIEWERT:** Yes. How do you know whether it has been successful and people are actually then finding employment?

**Ms Parker:** I might get Ms Bennett to answer that question. She has that information with her.

**Mr Parsons:** The expos are open to the public, so job seekers, both on our books and not on our books, can turn up. The way we measure the attachment, if you like, of attendees to jobs is through an exit survey.

**Senator SIEWERT:** Exit survey?

**Mr Parsons:** DHS, who run the expos for us, do and exit survey of attendees. I will pass to my colleague.

**Ms Bennett:** DHS run the expos for us. They do surveys of exhibitors—the employers that are there—on how many people might have been offered jobs on the day, given resumes and so on, so it is tracking on the day. We do not do post-expo surveys, because it is so large it is quite impractical.

**Ms Paul:** My recollection of the numbers I have seen recently—colleagues can correct me if I am wrong—is that something like 26,000 people have been connected with employers through the jobs expos, which strikes me as quite extraordinary. They are considered to have been really successful.

**Senator SIEWERT:** So they have connected with employers. How do we know that they have actually ended up in positions?

**Ms Paul:** We may not know that they have ended up in a 13-week or 26-week outcome in the way that we would normally count it, but, nonetheless, the purpose of the expos is to bring people together and that is quite an extraordinary number of people to have been brought together.

**Senator SIEWERT:** What else are we doing in the employment trials?

**Ms Parker:** Of other place based activity, as we called it, there are a number of what we are calling measures. The school enrolment and attendance measure is a place based activity under the government's Building Australia's Future Workforce program. The government is running some demonstration pilots for highly disadvantaged job seekers. Before you arrived, Senator Sinodinos asked us about people who are very long term unemployed and what we are doing for them. One of the things happening is those pilots—20 pilot projects, working with very, very high performing Job Services Australia providers, is to look at how the current service delivery arrangements for providers could be enhanced for those particular job seekers. Those pilots have currently had over 1,900 commencements of job seekers and they are aimed at learning what works for those types of job seekers. There is three-year funding
and 20 projects being run across Australia. They are going very well. We have preliminary assessment of just the early stages of those. We are learning things such as the need to have very specific assessments of those job seekers with the provider to determine their vocational and non-vocational barriers and how to work with other, complementary service providers to do a wraparound service for those job seekers. That is one example. So we are very pleased with what is coming out of those.

Senator SIEWERT: It terms of monitoring each of these programs, what is the evaluation process, who is undertaking it and over what time frame? It sounds like you are doing that as it is rolling out.

Ms Parker: Yes. We run those, so we contract each of the 20 projects through the department. Each of them have deliverables, if you like, so they are set up as a normal contract that they need to deliver. Part of what they need to deliver is their own program evaluation and then the department has its own team of evaluators, who are also collecting data and will do a comprehensive evaluation of what worked, what did not work and what that might mean. The learnings from those are part of what we are discussing around what Job Services Australia—

Senator SIEWERT: I want to come to that in a minute.

Ms Parker: So what the future program will look like is under discussion.

Senator SIEWERT: So they are trials to not only see what works now but also to look at what the program will look like into the future?

Ms Parker: Yes.

Senator SIEWERT: Can I park that for a moment because I am going to run out of time; I want to ask a specific question about the review.

Ms Parker: There are other pieces of the place based system. Would you like me to describe those? I will do it quickly.

Senator SIEWERT: Yes, if you could. Is it possible to get information on what the deliverables are out of these programs and the evaluation and process that is being undertaken for each of them and the time frames for that. That would be appreciated.

Ms Parker: Certainly, yes—of the place based in particular?

Senator SIEWERT: The place based in particular, and the evaluation and process that is being undertaken for each of them and the time frames for that. That would be appreciated.

Ms Parker: That is fine. I will just list the other ones, then, perhaps. The other components of these place based trials, as you called them, include a program called Regional Education, Skills and Jobs. They are coordinators working with stakeholders, including Regional Development Australia committees, to do plans and work with local communities. They are basically focused on participation, education and training in regional Australia. They are very regionally based.

We have a program called Local Connections to Work, which provides locally tailored support for job seekers. Our DHS providers and other services in states and territories work together to provide a wrap-around service to assist job seekers. We also have measures called Helping Young Parents. They are focused on helping teenage parents in 10 disadvantaged locations to get year 12.

Senator SIEWERT: So that is part of the place based—
Ms Parker: Yes, these are all place based programs that are aimed at helping their children get the best start in life. Another component of the place based measures is a program called Community Innovation through Collaboration. Again, in the priority employment areas, we have a range of government action leaders, community actions leaders and local advisory groups. All of them are working together in the 10 local government areas with a small Local Solutions Fund, which is aimed at increasing social and economic participation in those areas. That is a four-year program that is run by the Department of Human Services.

Senator SIEWERT: What size is the local fund?

Ms Parker: The fund is $21.79 million over four years. We have a couple more. The compulsory participation requirement for jobless families is where parents who receive a parenting payment are required to attend interviews and workshops with the Department of Human Services. That is aimed at moving them towards being job ready and having their children attend school. That is another program that we have under the place based programs. Finally, we have, in targeted locations, a program called Income Management.

Senator SIEWERT: I know a lot about income management.

Ms Parker: That is the last one that is part of this broader, place based pilot.

Senator SIEWERT: So that is counted as part of the place based pilot?

Ms Parker: Yes, it is.

Senator SIEWERT: Against each of those, when you tell me the deliverables, could you also outline how much the funding for each one of those is?

Ms Parker: Yes, that is fine.

Senator SIEWERT: That would be great. Have you done any more employment service evaluations since the last time you gave me the update?

Ms Parker: Yes, I think we have. Is that just on this?

Senator SIEWERT: No, on those and overall.

Ms Parker: Let us just check overall. On this particular program, Building Australia's Future Workforce, we could tell you a little bit about that. I will just find the broader list of evaluations.

Mr Parsons: For the Building Australia's Future Workforce package of measures, the evaluation is essentially looking at three aspects of the program. The first is trying to assess the contribution of the skills measures to creating a national training system that responds to the needs of both industry and the learners or the job seekers. The second aspect is the contribution of the total package of measures on participation and employment, training and education, and improved engagement towards those outcomes. The third is, in areas identified as being disadvantaged locations, the contributions that the place based strategies have made to community engagement and educational attainment in the workforce of vulnerable groups—strengthening education skills and so on.

Senator SIEWERT: That is being undertaken now?
Mr Parsons: It is in the train. The evaluation involves a series of interviews, surveys and focus groups with participants, employers, service providers and community representatives. As well, we stack that up against the data that we have in our transactional system, to measure the outcomes that have been achieved. We do not have any firm data to share with you, because the interim evaluation report—as I suspect we said last time—is not due until December of this year.

Senator SIEWERT: Has there been any more done since then?

Mr Parsons: Only in the areas of that fieldwork that I was talking about.

Senator SIEWERT: I think Ms Parker has got those overall ones.

Ms Parker: More broadly, the last time we gave you a list. The evaluations we do cover Job Services Australia as a whole. Components of that include things like Indigenous servicing, good practice in JSA, job seeker assistance which includes how the Employment Pathway Fund is used, employers, employer servicing. Some of those—not since we last talked—have mostly been completed.

Senator SIEWERT: Those have been completed?

Ms Parker: Yes, those JSA ones have been completed—the Indigenous, good practice, job seeker assistance and employer servicing. Recently we have completed an evaluation of DES-eligible school leaver pathways, although that was completed in 2012. On the jobs and training compact, the final evaluation report started a long time ago as part of the GFC. We had done a long-term evaluation. For evaluation of the reform of job capacity assessment interim evaluation report, we have just had the final draft, so it is in train.

Senator SIEWERT: That is of the larger review?

Ms Parker: Yes. Do you mean the JCA one?

Senator SIEWERT: Yes.

Ms Parker: Jobs Capacity Assessment?

Senator SIEWERT: No, the JSA one, sorry. I think I have confused us.

Ms Parker: The larger JSA?

Senator SIEWERT: Yes.

Ms Parker: Later this year we will report. The way we do the JSA and DES evaluations is by breaking them down into topics. Then there is also a broad JSA as a whole. The JSA as a whole is later this year. In between we have had components of things like how employers find JSA. Do they use it? Do they think it is worthwhile? What could improve it? They are our subcomponents. For JSA alone there are in total, over the life of the contract, about 10 of them.

Senator SIEWERT: What was the interim report for? I mentally jumped to JSA. That was the Job Capacity Assessment interim report?

Ms Parker: Yes, the interim one I mentioned a minute ago is the evaluation of the reform of Job Capacity Assessments, and that is about moving the assessment of those into DHS and splitting those for DSP and for going into JSA or DES—there are the two types.

Senator SIEWERT: When was that interim report released?

Ms Parker: That one is still in final draft.
Senator SIEWERT: I have been looking and I could not find it.

Ms Parker: We have not finished it. We are just finalising it.

Senator SIEWERT: When will that be released?

Ms Parker: The decision to release will be with the minister. Minister Ellis will make that decision, so we do not quite know yet.

Senator SIEWERT: There will be a series between now and when the final report is released on the overall JSA. Is there a planned date for that yet?

Ms Parker: December quarter; the end of this year

Senator SIEWERT: There will be a series of these reports that you have just outlined, those 10 areas, released between now and then. Is that the plan?

Ms Parker: I think we have done most of these.

Ms Mitchell: Most of the reports have been done incrementally and have already been released. As you would know, they are on the website.

Senator SIEWERT: Are those ones part of the 10?

Ms Mitchell: They are.

Senator SIEWERT: I was confused when you were talking about the 10.

Ms Parker: It may not have been exactly 10. Ten was an estimate.

Senator SIEWERT: I thought you were referring to new ones.

Ms Mitchell: No.

Ms Parker: The JSA contracts run until mid-2015, but in terms of getting learnings, we need them obviously earlier than that.

Senator SIEWERT: I have one more series of questions and some more that I will just put on notice. Is this the appropriate place to ask about success rates for stream 1?

Ms Parker: Yes.

Senator SIEWERT: I am particularly interested in stream 4 and the most current success rates.

Ms Mitchell: Job outcomes.

Senator SIEWERT: Job outcomes, yes. I will ask the others on notice—in fact Senator Sinodinos may have asked about them—but I am particularly interested in stream 4.

Ms Paul: We thought we had gone a bit of the way with Senator Sinodinos before and, as I say, we think some of the questions are already on Hapsard—or will be.

Senator SIEWERT: When you are committee hopping, sometimes you cannot—

Ms Paul: That is right. When you look at the Hapsard, naturally if there is anything not there, just give us some questions.

Senator SIEWERT: Yes.

Ms Parker: We have recently released the September 2012 Labour Market Assistance Outcome report, which provides data on what happens to jobseekers after they leave the service.
Ms Drayton: The employment outcomes overall are 43.3 per cent and for stream 4, 25.1 per cent.

Senator SIEWERT: That is overall employment outcomes?

Ms Drayton: Yes. That is a measure of jobseekers who, three months after they were assisted by JSA, were in employment. Of the people who got employment for stream 4, 57.7 per cent were still in employment three months later.

Senator SIEWERT: So that is six months?

Ms Drayton: No. It gets very confusing. There are outcomes paid to providers—13- and 26-week outcomes. There are employment rates and job placement outcomes. What I am taking you through here is, if we look at the jobseekers who are in JSA and we go back three months after they were in JSA and check their status—

Senator SIEWERT: Yes, but they have finished their engagement with the JSA.

Ms Drayton: Yes. We survey jobseekers and—

Senator SIEWERT: Yes. That is the 25.1?

Ms Drayton: We survey jobseekers to see what has happened to them and 25.1 per cent of stream 4 jobseekers were in employment at that time. Of the people who were in employment, 57.7 per cent of stream 4 jobseekers were still in employment when we went back three months later to check what is happening with them.

Senator SIEWERT: Again?

Ms Drayton: Yes.

Senator SIEWERT: So that is in effect six months?

Ms Drayton: Yes.

Senator SIEWERT: That is where I was going. So we are down to 57, that is half of the 25 per cent. So it is a relatively small percentage that is still in employment.

Ms Drayton: Stream 4 is, as you are well aware, a very disadvantaged jobseeker group, but the 25.1 per cent is a good outcome for stream 4. In previous years and in other systems the outcome rate was not as high as that for a similar cohort of jobseekers. There is still obviously work we would like to do to increase that stream 4 rate.

Ms Parker: There is a good percentage of them who are in education and training, which we consider a positive outcome as well. For stream 4, it is 19.9 per cent and in terms of what we call a positive outcome—in other words, education or training or both of those things, it is 40.8. Obviously we would love it to be 100, but it is a positive outcome considering it is three to six months later, after they have been—

Senator SIEWERT: How many of those stream 4s would be long-term unemployed? Of the 25.1 per cent, how many are long-term unemployed? Are you able to give me that?

Ms Drayton: Long-term unemployed, I do not have it broken down by stream as such. Of the people the 25.1 per cent are a subset of, 33.6 per cent are long-term unemployed and 29.9 per cent are very long-term unemployed.

Senator SIEWERT: 29.9 per cent are very long-term unemployed and that is of the 25.1?
Ms Drayton: No. It is of the whole lot of people who got the outcome. So we do not have the cohort breakup by stream; I only have it by the 43.3 per cent, which is all of the jobseekers who got an employment outcome.

Senator SIEWERT: So overall out of the whole program?

Ms Drayton: Yes.

Senator SIEWERT: So we do not know of the stream 4 long-term unemployed, but you could break down the figures. Is it possible to take on notice, then, that break down? I am trying to determine how we are going, particularly, with the long-term and the very long-term unemployed.

Ms Drayton: You are looking at the absolutely most disadvantaged—

Ms Paul: They are a captive cohort. They are extremely poor, so they have multiple disadvantages. Then, in addition to that, they are long-term or very long-term unemployed. Once you get through all that, they have been unemployed for a year or two years, what proportion of them are getting 13-week or 26-week or at least some sort of job or positive outcome.

Senator SIEWERT: Exactly. That is what I am after.

Ms Drayton: I do have some things I can give you that might help. If we look at the stream 4s who got a 13-week employment-paid outcome, there were 24,434 13-week outcomes and of that figure 30 per cent were unemployed for more than two years. We will do some more work on that, senator.

Senator SIEWERT: If you could. You obviously know what I want to know.

Senator SINODINOS: You do not have to do it now but can you provide a list of all 144-or-so types of outcomes under the JSA contract? Is it true that there is a whole matrix of outcomes?

Ms Drayton: We can certainly provide you with the outcomes and payment schedules.

Senator SINODINOS: Including the claims made against each in the last 12 months? Is that public information?

Ms Drayton: We can take that on notice and provide that for you.

Senator SINODINOS: Of the claims that have been rejected by DEEWR or more information sought, what are the top 20 outcome types?

Ms Parker: In terms of rejected, there are a couple of ways of doing that. Sometimes the IT system just does not let them go through. Do you mean we have audited them and found them to be invalid? Is that the question?

Senator SINODINOS: Where there has been a discretionary action, rather than just the IT system.

Ms Paul: We will try to get to some indicators of the integrity of the program. I understand what you are getting at.

Ms Parker: I think we can do—

Senator SINODINOS: It is output of indicators of integrity.

Ms Parker: Yes, we will see what we can find.
Ms Paul: I do not know whether that will end up being broken down by all those claims, though.

Ms Parker: No.

Ms Paul: If that is what you are trying to, that is fine. We can deal with that.

Senator SINODINOS: Education outcomes: for what percentage of the caseload has an education outcome been paid?

Ms Drayton: Overall, 21.9 per cent have an education and training outcome and, broken down by stream: stream 1 is 20.7; stream 2 is 23.8; stream 3 is 23.1; and stream 4 is 19.9.

Senator SINODINOS: So it is pretty consistent across the streams.

Ms Drayton: It is.

Senator SINODINOS: Do you pay for outcomes outside of nationally accredited courses?

Ms Drayton: As long as the people have undertaken the semesters required—I will just check on the exact rules around it—and undertaken the course requirements then we would pay for an education outcome. I will check with none of my colleagues.

Mr Watson: As long as the course meets state jurisdictional requirements and it goes over two semesters—it has to be a qualifying education course. Usually they are accredited, but depending on the state jurisdiction they might be longer, lower-level courses.

Senator SINODINOS: RTOs would be covered?

Mr Watson: Yes.

Senator SINODINOS: Higher education course providers?

Mr Watson: Yes. TAFEs, schools.

Senator SINODINOS: Okay. Private providers.

Mr Watson: Private providers, yes.

Senator SINODINOS: Is there a minimum certificate level qualification requirement for which an education outcome payment would be made?

Mr Watson: No.

Senator SINODINOS: How far down does it go?

Ms Drayton: Certificate I.

Mr Watson: You could do certificate I, the lower level, and in some cases do registered training courses as well.

Senator SINODINOS: What would certificate I cover?

Ms Paul: Sometimes it could be foundation courses. That is another thing. For example, it could be prevocational, Mr Watson, could it not?

Mr Watson: Certainly.

Ms Paul: Some of the foundation skills—some of the prevocational that are not accredited under the AQF, but all lead to a much more sustainable outcome.

Senator SINODINOS: Yes. Are we talking about situations where they would be covering basic literacy and numeracy?
Ms Paul: Yes. That is what I mean by foundation. Foundation is usually literacy and numeracy. It could be an adult education course or prevocational. It could be some of that with a bit more of the employability skills et cetera. It could be anything accredited under the AQF.

Senator SINODINOS: Would those foundation courses and prevocational and the like be a big proportion of what you are paying for?

Mr Watson: To give exact detail we might need to take that on notice. We have some elements of the accredited—it is probably worth also explaining that just because it is in the AQF it does not mean they will get an education outcome for it, so that is why it sounds like we are hedging our bets a little. It could be a short course of a higher certificate value but not go over the two semesters to complete it. It sounds like we are hedging a bit.

Ms Parker: There are select statements of attainment that are a component of an Australian Qualifications Framework course; competency, for example.

Senator SINODINOS: If a course goes for 27 weeks in total, would an education outcome payment be made at the 13- and 26-week marks?

Mr Watson: To take it as simply as that, it could. It sounds like it would to me but again it needs to be satisfying the two-semester arrangement and, again, different jurisdictions have different definitions of what a semester is. To be helpful, I would say that a 26-week course accredited within the AQF is probably likely to be eligible for a 13- and 26-week outcome and to be paid at that point.

Senator SINODINOS: Would you not normally wait until they have completed the course in toto and then pay the amount?

Mr Watson: The 13- and 26-week education outcome is designed to encourage providers to refer people to those semester based courses. It is a nudge.

Senator SINODINOS: If a job seeker were to complete the course ahead of time, say in 11 weeks instead of 13, do they get an outcome paid?

Mr Watson: No. The 13 weeks is the first threshold and there is no part-completion from 13 to 26 weeks. It is to provide an incentive and an encouragement to complete longer courses. It is for education rather than just training.

Senator SINODINOS: You have a set of rules that determine when an outcome should be paid?

Mr Watson: Correct.

Ms Parker: Yes.

Senator SINODINOS: It is not discretionary, in that sense.

Mr Watson: No, it is not.

Ms Parker: That is why there are so many outcomes; it is complex.
**Senator SINODINOS:** What is the total expenditure, to date, of the Employment Pathways Fund?

**Ms Drayton:** Since the beginning of JSA it has been $1.4 billion of expenditure.

**Senator SINODINOS:** What is the most recent period you have?

**Ms Drayton:** I have a total for the whole of the contract. I have it broken down in numerous ways but it is the total of the contract.

**Senator SINODINOS:** Do you have types of expenditure?

**Ms Drayton:** Yes, certainly. Sorry, I thought you meant different periods of time.

**Senator SINODINOS:** You would have types of expenditure over the life of the contract, but not by the most recent period, for example.

**Ms Drayton:** Would you like the expenditure?

**Senator SINODINOS:** Yes.

**Ms Drayton:** Training is the most-used category under the EPF: $485 million, which represents 35 per cent.

**Senator SINODINOS:** Yes.

**Ms Drayton:** Wage subsidies are $276 million, just under 20 per cent; provider services, $172 million, 12.4 per cent; professional services, $106 million, 7.6 per cent; group activities under work experience, which takes in things like Work for the Dole and Green Corps, $84 million, six per cent; clothing and presentation, $78 million, 5.6 per cent; and helping people with transport and licences, $76 million, 5.5 per cent. Then there are a range of smaller ones.

**Senator SINODINOS:** Reverse marketing?

**Ms Drayton:** Reverse marketing comes under provider services.

**Senator SINODINOS:** So what does that cover? What does that mean?

**Ms Drayton:** Reverse marketing is where a provider will canvass employers, in respect of a job seeker, where a job does not exist. So they are selling the job seeker to the employer.

**Ms Parker:** And asking them to basically create a job, rather than a job that has already been advertised.

**Senator SINODINOS:** Would you have spending for the separate item?

**Ms Drayton:** In respect of reverse marketing?

**Senator SINODINOS:** Yes.

**Ms Drayton:** Yes. I will just get that for you. This is one I do have broken down by years. In total it is $94,092,699. It represents seven per cent, as we said earlier, of the EPF. Do you want that broken down by year?

**Senator SINODINOS:** Yes, the last couple of years.

**Ms Drayton:** For financial years 2009-10 it is $25,800,604; for 2010-11 it is $30,276,752; for 2011-12 it is $26,814,500; and year to date, 2012-13, it is $11,200,845.

**Senator SINODINOS:** I assume training purchased using the EPF would also have to be accredited on the basis that we have discussed before?
Ms Drayton:  It can be both accredited and non-accredited training, and I can take you through that. Overall, as mentioned earlier, training expenditure is $485,153,221 and, of that, it can be both for accredited and non-accredited training. We only recently made IT changes last year that enabled us to differentiate between the different kind of training. Vocational training represents about 64 per cent of all the EPF spend and that is from 1 July last year to 31 March. The accredited training spend is $52,158,144. Non-vocational training—some of the things that people were describing to you earlier—is about 35 per cent of the EPF expenditure for training since 1 July last year. I do have it, but I am happy to provide this to you rather than go through it line by line, though we have it broken down by certificate level as well and diploma level in a great deal of detail.

Senator SINODINOS: I understand. Does the department track whether someone who has their training funded by the EPF in fact completes the training?

Ms Drayton: We are working on that, Senator. We certainly have been working closely with the states and territories, who facilitate a lot of training for us, and we do not always get the completion and attainment data from the states and territories. Where the training provider is someone that we have a close relationship with or that the provider has a closer relationship with, that is easier to get than—

Senator SINODINOS: But isn't the Commonwealth tracking the person?

Ms Drayton: The student?

Senator SINODINOS: The student or whoever, through the process?

Ms Drayton: No.

Ms Parker: No, not through training, only in the broader sense. So where we have national partnership agreements with states, we do it in the broad sense, but not by the actual student ID.

Senator SINODINOS: Okay. Are Wage Connect subsidies recommencing on 1 July 2013?

Ms Drayton: Yes.

Senator SINODINOS: I noticed there was an article in the paper the other day saying that it had been among the most effective of DEEWR programs. Is that right?

Ms Drayton: Yes.

Ms Paul: It is very popular and very successful.

Senator SINODINOS: Was that quoting research that had been done in the government, or by an academic, or was it an evaluation that had been done?

Ms Drayton: If it was the article in the Australian, it was quoting a question on notice. If it is the same article, it was quoting 26-week outcomes and employment outcomes as a result of people who were on the wage subsidy.

Ms Parker: We have been tracking. They are staying longer and they are sticking in the jobs, which is a change from previous attempts to do this.

Senator SINODINOS: In this round that we are contemplating from 1 July, how many subsidies will be funded? It is 5,900?
Ms Drayton: The next round is offering 10,000 places. There will be $25.5 million available for the next financial year when we reopen it.

Ms Paul: You know that this is for very-long-term unemployed Wage Connect.

Senator SINODINOS: Yes. Do you offer the maximum subsidy, or how do you do it? Do you grade the subsidies?

Mr Watson: The subsidy is an indexed rate, and it is around $6,000 in the out years per placement for the 26 weeks.

Senator SINODINOS: But you do not offer lower placements for people with less risk? I suppose I could put it that way.

Ms Parker: The providers can pay wage subsidies out of their EPF for any job seeker.

Senator SINODINOS: What has been the average duration of employment for recipients of these wage subsidies? Have you got that?

Ms Paul: Is that for Wage Connect?

Senator SINODINOS: Yes, that is right.

Ms Drayton: Because it is a subsidy that is paid in respect of people being in employment, we track them for the length of time that they are on the subsidy so that we know, for example, how many have a 13- or a 26-week outcome. We track how many could have got to that point. So we know—and that is basically what the article was saying in the paper that you referred to earlier—that since Wage Connect commenced there were 4,911 job seekers who got a 26-week outcome, out of 10,725 who could have got an outcome. So we know that the stickability of it is quite high, and the duration of them is 157 days, on average.

Senator SINODINOS: According to one of your fact sheets, in some circumstances the subsidies can last for longer than 26 weeks.

Ms Drayton: That is correct.

Senator SINODINOS: How do you judge that?

Ms Drayton: If someone does not have full-time job search requirements—they have part-time requirements—it can be extended to 52 weeks.

Senator SINODINOS: Which makes up the equivalent of 26 weeks full time or whatever.

Ms Drayton: That is right. The amount of the subsidy does not change. The length of time it is available changes.

Senator SINODINOS: Has this occurred to date? Has there been much of this?

Mr Watson: It is in place so as not to disadvantage people with lower requirements, particularly people with disabilities or particular cohorts of job seekers which have the lesser requirements. I would have to take on notice the number, but I would note that about half the places are people with disabilities from the Disability Employment Services program, and a lot of those people would have reduced requirements, and therefore they are eligible for the 52 weeks.

Ms Drayton: We will follow that one up for you.

Senator SINODINOS: I will just turn to provider compliance. In the last 12 months, how much has DEEWR reclaimed from providers? Is that readily-available information?
Mr Parsons: The question sounds simple, but I will just elaborate. We have quite a few different codes that we put in the system for money that is recovered from providers. In fact, the largest category of recovery is where they provide it themselves. Fifty-three per cent of the amount recovered is where the provider self-identifies an invalid claim and calls it back through their own quality control measures. So my answer will include the quantum that is offered back to the department by the providers. I have that for the current financial year to date.

Senator SINODINOS: That is fine.

Mr Parsons: It is $26.7 million.

Senator SINODINOS: That is the total that has been—

Mr Parsons: Recovered, yes. Of that, as I say, slightly more than half is where the providers have self-identified and offered their money back to the department.

Ms Parker: That is to 31 March this year.

Senator SINODINOS: How many providers is that? How many providers have had to pay money back?

Mr Parsons: I do not have that with me. I would be surprised, given that we do include the self-identified recoveries, if there is not at least one recovery from all providers.

Ms Parker: In other words, it could just be that they made a mistake.

Mr Parsons: That is right.

Ms Parker: Someone in their office may have made an error and then they realise they have claimed something in error.

Senator SINODINOS: But is there a bigger error rate or compliance failure in this contract than in the previous one, do you think?

Mr Parsons: I do have some old figures. For example, in 2006-07, which predates the current contract, $34.7 million was recovered. That is a full-year figure.

Ms Parker: The lowest has been about $15 million. We are on $26 million, so it does vary. Sometimes that comes out of a very large audit in the middle of a contract. That can bring back millions of dollars.

Senator SINODINOS: So you do not think there has been an issue over time. One of my colleagues sent me part of an audit report—the 2008-09 report—on the Job Network outcome payments which gave favourable reports of DEEWR administration and the overall compliance with the contract from an outcome payments perspective. But in that sense you do not think there has been much of a trend change over time?

Ms Parker: When you think that JSA and DES between them are about $8 billion, while we would obviously like to not recover any, we think it is consistent over time.

Senator SINODINOS: Have you been putting more and more controls in over time? Has that been a trend?

Ms Parker: Certainly our IT system stops a lot of incorrect claims from the beginning. They have to go through gates to even put claims in. We have moved to much more of a risk based approach. We have tried to move away from a transactional approach. We cannot check
every claim. There are millions of them every day. What we can do is get much more sophisticated around the real risks.

The other thing we probably have done well and need to continue to do well is work with providers on this. Providers know that the good reputation of a program is going to mean positive business for them and so it is in their interests to tell us when things go wrong and to tell us when they hear about other providers doing the wrong thing. When they put in an incorrect claim, we welcome that. We say to them, 'If you tell us you have made a mistake, that is absolutely going to be in your favour and we will be positive towards you.' I think that has changed over time. We have become much more positive around working with them. So we will say to them things like, 'We have this large risk; you tell us how we are going to mitigate that risk. That will minimise your red tape but provide comfort to the community and to us that everyone is doing the right thing and that job seekers are getting what they should be getting.' That is working really effectively. In the same context, when a provider does something wrong and we have educated and worked with them, we need to go pretty hard on them. That is how we would approach it.

**Senator SINODINOS:** So those providers who have established a pretty good track record of doing the right thing—

**Ms Parker:** Yes.

**Senator SINODINOS:** tend to get a lighter touch?

**Ms Parker:** Yes, that is right. They do. And a good risk framework will absolutely have that in it. So if you are a five-star provider, who the contract manager works positively with, you will have a lighter touch than a provider who is continuing to do the wrong thing.

We also take business off providers. And we have business reallocation formal processes half-way through the contract period, where we remove underperforming providers and take their business to higher-performing providers.

**Senator SINODINOS:** Good. Just on the jobseeker compliance, how many job seekers currently have a Centrelink granted exemption from job search?

**Ms Drayton:** Senator, 74,298.

**Senator SINODINOS:** And they would get that exemption on what basis?

**Ms Drayton:** Exemptions are applied by DHS in respect of a job seeker's ability to meet their activity test requirements. The biggest reason has been unchanged for many years and that is a temporary medical condition. That has to be assessed on the basis of a medical certificate provided by the job seeker, and the exemption goes for the period of time of the medical certificate.

**Senator SINODINOS:** How many of these job seekers have had an exemption for six months or more?

**Ms Drayton:** There are two different kinds of exemption. The short-term ones go for 13 weeks, and the longer-term ones are for a maximum of 52 weeks. The 13-week exemptions can be extended. You are asking about the ones that have gone for more than six months. I am not sure that I have that exact figure. I know how many have short-term and long-term exemptions.
Mr Stiller: We have the median average for the short-term and long-term exemption but we do not have the data that indicates how many did go for more than six months.

Senator SINODINOS: Okay.

Mr Stiller: But we can take that on notice.

Senator SINODINOS: That is fine. How many job seekers are currently—

Ms Paul: Would you like what we have, because it may be easier than trying to work it in that way, and we may not have it, anyway.

Senator SINODINOS: Is this the median?

Ms Paul: Yes. If it is to hand—

Ms Drayton: We have quite a bit of information around that. The short-term ones represent 87 per cent of all the exemptions. Those are the ones that are generally of a 13-week duration and could go on a bit longer. The long-term exemptions are 9,430. They are usually the legislated ones in respect of parents, in particular, and their caring responsibilities. That split between the short-term and the long-term, over the last four years, has remained fairly consistent. So it does appear that the majority of them are short-term. The average of those short-term exemptions is 13-weeks. We will see what else we can find out for you for those who have had repeat exemptions.

Senator SINODINOS: Include those who have recorded a compliance failure.

Ms Drayton: You cannot have a compliance failure if you have an exemption. The exemption exempts you from activity-test requirements. That means it takes you temporarily outside of the compliance framework.

Senator SINODINOS: How many job seekers are currently suspended in the case load?

Ms Drayton: Suspended are 146,171.

Senator SINODINOS: These are characters who have done the wrong thing and—

Ms Drayton: No. The figure I gave you for those suspended from the caseload was about a different question.

Senator SINODINOS: That covers what?

Ms Drayton: That covers people with exemptions, people who exit and people who are in part-time work.

Senator SINODINOS: I see.

Ms Drayton: Were you asking about the jobseeker compliance suspensions?

Senator SINODINOS: Yes.

Ms Drayton: I have got two periods of time for you. From July last year to December last year, 219,921 payment suspensions were made, in respect of 133,695 job seekers, and the average time that people were suspended was 5.2 days.

Senator SINODINOS: That does not sound too long actually.

Ms Drayton: I suppose it is relative.

Senator SINODINOS: It is a hard thing to judge what is a right or a wrong level, but it does not sound too bad.

Ms Drayton: It depends where in their pay cycle the suspension takes place.
Ms Parker: The policy is for short suspensions to encourage re-engagement, rather than long periods of non-payment.

Ms Paul: Take effect quickly and be reinstated quickly.

Senator SINODINOS: Do you break it down by the type of compliance failure?

Ms Drayton: I can. Suspensions is not a failure. It is a different thing. I do have all the compliance failures broken down, which I can give you if that is what you are interested in.

Senator SINODINOS: Yes.

Ms Drayton: I will give you the six-monthly figure, and I have got a whole-of-contract figure if you would like.

Senator SINODINOS: The six-monthly is fine.

Ms Drayton: This is for July to December 2012. I will follow them through by failure type. Submitted connection failures: 236,817, and 176,816 connection failures applied. They have an applied rate of 75 per cent. Reconnection failures: 57,613, and 36,413 applied. Their applied rate is 63 per cent. No show, no pay failures: 54,373, and 39,028 applied, with an applied rate of 72 per cent. Serious failures, the ones where people have failed to start work or refused to take on a job: 2,210, with 984 of them applied and a 41 per cent applied rate. These are the participation failures. In total for that six-month period, 351,013 were submitted, 253,241 were applied and there was an applied rate of 72 per cent overall. Then we move into the more serious ones. There are not too many of them. These are the ones that come after a comprehensive compliance assessment. You have had three applied, in the shorter ones, and you have an eight week non-payment period, potentially, as a result. There have been 34,299 CCAs undertaken, and 11,668 eight-week non-payment periods applied in that six-month period. We also have what we call the unemployment non-payment periods, where somebody leaves a job or is fired from a job for misconduct or no good reason. There were 27,209 of those, of which 11,402 were applied. They are an eight-week waiting period before you can get back onto income support. So the grand total, overall, of all the failures, all the compliance activity, for the six-month period, is 412,521 submitted and 276,311 applied, and the applied rate overall is 67 per cent, which has increased quite significantly over the years.

Senator SINODINOS: I do not know whether you just supplied this when you were putting up the numbers. How many job seekers have had more than one compliance failure in the last six months or so?

Ms Drayton: It will take me a minute to find that. I know we do have a report that it is in. We have it for 12 months, not six months. We will just take a moment to find that one.

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

Ms Drayton: That was the figure of 39,028. It was 72 per cent overall. Senator, I just have to correct something whilst we are looking. The suspended caseload is 146,161; I have been told that I had told you it was 146,171.

Senator SINODINOS: You did. That is all right. It is a smaller error rate than Treasury; don't worry!

Senator Jacinta Collins: And you would know, Senator!

Senator SINODINOS: Exactly!
Mr Stiller: Senator, for no show, no pay for the six-month period, 12,457 job seekers incurred the 39,028 failures. That gives you a sense of the number receiving more than one.

Senator SINODINOS: I have a question on labour market assistance. Has any specific assistance been provided to Holden to help newly redundant workers to train or find new jobs?

Ms Parker: We are just having a look. There are a number of structural adjustment programs. There is a specific one called the Automotive Industry Structural Adjustment Program, which is available to workers made redundant from eligible passenger motor vehicle manufacturers and component manufacturers across Australia. What it provides—and it is accessible to Holden—is immediate access to stream 3 in Job Services Australia. Each worker who registers is able to access $2,880 in the Employment Pathway Fund. Normally they would get $1,100, so they get the top-up of $1,780. That is a specific, separate program top-up.

Senator SINODINOS: Is that a labour adjustment program set up in the last 12 months?

Ms Paul: I think it is a bit older than that.

Ms Wearne: No, that program has been around for a little while—since 2008.

Senator SINODINOS: That was a component of that broader automotive assistance scheme.

Ms Parker: It is broad, yes.

Senator SINODINOS: What about specific labour market adjustment programs in the last 12 months? Have you set up many of those?

Ms Parker: Yes. I will tell you the packages that exist while Ms Wearne is finding that. I have mentioned the automotive one. There is the Textile, Clothing and Footwear Structural Adjustment Program; the BlueScope Steel Labour Adjustment Program, which may be the one you were referring to; and the Forestry Industry in Tasmania Structural Adjustment Program.

Senator SINODINOS: That has only recently been set up, has it not?

Ms Wearne: That one was established on 1 June 2011.

Senator SINODINOS: I was thinking of the agreement that was struck recently.

Ms Wearne: Sorry, that one was actually established in August 2011, but for job seekers made redundant after 1 June 2011.

Senator SINODINOS: Do you have any information on how much has been spent to date on the BlueScope program?

Ms Wearne: For the BlueScope program, total expenditure as at 31 March is $3.4 million.

Senator SINODINOS: Do we know how many workers have benefitted from it?

Ms Wearne: There have been 914 jobseekers registered with Job Services Australia over that program.

Senator SINODINOS: Are they retrenched or redundant steelworkers? Who would they be?

Ms Wearne: Yes. Redundant workers from BlueScope Steel in Victoria and New South Wales, as well as workers made redundant from BlueScope's eligible suppliers.
Senator SINODINOS: How many of the former BlueScope employees have secured employment as a result of this package? Do we know that?

Ms Wearne: As at 31 March, 590 of those people registered with Job Services Australia have been placed into employment. That is just through Job Services Australia. Other people will have found employment on their own.

Senator SINODINOS: Do you monitor which companies are taking up former BlueScope employees, for example, or related employees?

Ms Wearne: I do not have a list of companies. We have a general sense of the industries they have been placed into, but I do not have an exact list of companies for each one of those people.

Senator SINODINOS: The reason I mention it is that 7.30 had reported that 37 firms were funded to employ jobseekers under this BlueScope program and only two of these firms employed former steelworkers.

Ms Parker: It was quite a literal interpretation—the assumption that only people who were made redundant were given support. In fact, a whole range of support was offered to the region. Some of that was economic diversification of the region; existing businesses being funded to expand their capability. It was not just about direct job replacement. We did think that was quite a narrow view of the support.

Ms Paul: I remember working with BlueScope CEO and BCA on how to support the region. Of course, your hope is that you end up supporting those who become employed people rather than those becoming retrenched on the way through. It is not always the case that they have to be retrenched. For example, the local employment coordinator, which this funding would support as well, and job expos and all those things which are to do with the whole community, also ended up linking—I am pretty sure—some of the people who are likely to be made redundant with potential jobs in Queensland. I think it was the time of the floods. That is my recollection. Anyway, I know there were opportunities in Queensland. Those sorts of things go on. I think the 7.30 Report was a narrower slice.

ACTING CHAIR: Now might be a good time to have a break.

Proceedings suspended from 10:33 to 10:50

ACTING CHAIR: The committee will resume.

Senator SINODINOS: The Priority Employment Area Initiative has been extended until June 2014. Do you have any numbers on how its success is being measured?

Ms Paul: We are looking at it in range of ways. We will take you through those. One of the ways is the contact made through the job expos that I talked about before, in response to Senator Siewert. There have been 26,000 connections made between job seekers and potential employers in training.

Ms Parker: Senator, are you asking about the areas themselves and the labour markets or about the LECs and what they are doing?

Senator SINODINOS: No, the former.

Ms Parker: The labour market areas. We can talk about how they are progressing and whether they are improving.
Ms Bennett: We have an assessment of each priority employment area. There are 20. Do you want me to go through them?

Senator SINODINOS: Would it be easier to provide that sort of thing in written form?

Ms Bennett: I will run through them. Ballarat-Bendigo and Central Victoria is deteriorating over the year. It has a subdued labour market. Bundaberg-Hervey Bay is deteriorating; it has a weak labour market. Caboolture-Sunshine Coast is deteriorating, with a subdued labour market. Cairns is improving, but it has a weak labour market. Canterbury-Bankstown and Southern Western Sydney is relatively stable, but it has a very weak labour market. Central Coast-Hunter is mixed but subdued. Illawarra is deteriorating, and it has a subdued labour market as well. Mid-North Coast is mixed, but it has a weak labour market. North Eastern Victoria is improving, but it still has a subdued labour market. North West/Northern Tasmania is deteriorating slightly and has a weak labour market. North Western Melbourne is mixed, with a weak labour market. Northern and Western Adelaide is deteriorating, and it has a weak labour market. Port Augusta-Whyalla-Port Pirie is deteriorating, with a weak labour market. Richmond-Tweed and Clarence Valley is mixed but has a weak labour market. South Eastern Melbourne is relatively stable, but its labour market is subdued. South West Perth is deteriorating slightly and has an average labour market. Southern Wide Bay-Burnett is deteriorating, and it has a weak labour market. Sydney West and Blue Mountains is deteriorating, with a subdued labour market. Townsville-Thuringowa is improving, but it has an average labour market. Ipswich-Logan is deteriorating, with a subdued labour market.

Senator SINODINOS: In broad terms, that sort of deterioration presumably is just reflecting the overall slowing of the economy. So, relatively, weaker areas tend to come off a bit more?

Ms Parker: Yes, they do. They tend to be affected more. You are right in what you say, Senator.

Ms Paul: And they are slower to come back. What you saw during the global financial crisis was that the disparity between the regions with the highest unemployment rate and the lowest unemployment rate widened, and of course it is quite slow to come back.

Ms Bennett: It also reflects a mix of indicators.

Ms Parker: We have a range of indicators to March for each of those areas, including the unemployment rate—participation rate, youth unemployment, total employment in manufacturing, Indigenous unemployment—if you want any of those statistics, Senator.

Senator SINODINOS: On this basis would you be expecting more to be spent in these areas, in labour market programs, over the coming period?

Ms Parker: It would confirm that they remain priority employment areas. The government has already extended the Local Employment Coordinators and their principal funding pool for one year, and that is in relation to these statistics.

Senator SINODINOS: What is the total remuneration for the Local Employment Coordinators?

Ms Bennett: For this year or for next year?

Senator SINODINOS: Are they employed under contract?
Ms Bennett: There are contracts, yes.
Ms Paul: Are you asking about the coordinators or about the whole program?
Senator SINODINOS: About the coordinators.
Ms Bennett: It is $4.6 million for this measure, for Local Employment Coordinators.
Ms Parker: That is across all 20. They have an officer who works with them as well. There is a person leading and they have a support officer.
Senator SINODINOS: Is it normally one support officer?
Ms Parker: Yes.
Ms Bennett: There is one employment project officer.
Senator SINODINOS: Essentially, what do they do in these areas? What is their role?
Ms Bennett: Their role is to identify opportunities to improve local labour market outcomes and also to maximise government investment. If they see an issue that needs to be addressed they try to pull together local, state and federal government funding.
Senator SINODINOS: They are almost like brokers.
Ms Bennett: Yes, they are brokers.
Ms Parker: We have had very positive feedback from the community and the government employers and stakeholders. They have a very positive capacity to bring people together, and that is what we have often had trouble with. We have often had trouble trying to bring the various programs together and to have them work seamlessly.
Senator SINODINOS: Do they also tap into state and local?
Ms Bennett: Yes. They try to bring together all the stakeholders in the area. For example, with a redundancy they are absolutely critical. They bring all those groups together—state, Commonwealth, every support, the training providers. They get them all in a room together. They talk about a quick response and work out the various programs. That is a critical role, which would not exist otherwise.
Senator SINODINOS: Is there much turnover of coordinators?
Ms Bennett: No, there has been only one. There was an initial tender for the first two years and another tender for the second two years. There were six who were not successful in tender.
Senator SINODINOS: Do they work out of the DEEWR office in the area?
Ms Bennett: No, they work on their own. We provide them with a service contract and within that they can make their own arrangements.
Senator SINODINOS: For example, could they work from home?
Ms Bennett: They could if they wished.
Senator SINODINOS: They are mobile?
Ms Bennett: That is correct.
Senator SINODINOS: But they can work from home?
Ms Bennett: Yes, if they wish.
Mr Parsons: Their remuneration covers all expenses that they incur in the course of their work. They have to meet their own travel—

Senator SINODINOS: So they get a package.

Ms Parker: Office accommodation and supplies—those sorts of things—are covered by that.

Senator SINODINOS: Given that the extension of the priority employment areas was announced only on 9 May, have any of the Local Employment Coordinators announced that they will be moving on to other jobs?

Ms Bennett: They have not, but we are in the middle of a process of negotiation.

Senator SINODINOS: Budget night was on 9 May, is that right?

Ms Parker: Yes.

Senator SINODINOS: There was an announcement that the program was going to happen, so have people who may have assumed it was coming to an end at the end of June and who may have been making plans been contacted? Are you confident that you have people available to maintain the continuity in those areas?

Ms Bennett: Yes. I have asked them and they have indicated their intentions.

Senator SINODINOS: And they are coming back to you?

Ms Bennett: Yes. We are in the process of negotiating that contract relationship.

Senator SINODINOS: So if you find there are gaps, are you going to advertise for people or are you just going to pinch, to find other people.

Ms Bennett: We will need to tender.

Ms Parker: We will need to do that anyway because there is a new area being declared in Geelong. We need to advertise that.

Senator SINODINOS: In some cases I gather—in at least one case—they have given up their office space because they thought it was coming to an end.

Ms Bennett: Not to my knowledge.

Senator SINODINOS: But if there were a case like that, obviously you would work with them to try to sort all of that out?

Ms Bennett: Yes. I am in constant contact with them on a regular basis. They would certainly let me know if there were any issues.

Senator SINODINOS: The $4 million flexible funding pool available to the LECs to support or implement locally driven initiatives: who approves which initiatives are to be funded?

Ms Bennett: The delegation is with state managers in our state offices, but the proposals are developed by the LECs in consultation with their local communities.

Senator SINODINOS: Who monitors that the money achieves the stated objective?

Ms Bennett: It is done under a funding contract. We have a contract management arrangement and our employment project officers and my staff also look at the whole thing.

Senator SINODINOS: So is the success of an LEC linked to achieving these objectives? Is any part of their remuneration linked to that or it is separate?
Ms Bennett: They have five key performance indicators in their contract. They have to develop a regional employment plan. Each LEC has their own advisory committee of local stakeholders. They develop their regional employment plan in consultation with that advisory group and they use the flexible funding pool to meet the goals and strategies of their regional employment plan. Then we also assess them against the key performance indicators.

Senator SINODINOS: Senator Siewert may have raised this. The budget papers indicated a further 10 job and skills expos will be held across the country.

Ms Bennett: Yes, that is correct. That was announced.

Senator SINODINOS: I do not know whether in answer to her you answered this: the average attendance at those expos? I thought the secretary had mentioned a number.

Ms Paul: That was the number of jobseekers who had made contact with potential employers but the attendance is bigger again than that.

Ms Bennett: The total number of attendees since 2009 has been 264,018 and that is for 78 expos as at 24 May.

Senator SINODINOS: That is a fair whack of expos.

Ms Paul: They are very popular. You can hardly work your way through the crowd—having been to a few of them.

Senator SINODINOS: Is that right? Quite a few people go?

Ms Paul: Yes—lots of employers.

Senator SINODINOS: The Prime Minister went to one in Western Sydney, did she not?

Ms Bennett: That is correct, with about 5,000 attendants.

Senator SINODINOS: Yes, because there were a lot of people milling around.

Ms Paul: I think the biggest was Dandenong with 9,000 people.

Ms Bennett: And then we had smaller ones in the regional areas.

Senator SINODINOS: Your funding for these initiatives, do you tap into the department of regional development at all? Do they play a role in any of this?

Ms Bennett: No, not in terms of funding the measure. Some RDA committees are also on the advisory committees for the LECs. There is a strong link there. They work closely together.

Senator SINODINOS: You mentioned Geelong is going to be declared a priority employment area.

Ms Paul: Yes.

Senator SINODINOS: What duration of contract are we talking about there?

Ms Bennett: Through to 30 June 2014, which is the same length as all the other—

Senator SINODINOS: It will be on the same basis as the others?

Ms Bennett: Yes.

Senator SINODINOS: When does it commence as a priority area? Is it 1 July?

Ms Bennett: 1 July.
Ms Paul: We need to advertise that, so as soon as we can do the guidelines, do the advertising and the contract, as soon as we can get those in place from 1 July.

Senator SINODINOS: Just moving on to Queensland for a second: the Queensland assistance package—$850,000 committed last year—is that in relation to helping people in Queensland post-flood, post Campbell Newman?

Ms Bennett: It was in response to the budget cuts in the Queensland public sector.

Senator SINODINOS: I see! And do you know what the $850,000 is being used for?

Ms Bennett: It funded two additional jobs and skills expos, and another one that was already scheduled in that area was also targeted at redundant workers. There were also 30 jobs and information workshops, 14 career development workshops and about 300 one-on-one career-coaching sessions.

Senator SINODINOS: Connecting People with Jobs—that is another program that has been extended through until June 2014, which involves relocating people, or assisting them to relocate; is that right?

Ms Parker: Yes. The program has changed in terms of the target group and so on—it is now called Labour Mobility and Relocation Assistance. It is a new program based on learnings from Connecting People with Jobs.

Senator SINODINOS: Do you have any numbers on people who have been located to date, or how much has been spent to date?

Ms Drayton: A total of 1,235 people have been assisted under the current Connecting People with Jobs program, and the expenditure is $3 million.

Senator SINODINOS: And that covers which period?

Ms Parker: It was for the financial period 2010 to 2013, but it did not start until 1 January 2011.

Senator SINODINOS: In broad terms, where are they moving from and to? What sorts of sectors are they moving into?

Ms Drayton: Senator, 668 of the job seekers have moved from New South Wales, 368 have moved from Queensland, 103 have moved from Victoria, 64 from Tasmania, 28 from South Australia, and four from Western Australia—and that is the 1,235. And as for the states that they have relocated to, 515 have relocated to Queensland, 376 to New South Wales and the ACT, 113 to Western Australia, 99 to the Northern Territory, 82 to Victoria, 28 to South Australia, and 22 to Tasmania.

Senator SINODINOS: That is quite a mixed pattern.

Ms Drayton: It is. It has stayed fairly consistent through the life of this program. I think we talked a little bit last time about the difficulties moving east to west.

Senator SINODINOS: In terms of industry breakdown, are you seeing any sort of pattern?

Ms Drayton: The pattern has stayed very similar to last time, and I can run through the main industry patterns. The top 10 industries are accommodation, food services and hospitality; manufacturing; construction; agricultural; mining—that is about 11 per cent—
professional, scientific and technical services; retail and trade; transport; postal and warehousing; and health care and social assistance. They are the top 10.

**Senator SINODINOS:** In terms of general wage levels, what sort of level of worker is being assisted under the program, do you think? I assume the more senior people can look after themselves, because they are more highly paid.

**Ms Parker:** They are probably not in JSA, either. They can probably find their own jobs.

**Ms Drayton:** The only information I have on that is that the 27 were apprentices, so that obviously gives an indication; 1,171 were what is categorised as a 'normal' position; traineeships, 32; and commission work, one. So, it does not really have too much detail there that I can give you, but it does indicate that they are not the high end of the labour market.

**Ms Parker:** We had some rules in the previous program. They had to be unemployed for three months, they had to have formally accepted a job or apprenticeship of at least six months in an eligible area and they had to be residing an area where the unemployment rate is greater than the national average. The new program is a bit more flexible. It means it is easier for providers to also comply and move people quite quickly, and they are immediately eligible now, rather than having to wait for three months.

**Senator SINODINOS:** I now want to move on to the job seeker workshops. In terms of results, of the job seekers who have attended these, what percentage are currently now in employment? Do you track that?

**Ms Drayton:** We have very limited data on that. I will run through with you what we have. These are workshops that are undertaken by the Department of Human Services and are for job seekers in their first 13 weeks of unemployment—stream 1 job seekers. As at 31 March 46,264 people have attended a workshop. We do know that 330 have attracted a job seeker placement, and 195 have a job seeker outcome. So, it is very limited data that we have on those.

**Senator SINODINOS:** That is fine. Are you in the process of consulting on the 2015 contract at the moment?

**Ms Parker:** We are in the process. We have undertaken national consultations in states and territories and regions. We have consulted 440 people from 300 organisations. And we have invited written submissions; we received 180. The majority of those are on the DEEWR website. Some of them were confidential—people asked that they not be published. We have been analysing those, working through those, with a view to advising the government on options for 2015.

**Senator SINODINOS:** Are some people suggesting that you just roll over 2015?

**Ms Parker:** Yes, but we have had some very interesting quality feedback. I can say quite confidently that the general view is that the system is working well, that there have been improvements from previous arrangements, particularly for disadvantaged job seekers. But the consultations have shown that there are areas where there could be improvements, and they include things like focus on specific cohorts—young people, for example, particularly early school leavers, people who are homeless. We need to get better results for Indigenous job seekers than we are getting, and ex-offenders and so on. So, there is a group of people for whom our feedback and statistics and evidence are saying that while the overall system is
working well—it is very highly regarded internationally as well—we could make some improvements.

Senator SINODINOS: Okay, so perhaps you could go ahead with the processes for setting up the next contract. What is the time line for that? What do you have to do?

Ms Parker: Normally the detail and the costings and the absolute specificity is in next year's budget, so we are ahead in terms of consultation around the broad framework for 2015. We are envisaging our next stage, once government has considered its view, will be to undertake further consultations, and that would be about what detail is needed for the actual contracts, and then how much each component in that is going to cost. And then of course we go through the whole negotiation process with Finance.

Senator SINODINOS: Could the government decide in the next few weeks that it is going to roll over the contract?

Ms Parker: It would be unlikely, but yes, it could. Certainly it could announce a rollover. It would be unusual, but it is a matter for government.

Senator SINODINOS: And if the contract were to be rolled over, would there be indexation of the fees and payments?

Ms Parker: Again, that is a matter for government.

Senator SINODINOS: On this general issue of contracting, have you looked at the prime contractor model in the UK?

Ms Parker: Yes, we have. We have been looking at all the overseas models and regularly talk to our colleagues. The OECD has just done a report on our system, which is very positive. The prime contractor model is in the early stages. They have not done an evaluation. They have started early monitoring. There has been a lot of media coverage. So, we certainly talk to UK counterparts, but there is no conclusive data at this stage.

Senator SINODINOS: Are some people pushing that model as a way of reducing red tape in compliance?

Ms Parker: Some stakeholders like the prime contractor model.

Senator SINODINOS: It depends how big you are, I suppose.

Ms Parker: It is not necessarily about red tape. Probably their argument would be more about reducing the numbers of providers and having a broader regional presence to meet employer needs. But I am not sure about the red tape side of it.

Senator SINODINOS: On the Remote Jobs and Communities Program, how many providers will be delivering these services across the 59 geographic areas in the 2013 to 2018 contract?

Ms Taylor: There are 59 regions in the Remote Jobs and Communities Program, and there is one sole provider per region.

Senator SINODINOS: So, you tendered this out. And you did this on what basis—that the costs of providing these services in these areas mean that it is probably economic if there is just one person doing it?

Ms Taylor: It was more about the service offer. The Remote Jobs and Communities Program rolls up the JSA, Disability Employment Services, CDEP and IEP and brings them
together in one service, including community development and all of those previous elements. It rolls it into a very different program. So, it is about having a more streamlined service offer that is more targeted towards the individual and the community. There is no streaming—so we do not have stream 1 to 4, for example—in the Remote Jobs and Communities Program. It is about delivering a better service with the coordinated elements and making sure that the breadth of the service can be delivered by one main provider. On a number of occasions that provider either will be part of a joint venture or may subcontract to local organisations in the region.

Senator SINODINOS: In areas where jobs are not available, like some of the more remote areas, participants are going to be undertaking activities designed to enhance their communities. So is this really an equivalent of CDEP?

Ms Taylor: The CDEP is rolled into this program. It is about focusing on what the opportunities are, where there is no natural labour market, in the region and outside of the region as well, but also looking at what opportunities can be developed in an economic development sense. So, it is turning those opportunities into real jobs, but it is also working with the community on what they consider to be their priorities and important things to be undertaken in the community. It will also pick up a volunteer in the community.

Senator SINODINOS: And what will participants in that sort of program be paid?

Ms Taylor: Only the previous CDEP wage recipients will receive payment. So, they will continue their wages.

Senator SINODINOS: At the same level of payment?

Ms Taylor: That is right. That continues for a further two years.

Senator SINODINOS: The Remote Youth Leadership and Development Corps: can you provide some details of what it is and how it is being funded?

Ms Taylor: Again, that is part of the Remote Jobs and Communities Program. It is focused on young people. It is a nine- to 12-month program, and I think it goes up to 22 or 23. There will be a series of activities, and providers will be contracting a whole of range of different activities for that group of people. It will include mentoring and work experience components and skills training focused on a job outcome. But it will be a sustained and perhaps a more intensive case management process.

Senator SINODINOS: And where is the funding for this coming from?

Ms Taylor: That is part of the whole program.

Senator SINODINOS: You rolled it in from Youth Transitions—is that right?

Ms Taylor: No, it is rolled in from JSA, Disability Employment Services, CDEP and IEP.

Senator SINODINOS: But it is a specific—

Ms Taylor: It is a specific element of it, yes.

Senator SINODINOS: I want to move on now to the employment services SMS tender. Can you provide a brief overview of that program?

Mr Parsons: The department, through its IT system, makes available a facility for our Job Services Australia providers to send SMS reminder messages to job seekers to attend their appointments. There is also the ability, I think, for ad hoc SMS messages to be sent by the Job
Services Australia agents to their job seekers. We do all that centrally. We use the purchasing power, if you like, to try to get a contract with a telecommunications carrier to send those SMS messages, and they go out each night. It is roughly—I was going to say a million per week, but I would have to check on the volume of SMS messages that have been sent.

Senator SINODINOS: How is the tender process going?

Mr Parsons: The tender was advertised on AusTender. Tenders have closed, and tender responses are currently being evaluated.

Senator SINODINOS: How much is being allocated for this contract?

Mr Parsons: The amount obviously depends on how many messages are sent, but it is slightly less than $1 million per year, on current prices.

Senator SINODINOS: For this tender it is $1 million only?

Mr Parsons: That is per year. It depends on the volume of messages sent.

Senator SINODINOS: We are used to dealing with billions around here! Has this been tendered out in the past?

Mr Parsons: Yes, it was, many years ago, when we first made this facility available.

Senator SINODINOS: If so, why is the current provider not continuing? Were they not meeting their KPIs?

Mr Parsons: The contract was several years ago, and it is time, I think, to test the market, given the competition that is in the telecommunications sector, to see if we can get a better price.

Senator SINODINOS: Across the Public Service, are there guidelines around frequency of testing the market? Or is it just something that is suggested as being good from time to time?

Ms Paul: We adhere to the Commonwealth procurement guidelines, which come out of the finance portfolio, I think. And I am not sure whether they give best practice or whatever, but we always have to adhere to those in whatever we do.

Ms Parker: Most of our contracts are for a period, with the right of extension, so it depends on what they are.

Senator SINODINOS: In terms of KPIs, how are you going to measure the effectiveness of the services?

Mr Parsons: SMS, as you know, is a non-guaranteed delivery. So our KPIs really will be receipt of the batch of messages each night from the department and evidence that they were dispatched from the telecommunications carrier. You cannot go any further than that because of the nature of SMS.

Senator SINODINOS: Do you have any comparative statistics on the costs of delivering this service in the past? A million a year does not sound too much, in the scheme of things.

Mr Parsons: No, we have only had the one contract to date, which is coming to an end—hence the retendering.

Senator SINODINOS: That is fine.

Senator XENOPHON: Can I just go to issues relating to jobs services, in terms of issues of outcomes. I had constituents that approached me about queries or concerns, including one
person who worked for one of the providers who thought that there were a number of irregularities and what amounted to fraud on the part of one of the providers that he worked for. I wrote to Minister Ellis about 17 months ago, on 6 January 2012. The inquiry was established—and that was the inquiry by Robert Butterworth; is that right?

Ms Parker: Yes.

Senator XENOPHON: My understanding is that these people were happy to make a submission. They included an employment psychologist, who received many of these instances of abuse and was not contacted. Can you advise how many of the following were consulted as part of the review: large employment service providers, small employment service providers, profit and not-for-profit service providers, and also others who had useful information in terms of the allegations of fraud within the network?

Ms Parker: I do need to apologise to you. We have no record of the 6 January 2012 letter and nor does Minister Ellis's office, so our apologies for that.

Senator XENOPHON: I can track the email records, but we can follow that through. I wrote to Minister Ellis on 23 May—

Ms Parker: Yes, we do have that.

Senator XENOPHON: Yes—which, for your ease of reference, enclosed a copy of the letter of 6 January.

Ms Parker: Thank you.

Senator XENOPHON: That was enclosed at the time. Have you got it now?

Ms Parker: We do have it now. Yes, thank you.

Senator XENOPHON: But you never got it back in January?

Ms Parker: No.

Senator XENOPHON: Back in January of 2012?

Ms Parker: No, that is right. So, in answer to your questions: Robert Butterworth was brought in to undertake a review of the JSA provider brokered outcomes of a particular payment that was being made to providers. We worked very closely with him. In terms of your question in relation to submissions, he worked with providers.

Mr Parsons: The way that the Butterworth inquiry unfolded, as it were, was to look at the highest users of the particular disparity that was referred to the government, which was provider-brokered versus provider-assisted outcomes. We looked at the 10 highest users of those claims, benchmarked them against a control group of four and, in that initial finding, found an unacceptable error rate. Minister Ellis subsequently—

Senator XENOPHON: What do you mean by 'an unacceptable error rate'? Is it more than an error rate or a discrepancy?

Mr Parsons: Yes. You can see the report on our website. From memory, the initial provider-brokered outcome audit found in the order of four out of 10 claims—or 40 per cent of the claims—were not substantiated by the required evidence.

Ms Parker: That is about one per cent of the total outcome fees paid to those 14 providers.

Senator XENOPHON: What were the fees paid in total, approximately?
Ms Parker: In that payment?
Senator XENOPHON: You are saying that one per cent—
Ms Parker: Yes, that is right.
Senator XENOPHON: were discrepancies.
Mr Parsons: We recovered—
Ms Parker: We have got the recovery.
Mr Parsons: I will just try and find that.
Senator XENOPHON: My understanding is that the department planned to recover $5.6 million in provider-brokered outcome fees. Was that recovered?
Mr Parsons: That is true. Butterworth was in for the first look at whether the assertion that the claims were wrong was correct. That was the first provider-brokered outcome audit, with that small sample group I talked about. The department then, because the error rate was high, looked across the entire provider population: profit, not-for-profit, large, small, regional and city—every provider.
Senator XENOPHON: On notice, can you provide details of who you approached? How thorough was the Butterworth inquiry in respect of this?
Ms Parker: Yes. So it was $5.6 million of recoveries—that is as you have mentioned.
Senator XENOPHON: Has that been recovered?
Ms Parker: Yes.
Senator XENOPHON: Is there more to recover?
Ms Parker: Not in that payment, no. The payment no longer exists, so there is no capacity to actually claim the payment. The results of the review—in quite a bit of detail, including how it was done—are on our website. The audit is up there.
Senator XENOPHON: Can I just go back a step. One of the people who spoke out about this was the Adelaide employment psychologist Dr Chris Hamilton, who was quite outspoken in the media about that. He made a number of statements and a number of assertions. He has spoken to me and provided information. Was he contacted by the department or by the Butterworth inquiry?
Mr Parsons: I have in fact reached out to him, in response to your most recent letter.
Senator XENOPHON: No, no. He has been talking about this publicly in the media for 18 months or two years now. Did anybody approach him?
Ms Parker: When you talk about the Butterworth inquiry, it was not an inquiry. It was a review of a particular payment, so it was not a complete—
Senator XENOPHON: Okay, perhaps the Butterworth review.
Ms Parker: Yes. So what we set up as a result of that review was a hotline. What we said to people in the public, providers and others—Minister Ellis announced it—was, 'If anyone has any issues, please approach the department and we will investigate immediately.' Dr Chris Hamilton has not come to the department. We have contacted him since your letter. If he were to come forward, we would absolutely look at whatever he has to raise. But we do not tend to follow up just on general media statements unless people have a specific issue to raise.
Senator XENOPHON: Even if that person happens to be an employment psychologist who has spoken out about his concerns?

Ms Parker: We would invite him to approach us and please present evidence for that.

Senator XENOPHON: So he was not invited to be approached?

Ms Parker: Not specifically, no. But we have contract managers in every state and territory. We have a hotline. We have a complaints and information line. We have email contact. There are many ways to contact the department, and we are very responsive.

Ms Paul: Had he come through the hotline, contacted our state manager or whatever, of course we would have. The thing to say, the thing that Ms Parker is saying about what Mr Butterworth did, is that he was actually looking at the claiming pattern. He was more looking inside at what the claiming pattern was. He found that the claiming pattern was not good.

Senator XENOPHON: By looking at the claiming pattern, did he then go behind that pattern to establish if there were any instances of fraud, for instance?

Ms Paul: Not only was he looking at that sort of thing but he was also giving us the indication to go and look for fraud.

Senator XENOPHON: There have not been any prosecutions of any providers?

Ms Parker: We have referred some instances.

Mr Parsons: There are some that are currently being investigated.

Ms Parker: We cannot discuss that. We have the fraud investigations unit in the department and we have referred some of these claims to that.

Senator XENOPHON: Can you say how many claims have been referred to the fraud investigations unit?

Ms Parker: Not for fraud, we cannot.

Senator XENOPHON: Not even a number, without identifying them in any way?

Mr Parsons: Let me check our—

Ms Parker: If we could check with our legal people.

Senator XENOPHON: But how would that in any way prejudice them, if it is just a raw number of how many cases have been referred to the fraud investigations unit?

Ms Parker: I suppose it could, because we may say there are 20, which immediately implies there is some large issue, and none of them come to fruition.

Senator XENOPHON: No, no. We are not saying that. There is a presumption of innocence.

Ms Parker: We will check with our legal people.

Senator XENOPHON: But if it is made clear that it is just a referral and that does not mean that anyone has been—

Ms Paul: We will take it on notice. There may be a way that, in our view, does not—

Senator XENOPHON: All right. Just finally on this, I understand that those organisations with the highest rates of PBO noncompliance will be required to secure certification against specific quality framework principles to demonstrate that they have appropriate governance and payment integrity arrangements in place and that these organisations have until 31 March
this year to achieve a passing audit, undertaken by an independent external auditor. Can you advise how many organisations have been audited to date?

Mr Parsons: All 12 have actually submitted the documents that were required. Where the audit found deficiencies, the external auditor, or the organisation in consultation with the auditor, would submit a corrective action plan. Two of the 12 submitted a corrective action plan for minor nonconformance.

Senator XENOPHON: So they all passed, effectively?

Mr Parsons: Ten of the 12 passed. Two of the 12 have got corrective action plans.

Senator XENOPHON: But is the department concerned that this may be the tip of the iceberg or do you think this problem has been solved?

Ms Parker: In the case of that payment, the problem has been solved; the payment no longer exists. We undertake extensive program assurance across the program. We have a risk management framework. We have an IT system that provides us with a lot of data for data mining. We have actuarial data modelling and desktop monitoring through our state contract managers. We believe we have a very sound process for managing program assurance. We were aware of the issue of that payment before it hit the media, if you like, and we were investigating it. The publicity of that resulted in us having Robert Butterworth come in to assist us, which probably brought it forward a bit quicker than it would have done, but we were already looking at it and we were aware of the issue.

Senator XENOPHON: Okay, but there is a lot of taxpayers’ money at stake. I am talking about the lives of job seekers and those decent men and women who work in these agencies. One who spent a lot of time with me is very concerned about the rorting and ended up leaving his employment because he just could not stand being there. You have got the article in Fairfax Media on 22 April of this year saying that the $4.7 billion welfare to work scheme is at ‘high risk’ of being defrauded by the government’s designated employment agencies, according to a confidential federal government assessment, saying the review in April last year found out that only 42 per cent of the claims examined were genuine and has promoted a reform. Are you saying that those issues, which Linton Besser from Fairfax reported, have been resolved now, or not?

Ms Parker: If I could explain what the higher risk statement meant. We have risk assessment plans, which we do for all our programs, including Job Services Australia. In that assessment we rate things according to whether we believe that a breach of them would represent a higher risk to government and to taxpayers, as you say.

Senator XENOPHON: Should it manifest.

Ms Parker: There are certain things that are high risk, absolutely, and the key here is not whether they are high risk, it is what we put in place to mitigate that risk. So yes, the $4.7 billion welfare to work scheme has some high risks in assessment, absolutely. As you say, it is worth a lot of money, it has got a lot of providers and a lot of job seekers. What we then do with any high-risk assessment is to have a very strong mitigation strategy around those high risks and we have a strong mitigation. This is very misleading to say that the program is high risk. It has risk assessment in that it is high risk but we have strong mitigation to address those issues.
Senator XENOPHON: Can you just confirm, because I am worried I am running out of time, there was a review conducted in April of last year, which was the Butterworth review, correct?

Ms Parker: Yes.

Senator XENOPHON: Then there was a December program risk plan, is that right?

Ms Parker: Yes.

Ms Paul: It is just a standard risk plan that we do.

Senator XENOPHON: Well, it might be standard to you but it seems extraordinary to me that it said in that document that these providers may 'obtain unfair gains … through claim of payments to which they are not entitled' and 'the manipulation of records in relation to the providers performance'.

Ms Paul: Perhaps I can summarise what is going on here. There was one outcome payment, the Provider Broker Outcomes payment, the PBO, which represented one per cent of outcome payments, which was found to be lacking clarity for providers. Indeed, we had identified, as Ms Parker said, that the guidelines were not as clear as they should be; it was vulnerable. We would say that was a high-risk payment out of the whole suite, which I think Senator Sinodinos has identified 144 or something. Of possible payments this one was identified as high risk. Indeed, in the end it was identified as so high risk, it was stopped. That one payment, the one per cent of fees, is what Rob Butterworth investigated. We were already on to it; he helped us out. That resulted in the $5.6 million recoveries. Mr Besser has followed this issue right through. What he is referring to from December is our normal ongoing compliance plan, our risk plan. Every big program would have one. So, just as any program would have risk, of course we would identify that our risk is exactly what Dr Hamilton is saying, which is, of course we are onto these things. It is very, very important and, I think, you will find on Hansard earlier evidence for Senator Sinodinos that we identified something like maybe $26 million over the year in recoveries, or something like that.

Mr Parsons: That is right.

Ms Paul: The year's recoveries were $26 million. You will see from the earlier evidence this morning that that number ranges from half of that number being as innocent as a provider making a mistake, finding it themselves and offering it back to us right through to the really, really hard end that Dr Hamilton is concerned about, where we may well instigate a fraud investigation.

Senator XENOPHON: All right. I will leave it at that. And you will let me how many matters have been referred to the fraud unit?

Ms Paul: Absolutely. That is fine.

Senator XENOPHON: Will that be today, or considered today?

Ms Paul: We will take it on notice and work out the best way of giving you the clearest impression of it. We will do it as fast as we can.

Senator XENOPHON: Thank you very much.

Ms Paul: Meanwhile, I think we have contacted Dr Hamilton and are very happy to sit down with him.

Senator XENOPHON: Okay. I will speak to him as well. Thank you.
Ms Parker: Senator, you asked how many have been referred to fraud investigation. The answer is three providers.

Senator XENOPHON: So that has been answered. Okay.

Ms Paul: That was easy!

Senator XENOPHON: Thank you very much.

Ms Parker: There are a couple of figures here. I know that you are in a hurry; I am sorry.

Senator XENOPHON: No. I am worried about the chair.

ACTING CHAIR: It is fine. We are very relaxed here.

Senator XENOPHON: She is a very strict chair!

Ms Parker: I am just clarifying the record, if that is okay. The department recovered, in our first phase, $992,000. These are the provider brokered outcome high users. That equals one per cent of total placement and outcome fees paid to those 14 providers. The second phase was $5.6 million of recovery, which equals around five per cent of total placement and outcome fees paid to JSA providers for the period of the audit.

Senator XENOPHON: Five per cent is a lot.

Ms Parker: Which is why, as we said, that payment needed to be stopped. It was a problem. That is why we called it high risk.

Senator XENOPHON: Thank you, Chair.

ACTING CHAIR: Are you finished, Senator?

Senator XENOPHON: I am finished for now.

Senator SINODINOS: I love that last bit, 'I'm finished for now.' There is more to come, more to be uncovered! I have a few questions on the New Enterprise Incentive Scheme, on the NEIS employment outcomes for the program.

Ms Drayton: The information that I have got, which I am happy to share with you, is that we have done longitudinal studies of NEIS participants and they have found that 83 per cent were either self-employed or employed, 16 months after being involved in the NEIS program. That was a study done in 2008. Similar levels have been maintained through subsequent reports. Our recent labour market assistance report shows that 85.7 per cent of participants remain employed or self-employed three months after exiting NEIS. It is a very high success rate program.

Senator SINODINOS: How many participants did you have through the program in the last 12 months?

Ms Drayton: Year to date—I will break it up for you—from 1 July 2012 to 31 March, 5,629 people have commenced in NEIS training and 3,773 have gone on to start up a business.
Senator SINODINOS: That is in the period to the end of March?
Ms Drayton: Yes—1 July 2012 to 31 March.

Senator SINODINOS: What was the cost of delivering the program?
Ms Drayton: For the same period of time, on the training component of NEIS, $878,797 has been spent. The NEIS panel member and income support payments that people received equate to $72.6 million.

Senator SINODINOS: That covers the payments, which are essentially the equivalent of Newstart?
Ms Drayton: Yes. It is income support payments and rent assistance if they are entitled to it.

Senator SINODINOS: And then some costs of the panel on top?
Ms Drayton: The training and the panel member who provides mentoring support.

Senator SINODINOS: How many NEIS places are currently allocated?
Ms Drayton: There are 6,300.

Senator SINODINOS: What is it?
Ms Laker: The program as a whole allows for 6,300 new business start-ups per year. A fundamental element of NEIS is the training that the participant receives. In order to achieve 6,300 small business start-ups there are more training places allocated than 6,300 because there is some attrition between the training and the starting up of the businesses. Each year there would be roughly 7,000 training places allocated, which would convert to 6,300 small business [inaudible] created.

Senator SINODINOS: The places are given to a provider who may have been awarded a contract in a particular employment service area. However, if they have contracts in multiple areas could they technically offer all their NEIS places in one place instead of distributing them across the various employment service areas they cover?
Ms Laker: Technically that is possible. However, we monitor the places as they are occurring to ensure that there is a spread of business.

Senator SINODINOS: It might be that, particularly in areas which are suffering disadvantage—take what has happened in Geelong—there are people who are more likely to think: 'I'll take a payout, whatever it is, and try to start a small business and therefore try NEIS or something else.'
Ms Laker: The training places are allocated based on a formula. The formula takes into account the allocation based on the job sectors in that area and the rate of NEIS conversions in the past. So there is somewhat of a performance element in that as well.

Senator SINODINOS: I have a couple of things on social enterprises and research. Do DEEWR currently fund any social enterprises?
Ms Paul: We have the Social Enterprise Development and Investment fund, which has matched $20 million of private sector money with $20 million of taxpayer government money to fund social enterprise in disadvantaged areas. That was tendered out. It went to international tender, actually. Organisations like Christian Super and Social Ventures
Australia et cetera are part of that. Intriguingly, this portfolio has been at the leading edge of some of that investment, in what I guess you would call 'social impact investing'.

Senator SINODINOS: Yes. How many job seekers have been referred?

Ms Paul: I do not have that with me, and these are not the people to ask. Can we take that on notice?

Senator SINODINOS: Yes.

Ms Paul: They are still getting under way. We may not necessarily have info yet. We have gone to the second round only quite recently. Anyway, we will take it on notice and we will see what we have.

Senator SINODINOS: As part of that question, what are the sustainability requirements—tracking employment outcomes and that sort of thing?

Ms Paul: Yes.

Senator SINODINOS: Good. Has DEEWR undertaken or commissioned any research on the cost of getting disengaged youth into employment? Mission Australia are quoting an estimate of around $15,000. Has DEEWR looked at this?

Ms Paul: What was the $15,000, Senator?

Senator SINODINOS: Getting disengaged youth into employment and whether DEEWR had looked at this.

Ms Paul: Was that a particular research project?

Senator SINODINOS: That was from Mission Australia. They quote that.

Ms Parker: Is it whether they have been funded for that? I think we would need to take that on notice. I am not aware we funded Mission Australia to do that.

Ms Paul: We have a lot of activity in this area—the national partnership, in particular.

Ms Parker: We do.

Ms Paul: We would have done research on it. That one is not ringing a bell, but that is not to say it is not part of a suite. It is quite a big area of activity for us.

Senator SINODINOS: Over the last 12 months you would have done a fair bit of other research into the labour market?

Ms Parker: Yes. We tend to do our own valuations and research. We do not contract out a lot of research. Mission may well have funded that themselves. They do their own activity.

Senator SINODINOS: Do you put your stuff out on the web?

Ms Parker: Yes. If we were looking for specific research we would advertise it and people could tender for it, unless they are an absolute specialist and they are the only person who could do that piece of work, we would seek quotes or we would advertise.

Senator SINODINOS: Have you commissioned any new research on red tape and compliance in the employment services space?

Ms Parker: We had a panel arrangement that worked with us on reduction of red tape. That piece of work is completed and we are implementing the recommendations. We can talk about that if you would like to hear some detail.

Senator SINODINOS: Yes.
Ms Drayton: It was an advisory group that was established to help us look at working both with providers and with the department to help us identify areas where we could streamline processes and reduce red tape. It came up with a lot of recommendations, which the department is in the process of assessing. They made 13 final recommendations. It is referred to as the APESA report. Of those, we have implemented six already and are in the process of working with providers, in particular, and with the minister and the department. With the others, a lot of them go to the future of the 2015 contracting arrangements. They are things that they research that was done has helped us to consider what we will do in the future.

Ms Parker: Would you like to hear the recommendations of those?

Senator SINODINOS: Yes.

Mr Watson: I might also point out that some of the recommendations go out to 2018 and 2020, particularly around reform of professional development within Job Services Australia. Do you want me to go through the recommendations?

Senator SINODINOS: Briefly, particularly the ones you have implemented already.

Mr Watson: There was a recommendation from the panel that related to a new industry consultation forum being established, particularly working with representatives of employers, providers and obviously other levels of government, and job seekers. We consider that we are well down the path with this. The consultation period for 2015, the next contract round, closed on 22 March, so we had a wide range of people contributing to those submissions.

Ms Parker: In those consultations we had a specific topic of red tape reduction.

Mr Watson: We looked at reviewing administrative controls within Job Services Australia, and looking at the granularity within those administrative controls. We are part way through implementing that. That strategy is ongoing. We are engaging directly with providers in the review of our guidelines, right at this very moment. So we are engaging the end-users in commenting on the complexity of and repetition within our guidelines.

Ms Drayton: That one has been a very constructive recommendation, because we often find that when we have very comprehensive guidelines and deeds the providers sometimes contact us and say, 'Look, we have a really good way of doing this,' or 'We have a problem with this.' Working and engaging directly we have established an expert-user group and we have allocated particular guidelines and pieces of work to different members in the reference group to work with us. They have come up with some very constructive ideas that we are hoping to implement.

Ms Parker: The next one we were looking at that has been implemented was something that we were referring to earlier: the quality standards pilot. Following on from that were further recommendations around program assurance, the risk-based framework, and giving some rigour around the program assurance program, going forward, which I think was also mentioned earlier. We have done a lot of work with some of the recommendations around out IT systems, streamlining our IT systems and making them a bit more user friendly. Also, we have done a lot of work on information exchange between the department and other departments. Are there any others?

Mr Watson: One of the other strategies we implemented during the panel process was what we term 'business support officers'. We joined staff from the Department of Human
Services with somebody from our head office, somebody from our state office and someone from our IT area and they went out to sites and observed the practices of providers and provided advice to them on perhaps unnecessary processes or where they were not using IT systems optimally. We found that very successful, but obviously going site by site is a lengthy process.

**Ms Parker:** There were a couple of other things. Looking at how we empower job seekers was one of the recommendations. We have been talking to job seekers on the 2015 process, which is something that we probably have not done enough of in the past. There were some views that the stream structure was cumbersome. We have four streams. You mentioned the number of outcomes before. Looking at how we might reduce those was one thing. There were some recommendations around defining sustainable outcomes and the 52 weeks. Better innovation among providers was mentioned and how we might encourage that. The red tape issue can stifle innovation, so how do we ensure that we get this right so that people can innovate and do things differently at the local level without having to feel bound by the rules?

**Ms Drayton:** Just following on from there, they made some recommendations about the length of contracts. As well as looking at the number of streams, the recommendation was for longer term contracts. Following on from the quality issues, there were recommendations around professionalising the employment service provider workforce. That was one of the longer term recommendations.

**Senator SINODINOS:** That covers the range of recommendations?

**Ms Parker:** Yes. I am just checking to see if there were any others. It is interesting that the recommendations are broader, systemic recommendations rather than about the nitty-gritty, which is very helpful for us. The quality of external accreditation was mentioned. It was recommended that, rather than trying to measure quality in a transactional way, we look at how we get people complying with international quality standards such as ISO and other standards that exist. We are working on that now and testing that, and people are already putting their hands up to be part of that. So there were some very positive recommendations in there that we are certainly happy to implement.

**Senator SINODINOS:** Sounds good. Thank you.

**Senator McKENZIE:** I want to turn to migration and the Seasonal Workers Program. I would like to know how many producers accessed the program over the last 11 months.

**Mr Roddam:** I am not sure I can tell you how many. What I can tell you is that we have 36 approved employers operating under the program. I noticed you used the word 'producers'. Some of those are accommodation businesses. With the expansion of the program into some trial industries, that would include those industries as well. I do not have the figure for how many of those have actually recruited workers into the country over this year, but that is the number of employers who are approved to participate in the scheme.

**Senator McKENZIE:** So we have 36 approved employers under the program. Can you separate out, then, those that are part of the new pilot program and the ones that are actually in the more formal program of those 36?

**Mr Roddam:** We would have to take that on notice.

**Senator McKENZIE:** With the 36 approved employers, how many employees?

**Mr Roddam:** How many workers have come under the program?
Senator McKENZIE: Yes.

Mr Roddam: As at 30 April there have been 1,015 since the program commenced on 1 July.

Senator McKENZIE: Have all of those stayed for their period of contract between the 14 weeks or the six months?

Mr Roddam: Yes, they would have. Are you asking if anyone has overstayed the visa?

Senator McKENZIE: No; I am asking if anybody left early.

Mr Roddam: I would need to take that on notice.

Senator McKENZIE: If you could, thank you. Across which industries?

Mr Roddam: They have been in the horticulture industry, the accommodation industry and the cotton industry.

Senator McKENZIE: No one in cane?

Mr Roddam: Not as yet, no.

Senator McKENZIE: Could you outline the cost to government for the program in its entirety, please?

Mr Roddam: Over the four years, to 30 June 2016, it is $21.7 million.

Senator McKENZIE: How much does each approved employer contribute?

Mr Roddam: There is not a defined amount of money they would contribute. It is a cost-sharing arrangement in terms of the way the program operates. They pay for a certain proportion of the worker's airfare, health insurance and those sorts of things. I would be able to provide that in detail on notice.

Senator McKENZIE: Could you outline the detail for that? Thank you.

Mr Roddam: Certainly.

Senator McKENZIE: How are you measuring the success of the program?

Mr Roddam: We monitor the program as we go in terms of numbers, but we do have an evaluation strategy as well and plan to do a detailed evaluation in the second half of next year.

Senator McKENZIE: Could you outline your detailed evaluation strategy, please?

Mr Roddam: We will be talking to employers that participate in the scheme, talking to workers and surveying them. We are also talking to partner countries and officials from those countries to get an overall picture of how the program is going.

Mr Kovacic: The program was preceded by a pilot, and that pilot actually had some evaluation work that was undertaken by the World Bank, which demonstrated a number of significant benefits not only to the participants but also to their home economy. For instance, one of the observations was that school attendance of the children of participants had increased in the home countries. Similarly, from a domestic perspective, the growers—it was primarily in the horticultural sector initially—were able to ensure that their product was able to be picked and harvested so there was not economic loss as a result of that. Clearly what we also found for a number of employer participants in the pilot—and I think this is also being reflected in the program—was that the workers are coming back and there is a higher level of
productivity by the workers. So there are some very clear benefits for employers from a domestic perspective as well.

Senator McKENZIE: When you are doing the breakdown of those figures, could you do also the returning workforce?

Mr Roddam: We can do. There will not have been any workers return under the program, but there would have been workers who participated in the pilot scheme who have now returned for the program. We would be able to provide that for you.

Senator McKENZIE: I look forward to those answers to questions on notice. I want to talk briefly about the Regional Education, Skills and Jobs Plans. I need a bit of clarification. The local employment coordinators under the priority employment area strategy are different to the original job coordinators.

Ms Paul: That is right.

Senator McKENZIE: Of the 34 regional job areas, how many of those are in the 20 priority employment areas? I need a Venn diagram here, I think.

Ms Cornish: I have a table which outlines, by state, where there is overlap with the priority employment areas and the LECs. In the ACT and New South Wales, we have nine RESJ coordinators and there are six priority employment areas and LECs. In the NT, we have two RESJ coordinators, and there is no priority employment area in the NT. In Queensland, we have six RESJ coordinators and six priority employment areas and LECs.

Senator McKENZIE: Do those regions overlap?

Ms Cornish: Yes, they do.

Ms Bennett: Thirteen of the priority employment areas service regional areas. They overlap partially. They are not similarly devised, so they merge.

Ms Cornish: In South Australia, we have five RESJ coordinators and two priority employment areas. In Tasmania, there is one of each. In Victoria, there are four of each. In Western Australia, there are seven RESJ coordinators and one priority employment area.

Senator McKENZIE: Why has the Northern Territory not been identified as a priority employment area? What are the criteria? There are 70 indicators. I assume they are weighted?

Ms Paul: I cannot recall whether they are weighted, but the 70 variables go to not just straight-out unemployment rate; they also go to the rate of change in unemployment rate and whether they are particularly vulnerable industries. As you remember, this was first developed as a response to the global financial crisis, but, as we said in evidence earlier this morning, those areas are still being found to be vulnerable in an employment sense. The gap between the region in Australia with the lowest unemployment and the region with the highest unemployment widened significantly during the global financial crisis and has not closed entirely. There were income support indicators. As I said, there were 70. It was not just a straight matter of unemployment rate, for example.

Senator McKENZIE: On notice, could you provide the methodology of establishing a PEA using those 70 indicators?

Ms Paul: We have done that before.

Senator McKENZIE: You probably have.
Ms Paul: Sure. There may be something that we have already put on the record that we can draw on. It really went to the 70 indicators.

Senator McKENZIE: Thank you. I assume, in a formula that spits out an answer, that some would be weighted differently to others. Your unemployment rate, for instance, might be weighted higher than your proportion of CALD.

Ms Paul: I do recall that it depended on what was going on in that area. For example, in the Illawarra, when there was a massive change like BlueScope and 1,000 workers, that might just tip another indicator. There is always a matter of good judgement, but I am sure that we have put this on the record before. We are quite happy to do so again.

Mr Neville: As the secretary has outlined, as part of the analysis that was done, we were looking at the unemployment rate but also a broad range of indicators, including the industry structure within each area. If there was a concentration of employment in particular industries that might be vulnerable, like manufacturing or retail, that was taken into account. We also looked at education levels, and obviously education is a key determinant of labour market success. We were looking at these regions over a period of time and identified 20 that had some vulnerabilities to previous downturns as well.

Senator McKENZIE: I appreciate that the 70 will go across all the things that we know contribute to unemployment.

Mr Neville: There was actually no weighting, so we did not take the unemployment rate and multiply it by three, or something like that. It was purely looking at a broad picture across the 70 indicators and making recommendations to government as to which of those areas were the most vulnerable. I should say that, in terms of the Northern Territory, it is worth noting that a significant part of the Northern Territory around Darwin has a very strong labour market.

Senator BACK: That is a reason that the Northern Territory does not have this coordination level, because that decision is taken with regard to Darwin?

Mr Neville: It was a decision by government, in terms of the final make-up of the priority employment areas. I just point out that Darwin does have an extremely strong labour market with a very low unemployment rate.

Senator BACK: That is a reason that the Northern Territory does not have this coordination level, because that decision is taken with regard to Darwin?

Ms Paul: We have looked at that and there was some evidence this morning, before you came in, Senator. We went through each of the 20 areas and said what they were looking like. Basically, they are all still quite vulnerable in one way or another.

Senator McKENZIE: I would like to know whether state governments also have regional employment officers doing the same level of coordination at a local level.

Ms Cornish: We will take that on notice.

Senator McKENZIE: If you could. I note the plans go to 2014. I apologise if I was out of the room when Senator Sinodinos asked this question. Is there any plan to extend that past 2014?

Ms Paul: That would be a matter for government, obviously. At the moment we are sticking to the plan. Ms Cornish can describe that, if you like.
Ms Cornish: The initiative goes until 30 June 2014. It was a three-year initiative, but it would be a matter for government as to whether or not they were extended.

Senator McKENZIE: Could you provide the total cost for the development of the 46 plans?

Ms Cornish: We were funded $19.1 million over the three years, from 1 July 2011 to 30 June 2014. That comprises administered funding of $1.326 million and departmental funding of $17.8 million. The departmental funding relates to the employment of the RESJ coordinators—the 34 in the 46 nonmetropolitan regional development areas.

Senator McKENZIE: On notice, could you update on the region data where higher education and training has been identified as one of the issues for the region? I assume you would collect regular evaluation data around that. I would appreciate an update on how the plan has contributed to improving outcomes for regional people, particularly with respect to tertiary education access and training.

Ms Cornish: Okay.

Senator McKENZIE: Specifically being parochial, we will go to Gippsland and Loddon-Mallee plans, please. I am wondering whether the Gippsland plan has been revised.

Ms Cornish: None of the plans have been updated at this stage. We have not updated the plans since their publication back in September 2012, but they are being reviewed and updated as needed with regard to local circumstances.

Senator McKENZIE: Have you received any communication from your regional education, skills and jobs coordinator in Gippsland, that the Gippsland plan needs to be updated or will be updated or is thought about being updated?

Ms Cornish: Our coordinator in Gippsland is always working with the local community. He works to the state manager. No doubt he will be looking at his plan all the time and trying to make sure it is current for local issues in the community.

Senator McKENZIE: I will just refer you to page 11 of the plan, which talks about the government intending to enter contracts for closure by 30 June 2012, and the impact that that particular government program would have on employment outcomes and training needs of the workforce in Gippsland. Given that the contracts for closure program was abandoned on 5 September 2012, I was just wondering if, as a consequence, the plan needed to be revised.

Ms Cornish: There are a number of strategies that the Gippsland RESJ has been working on to try to help in relation to the contracts for closure and that whole issue around clean energy. I can outline what those strategies are.

Senator McKENZIE: I am looking at them. I would love to know how they are going against those strategies.

Ms Cornish: I might need to take some of that on notice. The information I do have is that some of the strategies that they have listed in the plan to support that goal of Clean Energy Future is that they are working with the DRDA forum in the Latrobe Valley to discuss green skills by the fourth quarter of 2012. They are also supporting specific energy related skills development activities. I might need to take on notice the broader question around achievements.
Senator McKENZIE: I would like to actually have an understanding of how those strategies are being met, particularly the one when we were talking about the fourth quarter of 2012. We should know that by now.

Ms Cornish: Okay.

Senator McKENZIE: In relation to the Loddon-Mallee plan, specifically around Murray-Darling Basin issues and issue 7 within the plan, the recruiting of horticultural and agricultural workers, I would like an update on that. If we go to issue 10 in the Loddon-Mallee plan, the strategies identified there go to a range of economic diversification, et cetera. In relation to the second strategy of promoting and encouraging place based initiatives designed to reskill workers to capitalise on future opportunities, could you flesh out how that one has been going.

Ms Cornish: In the Loddon-Mallee RESJ plan, it does acknowledge that further work might be required to assist those communities to prepare for any challenges with the Murray-Darling Basin Plan. Some of the strategies such as reskilling workers to capitalise of future opportunities, the RESJ coordinator is collaborating with the JSA providers and the DEET providers as well as the RTOs, and is looking at training strategies to retrain workers potentially affected by those water reforms.

Senator McKENZIE: Fantastic. Given that this potentially could end the implementation of these strategies in June next year, I would just really like to know how many have been reskilled as a result of the strategies, and I would like an update on issue 10 in addition to issue 4, the tertiary education and training.

Ms Paul: That is for the Loddon-Mallee?


Ms Cornish: We do have a bit of information about the food and beverages skills passport that the coordinator put in place. As of January 2013, 72 participants had undertaken the training, and we understand that around 55 of those have either found jobs in the industry or retained employment in positions that required upgraded skills. The RESJ coordinator in Loddon-Mallee has also developed a horticulture-with-a-difference pilot program, which has resulted in employment outcomes for five of the 14 disadvantaged job seekers that were engaged.

Senator McKENZIE: Thank you.

Ms Cornish: That was run between mid-August to early November 2012.

Senator McKENZIE: Within the Loddon-Mallee plan and the NBN rollout to commence within three years in the immediate Bendigo area, given that it is one of the priorities identified in the plan, I would like some more detail on NBN's plans for the Loddon-Mallee.

Ms Cornish: Okay, we can take that on notice.

ACTING CHAIR: That concludes outcome 3.1.

[12:20]

ACTING CHAIR: We will move to program 3.3, Disability employment services.

Senator BACK: If I may, I will go to the budget statement outcomes and performance. As I read page 81, the total program expenses will be $776.9 million down from $788.36 million. Is that correct?
Ms Parker: Are you reading table 2.3.3?

Senator BACK: Yes.

Ms Parker: Yes, that figure is correct.

Senator BACK: Disability employment services is down from $750 million to $741 million. Where are those savings to be made?

Ms Buffinton: In the forward estimates for disability employment services, we have had a slight increase in recent times in our disability management service and a slight decrease in our employment support service, which is a slightly more expensive service. So, over time, we adjust those forward estimates.

Senator BACK: But where do you see the $9 million savings being made between this financial year and the next? Will you be carrying over from this financial year to next financial year?

Ms Parker: It is demand driven, and this is an estimate of the number of people who will come in and register for services. So it is not a savings as such; it is actually an estimate of every job seeker who comes in and qualifies to be serviced in the program. It is not a saving.

Ms Paul: Some of this was also rolled into the Remote Jobs and Communities Program.

Senator BACK: Some of what was? Next year's?

Ms Paul: From 1 July this calendar year, so from the next financial year. The evidence we gave before, I think to Senator Sinodinos, went through all the programs that have been rolled into one new program to focus better on remote areas. So a slice of this expenditure will now be in effect shown against the Remote Jobs and Communities Program. That accounts for some of it and the rest of it would be changes in estimated numbers of job seekers with a disability in one of those two streams, as Miss Buffinton outlined.

Senator BACK: I can understand that for 2013-14, but then you are predicting—and I am interested in the basis of the prediction—an increase from $740 million up to $784 million, followed by $828 million, followed by $833 million out to 2016-17. What is the basis of the thinking? If I comprehend what you are telling me about this coming financial year, what is the basis of the understanding of the jump up to $784 million for 2014-15 and continuing beyond?

Ms Parker: It is just demand driven. It is based on population growth and an estimate of how many job seekers are likely to require services. We will adjust as we go forward. That is our estimate, and we will adjust by the actual, but most of that will be population increase.

Ms Buffinton: It is because we have just gone through a Disability Employment Support service tender. So our proposition for that was that, during the tender and transition period, there would be a downturn in demand as we adjusted into new providers. But we have selected the best possible providers—high performing providers. So, in going through that tender, our expectation is that we are looking to increased outcomes. That is the whole reason we went through the tender process.

Senator BACK: Has there been some CPI linkage on an annual basis, or is there an increase on an annual basis in each of those tenders?

Ms Buffinton: For the Employment Support Service tender, which was let from March this year, in the tender process we outlined that there was no indexation in those five years.
Senator BACK: And what do you predict that to be, on an annual basis over the next five years?

Ms Parker: We did not do the assessment; the government made the decision not to index, based on the budget at the time. The positive is the five year contracts rather than three and that provides a fair level of stability for providers, which they were seeking.

Senator BACK: I know; I am well aware of the debate that went on.

Ms Parker: Sure. So that was what was announced.

Senator BACK: So then, acting reasonably, they must have put it into their estimates. If they were, in fact, not going to receive indexation out for five years, they must have, in their own planning, loaded in the early years, on the understanding that they were going to have additional costs in the out years. On that basis, wouldn't we then actually see a higher figure and a tapering off, rather than this increasing figure—if indeed it is not indexation that helps to account for some of these increases?

Ms Parker: They are required to service every job seeker who comes to them, and they are required to spend service fees on those job seekers and to provide services to those job seekers. We monitor them on that basis. We have all been working with providers around how they can be more cost effective and innovative in the way they run their contracts. We have just gone through, with Senator Sinodinos, all the different ways in which we are reducing red tape around providers and the work we require of them, and their accountability is now based on a risk assessment approach and so on. So we are reducing a lot of the transactional costs for them in the system through efficiencies.

Ms Paul: The contract was let on the same basis that we let all our employment contracts—so, the old Job Network ones, and the current Job Services Australia one; they are all let on a particular pricing basis. And in this instance, as for all other tenders we do, we have found it to be highly competitive. So, clearly, there are a lot of providers out there who think they can earn a good living against what is on offer.

Ms Buffinton: The Disability Employment Service does differ from Job Services Australia in that it is usually an 18-month program. It is not an ongoing program. It can be extended to two years. And there are certain participants who are in employment but will require ongoing support for a long period, or for the life of their employments. But by and large it is an 18-month to two-year program.

Senator BACK: So, as to the comments for the Disability Employment Services, those same patterns, you would say, also apply—though obviously at a much lower dollar level—for the employment assistance and other services: the $2 million drop, the five per cent drop, followed by the $5 million, from $35 million to $40 million, and beyond. That actually goes up in 2014-15, doesn't it, but it tapers back to 2012-13 figures: $37.9 million and then $37.9 million again?

Ms Parker: The dollars per job seeker do not change. They are not indexed. But they do not get any reduction in their fees, if that is what you mean. So when a job seeker comes into DES they are immediately provided with a service fee, and that has not changed. The service fee will remain the same in the out years. You are right—it is not indexed. But it has not been reduced.
Ms Buffinton: Specifically you were just asking about the Employment Assistance Fund. That includes work modifications, Auslan interpreting and things like that. Clearly, that is paid on a per service outcome, so if somebody needs some stairs or some particular modifications. That is paid on a demand-driven basis depending on what is required now. If in three years' time that was three per cent higher then that would be paid, whatever the cost of the particular modification at that time.

Senator BACK: Do you not predict that those figures will climb as a result of population increases as was the explanation with the others?

Ms Paul: Well they would because they would reflect an estimated number of clients.

Senator BACK: But they have gone down in number?

Ms Parker: They have gone down in the forward estimates.

Ms Paul: We are either estimating that there would be fewer in that stream that need those particular modifications but more in the other stream that require different types of assistance.

Ms Buffinton: Typically we have not actually spent right up to that figure. Obviously each year we look at demand. We would be delighted if the employers of Australia got right behind the idea of employing people with disability. We have much larger numbers coming in.

Senator BACK: That is the objective.

Ms Buffinton: On that basis clearly we would, in the forward estimates, look to increase that figure.

Ms Parker: I think we are saying that a jobseeker is not going to be turned away. If they turn up and they need the service, they will get the service. That means that figure would be adjusted upwards, so it is demand-driven. There is no cap on it for jobseekers.

Senator BACK: We will resume on transition after lunch, Chair.

CHAIR: We will now recommence these estimates hearings and we are still questioning the department around program 3.3 Disability Employment Services. Senator Back.

Senator BACK: Thank you, Chair. My colleague, Senator Smith, would like to ask a question or two when he arrives, but he is obviously delayed. In terms of transition of the new programs, how many job seekers have been transitioned to a new provider with the new, latest round of contracts?

Mr Moore: There were 21,597 participants moved to a new provider organisation on the weekend of 2 and 3 March.

Senator BACK: Thank you very much. Of those 21,597, do you have any indication at all of how many have requested a further change, including back to an old provider if they themselves were successful in the current round?

Mr Moore: The first point to make is, if a provider was successful in the old round, then they kept their clients with them. I do not know exact numbers, but I am aware of a little bit of activity where some of these providers have subsequently made a different choice. We had an arrangement for providers to make a choice during the transition period and a significant
number used that option. Around 20 per cent of the participants actually chose their own provider. We allocated them one, and in our correspondence we said that if they would like to choose someone else they were quite welcome to. They could do that through the Australian JobSearch website, they could do it over the phone or, in some cases, their current provider worked with us to facilitate those choices and gave us lists and we actioned those. About 20 per cent chose a provider during the transition period, but I do not have any exact numbers other than a general sense that there is always a bit of churn and transferring between providers.

Senator BACK: Could you tell us, maybe on notice, how many providers did not seek new contracts, perhaps in either numbers or percentages, what proportion sought a new contract but did not get one, and what proportion were new to the process?

Ms Parker: We can answer that now, Senator.

Ms Buffinton: I will just see if I have got this in the right order. Of the new providers—there are 137 providers—we know that 69 providers exited the market as a result of the tender, seven exiting providers chose not to tender, and 10 exiting tenders chose not to tender in their own right but instead joined a consortium of another sub-contracting arrangement.

Senator BACK: Thank you. How many were completely new?

Ms Buffinton: There were 13 providers that entered DES ESS for the first time. Half of them came with a background in DES DMS or Job Services Australia. The other half came from DES ESS but came in a new consortium combination.

Senator BACK: So, you actually knew or knew of them all?

Ms Parker: Yes, there were no outsiders in that sense.

Senator BACK: Let us now go to a number of questions, if I may, regarding specialists and generalists.

Ms Buffinton: With regard to the tender?

Senator BACK: Yes, with regard to the now successful providers. Of those job seekers who were previously serviced by a specialist contract how many transitioned to a generalist provider?

Ms Buffinton: We do not have the number of individual job seekers that went from a specialist to a generalist.

Senator BACK: Is that something you would be able to supply?

Ms Buffinton: We can put that on notice.

Senator BACK: If you would, I would be appreciative. Of that 137, could you just give us the break-up of how many would be categorised as specialists and how many generalists?

Ms Buffinton: Of that 137 providers, it comprised 419 generalist services and 95 specialist service.

Senator BACK: Thank you very much. I just want to, if I may, address some question with regard to various disability types. Does the department have any evidence around employment outcomes for the various disability types serviced by a specialist provider with a speciality in their specific disability versus the outcomes for people with the same disability services by a generalist, such as someone with vision impairment and mental illness, et cetera.
**Ms Buffinton:** This is something that the government announced last year. The intention is that, probably by the end 2013—so, in addition to the fact that we have published our ratings—we will be publishing on an employment service area the outcomes by provider for various subcategories of disability. This is something that is new. It is part of the push to make sure that there is informed choice, but we have not published that formally in the past. What we have done is: as part of the tender we have brought forward, under the connections for quality site, that providers can outline what their outcomes are for generalist or specialist. They can choose to delineate that as well.

**Senator BACK:** Is it premature to give us that sort of information at the end of what is, effectively, only three months—March, April, May.

**Ms Buffinton:** We have said that by the end of the year we will be publishing that detail. One of the things that I would say, just as in overview, is that in terms of specialist versus generalist we certainly know that a specialist can be very high rating with four and five stars, as can a generalist, without doubt. Being serviced by a high-performing provider is far more important in getting an employment outcome than whether it is a specialist or a generalist.

**Senator BACK:** Could you say that again?

**Ms Buffinton:** It is far more important to be serviced by a high-performing provider, one that gets employment outcomes, than whether you are covered by a specialist or a generalist. If I take autism as an example, in the past contract, if you were covered by an autism specialist or you were covered by a generalist covering autism, you were 45 per cent more likely to get a 26-week outcome in a generalist service than a specialist outcome.

**Senator BACK:** More likely to?

**Ms Buffinton:** More likely.

**Ms Paul:** Which is slightly counter intuitive.

**Ms Buffinton:** Sometimes specialists come from a background where they are offering a range of services for that disability, not just an employment service.

**Senator BACK:** Yes.

**Ms Buffinton:** And sometimes their strength is not actually to find an employment outcome and work with an employer, their speciality is in a different aspect of that disability.

**Senator BACK:** Speciality in the discipline, rather than in the actual capacity.

**Ms Buffinton:** In the employment service.

**Ms Parker:** Which is what they have been funded for in other areas, yes.

**Senator BACK:** If I can just go back to the 137, is that the total number of providers? I recall from the past that those higher up the star rating did not have to be subjected?

**Ms Parker:** That is right. Four- and five-star providers were ruled out.

**Senator BACK:** So that 137 does not include the four and five stars.

**Ms Buffinton:** As a result of the tender there are 137 providers that are delivering the service in total. That includes those that rolled over.

**Senator BACK:** It includes the four and five stars?

**Ms Buffinton:** That is about the 20 per cent.
Ms Parker: We started with 193.
Senator BACK: Yes.
Ms Parker: So it reduced, yes.
Senator BACK: It is all coming back. Thank you for that explanation. The average employment outcome when someone in the cohort is serviced by a generalist provider instead of a specialist, which, I think, follows on from your analogy, your example, of autism.
Ms Parker: Yes.
Senator BACK: Perhaps you will be able to give us figures for those who are vision impaired or those with mental illness.
Ms Buffinton: I can give you the outcomes by jobseeker characteristic as opposed to those that are covered by a specialist or a generalist. I would have to take that cut on notice but I can give the outcomes by disability type.
Senator BACK: If you would, please.
Ms Buffinton: Is this for DES in general or for the Employment Support Service?
Senator BACK: This is for the former.
Ms Parker: DES in general.
Ms Buffinton: Okay.
Ms Parker: We have 28 specialisation types in disability, 12 groupings which we can tell you about. That is the top group.
Senator BACK: I was going to say if we get the top four or five, those that you think would give us a pattern.
Ms Parker: The top ones I have here are acquired brain injury, autism, deaf, blind, hearing, intellectual, neurological. And then we have 'other', which is a different specialisation which may not be disability. Physical, psychiatric and so on are the key ones. They are not in a particular order. They are just the types.
Ms Buffinton: It is going to be broken down by the Disability Management Service And Employment Support Service.
Senator BACK: Excellent, thank you.
Ms Buffinton: If you want to have a look at physical disability, rather than just numbers, an easier way to understand how effective the service is is if you take a physical disability. Of the 51.6 per cent of the case load that got placed in a job, 53.7 per cent got a 13-week outcome and 54.8 per cent got a 26-week outcome. What that is telling us is for those with a physical disability in the Disability Management Service—its strong foundations were a rehab service so that is not surprising—they got an above-average outcome for a physical disability.
If you take a psychiatric disability under the Disability Management Service, of the 33.2 percentage of the case load that got an on-job placement, 31.2 per cent got a 13-week outcome and 30.1 per cent got a 26-week outcome. So that is telling us that the outcomes are below the average of what you would expect for a psychiatric disability. I can go down a couple more if you like.
Senator BACK: Just go down one more.
Ms Buffinton: The next one would be specific learning and attention deficit, which would be five per cent of the job placement load, 4.5 per cent got a 13-week outcome and 4.3 per cent got 26-week outcomes.

Senator BACK: That is the real drop-off, isn’t it?

Ms Buffinton: That is one where it drops off. I turn to the Employment Support Service, which is the higher-end support service. Taking the top few for a physical disability, of the 20.9 per cent of the case load in job placement, 22.2 two per cent got a 13-week outcome and 22.1 got a 26-week outcome.

Senator BACK: There is no significant difference.

Ms Buffinton: It goes up a little bit higher than what you would expect for the average as opposed to psychiatric, which we know when combined with mental health is one of the great challenges for all services. Of the 34.9 per cent on job placement, 33.2 per cent got a 13-week outcome and 31 per cent got a 26-week outcome. You can see that is slightly below average.

Senator BACK: But not much. And specific learning?

Ms Buffinton: Specific learning is 14.3 per cent for job placement, 13.6 per cent for a 13-week outcome and 13.9 per cent for a 26-week outcome, so it is basically holding its own. I would like to highlight that so often the term intellectual disability comes up under DES ESS. It is 11 per cent for job placement, 11.3 per cent for a 13-week outcome and 11.5 per cent for a 26-week outcome. Traditionally it is a fairly challenging group, but I think this is a service that does support people with intellectual disability to get good outcomes.

Senator BACK: Your response earlier to the question ‘Is there evidence that a specialist provider delivers better employment outcomes?’ was no, that is not necessarily the case; it is about the excellence of the provider.

Ms Buffinton: When we have a four- or five-star provider, a specialist, they provide very good outcomes. But we also have a range of providers who are one-, two- and three-star providers. We have done a couple of disability types where if you take it on average you can see that you can get a better outcome with a generalist than with a specialist.

Senator BACK: Is there an incentive for generalists to upgrade and move towards specialist status?

Ms Buffinton: I think what we have got to understand is what makes up a generalist. Depending on their history, some generalists have a slant towards certain disability types. Certainly I think it is fair to say that anybody who comes in to tender for DES for pure physical and psychiatric does very well because both cohorts are looked after very well. It is because the very nature of the case load for those cohorts is that they are very large.

One of the things that has come up in terms of specialties is that a lot of providers who would not be particularly strong as employment services know a lot about certain disability types. That includes some of our exiting providers. There is an opportunity in DES, with its appropriately high service fees, to take on services on a fee-for-service basis. You may have a specialty of being able to help deaf or vision impaired people. The best outcome for you might not be as an employment service but in offering a specialist service on a fee-for-service basis to a generalist service. Take my own work area as an example. The Disability Employment Service assists in my space, but when we had someone come in who was vision impaired and had a guide dog, Guide Dogs Australia came in on a fee-for-service basis and
helped my workplace understand the nature of working in an environment with a guide dog. I think you will find that a lot of these providers who have exited but have been in the employment space and have a very strong understanding of a range of disabilities are beginning to package up and provide services on a fee-for-service basis to the prime employment service provider.

Senator BACK: Under the tender arrangements is there a different remuneration basis for specialists, as opposed to generalists, or is it all factored in terms of the customer?

Ms Buffinton: No. Obviously there is a difference between the DMS and ESS—it is the same for generalists—and then we have a moderate intellectual disability loading. But that does not go purely to an intellectual specialist; it goes to anybody who is helping somebody with a moderate intellectual disability.

Ms Parker: There are two levels of fees. For the higher end needs job seeker, there are higher fees—service fees and outcome fees. It is not about the type of disability but the amount of it.

Senator BACK: So it is more about the nature of the service required.

Ms Buffinton: Yes, that is right. The employment service assessment will look at the medical evidence and decide whether somebody, by the nature of their disability, would go into a higher level of funding—or into the EMS versus the DMS service and so forth.

Ms Parker: There is always the issue, too, that some job seekers do not necessarily want to go to a specialist. There is still a bit of stigma. Many of them are in JSA as well, not DES, so we try to provide a range of choices for job seekers.

Senator SIEWERT: Are existing DES and DMS providers allowed to tender for the specialist services?

Ms Buffinton: Yes, and some apply for both.

Senator SIEWERT: If they have got premises, are they allowed to provide those services directly from there as well?

Ms Buffinton: If, for example, I am successful in a certain employment service area and I am offering a generalist and a specialist, I can offer that from the same location.

Senator SIEWERT: Including other services, too. Is that what you mean?

Ms Buffinton: Yes. But if I am a specialist and I have locations outside the employment service area—across the other side of the city or whatever—I cannot provide it out of that location. It has to be within the employment service area.

Senator SIEWERT: In the location you have got the tender for?

Ms Parker: That is right.

Senator SIEWERT: So if I have got DES and a specialist at this location, but I have also been successful in that location next door, I cannot provide it there, I actually have to have another office?

Ms Buffinton: That is right. That is because part of why we are making the decision, particularly for people with disability, is accessibility, connection to local employers—

Ms Parker: And transport and so on.
Senator SIEWERT: Do the figures you gave to Senator Back include disability services provided by JSAs?

Ms Buffinton: The numbers I was talking about include the Disability Management Service and the Employment Support Service.

Senator SIEWERT: So they are provided by whichever providers, whether DES or—

Ms Buffington: Yes, they are tendered separately as DES contracts, as opposed to JSA contracts.

Ms Parker: I did mention that there are some people with disability in JSA. But they are separate contracts that JSA has.

Senator SIEWERT: I may have confused myself and you. So they were purely for DES services and DMS services, not for services provided by JSAs?

Ms Buffington: That is right.

Senator SIEWERT: Are you able to provide the figures for JSA disability services?

Ms Parker: What we can provide is how many jobseekers in JSA admit they have a disability or a diagnosis of disability.

Senator SIEWERT: I am trying to find out the outcomes for people who go to JSAs with identifiable disabilities versus those in DES. I apologise if I should have asked this in the previous section.

Ms Parker: No, that is fine. I am just not sure if we have that.

Ms Drayton: I have got a few things that might help. In respect of the JSA case load, which is 788,634, there are 198,550 people who have a disability. That is a range of disabilities. It could be something that was flagged when they had their very first assessment done with DHS, through the JFCI, or it could be a disability that has occurred in their time with JSA. We do not have detailed information about the kind of disability that people have but I do have information about what happens with people with a disability in JSA.

Senator SIEWERT: This is separate to the DES funding?

Ms Drayton: Totally separate.

Senator SIEWERT: So this is separate to any disability funding but it is services that JSA are providing without that disability support?

Ms Parker: That is right. It is separate.

Ms Drayton: It is part of JSA. Some of the people with disabilities have an ESA, an employment services assessment. As a result of that assessment, they are streamed into either JSA or disability employment services. Sometimes it is about multiple barriers rather than a sole disability.

Senator SIEWERT: So they get streamed into 3 or 4?

Ms Drayton: Yes. They usually have disability plus other non-vocational barriers. People with disability are a quarter of the JSA case load. You are quite correct, they are serviced in the higher streams—42 per cent of that cohort are serviced in stream 4, 30 per cent in stream 3 and 18 per cent in stream 2. Overall, people with disability represent 17 per cent of all job placements in JSA, 17.7 per cent of 13-week outcomes—
Senator SIEWERT: I am trying to find out what percentage of the 198,550 are getting job outcomes.

Ms Drayton: That number represents 25 per cent of JSA, 16.9 per cent of all job placements, 17.7 per cent of all 13-week outcomes and 16.4 per cent of JSA 26-week outcomes. It has been a very successful use of the Wage Connect Program for people with disabilities. They represent 55 per cent of all the placements in Wage Connect, which is a good outcome for them. We have had what we call a positive outcome—ad education or employment outcome—of 46.4 per cent for people with a disability in JSA.

Senator SIEWERT: Is it possible to give me the figures against the streams? The figures you have just given me are the overall job placement figures for JSA?

Ms Drayton: It was the proportion of job placements that people with a disability in JSA achieve.

Senator SIEWERT: But it was not against the streams?

Ms Drayton: I can give you the outcomes against the streams. If I go back to the job placements, it was 259,477, or 16.9 per cent. Of that, 36 per cent were achieved by people in stream 4, 31 per cent by stream 3, 27 per cent by stream 2 and six per cent by stream 1.

Senator SIEWERT: They are getting a better overall outcome than the 25.1 per cent for stream 4 that we talked about in the last session.

Ms Drayton: They would represent a cohort within that last session. On the figure we were talking about, the 25.1 per cent for stream 4, of the people who got an outcome, people with disability represent a proportion of those outcomes achieved. They are part of that same group—that 25.1 per cent—some of them.

Senator SIEWERT: I will get the other figures you were just talking about and compare them to the DES outcomes.

Ms Buffinton: If you want to describe the DES outcomes with the positive outcomes that Ms Drayton was just describing, do you want me to give you those for the two programs?

Senator SIEWERT: Yes.

Ms Buffinton: We use the same methodology, which is the post-program monitoring of those in employment or education three months after. For the Disability Management Service, those that have been in employment are 41.1 per cent, there are 14.1 per cent in education and training and there is an overall positive outcome of 49.4 per cent. For DES ESS there is a 35.7 per cent outcome that are employed three months after, 15.3 per cent are in education and training and a positive outcome is considered to be 45.3 per cent.

Senator SIEWERT: How many JSAs took on doing DES and DMS under the ESS tendering process you have just had?

Ms Parker: In total, 43 JSAs became DESs as a result of the tender.

Senator SIEWERT: Is that the total number of JSAs that now provide ESS services, or is it the number that took them on as new services?

Mr Parsons: It is the former. I have got a figure for the composition of the market at the present stage. There are 43 JSA providers also delivering DES—either ESS or DMS. But what I cannot tell you right now is what that figure was before the tender.
Ms Buffinton: And I cannot either, but I can tell you that either three or four JSAs came in for the first time in—

Senator SIEWERT: So there was not that much change?

Ms Buffinton: No. A range of them expand their market share—that is a different issue—but only about three or four came in new to DES.

Senator SIEWERT: I see your point. How many expanded their market share? You can take that on notice. Can you tell me about Aboriginal specialist services for DES?

Ms Buffinton: The proportion of Indigenous job seekers in the total DES case load is 4.8 per cent, or 7,228. Indigenous job seekers achieved 4.6 per cent of job placements, 4.4 per cent of 13-week outcomes and 4.1 per cent of 26-week outcomes. All DES providers are able to assist job seekers from an Indigenous background. We have done quite a lot of work on increasing their skill level. We launched a program of six half-hour modules for all providers so that they better understand and are more culturally appropriate with Indigenous job seekers. There are four providers that deliver specialist services for Indigenous Australians at 15 sites in New South Wales, Queensland, Western Australia and South Australia. That said, these specialist providers only assist 140 job seekers, which is only 1.9 per cent of the Indigenous case load. So they are quite a small player.

Senator SIEWERT: How was the decision made about how the number of Aboriginal specialist services?

Ms Buffinton: In the recent tender we took into account first of all whether people made the case that there was a need for that particular employment service area. That was a gateway criterion. Let us remind ourselves that, of the four criteria, 30 per cent was past performance and 30 per cent was future plans and so forth. People were then scaled down on where they came in the tender. If they had been a high performing provider and were making a case for being an Indigenous specialist, they were selected. It is a bit like the answer that we gave to Senator Back: you might be a specialist in a particular disability type or Indigenous matters but struggle to be a strong employment service—and, therefore, your past performance has been quite low. That would have been why we took certain providers on and exited some providers. Rather than going to a specialist you are often better off going to a generalist who actually gets employment outcomes. We have got organisations in a whole range of inner metro areas. In inner Sydney and certain parts of the country they have got very strong Indigenous case load. They are not a specialist, they are a generalist. But their staff are Indigenous and they have a very strong focus on Indigenous people. They have not tended to be an Indigenous specialist per se.

Ms Parker: There is another component to choosing specialists. There are those who say they can run a service and the know there are job seekers and they can look after them if they are Indigenous. We do our own analysis as well. There are two components. When we assess whether we need a specialist service in the area, it is about those two things: firstly, is there anyone who wants to deliver it, and thinks they should and can, and has got data to show that those job seekers exist; and, secondly, there is our own analysis. And that is done at the local level through our contract managers and our labour market analysis. It is not just a matter of if you put your hand up and you can deliver; we need the evidence to show that it is actually needed. So all of those things are taken into account.
**Senator SIEWERT:** In this instance, you do not say you need one here and you need one there?

**Ms Parker:** Partly, yes, we do. Our contract managers in the state offices are very good at this. If there are a lot of refugees, for example, that would be a good case for showing it would be good to have a specialist refugee service—not necessarily, but it is a fact that we would consider.

**Senator SIEWERT:** Where are they located in the four states that you mentioned?

**Ms Buffinton:** I would have to take that on notice.

**Senator SIEWERT:** In answering Senator Back, you gave information around clients who were accessing employment services and employment outcomes. It sounds like you have a full list. You were talking about the top couple by type of disability. Instead of going through the whole lot now, could you provide us with the full list?

**Ms Parker:** Yes.

**Senator SIEWERT:** COAG was saying last Friday that the economic participation and employment of people with intellectual disability seems to have stagnated a bit. What are the figures, and why do you think that has occurred? I notice that there seems to have been a bit of an increase in the figures that you gave Senator Back.

**Ms Parker:** We were talking about percentage of outcome by type of disability, and intellectual disability was one of those.

**Ms Buffinton:** We were looking at intellectual disability as at 31 March. Those that had a job placement in the Employment Support Service were 11 per cent of the case load, 11.3 per cent of 13-week outcomes and 11.5 per cent of 26-week outcomes. They went a little bit above the average that you would expect.

**Ms Parker:** What we are saying is that those who come in are actually getting jobs.

**Senator SIEWERT:** Is this measure across not only those that come in but those that are not accessing services at the moment?

**Ms Parker:** No, this is just those who enter our service.

**Ms Buffinton:** In the middle of last year there were about 8,900 people in the case load, and the job placement case load of people with intellectual disability was 8,577. So two questions come up. One is that part of the intellectual disability grouping was also the moderate intellectual disability group—those with an IQ below 60. It is good news that the moderate intellectual disability loading was going to March, and then it was extended to 30 June, and it has now been announced in the budget that it has become a mainstream part of the DES program.

For people with moderate intellectual disability—and this is part of the reason for the loading—there is more intensive support required to get them ready and support them into employment. They had a pilot program. A lot of these people come through direct registration. So do you go out and get people further into the program if you are unsure whether you are going to get the loading? Now that we are clear that the loading is part of the ongoing program, that will certainly help. The issue is not that it has been declining but that it has been static. Often people talk about it as a proportion of the overall DES ESS program compared with before. We used to have a capped program but now we have an uncapped
program. We have seen a 40 or 50 per cent increase in case load but we have not seen a 40 or 50 per cent increase in intellectual disability.

We have got a range of providers looking at what makes up good practice for intellectual disability. I think we need to focus on our eligible school leavers and make sure people come from school and do not go into day services only but go into a transition to work program and then come into the DES program. Where people feel ambition, we need to make sure that in schools we are getting to parents and so forth to and telling them their child really can work in open employment, and be ambitious for that, versus being uncertain and therefore sometimes leaving school and going into a day service. After a number of years in a day service, the chances of getting them out into the employment stream versus getting them straight into a work-like environment like transition to work are very low. The Australian Disability Enterprise and supported employment and going forward into a Disability Employment Service as a transition is part of our ambition and it is part of what we are talking about with family and community services as part of an outcome of DisabilityCare Australia being more joined up in that regard.

Senator SIEWERT: you are going exactly where I wanted to go in terms of DisabilityCare Australia and meeting the social and economic participation requirements. So you are working with them to meet that particular element of what they have to deliver on?

Ms Buffinton: Yes. Where DES meets DisabilityCare Australia one of the positives for open employment is the fact that people are going to be better supported to be ready. An employer needs you to turn up at a certain time and be ready for work. If you are getting much better care in the home, by a certain time, and transport—NDIS will include transport to and from work and so forth—your chances of being ready for work will increase. There are transition to work programs around Australia—they vary in name—which is where people are not quite ready for the world of employment. They are learning job-like activities and getting ready for a working day and so forth. In New South Wales, for example, you can have up to two years support in a transition to work program. About a third of those participants come into the Disability Employment Service and, from memory, about one-third go back to ADE support—they are not quite ready for open employment. They will be part of DisabilityCare Australia.

Senator SIEWERT: That sounds really good. Are you also part of doing that in the launch sites?

Ms Buffinton: Yes, we are going to be part of that with a certain number of our clientele. Remember that it is particularly with the Employment Support Service, and this is the higher end need. I think around one-third of our case load may qualify for support under DisabilityCare. Remember, it is only a part of a program. So we are absolutely part of that program. One of our small programs has been subsumed into that. We are going to be monitoring. The whole idea of the pilot is how the support from DisabilityCare and how our support in terms of disability employment services mesh: what are the issues? How do we resolve that before we take them to larger pilot sites?

Senator SIEWERT: Have the people who have been offered tenders all taken them up and, subsequently, has there been a contract variation about what they can and cannot deliver?

Ms Parker: Do you mean negotiated something different?
Senator SIEWERT: Yes.
Ms Parker: No.
Mr Parsons: In principle, the answer is that there have not been any variations. But three entities that were awarded business have since novated all or part of that business to another entity.

Senator SIEWERT: They have subcontracted it—is that what that means?
Mr Parsons: Simplistically, yes.
Senator SIEWERT: Did you say 'novated'?
Ms Parker: Yes, that is the legal term for handing over business.
Senator SIEWERT: So they have either handed it over or subcontracted to it?
Mr Parsons: Yes.
Senator SIEWERT: There is a difference, isn't it?
Ms Paul: It probably means they have gone out of business in some way.
Ms Parker: Yes, they have decided not to take it up and somebody else has taken it.
Senator SIEWERT: You did not get a say on who it was handed over to?
Mr Parsons: Yes, we have to approve who they novate to.
Senator SIEWERT: And had they been approved?
Mr Parsons: Yes.
Senator SIEWERT: Did they go to existing contractors?
Mr Parsons: I do not have that detail.
Senator SIEWERT: Existing providers?
Mr Parsons: Yes, they did.
Senator SIEWERT: And were they disability providers that handed it over or were they JSAs?
Ms Parker: We will take it on notice.
Senator SIEWERT: And could you also tell me what region they were in. I am particularly interested in whether it was regional or metropolitan.
Ms Parker: There is no area that is not covered. There is no job seeker who would miss out. There is no area that is left blank. In other words, we have got coverage nationally.
Ms Buffinton: I think that is a really important part of this tender. Even though we were talking about a reduction in the number of providers, as we discussed at the last estimates, we have got much better coverage. In the past we have just had who had been supplying. With a tender, for the first time we can logically make sure where we could have coverage right across Australia.
Ms Parker: Geographic coverage.
Senator SIEWERT: Thank you.
Senator BACK: Would you be able to tell us the percentage of DMS business that currently rests with the Commonwealth Rehabilitation Service?
Ms Parker: The notional allocation is 55 per cent. In other words, they can take up to that amount if they can get the job seekers.

Ms Buffinton: When we talk about a market share for anybody—and, in this case, CRS have 55 per cent—they can run on a tolerance of 70 per cent of that market share up to about 130 per cent of the market share. The norm would be that their notional market share is 55 per cent but they would be operating at somewhere between 70 and 130 per cent of that.

Ms Parker: They can take slightly more job seekers. In other words, we are not as rigid. If more job seekers come to them, they can take slightly more. It is not a hard and fast cut-off.

Senator BACK: Has any consideration been given to putting that proportion of the work out to tender?

Ms Parker: That is a matter for government.

Ms Buffinton: The Disability Management Service contract goes through to June 2015. Earlier we were talking about consideration of what is going to place in 2015 for JSA. That is also the case for the Disability Management Service. The Employment Support Service started on 4 March this year. It is a five-year contract that goes to 4 March 2018.

Senator BACK: How many job seekers in the DES case load are currently voluntary?

Ms Buffinton: I will give it to you for DES and then I will break it down by DME and ESS. Overall, for DES, 34 per cent are voluntary. For the Disability Management Service it is 19 per cent and for the Employment Support Service it is 49 per cent. Not surprisingly, at the higher end case load we have a higher number of people who are on the disability support pension. And also in DES you are allowed to be a non-allowee; you do not qualify for income support but you do qualify for assistance in employment.

Senator BACK: What is the average amount paid to providers per job seeker in both DES and DMS?

Ms Buffinton: We do not have that figure at this point in time. It comes up from time to time at estimates. In JSA there is a figure. Because JSA has been around for a very long time, we are looking to calculate what that figure is. It is not a simple case of just the total divided by the number of job seekers. Our data people are working to develop that.

Ms Parker: We can tell you the service fees for job seekers at funding level 1 and 2 for example, but not the average by provider.

Senator BACK: Okay, so we need a bit more maturity in that one before we see those figures. What is the average duration for a job seeker in both the DMS and DES case load?

Ms Buffinton: Just to put it in context, this is not Job Services Australia. Our program of support is typically 18 months. But it can be extended if somebody would benefit from an additional six months.

Senator BACK: The majority would take advantage of it for 18 months?

Ms Buffinton: That is right.

Senator BACK: And who determines that extra six months? Is it the provider, in consultation with the job seeker, who comes back to the department?

Ms Buffinton: Yes, usually it is the provider, in consultation with the job seeker. They could be on a path to their outcome.
Senator BACK: And the overriding criterion is the likelihood of them actually reaching that outcome?

Ms Buffinton: Yes, it is a strength based approach. We are trying to keep people in service to increase participation.

Senator BACK: Of those who are employed, would you have any idea of the percentage who are working for more than 15 hours a week?

Ms Buffinton: I can probably do this in two ways. I can give you an idea of the case load that we have. Future work capacity is what the employment services assessment assesses. When you come in for your assessment, it is not about what you are able to work on now. In the course of service in DES, as you may be rehabilitating or getting skills, we are looking at your future work capacity with intervention. This is before we start to put you through the program. If we take DES in total, we have got about 25 per cent with a work capacity of eight hours, 58 per cent with a work capacity of 15 hours and 15 per cent with a work capacity of 30 hours. I would have to take it on notice to give you the actual employment.

Senator BACK: I would appreciate that. If possible, I would also like to get an understanding of the percentage who are still claiming a partial rate of DSP.

Ms Buffinton: I will see if we can get that. With the changes, you can work up to 30 hours depending on the level of income paid. I think it would be fair to say that a high proportion of our DSP claimants would be getting partial DSP. But that would be best answered by our FaHCSIA colleagues.

Senator BACK: How many are in receipt of a supported wage?

Mr Parsons: Chair, can I correct the record. When I was talking to Senator Siewert about the changes to DES ESS contracts I said there were three who are either fully or partially novated. I have checked the facts. In fact, there are three national panel of assessor providers who have fully novated and one is partially novated. They are different from DES ESS providers. No DES ESS provider has made any changes from what was awarded in the tender. I apologise for that.

Ms Parker: We offered to look up where they were.

Mr Parsons: I have not got that yet.

Ms Parker: Given we answered a different question, we may not need to do that.

Ms Paul: The answer is: there are not.

Ms Parker: There are not any.

Senator BACK: The answer is: nil. But Senator Siewert will be back so we will make sure she obtains that information.

Ms Parker: Thank you.

Senator BACK: Of those who are employed, the number in receipt of the supported wage as opposed to the—

Ms Buffinton: In terms of percentage of case loads, we have less than one per cent of our DMS case load on a supported wage and 3.95 per cent of our ESS case load is on a supported wage.
Senator BACK: Could you give us some indication of the number of DSS participants who have been referred to the NEIS, to date?

Ms Buffinton: Until 1 July it does not launch and we are obviously in a small pilot environment. Our guess, as I answered for Senator Siewert, is that it is probably somewhere between notionally 25 to 30 per cent of our ESS higher-end case load that would ever qualify to be covered by disability care. When we look at the small environment in—

Ms Parker: Sorry, we are mixing up NDIS and NEIS and other acronyms.

Senator BACK: I can understand how that is happening. It sounds a bit like the Shell company.

Ms Parker: It is NEIS, the small-business program.

Ms Drayton: From 1 July 2012 to 31 March there were 6,877 people referred to an initial interview for NEIS, of whom 464 were DES participants. Of that group, 354 DES participants commenced in NEIS training and 198 DES people have commenced onto the full NEIS assistance, for the period 1 July 2012 to 31 March.

Senator BACK: I now move onto employment services assessment and job capacity assessment, firstly asking how many ESAs have been undertaken in the last 12 months and the average cost for each.

Ms Buffinton: From 1 July 2011, which is when it started, to 31 March 2013, there have been 422,333 ESAs completed. The funding is given directly to DHS. The cost is something that would need to be directed to DHS.

Senator BACK: Are you able to indicate for either the 12 months or for that period July 2011 through to March this year on Job Capacity Assessments?

Ms Buffinton: In terms of Job Capacity Assessments, we in DEEWR look after employment service assessments, so that is for the purpose of the employment services. Job Capacity Assessments are assessments for the purpose of qualification for the Disability Support Pension and that is covered by FaHCSIA and community services.

Senator BACK: You very kindly gave us the figures for the ESAs. Can you tell me how many, if any, were the subject of any disputation?

Ms Parker: Not that we are aware, Senator. By the jobseeker, in other words, do not agree with the assessment?

Senator BACK: Yes, did not agree with the assessment.

Ms Parker: The jobseeker is not specifically told the stream, for example.

Ms Buffinton: Sometimes locally if a provider has a discussion with DHS, if they have concerns that certain aspects of the individual's condition might not have been taken into account; otherwise the quality is something that DHS obviously look at internally, their quality control. They could probably talk to you about their quality assurance mechanisms.

Senator BACK: So with DHS, that would actually—

Ms Parker: Yes. They may have had some disputes but we are not aware of those.

Senator BACK: So then on the question of being referred back for re-assessment, if you are not in possession of the information on disputation, presumably neither would you be able to tell us the number that went back for re-assessment in a 12-month period?
Ms Parker: No, but by the jobseeker questions arise sometimes from providers when they are streamed into one of the four streams in JSA. For example, sometimes providers will say to us that the jobseeker has certain barriers that were not identified during the assessment. They may be a migrant jobseeker who does not disclose that their English is not as high a quality as they would want people to think necessarily and there can be re-assessments done. If there is evidence of new information—new medical conditions, change of circumstances of that jobseeker—they can be reassessed.

Ms Buffinton: I can give you the figures on a six-monthly basis. We do have a look to see, within a six-month period, whether we have had the same jobseeker for a second assessment. The most recent six-month period I have is July to December 2012. So with 97.1 per cent of ESAs there was a single ESA for that individual; 2.8 per cent were given two assessments; and effectively it is not a percentage, 61 people in total were given three assessments.

Senator BACK: These assessments are all done face to face, are they?

Ms Buffinton: No, they are not. The dominant methodology is face to face. In some cases they are done by phone. DHS are meant to take a look at the characteristics of the jobseeker, whether they will cope with a phone assessment.

Senator BACK: What proportion would be taken by phone—a quarter, a third?

Ms Buffinton: At the moment it is just under 20 per cent by phone and more than 80 per cent are face to face.

Senator BACK: So if it was by phone and someone had a language difficulty, how would the assessor know that they did not put a relation or a friend on the phone to respond to the questions, if they sought language as being a barrier?

Ms Buffinton: Because of the nature of the screening methodology of DHS—and this is best directed to DHS—things like language barriers and the need for interpreters and a range of other issues, they are far more likely to come up on the screening, that they should have a face to face with interpreter.

Senator BACK: Sure, so they would pick those up.

Ms Parker: The figure about by phone is running at approximately 19 per cent in non-remote and 42.8 per cent in remote.

Senator BACK: That is understandable.

Ms Parker: Yes.

Senator BACK: To make it clear, anything to do with JCA really is FaHCSIA.

Ms Buffinton: That is correct—that is, disability support pension.

Senator BACK: Those are the only questions I have. Thank you very much for your kind responses.

Senator CASH: Good afternoon, Ms Paul. As always, I will be after pretty much statistical questions. I will start with the 'Improving incentives to study' initiative, then I will move to 'Improving incentives to work'—extended Pensioner Concession Card entitlements for single parents', then 'Supporting jobseekers in the transition to work'—increase and index the income free area for eligible income support recipients'; then I have questions on the Newstart allowance, the Parenting Payment, the Youth Allowance (Other), the Mobility
Allowance, Partner Allowance, the Pensioner Education Supplement, Sickness Allowance, Utilities Allowance, and the Widow Allowance. That is basically it. As I said, the majority are statistical, as per previous estimates. I hope people know the types of information you might be able to start looking for.

Ms Paul: No problem.

Senator CASH: I will start with the 2013-14 budget measures, 'Improving incentives to study—extension of the Pensioner Education Supplement for single parents'. How many income support recipients will now be eligible to receive the Pensioner Education Supplement where they would not previously have been?

Ms Taylor: As at 28 December, there were 22,325 Parenting Payment Single recipients of the Pensioner Education Supplement, of which 4,962 were previously grandfathered recipients affected by the change from 1 January. Of those, 4,962 were eligible to transfer to Newstart and therefore were able to retain the PES.

Senator CASH: That was my next question: how many recipients will now be eligible to receive the payment where they would not previously have been?

Ms Taylor: As from 1 January 2014, access to the PES will be extended to all Newstart single principal carer parents, bringing an estimated 6,310 extra single principal carer parents onto the full rate of PES.

Senator CASH: They are the ones who previously had not been entitled to it?

Ms Taylor: Yes, that is right.

Senator CASH: How many of these new recipients are persons who were transitioned from Parenting Payment Single to Newstart following the eligibility changes?

Ms Taylor: That is 6,310 extra over the four years. Of those who transferred—

Senator CASH: That is right—the question. They are the new ones. The ones who transferred in was the figure I said first, which was the 4,962—

Senator CASH: Who were grandfathered.

Ms Taylor: That is right—therefore were affected by the changes on 1 January. The answer to that is 4,962.

Senator CASH: Sorry—I know it is a little bit confusing. We are saying that 4,962 are the new recipients who were persons who were transitioned from Parenting Payment Single to Newstart?

Ms Taylor: They are two different things. We will go back to the beginning. Of the people who were on Parenting Payment Single and transitioning in and had Pensioner Education Supplement and took it with them as they transitioned in, that is 4,962. Of those new ones, from 1 January 2014—

Senator CASH: The 6,310.

Ms Taylor: That is right. They are the group who are new to being eligible for the Pensioner Education Supplement.

Senator CASH: And they transitioned from Parenting Payment Single to Newstart?

Ms Taylor: They may have already been there.
Senator CASH: What is the reason for the changes commencing on 1 January 2014 as opposed to on 1 July 2013?

Ms Taylor: It is partly that, because it is an education supplement, it is the start of the education year.

Senator CASH: Is that the sole reason?

Ms Taylor: Also, it would have gone to the time required to implement the extension.

Senator CASH: When was the department directed to model the changes to the policy and by whom?

Ms Paul: It was in the context of the budget, so I do not know that we were necessarily directed. Clearly we would have modelled and costed a number of different options, presumably, in the context of the budget. They would have been considered by the multiple ministers and then ultimately by government, and that is in their budget decision.

Senator CASH: So it was part of the normal budget?

Ms Paul: It was part of the budget consideration.

Senator CASH: Were these changes considered at all when the government was modelling changes to the eligibility for parenting payment ahead of the 2012-13 budget?

Ms Paul: I do not know the answer to that. We would probably have to take it on notice. At any rate, the answer might be that that was subject to cabinet processes and therefore we cannot go there. Nonetheless, we will take it on notice if you like and have a look.

Senator CASH: I will move now to Improving incentives to work: extended pensioner concession card entitlement for single parents. With regard to this measure, how many income support recipients will now be eligible to receive the pensioner concession where they would not previously have been eligible?

Ms Taylor: I do not know that we have forward projections of the numbers who would be able to, but I can take that on notice. What I can tell you is that, since 1 January 2013, 1,168 parenting payment single recipients lost eligibility for income support. When their youngest child turns eight and their earnings are such that they are not eligible to go to any other benefit, and therefore move off income support, they would have lost the pensioner concession card. I can take on notice from 1 January 2014—those forward numbers—but as an indication there are the numbers since 1 January 2013.

Senator CASH: Please take this on notice: how many of the new recipients are persons who were transitioned from parenting payment single to Newstart following the eligibility changes?

Ms Taylor: They would be able to retain their pensioner concession card. Retaining the pensioner concession card relates to those who are totally moving off income support; they are not moving to any other payment.

Senator CASH: Again, what were the reasons for these changes commencing on 1 January as opposed to 1 July?

Ms Taylor: In this case I would say part of the main reason is the time to put the changes into place. A lot of those go to the system changes required to do that. But the timing is also a decision of government.
Senator CASH: Ms Paul, I have the same question as I had previously: when was the department directed to model these changes and by whom? Were these changes considered at all when the government was modelling changes to the eligibility for parenting payment ahead of the 2012-13 budget?

Ms Paul: The answer is the same. It was in the budget consideration—the same—and we will have to take on notice the other questions.

Senator CASH: I now turn to Supporting job seekers in the transition to work—increase and index the income-free area for eligible income support recipients. In relation to supporting job seekers in the transition to work initiative, which was announced in the 2013-14 budget, has the department undertaken any modelling on the number of income support recipients who are likely to increase their workforce participation as a result of the changes? If so, what was the methodology used to make up the assumptions?

Ms Taylor: I understand we have not done modelling on the impact on the behaviour. But—

Senator CASH: Have you been requested to do it and you just have not done it, or have you not been requested to do it so therefore you have not done it?

Ms Taylor: I will take it on notice. I would need to check whether we have actually been asked.

Ms Paul: But we would know the set that this applies to.

Ms Taylor: Exactly. Also, there is quite a lot of research about the impact of a whole range of tax and transfer measures on participation, particularly the participation of women, over a number of years. Also, at the Senate inquiry's hearing into the adequacy of allowance one of the recommendations was to increase the income-free area as an incentive to work. There was evidence cited in that. Also, there was a lot of discussion about that being an incentive, particularly for people with either a partial capacity to work, or principal carers parents, to take up more hours and so increase the incentive to move into work.

Senator CASH: In relation to the income-free area for income support recipients, when was the department directed to begin work on the increase in this particular area?

Ms Taylor: Same answer.

Senator CASH: Budget process, and take on notice by whom et cetera?

Ms Taylor: Yes.

Senator CASH: How many income support recipients are expected to be affected by the changes, and can you provide a breakdown of this cohort by payment type?

Mr Emerson: Yes, I can provide you with a breakdown on that. For 2013-14 I will give you a breakdown of those that are very likely to benefit from this. It is around 150,000 a year, and I will break that down. In Newstart it will be 92,315. We have also broken that down into Newstart Allowance single principal-carer parents. That will be 35,861. For Parenting Payment, partnered, it is 17,983. For Partner Allowance it is 408. For Sickness Allowance it is 702. For Widow Allowance it is 1,811. They are the people who would benefit immediately, in the 2013-14 year, from the increase to the income-free area.
Senator CASH: So when I ask how many on income support are expected to be affected by the changes, when you answer the question you say 'affected' equals 'benefited'. Is that correct?

Mr Emerson: That is right.

Senator CASH: And that is the 150,000?

Mr Emerson: That is right.

Senator CASH: You said that is for 2013-14. Are there any other figures?

Mr Emerson: Yes. I could go down through each of the years in the forward estimates but perhaps—

Senator CASH: Could you table the document?

Mr Emerson: We will take that on notice.

Senator CASH: What was the reason for the increase in the income-free area commencing on 20 March 2014 as opposed to 1 July 2013?

Mr Emerson: That aligns with indexation points for payments. So that is a fairly important time for people in receipt of payments. Also—

Senator CASH: March 2014?

Mr Emerson: Correct. And also in the design and the build of the architecture for DHS's perspective.

Senator CASH: What is the reason for the indexation of the income-free area commencing on 1 July 2015 instead of September 2013?

Ms Taylor: I will take that on notice.

Senator CASH: Can I turn now to the Newstart allowance. How many recipients of the Newstart allowance have been exempted from job seeker participation requirements to date? Can you also provide a breakdown of the reasons for the exemptions and a breakdown of the exemptions by approximate location.

Ms Drayton: The total number of exemptions is 74,298. I will break that down by payment group, if that is all right, because not all of them are Newstart.

Senator CASH: Oh, okay.

Ms Drayton: That is the total number. Of that group, 63,758 are in receipt of Newstart, 4,705 are in receipt of parenting payment single and 5,835 are in receipt of youth allowance and other. That is the main group. I am sorry, but I missed your last couple of questions.

Senator CASH: Can you provide a breakdown of the reasons for the exemptions.

Ms Drayton: Most of them—about 65 per cent of them—are because of a temporary incapacity.

Senator CASH: Just remind me: is 'temporary incapacity' defined in the legislation?

Ms Drayton: Yes. It is due to illness, injury or disability. It usually requires a medical certificate and it goes for the length of the medical certificate. So 47,415 of the 74,000 have an exemption due to a temporary incapacity. That is by far the biggest group. There is a much, much smaller group of 1,207. They are still under a temporary incapacity but they are people who are recovering from serious illness or require frequent treatment, such as for cancer or a
stroke. We move then into what we call the 'caring responsibility group' of exemptions. They are people who have a large family—four or more children. There are 4,438 people in receipt of an exemption in that group. That is one of the longer term ones. That is a legislated one that goes to 52 weeks. The other ones go for the length of the medical certificate. We have 2,470 people temporarily caring for an adult or child, 1,482 are active foster carers, 1,281 are providing homeschooling, 729 are caring for a high needs child, 168 are facilitating distance education, 119 are principal carer parents who are providing kinship or family care, 82 are caring for a child related to them where they are not the parent through a Family Court order and 28 have care of a child through a state or territory court plan. Then we move into what we call 'personal circumstances'. The previous ones were all the caring responsibility ones.

**Senator CASH:** Was that in relation to the 47,415?

**Ms Drayton:** The 47,415 are the ones with temporary incapacity—the medical certificate ones.

**Senator CASH:** Were the other figures just that?

**Ms Drayton:** The total group of people with a medical condition is 48,622. It takes in that small group with frequent illness. The caring responsibility subtotal that I have just gone through is 10,810. Then we move into what we call personal circumstances. That has a grand total of 14,866. I can go through—

**Senator CASH:** Would you mind providing a breakdown?

**Ms Drayton:** There are 4,589 people who have an exemption due to a major personal crisis such as homelessness or being in a witness protection scheme. There are a range of personal circumstances. There are 3,728 people who have an exemption because they are claiming disability support pension but it is yet to be determined. There are 2,649 people who are within six weeks of giving birth. There are 1,699 people who are refugees in their first 13 weeks where they get that exemption. There are 304 people with an approved overseas absence, 216 people facing major personal disruption such as fire, storm or accident, 179 people in a bereavement period, 144 people with issues around domestic violence, 53 people with community service orders and another few categories where there are fewer than 20 people, and that is things like jury duty and other circumstances.

**Senator CASH:** Are you able to provide notice a breakdown of the exemptions by approximate location? Is that something that you collate?

**Ms Drayton:** I have not to date, but I will certainly see what we can do with that one. I will take it on notice.

**Ms Paul:** Do mean kind of regional—

**Senator CASH:** Exactly, yes—

**Ms Paul:** So not the normal kind of metro-regional figures—

**Senator CASH:** Yes.

**Ms Paul:** I did not think you meant—

**Senator CASH:** By postcode or street? No.

**Ms Paul:** Phew!
Senator CASH: Are any of those persons who have been exempted from job seeker participation requirements former persons who have been moved from parenting payment onto Newstart as a result of the recent eligibility changes? If so, what are the reasons for this cohort having been exempted?

Ms Drayton: Most of the parents who transitioned from parenting payment to Newstart were already on the JSA requirements, so it was not as if there was a large group that came through. If they had an exemption, it would have been a pre-existing exemption and there would have obviously been some new exemptions put on since then, but I do not have that broken down.

Senator CASH: Could I get you to take it on notice?

Ms Drayton: Absolutely.

Senator CASH: Also, and you might have this with you: what is the average amount of time in weeks that job seekers on Newstart have been exempted from workforce participation measures this year to date?

Ms Drayton: We do have that information. It is very similar to the answer at last estimates: it is 52 weeks and 12 weeks—I think last time it was 13 weeks and now it has reduced to 12.

Senator CASH: I turn now to parenting payment, followed by youth allowance other. In relation to parenting payment, I again have statistical questions. How many recipients of parenting payment affected by the eligibility changes have since moved on to Newstart allowance?

Mr Brown: On 1 January 2013, there were 63,254 people who were affected by the changes; 62,325 of them moved onto Newstart on that day.

Senator CASH: And the balance of those people?

Mr Brown: Because of the differences in eligibility, some people moved across to Austudy and some moved to other payments.

Senator CASH: And my next question is: how many recipients of parenting payment affected by the eligibility changes have since moved on to the disability support pension?

Ms Taylor: The answer to a question on notice last time showed figures as at 1 January—and we can update this for you, but I do not know if we can do it today—470 people moved to disability support pension, 26 to the age pension, 132 to Austudy, 1,224 to carers allowance, 20 moved to widows allowance and fewer than 20 moved to youth allowance. So there are 1,894 in total.

Senator CASH: The 62,325 plus that should get us to 63,254?

Ms Taylor: There would be some who moved off income support altogether.

Senator CASH: That is my next question. How many moved off income support altogether?

Mr Emerson: The number of people who have moved off Newstart altogether, as at 29 March, was—

Senator CASH: Sorry, no—how many recipients of Parenting Payment affected by the eligibility changes have since moved off income support?
Mr Brown: As of 29 March, it was 1,168. There have been that number of exits of single parents affected. Any changes to partnered parents would be more by their own circumstances, because there is actually no difference between Parent Payment partnered and Newstart partnered. All of the changes which you are going to see which are happening as a result of the people moving off Parent Payment is to the single population.

Senator CASH: Are you able to provide figures on the number of Parenting Payment recipients moved off the payment as a result of the eligibility changes who have subsequently increased their workforce participation?

Ms Taylor: If they have moved off income support altogether—

Senator CASH: Those who have moved off the payment as a result of eligibility changes but who have subsequently increased their participation in the workforce.

Ms Taylor: If they have moved off payment altogether, then no, they would not—

Senator CASH: Because they are no longer being tracked?

Ms Taylor: That is right. The level of earnings that they would have had have reached the limit and therefore they are not in the system any longer.

Senator CASH: In other words, you do not have that information?

Ms Taylor: No.

Senator CASH: I now move on to Youth Allowance (other) How many recipients of Youth Allowance (other) have been exempted from job-seeking participation requirements to date? Could you please also provide a breakdown of the reason, as we did before, for the exemptions?

Ms Drayton: The Youth Allowance (other) figure is the same as the one that I gave you earlier, so it is 5,835.

Senator CASH: Remind me why you gave me that figure.

Ms Drayton: You asked for the exemptions by payment type.

Senator CASH: Yes. That was the Youth Allowance—

Ms Drayton: That was one of the payment types.

Senator CASH: So that is 5,835. Are you able to provide a reason for the breakdown of those exemptions?

Ms Drayton: Just the Youth Allowance ones?

Senator CASH: Yes.

Ms Drayton: I will probably have to do that on notice.

Senator CASH: In taking that on notice, can you also provide a breakdown of the exemptions by approximate locations we discussed previously?

Ms Drayton: Of course.

Senator CASH: What is the average amount of time in weeks that recipients of Youth Allowance (other) have been exempted from workforce participation measures to date this year?

Ms Drayton: Again, we have that same average figure across them all that I gave to you earlier.
Senator CASH: The 52 weeks and 12 weeks?

Ms Drayton: Yes. But I will just check whether there is any difference to the Youth Allowance (other). We might just need a minute for that one.

Senator CASH: That is fine. What I will also be asking, just in case you need someone to get the information, is how many persons received youth allowance in 2012-13?

Mr Emerson: I can answer that. The total number of recipients as of March 2013 was 106,753.

Senator CASH: In relation to those recipients, how many of the recipients participated in education or training full time?

Ms Taylor: Sorry, we might take that on notice.

Ms Drayton: I have a bit.

Ms Taylor: Okay.

Ms Drayton: This may go to some of it. The early school leaver proportion of the youth allowance (other) is 44,484. The early school leavers are not allowed to be engaged in job search, they have to be engaged in full-time study, training or activities that help them in that way. They represent about 38 per cent of the youth allowance (other) population.

Senator CASH: This is the breakdown I was looking for, and tell me where those figures fit in with what I was looking for: to participate in education or training full time, and to participate in part-time study or training while working to attain the year 12 or equivalent qualification.

Ms Drayton: Yes. That is the early school leavers.

Senator CASH: How many of these recipients were newly arrived migrants?

Mr Emerson: We would have to take that on notice.

Senator CASH: How persons received youth allowance (other) in 2012-13 while on temporary absence from Australia, not exceeding 13 weeks?

Ms Taylor: We would need to take that on notice. That would need to be DHS data, so we will get that.

CHAIR: What is the definition of a 'newly arrived migrant'?

Ms Drayton: There are several definitions that we use in respect of eligibility for Australian government services. A newly arrived migrant generally has a two-year waiting period to access fully eligible services and income support. A refugee—someone who is assessed and authorised as a refugee—has immediate access to income support and to employment services. And some people with work rights have some limited access to employment services—the stream unlimited.

CHAIR: So the number you would be talking about would be a once-off for an individual? So the minute you access that entitlement after your two years, you are then no longer considered a newly arrived migrant. Is that right?

Ms Drayton: I was talking about a bit earlier about refugees, for example, that have a 13-week exemption. That is, when they first come into Job Services Australia they are automatically given that 13 weeks. The two-year arrivals—
Ms Taylor: By logic, you would think that that is right. But I do not know if there is any set definition that once you access that, you are no longer classified. I will take that on notice and find out for you.

CHAIR: That is my contribution.

Senator CASH: How many youth allowance (other) recipients also received the additional supplement of $20.80 per fortnight as a result of their participation in Work for the Dole, Green Corps, a literacy or numeracy program, or the Community Development Employment Project in 2012-13? Is it possible to provide a breakdown of this program by participation?

Mr Emerson: We would have to take that question on notice.

Ms Drayton: I will just step up quickly. We have an answer to the previous question.

Senator CASH: Thank you very much.

Ms Drayton: It is 12 weeks for the short-term exemptions and 24 weeks for the other exemptions for youth allowance (other).

Senator CASH: I now turn to the mobility allowance, partner allowance, pensioner education supplement, sickness allowance, utilities allowance and widow allowance. With regard to the mobility allowance, how many people received this payment in 2012-13? Are you are able to break it down by higher rate and basic rate, and the category of qualifying income support payments they receive?

Mr Emerson: Yes, I can do that.

Senator CASH: Thank you.

Mr Emerson: The number of recipients of mobility allowance, as at March 2013, at the basic rate, was 55,656. At the higher rate—this is the total number?

Senator CASH: The total number, yes.

Mr Emerson: I am sorry: 6,263, which makes a total of 61,899. You asked for that to be broken down by—

Senator CASH: Into higher rate and basic rate, which you have done.

Mr Emerson: Yes.

Senator CASH: And what is the category of qualifying income support payment they receive?

Mr Emerson: At the basic rate, I can break this down by disability support pension, which is 46,923.

Senator CASH: On DSP?

Mr Emerson: On DSP. This is all on the basic rate I am going through now. For Newstart allowance it is 370; for youth allowance other it is 47; for parenting payment single it is 20; for parenting payment partnered, it is five; for those who are not in receipt of another income support payment, there were 5,739; and basic rate on other payment types—and these would include FaHCSIA-type payments—would be 2,532. So the total of the basic rate is 55,636.

Senator CASH: Excellent. What is the breakdown of the higher rate?
Mr Emerson: For DSP it is 5,608; or Newstart it is 393; for youth allowance other, it is 22; for parenting payment single, it is 17; for parenting payment partnered, it is one; for those not in receipt of another income support payment, it is 175; for the other payment type category, it is 47. That is a total for the higher rate of 6,263.

Senator CASH: Excellent. Thank you very much. I will turn now to partner allowance. How many persons received this payment in 2012-13? Again, can you provide a breakdown of recipients by ATI bracket?

Mr Emerson: I can give you the number of recipients as at March 2013 for partner allowance: 10,832. Your second question was breakdown by what?

Senator CASH: Of recipients by ATI bracket.

Ms Paul: What is that, Senator?

Senator CASH: I think that is a very good question myself. Excellent. I am sure someone will be emailing as we speak.

Mr Emerson: Could it be Aboriginal and Torres Strait Islander?


Ms Paul: Is it taxable income level?

Senator CASH: How about we ask some other questions. I am sure we will have someone saying, 'Sorry, I forgot to put that one in!' How many persons received this payment in 2012-13? Was it 10,832?

Mr Emerson: Yes.

Senator CASH: How many recipients of partner allowance also received education entry payments?

Mr Emerson: The number of partner allowance recipients who also received an education entry payment was four.

Senator CASH: Four?

Mr Emerson: Yes.

Senator CASH: How many recipients of partner allowance also receive the pharmaceutical allowance and the pension supplement, if you have that one, as well?

Mr Emerson: I am sorry, we will have to take the pharmaceutical allowance question on notice. Check. We have the pension supplement figure. As at March 2013, the number of people on partner allowance who also received the pension supplement was 139.

Senator CASH: It was 139?

Mr Emerson: Correct.

Senator CASH: And if I look at ATI under the Australian Taxation office, it is adjusted taxable income.

Ms Paul: I think Ms Taylor wins; she was onto that.

Senator CASH: Is that something you can provide, or do you need to take that on notice?

Ms Taylor: We will take it on notice.

Ms Paul: Especially when we do not quite know what it is.
Ms Taylor: We will give you something back, Senator.

Senator CASH: Could I now turn to the pensioner education supplement. How many people receive the pensioner education supplement in 2012-2013 and are you able to provide a breakdown by income support payment and the rate of payment?

Mr Emerson: Yes. The total number of recipients of pensioner education supplement as at March 2013 was 48,849. The breakdown by payment type—I am going to have to do this by full rate and part rate because you can receive—

Senator CASH: Yes, that is good—and the rate of payment. Perfect; that is what I needed.

Mr Emerson: Okay. This is all full rate: for carer payment, $3,537; for DSP, $20,822; for parenting payment single, $18,812; for wife pension (DSP), $35; for parenting payment partnered, $4; for Newstart allowance, $2,452; for youth allowance other, $0—that is because of eligibility; for special benefit, $4; for widow allowance, $104; for DVA invalidity service pension, $6; for DVA partner on invalidity pension, $3; and for DVA Defence war widow's pension, $1. So that is the full rate for those. Now I will just go through part rate: for carer payment, $543; for DSP, $10; for parenting payment single, $2,114; for wife pension (DSP), $0; for parenting payment partnered, $0; for Newstart allowance, $401; and, for the remaining payments, $0. And that includes those other payments that I called out earlier.

Senator CASH: How many persons also received fares allowance in addition to the pensioner education supplement?

Mr Emerson: We would have to take that question on notice.

Senator CASH: How many persons receiving the pensioner education supplement in 2012-13 were temporarily absent from Australia for a period not exceeding 13 weeks, and how many were newly arrived migrants?

Ms Taylor: We would need to take that on notice.

Senator CASH: Turning to sickness allowance: how many persons received the payment in 2012-13, and, again, can you provide a breakdown of this by adjusted taxable income bracket?

Mr Emerson: I will be able to answer your first question. The second question, unfortunately, I will need to take on notice. So the number of recipients of sickness allowance, as at March 2013, was 7,691.

Senator CASH: How many of these persons also received another income support payment, and can you provide a breakdown by type of payment?

Mr Emerson: The eligibility for sickness allowance is that they would not have received another income support payment at the same time. So this is not a supplementary allowance.

Senator CASH: So this is an eligibility criterion and basically if you are receiving something else—

Mr Emerson: That is right.

Senator CASH: So zero. How many persons received the sickness allowance in 2012-13, again, while on temporary absence from Australia not exceeding 13 weeks and who are newly arrived migrants? Can you take that on notice?
Ms Taylor: On notice, Senator.

Senator CASH: Utilities allowance: how many persons received the utilities allowance in 2012-13 and are you able to provide a breakdown of those recipients by income support payment?

Mr Emerson: Again, breakdown by income support payment we will need to take on notice because it is across agencies for a range of payments.

Senator CASH: So you will take it on notice to get the information; okay.

Mr Emerson: We need to do so to get a fulsome answer. But I can say that the total number of people on utilities allowance as at March 2013 is 42,374. I can actually break it down to partner allowance and widow allowance.

Senator CASH: Yes, please.

Mr Emerson: Partner allowance was 13,396 and widow allowance was 28,978. There are other base payments that this payment is a supplement to.

Senator CASH: And you will be able to get that on notice?

Mr Brown: The utilities allowance was rolled into the pension supplement under the pension reforms. That is why only DEEWR payments are left with the utilities allowance.

Mr Emerson: Except for DSP under 21s.

Senator CASH: I turn finally to the widow allowance and similar questions. How many persons received the widow allowance in 2012-13? Are you able to provide a breakdown, which I believe you will need to take notice, of the adjusted taxable income bracket?

Mr Emerson: Yes, you are correct on the second question. The number of recipients in March 2013 for widow allowance was 26,636.

Senator CASH: You may have to take these on notice as well. How many of these recipients were newly arrived migrants? How many persons receiving the widow allowance in 2012-13 were on a temporary absence from Australia not exceeding 13 weeks? How many recipients of the widow allowance also received the pharmaceuticals allowance? How many recipients of the widow allowance also received the pension supplement?

Mr Emerson: They will have to be provided on notice.

Senator CASH: Okay. How many recipients of the widow allowance also received the education entry payment? How many recipients of the widow allowance also received the pensioner education supplement?

Mr Emerson: The number of people on widow allowance who also received the education entry payment is 73.

Senator CASH: I appreciate the assistance, thank you.

CHAIR: It stands to reason, doesn't it, that, if you are excluded from the benefits because you are a newly arrived migrant for two years, as soon as the two years are up you are no longer considered a newly arrived migrant. So how can there be a category of newly arrived migrants receiving benefits?

Mr Brown: There seems to be a bit of a definitional problem around newly arrived migrants. If we take a newly arrived migrant to be somebody who has entered the country in that first two-year period, none of them will be eligible for income support payments except
in a category of circumstances. One of those categories of circumstances may be that they are given a permanent refugee visa and therefore they are not considered a newly arrived migrant.

CHAIR: There is still no definition, though, of a newly arrived migrant.

Mr Brown: Yes, there is no definition. We would class a newly arrived migrant as somebody who was subject to the newly arrived migrants waiting period. Therefore, by definition, they would not be entitled to our payments.

CHAIR: So there cannot be a category of newly arrived migrant—

Mr Brown: There actually cannot be a category.

CHAIR: receiving benefits, unless they meet the exemption criteria. What if you are a migrant and have been here for five years and then seek to get a benefit? Are you considered—

Mr Brown: You would be entitled to the benefit. As you are entitled to permanent residency, you would be entitled to benefits.

Mr Emerson: If you had a visa.

Mr Brown: If you had a visa—obviously, if you did not have a visa you would be ineligible.

CHAIR: Senator Cash asked for the category of newly arrived migrants receiving, I think, youth allowance, but really there is no such category.

Mr Brown: No.

CHAIR: So that is why you have taken that question on notice?

Mr Emerson: That is right.

Mr Brown: A more practical question might be: how many people have been exempted from the newly arrived migrant waiting period?

Senator CASH: Perhaps I should put that question on notice! Thank you so much for that suggestion.

CHAIR: I suspect that was the answer they were going to give you, but I was having difficulty following the logic of the process. That concludes our questions for program 3 in totality.

Proceedings suspended from 15:29 to 16:02

CHAIR: We will resume the estimates hearing. We will finish outcome 3. I apologise for finishing a little bit early. I did not know that Senator Siewert has a brief round of questions. She has promised to be very brief.

Senator SIEWERT: I go to page 86 of the PBS, table 235A, which talks about performance indicators. I am seeking an explanation for the figures that are there, in particular for Newstart. These are the performance indicators for some of the income support categories. In Newstart for 2012-13, your revised budget, the mean duration on income support by current income support payment is 230. It goes down to 220 next year and the following year it is 212. Can you take me through the explanation for the figures in 2012 and the following year, and then out to 2016-17 and 2018?

Ms Taylor: The Newstart allowance duration is partly due to the influx of the Parenting Payment.
Senator SIEWERT: That 230—
Ms Taylor: Goes down to 220.
Senator SIEWERT: But the 230 figure—if I understand the revised budget—is higher than it was previously?
Mr Brown: Yes, it has risen considerably as a result of the people from Parenting Payment moving on to payment with very long durations. As you would be aware, the average duration on Parenting Payment, because of the age of the youngest child and the lack of participation in the first years, means that they have a very long duration. So with 60,000-odd flowing on to Newstart it has bumped up the average considerably. That will lessen as they flow through and once you get out towards the end of the forward estimates period. There is also quite a strong underlying influence from the broader economic parameters which we get from Treasury.
Senator SIEWERT: Down at the bottom of the page it says the average Newstart measure has been introduced for the 2013-14 PBS in light of the recent policy changes. It only includes time spent on Newstart and excludes time previously spent on any other income support payment. I presume that relates to that.
Ms Taylor: It is an additional measure that was put in. There are still the same measures there—the total on Newstart. You might recall during the Senate inquiry we had a discussion about the length of time actually on Newstart. I hate to remind you of the tortuous process. We have handed in there that measure as well—how long just on Newstart and still maintaining the other measures as well.
Senator SIEWERT: So that is that last one in that table?
Ms Taylor: That is right.
Senator SIEWERT: So it is not a typical—
Ms Taylor: No.
Senator SIEWERT: You are not monitoring it for this year. So what you are predicting for the following years is an average of 93, 90, 97 and 104. And, Mr Brown, if I understood your comment correctly just then, the 2016-17 numbers are reflecting those underlying measures from Treasury.
Mr Brown: That is correct—the population impacts and the underlying economic situation.
Senator SIEWERT: Presumably that includes the single parent cohort but excludes their time spent on PPS.
Ms Taylor: The top measures—
Senator SIEWERT: The top measure includes that. The bottom measure does not.
Ms Taylor: The bottom measure does not.
Mr Brown: That is why you see the increased costs across the forward estimates because they are flowing on with zero duration. So you have a large body of people who have come on with no duration and, as they accumulate time, that is going to push up the average.
Senator SIEWERT: Let us go with the bottom row of figures. In 2014-15 it goes down to 90 and then up again to 97. What influences that from the previous year to the following year?
Mr Emerson: Again, that is a model population impact from our colleagues in Treasury. We work with them—

Senator SIEWERT: So I should go and ask Treasury?

Mr Emerson: We worked with them on this.

Ms Taylor: There would be a whole range of factors that would go into making up that, looking at where the population is going and the rate and the predicted movements on and off Newstart. Part of that may also be the ageing of the cohort moving on to other payments as well. So there are a whole lot of other things that would go towards making that up.

Senator SIEWERT: But the point is that you used Treasury figures to predict those figures?

Mr Emerson: Yes.

Senator SIEWERT: For the figure of 230, it says it is from the 2012-13 revised budget. Was that different to the original figure that you predicted?

Ms Taylor: Sorry, I do not have that, but I can get it.

Senator SIEWERT: If you could.

Mr Brown: The original figure was considered very low before the effect of the budget measure. We work these out in concert with the budget. The original figure in March 2012 was around 178, so that has increased as a result.

Senator SIEWERT: That excluded the single parents but included other cohorts. It included some single parents from the original Welfare to Work measure but not the latest cohort. Is that correct?

Mr Brown: That is correct.

Senator SIEWERT: So this now takes out all of those—not just the new cohort but the other cohorts as well?

Mr Brown: That is right.

Ms Taylor: Yes.

Senator SIEWERT: Can I go to some of the decision making around the new initiatives that are included in the PBS, including the increase in the income-free area. In terms of the extra $19 a week, how did you arrive at $19?

Mr Emerson: That was the average increase that would apply to a recipient for a fortnight. So $19 a fortnight, on average, is the additional amount that they would be able to receive.

Ms Taylor: So you are asking—

Senator SIEWERT: How did you determine the $19 figure?

Ms Taylor: And that was a decision of government. So to increase the amount from $62 to $100, you are saying—

Senator SIEWERT: Yes, which is $38. I am sorry; I am averaging it out.

Ms Taylor: I understand. That amount was a decision of government.

Senator SIEWERT: Did you provide advice—I am not going to ask for the advice; I know better than that—to the government on that?
Ms Paul: Yes, we did and we said, actually in evidence earlier with Senator Cash, that it was part of the budget consideration basically. So, yes, we would have provided advice.

Senator Siewert: And you based that on modelling? How do you know that $19 is going to make a difference?

Ms Taylor: I will say at the start that the actual amount is a decision of government, but in the Senate inquiry and the recommendations that came from the Senate inquiry there was a lot of discussion about the income-free area, and that amount roughly equates to three hours at the minimum wage per fortnight. So, if you extrapolate that for the $38 increase, roughly it equates to that—

Senator Siewert: Basically an extra hour a week?

Ms Taylor: That is right, yes.

Senator Siewert: Besides that extra hour being a period of time that you are more likely to get employed for in one go, is there modelling that suggests that is a significant figure that actually helps people?

Ms Paul: I think that probably the fairest and best thing to say—because of course this is all subject to budget considerations—would be that we did pay close attention to what was said in the inquiry et cetera and offered a range of advice to government and ultimately, in the budget context, it was a government decision.

Senator Siewert: Thank you. That comes into place on 20 March next year. Why was that date selected?

Ms Paul: We gave that in evidence to Senator Cash. I will go to my colleague.

Ms Taylor: There are two things. Some of the measures were in January and one in March. The one in March is linked to the indexation payments coming in. In addition there are time frames that we need to allow for systems changes and DHS. Roughly there is at least six months for changes to flow through from DHS. But the March one was particularly around indexation.

Senator Siewert: They will be making changes then anyway.

Ms Taylor: That is right, yes. That is a major time for them.

Senator Siewert: Thank you. Extending the eligibility for the pensioner education supplement is essentially reinstating the fact that they had access to the pensioner education supplement previously?

Ms Taylor: While they are on parenting payment. There is the cohort that move over from parenting payment onto Newstart. If they are in receipt of pensioner education supplement when they move over, they get to keep it, but if they are not in receipt of pensioner education supplement when they move onto Newstart they could not apply. So it reinstates their eligibility under PPS.

Senator Siewert: Is it the same criteria for accessing the education supplement as when they were on PPS?

Mr Emerson: Yes.

Senator Siewert: There are no differences if you are on the PPS to on Newstart for accessing that?
Mr Emerson: That is correct. There will need to be some changes, obviously, to the rules to enable that to occur, and that is what is being undertaken, to make sure that there is that consistency across payments.

Senator SIEWERT: You mean the rules on Newstart?

Mr Emerson: That is right. So, as a pensioner education supplement recipient on Newstart, there are rules, and there are separate rules for pensioner education supplement for those on single—

Senator SIEWERT: And they are different, are they?

Mr Emerson: We have just got to make sure that they are the same.

Senator SIEWERT: We discussed last time when you can and cannot get the pensioner concession card. What you are doing now is extending that to anybody who has come off Newstart, because, as we discussed last time, there were issues around when you are working and—

Ms Taylor: It is off parenting payment.

Mr Brown: It is a bit of a catch actually. It is where you move off parenting payment single and you do not qualify for Newstart. It is actually people who fit in between the two income test rules. So you get to keep it anyway. It is a small niche of people who, over the forward estimates, will keep it, and it will apply going forward now to anybody who is in that situation as their eldest child reaches eight years of age.

Senator SIEWERT: So you do not have to apply for it? It will automatically apply?

Ms Taylor: They already have the pensioner concession card because they are on parenting payment. I am not quite sure whether it just automatically flows, but it will—

Senator SIEWERT: That is what I wanted to know. You do not have to lodge a form?

Mr Emerson: No. You will not have to make a separate claim.

Senator SIEWERT: The payments stop, but you continue to get that for another 12 weeks?

Ms Taylor: That is right.

Senator SIEWERT: Presumably there will be a notification when they are getting towards the end of that period.

Mr Emerson: Yes.

Senator SIEWERT: That will not be like the letter that they got last time?

Ms Taylor: First of all, there will be information that goes out to advise people of the change, and then they will receive that notification.

Senator SIEWERT: Mr Brown, you said there was a small cohort. That leads me on to asking where we are up to with the most recent figures for the number of single parents that have been moved from 1 January. Can I have an update?

Ms Taylor: The total number of parents affected, whose arrangements changed, to the end of March is 76,305. That is 11,099 parenting payment partnered and 65,206 parenting payment single.

Senator SIEWERT: How many have gone onto—
Ms Taylor: Newstart?

Senator SIEWERT: That is Newstart. How many have gone onto other forms of income support?

Ms Taylor: Sorry; they are the number that were affected. Of those, in total 74,537 have moved to Newstart. Of the single parents, if we go to the 65,206 of the parenting payment single, 63,877 have moved onto Newstart; 161 have moved onto other income support payments—and I think we gave on notice at last estimates the breakdown, and I have already undertaken to update that; and 1,168 did not move on to Newstart or any other income support payment.

Senator SIEWERT: They moved out of income support?

Ms Taylor: That is right.

Senator SIEWERT: So, from 1 January next year, that cohort will get the pensioner concession card?

Mr Emerson: Yes.

Senator SIEWERT: They will get to keep it?

Mr Emerson: They will get to keep it and they will have it extended.

Ms Taylor: They keep it for 12 weeks, so those people who have already moved off—

Senator SIEWERT: Do not keep it.

Ms Taylor: No.

Senator SIEWERT: The 1,168 is the total number that have moved from January 1?

Ms Taylor: That is right—to the end of March.

Senator SIEWERT: How many are budgeted for to move off, from 1 January, onto no income, who will retain access to the pensioner concession card?

Mr Brown: About 2,000 over the course of—

Senator SIEWERT: Over the course of the forward estimates?

Mr Brown: As I understand it, yes.

Senator SIEWERT: Do you have updated figures of any change in employment—the number of people who have found part-time work or have changed their employment status?

Ms Taylor: There have been some changes in earnings which would indicate that.

Mr Emerson: As at 29 March this year, 30,655 had earnings. That is 56 per cent of the previously grandfathered cohort that have earnings.

CHAIR: What is the difference in the number of people who had earnings before they transferred to Newstart?

Mr Brown: There is some difficulty in judging their earnings before Newstart, or when they were on Newstart to when they are on payment now, because they came off payment over the Christmas period. The earning pattern for parents across all income support follows a very seasonal pattern. If you compare the two points in time, it is not a particularly helpful comparison.

CHAIR: Let us know what it is, anyway. That was a policy rationale for the whole change, so I think it is important for us to know.
Ms Paul: Probably the best way of doing it, which we can help you with, is year-on-year, so that you are comparing apples with apples.

Ms Taylor: If you are looking at the period between January and March last year to January and March this year—because you need to take account of that seasonality—there has been an increase in reported earnings amongst that cohort. From January, the number of recipients reporting earnings increased by 2,416, or 10.2 per cent, from the end of January 2013 to the end of March, compared with an increase of 5.8 per cent, or 2,367, over the same period in 2012. In addition, there has been a decrease in the number of that cohort who are not reporting earnings. So you have an increase in those who are reporting earnings and a decrease in the number who are not reporting earnings.

CHAIR: Just so I understand that: people who are already, say, working their 15 hours anyway are now working more than 15 hours?

Ms Taylor: No, it is the actual numbers of people who are reporting earnings. It is not number of hours. It is more of that cohort who are reporting earnings.

Senator SIEWERT: This is not the grandfathered mob, with their youngest child turning eight?

Ms Taylor: Yes, there would be, in that cohort, in January this year. You are looking at the numbers of people who have reported earnings from January 2013 to March, and it would take account of that.

Senator SIEWERT: So it is January to March, the exact same cohort, not just for single parents—not the whole cohort of the grandfathered mob, but just the group that have been swapped. Are you able to break that down?

Ms Taylor: I might take that on notice. I can understand what you are saying.

Senator SIEWERT: What I am saying is that, as their children get older, parents would be more likely to feel more confident about finding work.

Mr Emerson: Yes, that is true.

Senator SIEWERT: I am trying to look at whether that cohort had a higher percentage.

Ms Taylor: I will take that on notice and get that for you.

Senator SIEWERT: So we are comparing, exactly, like with like.

CHAIR: Ms Taylor, you are saying that there is a cohort that has gone the other way?

Ms Taylor: No. There are more people reporting earnings, so there has been an increase in the number of people who are reporting earnings. There has been a decrease in those not reporting earnings, as you would expect.

CHAIR: A decrease in people not reporting earnings?

Ms Taylor: Yes, that is right—not. So it is a double negative.

Senator SIEWERT: Do you get an idea of what the earnings are?

Ms Taylor: I will take that on notice.

Mr Emerson: We will take that on notice and provide you with the detail, but there has been an increase in average earnings over that period of time.

CHAIR: And you are going to try and break that down prior to the change?
Ms Taylor: Yes, exactly.

Mr Emerson: Yes.

Senator SIEWERT: That would be useful. Chair, I have let the officers know that I have detailed questions on notice and I will submit them. There is no point in asking for them now.

CHAIR: For the second time today, we are finished with outcome 3. Thank you, Ms Paul and your officers involved in outcome 3.

[16:27]

CHAIR: We will now proceed with questions of the department under outcome 4.

Senator ABETZ: I will start with a letter that you, Mr Kovacic, wrote to the secretary of the committee yesterday, correcting an answer. I am wondering when that first came to your attention.

Mr Kovacic: Earlier yesterday afternoon, just before I signed the letter.

Senator ABETZ: We do not check these things beforehand?

Mr Kovacic: There were a number of questions that were taken on notice at the last estimates that went to the issue in that question. The response assumed that it was correspondence other than from the General Manager of the Fair Work Commission.

Senator ABETZ: The question was, 'Has the minister received any correspondence from agency heads, or had agency heads express any concerns since 1 January 2012, about the funding envelopes or the inability to maintain current programs, given funding reductions'. And you took that to mean: other than the Fair Work Commission?

Mr Kovacic: That is correct because, as I mentioned a moment ago, there were a number of other questions that were specifically related to correspondence from Ms O'Neill to the minister.

Senator ABETZ: And so you wrote to the committee and signed it. Did it go via the minister's office?

Mr Kovacic: No, it did not.

Senator ABETZ: How many answers come to us that do not go via the minister's office?

Mr Kovacic: The original answer, you are suggesting?

Senator ABETZ: No, any answers.

Mr Kovacic: All of them do.

Senator Conroy: As you would know from when you were a minister.

Senator ABETZ: That is what I was thinking. So this one did not go through the minister—that is what I am getting at.

Ms Paul: Are you talking about the original or the clarifying letter?

Senator ABETZ: This letter which adjusts the answer.

Mr Kovacic: I am corrected: the corrected answer did go via the minister's office; the covering letter in terms of the corrected answer was not discussed with the office.

Senator ABETZ: When did the minister's office get the adjusted answer to agree?
Mr Kovacic: The corrected response was provided to the minister's office yesterday morning.

Senator ABETZ: When did you first become aware of it? It was not yesterday afternoon, was it?

Mr Kovacic: It was, when it was brought to my attention. The officer who drafted the corrected response came to me with the covering letter and the corrected response.

Senator ABETZ: So we are playing games. When did—

Ms Paul: No, we are not. That is quite normal.

Senator ABETZ: When did an officer in the department first become aware that the initial answer was incorrect? We were given the clear impression that it was yesterday afternoon and a letter was signed immediately without the answer going to the minister's office.

Ms Paul: You asked when Mr Kovacic became aware and he told you.

Senator ABETZ: We now know that it did go to the minister's office early in the morning, which means that somebody in the department must have known about this before yesterday. Let's find out when they did.

Mr Kovacic: It appears that the department became aware of it probably in late May—21 May is the date that I have here. As I mentioned, the date that I became aware of it and it was brought to my attention was yesterday afternoon.

Senator ABETZ: What action have you taken, if any, Mr Kovacic? It was just as well I drilled down further, because anybody listening would have been of the understanding that we stumbled across this matter yesterday and it was fixed immediately, whereas in fact it was virtually 14 days, two weeks, before the department became aware that there was an incorrect answer and the record was corrected. I think we all know what the rules and obligations are—that, as soon as we are aware that a circumstance like this arises, there is a duty to correct the record as a matter of great urgency. So I ask: what was the delay between 21 May, when the department or someone in the department became aware of the incorrect answer, and the matter being brought to your attention, Mr Kovacic?

Mr Kovacic: I have asked the relevant officers to answer that question.

Dr Morehead: There was some backwards and forwards with the office on the miscommunication about what was going on with the response. So we had to follow up with our departmental contacts in the office and sort of say, 'What's going on with this response?' It seems like an answer has been not put correctly onto it et cetera, and so it just took a while to follow that up and confirm that, indeed, the wrong answer had been tabled. Once we had figured out exactly why the original answer, which was the correct answer, should in fact be re-tabled and once we had gone through the procedures to check on that, we brought it to Mr Kovacic's yesterday and he immediately said to re-table it.

Senator ABETZ: Can you just explain that to me. Was an original answer provided which was then altered to 'No'?

Dr Morehead: Inadvertently, by an officer who did not know about the content.

Senator ABETZ: So we have officers answering questions who do not know about the content of the issues raised in the question?
Dr Morehead: Yes. It was merely a mistake.

Senator ABETZ: That it was a mistake is obvious, but it does not give me much confidence as to the processes in the department.

Ms Paul: We take on notice between about 250 and 400 questions every session. Three times a year we take on notice about 400 questions. I know that I have signed probably one or two per year of this sort. We do not make many mistakes. But we do apologise for them. I am sorry that this has happened, Senator. I can certainly say that, on behalf of the department. We do not like to make mistakes on questions like this, but I can confidently say it is not a frequent occurrence.

Senator ABETZ: When did this new answer, if I can call it that, go to the minister's office?

Mr Kovacic: I think I answered that yesterday morning.

Senator ABETZ: Did the minister sign off on the answer before you sent it off in correspondence?

Mr Kovacic: That is correct.

Senator ABETZ: Do we have an explanation or did it just get stuck between offices between 21 May and 3 June?

Mr Kovacic: As Dr Morehead has indicated, there was an issue of trying to clarify initially what went wrong, if I can put it that way, and to correct the situation. That is what took the delay between the period of 21 May to yesterday.

Senator ABETZ: So what did go wrong?

Ms Paul: I think we have answered that, Senator.

Senator ABETZ: Was the correct answer given? Who takes responsibility for removing a correct answer and inserting the word no?

Dr Morehead: The department, and in this case—

Senator ABETZ: The amorphous department. Nobody personally takes responsibility for this. The department did it.

Ms Paul: You know, Senator, that I would not name them—and, at any rate, I do not know who they were.

Senator ABETZ: I do not want to know the name.

Ms Paul: I apologise on behalf of the department, Senator.

Senator ABETZ: Are we ensuring that the person in charge, who I assume is the person in charge of dealing with questions from estimates—

Mr Kovacic: I think there is a salient lesson about how this one has gone astray, and we will draw on that lesson in seeking to avoid a similar occurrence in future. On each and every occasion where there is a need for someone, whether it be me or someone else, to correct the record, the importance of doing so as quickly as possible is a point that I make to my colleagues.

Senator ABETZ: Let us move on to another answer—and that involves you, Mr Kovacic: the issue of whether or not the President of the Fair Work Commission advocated for one or two vice-presidents. Yesterday evening the President of the Fair Work Commission
confirmed his evidence from last estimates and was willing to restate that he had asked for a position, or for one position, in relation to the vice-presidency. We got an answer, EW0928_13, which deals with this matter. Are you asserting that the president opposed the appointment of two vice-presidents?

Mr Kovacic: I might also refer to some other material that has been provided to you under freedom of information, which is a redacted—

Senator ABETZ: Once again, I do not know how I am supposed to read the white blanks.

Ms Paul: We have traversed this before, I think.

Senator ABETZ: I know, and it is still a debacle. Virtually no other department does it. They either grey it out or make it completely obvious.

CHAIR: I thought we had come to an arrangement where the redacted areas would be boxed and clearly indicate that a proportion had been redacted.

Senator ABETZ: Can you show me where this is boxed?

Ms Paul: Okay, if we are going to go to this. What we were talking about under that discussion, which was a completely different matter, of course, was a request for an incoming minister's brief or an incoming government brief. I think it was an incoming minister's brief on the arrival of Minister Shorten into the portfolio. To completely recap this issue, which we have traversed, we offered the committee a version of the incoming minister's brief. It was a not a matter dealt with under FOI. However, there were some parts which the department took out. You will recall in my letter to you that the difficulty we had run into, which the committee had recognised in that instance, was that, unlike when we do an FOI—because it was not an FOI—we had not said that there were exemptions and there was not any way or any normal index to say which bits were not there. So what we agreed to do in those instances where we might give something to the committee which is not arising from an FOI but has some pieces not there, for various reasons, was to do the box and have a reference et cetera. What the senator would be looking at now is an FOI. It is a different matter, and so this—

CHAIR: It is an answer to our questions.

Ms Paul: No; it is an FOI that the senator has come to the department on.

Senator ABETZ: Yes, but the incoming brief we obtained courtesy of FOI. Please, Secretary; that is how we got it.

Ms Paul: I am not sure about that; I would have to check that.

Senator ABETZ: You volunteered the incoming brief.

Ms Paul: At any rate, in this FOI you will have the full normal list of exemptions et cetera. This is not something arising from the committee, Chair, that we are talking about now.

Senator ABETZ: It seems to be the only department that struggles with providing a coherent manner of showing where things are redacted.

Senator Conroy: You have accused my department regularly of that. I do not want DEEWR to think that they are special!

Senator ABETZ: No, no.

Senator Conroy: You have accused all departments of that.
Senator ABETZ: Your intervention yet again is singularly unhelpful.
Senator Conroy: Thank you.
Senator ABETZ: To anybody.
Senator Conroy: Do you have a question other than a commentary?
Ms Paul: Actually we were giving an answer, and Mr Kovacic was drawing your attention I think, Senator, to an FOI—
Senator ABETZ: Yes.
Ms Paul: on this matter of the meetings between, or meeting between, the president and the department on the matter of one or two vice president positions. We might just return to Mr Kovacic’s evidence.
Mr Kovacic: As I was saying, the response to the estimates question 928_13 indicates that, as to the number of vice president positions that have been created, it did fluctuate across the course of the year. That response alludes to a meeting that I had with the president on 30 April. That is the freedom of information material that I indicated had been released to you in redacted form, which is an extract of the agenda for that meeting, with my annotations in respect of the issue of the vice presidents and also the issue of cross-appointments which the president referred to last night, which clearly shows that the president canvassed with me the appointment of two vice presidents.
Senator ABETZ: It does nothing of the sort.
Mr Kovacic: Well, that is my annotation from the meeting.
Senator ABETZ: It says two VPs—
Mr Kovacic: That is correct.
Ms Paul: Can we just let Mr Kovacic finish, because there is the aspect of consultation.
Senator Conroy: Let him finish.
Mr Kovacic: That is correct. Then there were further conversations between the president and the minister, where the response to question 928 indicates that, reinforcing the fluid nature of the discussions, the appointment of only one vice president was canvassed by the president during those discussions with the minister, so it did change across the course of the year.
Senator ABETZ: You say the number fluctuated, but it is pretty obvious, from the evidence of the president, that the number did not fluctuate in his mind at any stage.
Mr Kovacic: There are two things I would say. One is that certainly the president last night referred to the material that had been released under freedom of information to you, and he indicated to you and the committee that he had been consulted in terms of the release of that material and that he had no objection to its release, which I interpret as his being in agreement with what is in there in the material.
Senator ABETZ: He can only object, surely, to the matters of which he was the author?
Ms Paul: He could have objected—consultation on FOI is consultation. People can raise anything they wish.
Senator ABETZ: And, if you—
Mr Kovacic: Senator, presumably if he had difficulty—

Ms Paul: Surely he would have raised it.

CHAIR: This is a contentious issue and I want to ensure that Hansard can record it properly. We cannot do that if people are speaking over each other. I will try to exert a bit of control here if we cannot manage it. Mr Kovacic, have you finished?

Mr Kovacic: I was just going to say that, presumably, if the president had a difficulty with my annotation in terms of two vice-presidents, he would have raised that in terms of the release of the material. He did not do that.

Senator ABETZ: That is imposing on him things that just do not relate to the evidence he gave last time and he confirmed and reconfirmed just yesterday evening.

Ms Paul: I think it relates directly to it, because he said last night, I understand—I did not see him last night—according to Mr Kovacic, that he did not have a problem with what was released.

Senator ABETZ: Yes, because the things that would have been put to him, as I understand it, are those matters of which he was the author.

Mr Kovacic: Senator, he would have seen the material in the form that it was proposed to be released and had no objection to its release in that precise form. So what you have received is precisely what the president agreed to being released, had no objection to.

Senator ABETZ: Did the president ask you what you meant by your handwritten notes?

Mr Kovacic: Not at all, and I interpret that—

Senator ABETZ: No, and as a result—

Mr Kovacic: Senator, I interpret that as he had absolutely no difficulty with what my handwritten note was in terms of that meeting.

Senator ABETZ: If there was no difficulty it is quite clear that we are talking about cross-appointing Federal Court judges. Has that occurred?

Mr Kovacic: It has not, Senator.

Senator ABETZ: No, it has not. So we are talking about a completely different scenario to that which was legislated. You know that, I know that and I think it is somewhat disingenuous to seek to assert that, when he starts off by saying one vice-president—and after that the numbers fluctuate in a completely different setting—then, somehow, we are told during the Senate committee hearing and in the Senate proper, the reason we have two appointments is that that was the recommendation of the President of the Fair Work Commission; that is something that he has specifically rejected not once now but twice.

Mr Kovacic: Senator, can I correct you in that some of the other material that was also released in response to that particular FOI request goes to the issue of cross-appointments. It is probably on the third page of the most recently released material, where there is an email from the president to me which states, 'While the proposal limits the number of full-time vice-presidents, there should be a capacity to cross-appoint a number of Federal Court judges to sit as vice-presidents from time to time, as is the case in the AAT.' My response has also been released, in the sense that my feedback to him was, 'This issue was unable to be progressed for inclusion in the bill and therefore will need to be considered in the context of the second tranche amendments.'
Senator ABETZ: Which of course it isn't.

Mr Kovacic: Senator, that is a matter for government. They are certainly not in the amendment—

Senator ABETZ: No, the question is that it isn't, is it?

Mr Kovacic: It is not in the amendment bill, no, Senator.

Senator ABETZ: Thank you; that is all that you needed to answer. But what we have in Mr Ross's email to you is that, if you are going to have two appointments, what he was suggesting with the cross-appointments was that it would not cost the Fair Work Commission any money. That is correct, isn't it?

Mr Kovacic: That is correct, and the point that he raised in the meeting I had with him on 30 April was that he wanted to see two vice-presidents appointed and he also wanted the act to provide for the cross-appointments of Federal Court judges as presidential members to the tribunal.

Senator ABETZ: So he wanted two appointed, yet he says to you, 'Given the level of these appointments, the cost is significant. If that cost had to be fully absorbed, it would adversely impact on the tribunal's capacity.' So he says, 'This is going to adversely impact on my tribunal's capacity,' but he still wants it to happen. Please, Mr Kovacic, are you really expecting us—

Ms Paul: Well, we cannot comment on what he said.

Senator ABETZ: Are you really expecting us—

Senator Conroy: Do you have a question or are you just going to keep with a stream of consciousness?

Senator ABETZ: If I can ask the question without your insistent interruptions. I would have thought Professor Judith Sloan's job on you in recent times might have dissuaded you from interrupting this behaviour.

CHAIR: Senator Abetz, you have the call and you should finish your questions.

Senator ABETZ: Why on earth would the president be asking for two appointments in circumstance where he is pleading, sane, 'Two appointments will adversely impact on the tribunal's capacity.'

Mr Kovacic: Can I again refer you to the response to the question EW0928_13 from the last estimates. It said:

As to the number of positions to be created, the number proposed did fluctuate across the course of the year.

For instance, in a meeting with Mr Kovacic on 30 April 2012 the President proposed that the Fair Work Act 2009 be amended to provide for the appointment of two Vice Presidents who would have the same status as a Federal Court judge and be remunerated accordingly.

Later on it says:

Reinforcing the fluid nature of the discussions on this issue, the appointment of only one Vice President was canvassed by the President during those discussions with the Minister.

Senator ABETZ: That is clearly not the president recollection as we read the Hansard and his evidence. I specifically asked whether or not he had made this recommendation of one appointment to the minister and whether he had recommended or suggested to the department,
and his evidence will be there on the *Hansard*. Regrettably, we have a choice of believing you, Mr Kovacic, or Mr Ross.

**Ms Paul:** I suspect that is not the case and I look forward to reading that *Hansard*. The reason I say that is, just because of the fluid nature of discussions, it is clear from the evidence here that one position was raised by him, two positions were raised et cetera.

**Senator ABETZ:** But not by him. Put to him, to which he responded.

**Ms Paul:** That is not the evidence in the question on notice. I think there is probably not much further that we can take this as our evidence. There is not only an FOI, which is clear in terms of the evidence that Mr Kovacic has given, but the answer to the question on notice is fair and clear.

**Senator ABETZ:** Please, Ms Paul, the editorialising is doing you no justice.

**Ms Paul:** That is not the evidence in the question on notice. I think there is probably not much further that we can take this as our evidence. There is not only an FOI, which is clear in terms of the evidence that Mr Kovacic has given, but the answer to the question on notice is fair and clear.

**Senator ABETZ:** No, but you are editorialising as to what these documents are actually showing.

**Ms Paul:** I am just reiterating what they say.

**CHAIR:** I think Ms Paul is just trying to put the position as she sees it, too.

**Ms Paul:** The evidence from us is clear. It was a fluid situation. Both scenarios were canvased. That is basically it.

**Senator ABETZ:** Why does Mr Ross, then, in his email of 25 October 2012—and I assume these are two full pages but the redaction does not tell me that; it is just white blanks, meaningless yet again and, given our previous discussions, I just cannot understand how this was allowed to occur yet again—

**Ms Paul:** I am happy to say it all again, but it was on a completely different matter and not on an FOI.

**CHAIR:** There is a difference. I think this is an important distinction. I understand your frustration, Senator Abetz, but clearly the discussions we had—and the approaches that were made—between the department and the committee were about answers to the committee. Regarding what happens with the FOI, I can understand your position, but we were only negotiating in terms of what is the response to the committee.

**Senator ABETZ:** So we are now going to have different product holes for different redactions by the department.

**CHAIR:** I was proactive in ensuring that we had the right amount of information for the committee. But the committee has no authority outside of what it expects as answers to the questions. I am not saying that your argument is weakened; I am making the differentiation that there was no agreement with this committee outside of the realms of the answers to questions to this committee. That is not to make any reflection on your expectation through FOI.

**Senator ABETZ:** Given senators’ displeasure on a bipartisan basis of the process undertaken with questions on notice and information to the committee that then when an individual senator puts in an FOI request you then redact using a different methodology is—

**Ms Paul:** Well, no, that is not the case.
Senator ABETZ: interesting. It is interesting that a department would engage in such conduct. But look, can I take you to—

Ms Paul: We answer a lot of FOIs from you.

Senator Conroy: You cannot ask and answer your own questions. If the officer should be allowed to respond.

Ms Paul: If you want me to comment on it again: as you well know we do respond to many FOIs from you. We always do that in the same way that we respond to FOIs from any applicant for an FOI, of which we get a lot in DEEWR. The matter that we were talking about before was a different matter. It was a matter when we had answered a question. It was, I believe, a question on notice from the committee for a particular document which, when it came in, did not actually have the list that you would have there of the exemptions et cetera, because it was not done under the FOI Act. It was different. My agreement to the committee in that case was to make clearer, if we were not dealing under an FOI scenario, what the redactions would go to. But the FOIs are dealt with exactly the same for all applicants at all times consistently by the department, and have of course been that way for a long, long time.

Senator ABETZ: With respect, it has not been like that for a long, long time, because I thought we were given a wonderful environmental explanation last time that if you were to grey out the page or black out the page it would use a limited resource of ink which was not good for the environment. That was one of the rationales offered to the committee. I do not think that rationale had been around for a long time, had it Ms Paul? This department changed its protocols and that is why the problem arose with a committee and why the committee made its request.

Ms Paul: I do not think it is a recent thing. I could take that on notice but I do not think it is a recent thing.

CHAIR: I just want to make the point that it is not the role or function or responsibility of this committee to concern itself with FOI requests made by individual senators if it is not within the realms of that.

Senator ABETZ: That is fair enough. It is appropriate for me to canvass, nevertheless.

CHAIR: Sure.

Senator ABETZ: Let us go to the issue at hand, and that is the email from Mr Ross, the first page of which is basically blank. I assume that was a full page. The last line reads: 'I confirm my previous view that if any additional positions'—I think a word is missing—'appointed should be fully funded.' Was there talk then that there might be three, four, five, six vice-presidents? And that if there were any more they should be fully funded? Or could it be that he was saying that if you have more than one the additional positions should be fully funded?

Mr Kovacic: All I can reiterate is that it is the material that is in response to question 928. It was fluid across the course of the year. At the 30 April meeting that I had with the President he indicated to me that he advocated the appointment of two vice-presidents together with cross-appointment of Federal Court judges and, as indicated in the response to 928, that changed. Reinforcing the fluid nature of the conversations, as the response says, the appointment of only one vice-president was canvassed by the President during his discussions with the minister.
Senator ABETZ: So your agenda for that day where you curiously wrote two VPs in your—I assume it is your handwriting?

Mr Kovacic: That is correct.

Senator ABETZ: Was that the agenda for the meeting?

Mr Kovacic: That is correct. There was an agenda prepared by the President and handed to me at the beginning of the meeting. You will see that the typing—which is the agenda—talks in terms of VPs and cross-appointments.

Senator ABETZ: Yes.

Mr Kovacic: And I think the President last night—

Senator ABETZ: In parentheses 'together'.

Mr Kovacic: Well, I think—

Senator ABETZ: In parentheses 'together', correct or not?

Mr Kovacic: I was just actually going to refer to the evidence that the President gave last time. He not only indicated his support for the appointment of one vice President in his conversations with the minister he also specifically referred to the issue of cross-appointments as well. I think he used the word 'and' cross-appointments.

Senator ABETZ: Yes.

Mr Kovacic: I disagree with that entirely. In the conversation he had with me he made it very clear that he wanted to see the appointment of two vice-presidents as well as the capacity for the cross-appointment of Federal Court judges. I think the evidence he provided to the committee last night and previously is that in his conversations with the minister he advocated not only the appointment of one vice-president but also for the cross-appointment of Federal Court judges.

Senator ABETZ: So why do you put it in parentheses together as opposed to 'vice-president' as one issue and then 'cross-appointments' as a separate issue? He lumped the two together at all times in circumstances where it was becoming obvious it would appear that his request for one appointment was going to be rejected and two were going to be appointed.

Mr Kovacic: I disagree with that entirely. In the conversation he had with me he made it very clear that he wanted to see the appointment of two vice-presidents as well as the capacity for the cross-appointment of Federal Court judges. I think the evidence he provided to the committee last night and previously is that in his conversations with the minister he advocated not only the appointment of one vice-president but also for the cross-appointment of Federal Court judges.

Senator ABETZ: On 30 April he was advocating for two and then he changed his mind, didn't he, later on with the minister, and said, 'Look, I have changed my mind. I only want one'?

Ms Paul: I am not sure how many times we can say what we have said perfectly clearly in EWO928_13, which is that the situation was fluid over the course of the year and at various times one and two were canvassed.

Senator ABETZ: When did the president have these discussions with the minister?

Mr Kovacic: I would have to take that on notice because—

Senator ABETZ: It was after 30 April, wasn't it?

Mr Kovacic: That is correct.

Senator ABETZ: So we have given the excuse for two, that it started off with one but then fluctuated, but even if we were to accept your evidence we now have this: he started off asserting two but then changed his mind to one, which is clearly your evidence on this. Right? It is clearly your evidence that, by the looks of it, the last was that he said to the minister, 'I want one.' How can you then, knowing that this was his final position, assert to the Senate
committee that the president had asked for two, even if that is correct, without informing us that he had in fact changed his mind?

Mr Kovacic: I was not involved in all of the conversations that the president had with the minister. As is said in the response to question 928, given that the president raised with me on 30 April—advocated for the appointment of two vice-presidents—it was against that background that I stated in my evidence to this committee, in terms of its inquiry into the 2012 amendment bill, the creation of the two vice-president positions was suggested by Iain Ross, President of Fair Work Australia.

Senator ABETZ: At all times—read the Senate Hansard during the debate—the cover always was, 'Not our decision. It was the president's suggestion. We adopted the president's suggestion.' It is quite clear on the president's evidence that he had sought only one, at all times. But even if we were to accept your version of events it is clear that he changed his mind and said only one, and it was never told to the Senate or to the Senate committee that the president had changed his mind, which only has an impact of $850,000 of taxpayers money.

Mr Kovacic: All I can do is reiterate that in the conversation he had with me on 30 April the president wanted to see the appointment of two vice-presidents as well as the cross-appointment of Federal Court judges to the tribunal.

Senator ABETZ: Do you recall a similar discussion we had a number of estimates ago about Mr John Lloyd, the commissioner—

Mr Kovacic: I do remember that conversation.

Senator ABETZ: I have this difficulty where you have the chairman or the commissioner of the Australian Building and Construction Commission having one version of events that differs from yours. Now we have the president of the Fair Work Commission with a version of events that differs from yours. It is a matter of concern.

Mr Kovacic: The key difference is that I have documentary material—a record of conversations—in terms of the meeting that I had with the president on 30 April. I checked my records and I had no record of any conversation with Mr Lloyd, which I made clear at the time we had our previous conversation.

Senator ABETZ: You did, but to say that you cannot recall a telephone call from somebody saying, 'Hey, I think you gave wrong evidence at Senate estimates, because—', and you have no recollection of that telephone conversation. I found that startling at the time and I still do. But now in the light of this it is concerning—

Mr Kovacic: I also took some questions on notice, where I thoroughly checked my records, if I can put it that way, and had no record of any sort of call.

Senator ABETZ: Yes, but look, the importance of—

Ms Paul: We are now on a matter that is old.

Senator ABETZ: Yes, we are, but it is a matter of concern. So there is no actual written evidence from the president himself that he has sought anything other than just the one vice-presidential appointment?

Mr Kovacic: The material was released under freedom of information.

Senator ABETZ: No, written evidence from the president, not your notes and interpretation of them. Written evidence from the president.
Mr Kovacic: All of the material that went to your freedom of information request, which was on the subject of correspondence between the president and me on the issue of resourcing for the Fair Work Commission has been released.

Senator ABETZ: That is not an answer to the question. Is there any written material from the president of the Fair Work Commission that you can point to that asserts in any way that he was advocating for two vice-presidents.

Ms Paul: Yes, the minutes of the meeting.

Mr Kovacic: Yes, and that has been released.

Ms Paul: The FOI.

Mr Kovacic: We have released that under freedom of information.

Ms Paul: All we can do is reiterate our evidence in a question on notice and in an FOI.

Senator ABETZ: So this is the written evidence. Please!

Ms Paul: We have been absolutely open here, that the situation was fluid through the course of the year and that both one and two were canvassed.

Senator ABETZ: But we are agreed that even if he said this—we will accept it at face value that this is what he said, albeit it contradicts his evidence. But we are in heated agreement that after 30 April 2012 he had advocated to the minister for only one position, so he had changed his mind on this fundamental situation. But was the Senate informed in any way, shape or form by the department or the minister during the committee hearing into the bill or during the Senate hearing?

Ms Paul: I do not think we can go past our evidence here, which we have now given several times.

Senator ABETZ: No, this is another question. To your knowledge was the Senate ever advised that the president of the Fair Work Commission had changed his mind in relation to the appointment of two vice-presidents and he now favoured only one?

Mr Kovacic: I would have to take that on notice—

Senator ABETZ: You do not know?

Mr Kovacic: My sense is probably not, but to give you a precise answer I would want to check the *Hansard*.

Ms Paul: You are asking about a communication from someone else completely outside the department to a body of the parliament. We would have to take it on notice. It is not a surprise we would have to take it on notice.

Senator ABETZ: Was your meeting with Mr Ross just between the two of you?

Mr Kovacic: That is correct.

Senator ABETZ: So there is no corroborating evidence.

Ms Paul: He has been consulted on the FOI.

Senator ABETZ: Which is quite frankly meaningless.

Ms Paul: Not really. It is an FOI. I am sure it is not meaningless, or you would not have applied.
Senator ABETZ: Do you know why you get an FOI, Ms Paul. Because you do not know what is in the file. Quite often you get FOIs and the information you get is absolutely and utterly meaningless. The reason you go for an FOI is not because you know that the material is there, because if you knew about the material you would not have to do the FOI, would you? Please!

Parliamentary Secretary, Mr Kovacic says that he is aware that the minister was made aware by Mr Ross that he only wanted one vice-president appointed. Why didn't the minister ensure that that information was passed to the Senate during the Senate debate on this bill that you in fact had carriage of? When I asked about this on a number of occasions the answer given at all times was that it was the president of the Fair Work Commission who wanted two vice-presidents.

Senator Jacinta Collins: I will take that on notice.

Senator ABETZ: It was to give two people a soft landing in the Fair Work Commission—

Senator Jacinta Collins: I think you should go back and look at the question. Was the question, 'Whose idea was this?' or 'Whose idea was it that there be two?' I do not recall that from the Senate debate and I will need to look at the Hansard of it.

Senator ABETZ: It is very convenient how Mr Kovacic cannot remember and you cannot remember. I remember we were discussing the costs—that for one it would be $750,000, at a rough guess, and for two it would be $1.5 million. We now know, courtesy of the Fair Work Commission, that that was a pretty good guess but not quite accurate. It is now costing the taxpayer not $1.5 million but $1.7 million for these two appointments.

Mr Kovacic: In terms of providing that indicative figure, I put a caveat around it in the sense that the Remuneration Tribunal at the time that that evidence was provided had not made a determination as to the remuneration for the vice-president positions.

Senator Jacinta Collins: And I certainly remember the discussion about the appointments cost waiting for a determination of the Remuneration Tribunal. But, honestly, I do not recall a discussion about the cost of one versus the cost of two. I will revisit the Hansard and see how explicitly that question was asked.

Mr Kovacic: As I was not present for the debate on the bill in the Senate, I would want to check the Hansard before I respond.

Senator ABETZ: I would have thought that with an FOI request on this very topic a bit of homework might have been done in anticipation of answering questions on this matter, but clearly not. I ask the parliamentary secretary: what is the government's approach in relation to compulsory arbitration?

Senator Jacinta Collins: I think you asked this question yesterday and I responded then that I was not—

Senator ABETZ: And I was directed here to outcome 4, so here I am again and I will be told I should be asking it somewhere else, no doubt.

Senator Jacinta Collins: No, you will not be told you should be asking it somewhere else.

Senator ABETZ: Good.
Senator Jacinta Collins: I think I said to you yesterday that I was not in a position to update you, and the position remains the same. That issue is still under consideration, as I understand it.

Senator ABETZ: Can the department advise whether they have been instructed in relation to the issue of compulsory arbitration?

Mr Kovacic: The issue of if and when the government introduces or even proposes any amendments to the Fair Work Amendment Bill is a matter for government. I understand the debate on the amendment bill has resumed in the House this afternoon. But, as I said a moment ago—

Senator ABETZ: Has the department been tasked to do anything in relation to the issue of compulsory arbitration?

Ms Paul: We have advised on amendments and general legal issues to do with the Fair Work Act, naturally.

Senator ABETZ: In relation to compulsory arbitration?

Mr Kovacic: I would reiterate the words of the minister in his second reading speech when introducing the amendment bill into the House, which were to the effect that the government supported the panel's recommendations relating to greenfields agreements and that he would have further consultations with stakeholders with a view to introducing legislative reforms in the winter sittings. We have continued to provide advice to the minister around issues in that regard.

Senator ABETZ: Parliamentary Secretary, is it the government's policy that:

The industrial relations system of the 20th century was based on arbitration and big institutions remote from most workplaces.

Labor's new system will be different.

Senator Jacinta Collins: What are you reading from?

Senator ABETZ: I would have thought you would be well acquainted with this. This is Ms Gillard, your Prime Minister, in 2007 in Forward with fairness on page 12.

Senator Jacinta Collins: You are asking if that is the government's position?

Senator ABETZ: Yes. Is this still the government's position today?

Senator Jacinta Collins: I think it is pretty clear that it is the government's position, but in the review of the Fair Work Act there have been a range of specific circumstances that have been and are continuing to be canvassed, as I understand it, such as greenfields.

Senator ABETZ: In 2008, we were told by Ms Gillard that compulsory arbitration will not be a feature of good faith bargaining. She said:

As outlined in Forward with Fairness, compulsory arbitration is not a feature of the new system, despite claims to the contrary. The Fair Work Bill delivers on this promise.

So I am wondering what the government's policy actually is at this stage on compulsory arbitration.

Senator Jacinta Collins: The government's policy is to consider the recommendations of the review. It is pretty clear.
Senator ABETZ: Is that going to come into the parliament? Did the Fair Work review panel rule out compulsory arbitration?

Mr Kovacic: Regarding the panel recommendation relating to greenfields agreement, from memory it proposed access to a determination in circumstances where an impasse had been reached. As I indicated a moment ago, in introducing the amendment bill into the House the minister indicated his support for that panel recommendation and his intention to continue to consult on the recommendation. If and when the government introduces any amendments to the amendment bill is a matter for government.

Senator ABETZ: I ask again: did the review panel rule out compulsory arbitration?

Ms Paul: We will get the recommendation for you.

Senator ABETZ: I know what it said about greenfields, but I think they may have had something to say generally about compulsory arbitration. Page 150 of the Fair Work legislation evaluation reads:

… we are reluctant to recommend a general expansion of compulsory arbitration powers …

Does that ring a bell with anybody? Thank you.

Senator Jacinta Collins: Where is the general proposal being advanced?

Senator ABETZ: That is a very good question. Usually I am the one to ask the questions, but I do not mind a bit of role reversal and I hope it comes. I refer you to the Victorian Trades Hall Council in particular demanding and requiring and requesting, and whatever terms we might want to use, that the government introduce compulsory arbitration because, in the event it did not do so, the Victorian Trades Hall Council would reconsider its funding for the Labor Party's re-election campaign.

Senator Jacinta Collins: I am not sure how that relates to government policy.

Senator ABETZ: You see, you asked me just then who was recommending general compulsory arbitration powers. We know the Fair Work review panel did not.

Senator Jacinta Collins: No, it terms of the government's position, which is what you were asking.

Senator ABETZ: We know Ms Gillard specifically ruled out.

Senator Jacinta Collins: Exactly, and I have told you that that remains the position.

Senator ABETZ: But we now have the Victorian trades Hall demanding it—

Senator Jacinta Collins: And that demand has not been acquiesced to.

Mr Kovacic: If I can come back to what the government has said publicly, panel recommendation 30 was:

The Panel recommends that the FW Act be amended to provide that, when negotiations for a s. 172(2)(b) greenfields agreement have reached an impasse, a specified time period has expired and FWA conciliation has failed, FWA may, on its own motion or on application by a party, conduct a limited form of arbitration, including 'last offer' arbitration, to determine the content of the agreement.

As I mentioned on a couple of occasions, the minister in introducing the Fair Work Amendment Bill indicated the government's general support for that panel recommendation and his intention to consult with stakeholders with the view to introducing further legislative
reforms in the winter sittings. If and when the government introduces any amendments is a matter for government.

Senator ABETZ: I fully accept that any changes are up to the government—I do not think that has ever been in dispute—but, when I ask about general compulsory arbitral powers, you always go to greenfields, something that I did not ask about. I am asking about general arbitration powers. Senator Collins, are you confirming that there will not be any change?

Senator Jacinta Collins: I am confirming that there has been no change to the Prime Minister’s position—as you referred to previously—with respect to general arbitration powers. But I am also being quite clear that there were some specific powers canvassed by the review with respect to which the government is still consulting. The greenfields is one example.

Senator ABETZ: So we are still consulting. When do we expect those consultations to stop or to be finalised?

Mr Kovacic: As I have indicated, if and when the government moves amendments to the amendment bill is a matter for the government. There is nothing more that I can add.

Senator ABETZ: Yes, but I am asking about the consultation process. When did the consultation process on this start and when are we anticipating that it will finish?

Ms Paul: That is not what you just asked. If you want to ask this new question that is fine.

Mr Kovacic: I asked about consultation, Ms Paul. The Hansard will bear that out.

Ms Paul: You asked about the finish.

Senator ABETZ: Yes, the consultational finish.

Mr Kovacic: In respect of consultation on all of the panel’s recommendations, they commenced probably in July of last year and have continued through post the introduction of the 2013 amendment bill. There have been a number of consultations with stakeholders as recently as last week as well with states and territories and also with the normal participants.

Senator ABETZ: Intractable disputes, Senator Collins, were ruled out by you as being part of the government’s agenda.

Senator Jacinta Collins: I go back to the response I gave you previously, which is that I am not in the position to update you on the outcome of those consultations at this point in time.

Senator ABETZ: Was the department involved in those consultations?

Mr Kovacic: We were involved with consultations, as I mentioned last week.

Senator ABETZ: When was the last consultation that you had in relation to the issue of compulsory arbitration?

Mr Kovacic: We have had a number of consultations post the introduction of the amendment bill. They were as recently as last week, as I indicated, with states and territories and also with NWRCC organisations.

Senator ABETZ: No compulsory arbitration on intractable disputes is how you understand the situation?

Senator Jacinta Collins: No, that is not what I said. I said that the government was still considering recommendations that came from the review with respect to some specific areas
around arbitration. Greenfields is one; intractable disputes may well be another. I am not
directly involved in those consultations.

Senator ABETZ: And then what else is left?

Senator Jacinta Collins: And I am not in a position to update them for you.

Senator ABETZ: The review said 'we are reluctant to recommend a general expansion of
compulsory arbitration powers'.

Senator Jacinta Collins: We are not talking about a general expansion.

Senator ABETZ: That is what I am asking about.

Senator Jacinta Collins: I am sorry. I thought you just said 'intractable disputes'.

Ms Paul: Yes.

Senator Jacinta Collins: That is not a general expansion.

Senator ABETZ: What would be a general expansion?

Senator Jacinta Collins: A general expansion would be a return to the system under the
act—

Mr Kovacic: Pre-93, I would say.

Senator Jacinta Collins: The pre-93 act.

Senator ABETZ: Who was responsible for the post-93 act? Would that have been the
Keating government?

Senator Jacinta Collins: Yes. We have ruled out a return to the arrangements that existed
in the pre-93 act. We are looking at recommendations that came from the review panel with
respect to some specific circumstances around whether limited access to arbitration should be
allowed. Greenfields is one; intractable disputes is another.

Senator ABETZ: You are aware that a number of employers are of the view that the
ruling out of arbitration in Forward with Fairness, repeated by Ms Gillard afterwards, was part
of a compact that was arrived at between employers and employees to put together the Fair
Work Bill at the time, and that this expansion into arbitration powers is seen as a fundamental
breach of that compact?

Ms Paul: You are putting an opinion to us on behalf of employers. That may be their
opinion.

Mr Kovacic: If I could just reiterate what—

Senator ABETZ: That is the assertion that is being made. I am asking the Parliamentary
Secretary, because this is clearly steeped in politics and the department should not be
involved in that: is it the government's view that part of the sign-off from certain employer
groups that were encouraging the passing of the Fair Work Bill was that this was part of the
deal?

Senator Jacinta Collins: I have not heard it expressed that way. I will take that
question—

Senator ABETZ: How have you heard it expressed?

Senator Jacinta Collins: Can you let me finish my answer. I will take the question, in its
broader sense, on notice. But what I will say to you is that there is a range of factors around
the Fair Work Act that have been considered with respect to the review of the act. Employers have raised additional matters that some might believe were a part of what you are referring to as a compact and unions, similarly, might do the same. Those have been the subject of consultation, and some of that consultation is ongoing.

Senator ABETZ: Are we prepared to rule out any form of compulsory arbitration coming back?

Senator Jacinta Collins: I have answered that question already. We have just discussed greenfields and we have just discussed intractable disputes.

Senator ABETZ: So greenfields is now back on the table. Intractable disputes and anything else that might—

Ms Paul: That is not what we said.

Senator Jacinta Collins: That is not what I said.

Ms Paul: We said that is a matter for government.

Senator Jacinta Collins: I said it is a matter under consideration.

Senator ABETZ: But, you see, if you rule out arbitration as not being part of the Fair Work Act, as Ms Gillard promised before 2007 then again after the bill was introduced that it is just not part of it, we now have consideration being given to compulsory arbitration—

Ms Paul: We would be repeating ourselves. We have talked about general arbitration. We have talked about pre-93. We have talked about consultations arising from the review.

Senator ABETZ: I am sure that is not an interruption of me, because we are so sensitive when I interrupt. I am sure this was not an interruption of me.

Ms Paul: I apologise if it was.

Senator ABETZ: Is greenfields now on the table?

Senator Jacinta Collins: I will repeat what I have said at least twice, Senator Abetz: the government is still considering recommendations made by the review panel. Limited access to arbitration, with respect to greenfields and intractable disputes that were pertinent to recommendations from the review panel, is still under consideration.

Senator ABETZ: But is it compulsory arbitration or just arbitration, because there is a difference.

Senator Jacinta Collins: There is.

Senator ABETZ: Yes. I am asking about compulsory arbitration.

Senator Jacinta Collins: It depends on whether you are asking me to respond, as you have previously, to general access to compulsory arbitration, which I have ruled out, or whether you are asking me to respond to the specific recommendations around limited access to compulsory arbitration or some alternative, regarding greenfields and intractable disputes, and those issues are still under consideration. I cannot update you further with respect to that consideration; I am not directly involved in it. The best I can say to you is that they remain under consideration.

Senator ABETZ: If they still remain under consideration, one assumes there will not be any amendments moved in the next day or two.

Senator Jacinta Collins: I cannot answer that for you.
Senator ABETZ: So while consultations and consideration are going on, we are just going to whack it into the parliament?

Senator Jacinta Collins: I am a huge optimist. If parties can agree on a particular path in those two areas between now and when the bill is debated in the House, my optimism might be rewarded.

Senator ABETZ: 'Parties' being?

Senator Jacinta Collins: Those with whom the government is consulting.

Senator ABETZ: And if they do not agree?

Senator Jacinta Collins: As I said, I cannot update you on those consultations.

Senator ABETZ: Are we aware whether any engagement has been undertaken of parliamentary draftsmen on these matters?

Mr Kovacic: As I indicated before, subsequent to the introduction of the amendment bill, the department and the minister have been consulting with a wide range of stakeholders. We have continued to provide advice on a whole range of issues associated with the amendment bill, including the possibility of amendments. But, as I said before, if and when the government chooses to introduce amendments is a matter for government.

Senator ABETZ: Yes, and that was not the question. The question was whether or not you are aware whether any drafting has been undertaken in relation to the issue of arbitration?

Ms Paul: I think that our evidence stands as it is because—

Senator ABETZ: Which is yes or no?

Ms Paul: Our evidence is that it is a matter for government.

Senator ABETZ: No. You must know. Government will decide whether or not to introduce something. After 19 years in the Senate, I finally understand that, but thank you for reminding me. I have been asking you whether or not to your knowledge any drafting has been undertaken. That is not for the government to decide to introduce or not. One assumes that they can only introduce something if drafting has actually occurred. To your knowledge, has any drafting occurred, yes or no? You must know.

Mr Kovacic: Senator, I am unable to add to what I have already said publicly.

Senator ABETZ: Do you know whether or not any drafting has occurred?

Ms Paul: Because this is a matter for government, basically the answers to your questions would indicate to you one way or another—I would posit—what the government's intention is. We cannot really go there. We cannot go to a cabinet process. We are not able to do that.

Mr Kovacic: The issues, as Senator Collins has indicated, are still under consideration by government.

Ms Paul: We cannot go to the content.

Mr Kovacic: I cannot go any further than that.

Ms Paul: That is the best that we can do, I am afraid.

Senator ABETZ: So the stories that have emanated out of COIL, that these matters are being considered and the government does intend to do this, are not things that we cannot talk about?
Mr Kovacic: The NWRCC Act at section 5 subsection 2(c) says:

(c) subject to the rights of persons participating in meetings of the Council to report to the persons, bodies and organisations by which they are nominated and to the right of the Council to make announcements that those persons agree are in the public interest, the views expressed at those meetings will be kept confidential.

Thus, I am unable to say.

Senator ABETZ: All right. What about caucus today, Senator?

Senator Jacinta Collins: I was not at caucus.

Senator ABETZ: And you have not been advised as to whether anything has been approved by caucus today?

Senator Jacinta Collins: No, I have not.

Senator ABETZ: Really? Labor members of parliament, I have just been told, are aware that this is all happening, and here we have the Parliamentary Secretary for School Education and Workplace Relations telling us that she knows nothing. The department knows nothing. And yet it is all happening and swirling around them.

Ms Paul: That is not what we said.

Senator Jacinta Collins: That is not quite true, Senator Abetz. What I have said to you is that these issues remain under consideration by government.

Senator ABETZ: Are you chair of caucus?

CHAIR: I am relieved I am here and not there.

Senator Jacinta Collins: You have asked me about caucus. I did not attend caucus and I have not had a report arising from caucus with respect to these issues.

Senator ABETZ: Senator Marshall, would you like to put these people out of their misery?

CHAIR: Believe me, I would be very happy to be in the parliamentary secretary's position, but alas my colleagues do not agree.

Senator ABETZ: It is not your colleagues; I understand that it is the Prime Minister who makes the appointments. In relation to the issue of arbitration, we had the commitment of the Prime Minister in 2007. That was repeated in 2008. We have what the fair work review panel said. But has any legal advice been sought in relation to this issue of arbitration and what it might do to the integrity of the Fair Work Act?

Mr Kovacic: We seek legal advice on a whole range of issues to do with the Fair Work Act. Whether we have sought advice in the past or recently on the issues related to arbitration, I cannot recall. I would have to check.

Ms Paul: We could take it on notice.

Senator ABETZ: Look, I asked last time round whether any stakeholder group was given access to legal advice during the drafting of the Fair Work Act. I was given an answer that it would be an unreasonable diversion of departmental resources to attempt to answer that. That is fine, but I now ask whether the Deputy Prime Minister, as she then was, on 30 April wrote to the ACTU of the consequences of arbitration.
Ms Paul: Which year are you talking about?


Mr Kovacic: I would have to take that on notice. I have seen the media reports suggesting that.

Senator ABETZ: And you have not bothered to look at that?

Mr Kovacic: I have not been able to.

Senator ABETZ: The pressure of work? Does the letter say in part, 'in relation to disputes concerning enterprise agreements, the summary—and that is the summary of the legal advice—'points to significant risks associated with the ACTU's preferred approach of providing for the compulsory arbitration of disputes'? Does that ring a bell at all?

Mr Kovacic: I do not have a document in front of me. I have taken on notice a question of whether we have sought advice on those issues.

Senator ABETZ: Mr Kovacic, what was your role in 2010, the same as it is now?

Mr Kovacic: It was.

Senator ABETZ: And you do not have any recollection of the—

Ms Paul: That is not what he said. He said that he would take it on notice.

Senator ABETZ: Yes, but why does he need to take it on notice when he was the officer in charge at the time?

Mr Kovacic: As I indicated, we seek legal advice on a range of issues to do with the Fair Work Act. That advice deals with a whole range of issues. As to the extent to which it may have been shared with other parties, I would need to check the records. 2010 is three years ago.

Ms Paul: You are talking about a piece of correspondence from more than years ago.

Senator ABETZ: Which was pretty sensitive and which you were alerted to just the other day courtesy of the front page of the Australian. The letter to Mr Lawrence—now Commissioner Lawrence—continues: 'You will recall that the Australian Council of Trade Unions was given access to this advice during the drafting of the Fair Work Act.' That still does not ring a bell, Mr Kovacic?

Mr Kovacic: I have taken on notice the question of checking. I really cannot add to that because I cannot recall it. It is possible that—

Senator ABETZ: This is also in the letter: 'You would appreciate that this material is highly sensitive. Accordingly, as discussed with my office—' Then there are a whole lot of conditions that were applied to the provision of that letter that one assumes may have been broken. Does the government have legal advice that indicates that compulsory arbitration would cause significant risks?

Mr Kovacic: I have taken that question on notice.

Senator ABETZ: So you are saying that you are not aware whether the government has ever received legal advice as to whether or not there would be significant risks associated with the ACTU's preferred approach, providing for the compulsory arbitration of disputes?
Mr Kovacic: It is possible. But, as I have said, the department seeks legal advice on a range of issues to do with the Fair Work Act. As to whether it canvasses that specific issue, I would want to check to provide an accurate answer.

Senator ABETZ: Were you around when the Fair Work Bill was being drafted?

Mr Kovacic: Yes, I was.

Senator ABETZ: Yes. And this advice was given to one of the stakeholders during the discussions around the drafting of the Fair Work Act.

Ms Paul: You are referring to a letter from three years ago. It is more than reasonable for Mr Kovacic to want to give you an accurate answer by taking it on notice to check. I do not think that we can take it any further.

Senator ABETZ: All we are trying to gather at this stage is whether he is aware of the correspondence.

Ms Paul: He has answered that and taken it on notice.

Senator ABETZ: And the answer is?

Mr Kovacic: I am aware of the media reports suggesting the existence of it.

Senator ABETZ: Right. So he is still not willing to acknowledge that he personally is aware of this correspondence.

Mr Kovacic: I have taken it on notice because I want to check whether it exists.

Senator ABETZ: Are you saying to this committee that, despite your personal involvement at all times, from the drafting of the Fair Work bill right through til today, in the same role, you are not aware whether legal advice was sought around the issue of compulsory arbitration, whether that advice was given to the ACTU and what the advice said, despite your memory potentially being refreshed courtesy of the front page story of yesterday's Australian?

Mr Kovacic: What I have said and I have said this on several occasions now is that the department seeks legal advice on a range of issues to do with the Fair Work Act, it may have canvassed issues, going to the issue of arbitration, but for reasons of comprehensiveness I want to check that. In terms of the correspondence, I have indicated that I have seen the media reports. I have not had the opportunity of checking the existence of that sort of correspondence.

Senator ABETZ: Are we able to recall whether or not this correspondence was drafted in the Deputy Prime Minister's office or in the department?

Mr Kovacic: That is one of the reasons I want to take it on notice: firstly to verify its existence and secondly to clarify if and where it may have been drafted.

Ms Paul: I do not think that we can take it any further now. We have taken it on notice.

Senator ABETZ: Mr O'Sullivan, you are the Chief Counsel, is that correct?

Mr O'Sullivan: I have got nothing to add to the evidence given by the senior officers.

Senator ABETZ: The question was: are you the Chief Counsel? And you have nothing further to add.

Ms Paul: That was not the question.

Senator ABETZ: I would have thought answer was yes or no.
Mr O'Sullivan: Well—

Senator ABETZ: Is the answer yes or no, Mr O'Sullivan?

CHAIR: I also took it the other way, Senator, so I do not think that we should make a reflection on Mr O'Sullivan.

Mr O'Sullivan: If your question is what my position is: Jeremy O'Sullivan, Chief Counsel, Workplace Relations Legal Group.

Senator ABETZ: Good. I am glad we were able to agree that much. Now in your role as Chief Counsel do you seek outside legal advice from time to time?

Mr O'Sullivan: The answer to that question is yes.

Senator ABETZ: Do you have any personal recollection of the department seeking advice during the drafting of the Fair Work Act in relation to compulsory arbitration of disputes?

Mr O'Sullivan: As Chief Counsel I would not disclose the content of requests for advice to this committee as to do so would waive the legal professional privilege in that advice and also disclose the content of—

CHAIR: Mr O'Sullivan, you may recall that this is not an acceptable response to the committee. We have been through that many years ago—unsatisfactorily resolved I must say; it was at a time when Senator Abetz was sitting where Senator Collins is now—you cannot rely on personal legal privilege in this committee.

Mr O'Sullivan: Perhaps just to clarify—

Ms Paul: I do not think that is what Mr O'Sullivan was trying to say.

Mr O'Sullivan: I would need to get instructions to disclose.

CHAIR: You will not need instructions about that. I am telling you cannot rely on personal legal privilege in this committee.

Ms Paul: I do not think we are going to where you are going, Chair.

Mr Kovacic: Can I make point? Mr O'Sullivan was not involved. He was not in the role of general counsel at the time of the development of the Fair Work Bill. He took on that role, I think, in the latter part of 2009, which is after the time that the bill was enacted.

Senator ABETZ: What was his role prior to that?

Mr Kovacic: He was working in the corporate legal area of the department.

Mr O'Sullivan: Yes; general counsel in corporate legal.

Senator ABETZ: When did Mr O'Sullivan take on the role of Chief Counsel?

Mr O'Sullivan: I can give you an approximate date; it was October 2009.

Senator ABETZ: October 2009 and this letter is conveniently dated for me 30 April 2010, a full six months after you took over that role. I am not going to ask as to what the legal advice may or may not have said, at this stage, all I want to know is whether or not you were made aware of any legal advice in relation to the issue of compulsory arbitration of disputes.

Mr O'Sullivan: I think I am going to have to take that on notice. It is three years ago that the alleged document that you are referring to—I am going to have to check my notes and records.

Senator ABETZ: You do not have any personal recollection?
Mr O'Sullivan: No.

Ms Paul: And we have now taken this on notice several times.

Senator ABETZ: Have you ever been asked to prepare advice on this issue?

Ms Paul: I think we have taken that on notice, in terms of arbitration.

Senator ABETZ: No. Since your appointment in October 2009 have you ever prepared advice?

Mr O'Sullivan: Of course I have prepared legal advice.

Senator ABETZ: No, on this issue of compulsory arbitration?

Mr O'Sullivan: I do not feel I am at liberty to disclose the nature of the advice I prepared.

Senator ABETZ: I am not asking you the nature of the advice.

Ms Paul: Well you are, because you are asking about arbitration.

Senator ABETZ: No. I am asking whether or not advice was proffered on the issue of compulsory arbitration? It may have been advice that said, 'Not a problem, let it rip,' or, 'This is an absolute no-go zone; go nowhere near it.' I am not asking about the nature of the advice, just as to whether or not advice was sought in this particular area and there is nothing stopping—

Ms Paul: I think we have already taken it on notice. I am pretty sure we have, so we will answer it.

Senator ABETZ: So Mr O'Sullivan is genuinely telling this committee that, within the first six months of his taking on the role, he cannot recall whether he was asked to provide or consider any advice or gain any advice in relation to the impact of compulsory arbitration on the Fair Work Act?

Ms Paul: I think it is entirely reasonable to say that. That is three years ago. It is the first six months of his role, and we have taken it on notice. We do take the committee seriously and we do want to get the answer right. I think we should keep it where it is.

Senator ABETZ: As we found out at the very beginning.

Ms Paul: This is the thing, you see: we do want to make sure it is right.

Senator ABETZ: When you do take it on notice, you still get it wrong.

Ms Paul: I have apologised for that—

Senator ABETZ: Fair enough, and I should not—

Mr O'Sullivan: out of the 400 questions we take. In this instance, we do want to get it right. We have taken it on notice. We will pursue it.

Senator ABETZ: Is Mr O'Sullivan saying he really has no recollection—

Ms Paul: He has just said he is taking it on notice.

Mr O'Sullivan: I have taken it on notice—the date of the specific question.

Senator ABETZ: Why are you taking it on notice? Because you have absolutely no recollection or for some other reason?
Ms Paul: Technically, you can take a question on notice for any reason. It is completely reasonable as ever for any officer to take a question on notice. That is always a reasonable course of action.

Senator ABETZ: But we are entitled to enquire as to the reason for taking the question on notice.

Mr O'Sullivan: I am quite happy to clarify. It is because the date-specific question you asked will require me to check my records. Please take that as an indication of how seriously we take the accuracy of our answers.

Senator ABETZ: Really, a basic question like that would be answered: 'I have no recollection at all' or 'Yes, I do have a recollection of it, but the circumstances remain vague' or 'I'm not sure and I want to check up on the accuracy of anything I may have done at the time.' But asking somebody what their recollection is—

Ms Paul: We have given you the answer several times, which is that we have taken it on notice.

Senator ABETZ: of the time is not going to improve by having an even further reflection of time.

Mr O'Sullivan: I am happy to clarify that I have no recollection of that period, having that particular request—either making it or being asked to make it.

Senator ABETZ: Chair, I have copies here of the letter signed by Ms Gillard to the then secretary of the ACTU. If I may, could they be distributed? They have already been photocopied.

CHAIR: Are you seeking to table those?

Senator ABETZ: Yes.

CHAIR: As there is no objection, they are so tabled. Senator Abetz, we are due for a break at some point soon. There was some discussion earlier about whether it should be 6.00 or 6.30. I am wondering what your idea might be in that regard?

Senator ABETZ: Depending on the sorts of answers we get, we might be able to finish after this particular bracket of questions. That would be my desire, but, if people cannot tell us whether they have a recollection or not, it makes life exceedingly difficult. Seeing this correspondence, does that ring any bells with anybody?

Senator Jacinta Collins: Senator Abetz, could I clarify what is before us, firstly. I have a letter, I have something called 'attachment', and then I have something called 'attachment A', which on the face of it looks like a repetition of what might be 'attachment'.

Senator ABETZ: Yes. That was the attachment A but it is, as I understand it, a repetition of it. But let us look at the actual letter. Does the letter—do those first two pages—ring any bells?

Mr Kovacic: I have no recollection in terms of seeing this letter before.

Senator ABETZ: You see, on this letter—and this is an issue that I want to canvas with the department—you may note that the email is ‘dpm’.

Ms Paul: What email?
Senator ABETZ: Sorry—the email address, I should say, is 'dpm'. Was that the email address that the then minister was using with the department or not? If you have a look, it is only on deputy prime ministerial letterhead, albeit signed off as Minister for Employment and Workplace Relations. So it may well be that this letter purely emanated out of the Deputy Prime Minister's office.

Ms Paul: It may have. The email looks more like a Parliament House type one than a departmental one. But anyway, we have taken it on notice to check.

Senator ABETZ: Well, what was your email address at the time?

Ms Paul: I cannot remember.

Mr Kovacic: I think it is—

Senator ABETZ: It was not 'dpm'?

Mr Kovacic: I think it is 'deewr.gov.au'.

Senator ABETZ: It was not 'dpm' was it?

Ms Paul: No, no. It would have been 'deewr'.

Senator ABETZ: So this is a letter that, chances are, was not generated out of the department?

Ms Paul: Could be—we have taken it on notice at any rate.

Mr Kovacic: That is one of the reasons why we have taken the questions in this sort of area on notice, Senator.

Senator ABETZ: Well I wanted to ascertain exactly what your recollection, if any, of it was, because then, if that is the case, that will be all the minister's own work that she will need to respond to.

Ms Paul: Well thank you. It is helpful that you have given it to us. So we will now go away and check.

Senator ABETZ: One wonders, then, in the event that compulsory arbitration is pursued by the government—we now know the government is against it for policy reasons, or was in 2007, 2008 and 2010; we also know that the government saw good legal reason not to pursue it in 2009 when the Fair Work Bill was being drafted, and still in 2010 when this letter went to the ACTU. But it does beg the question of whether, to the department's knowledge, this sort of legal advice was being given just to one side of the debate during the drafting of the Fair Work Bill.

Ms Paul: And that is pretty well the area we have taken on notice, I think, is it not?

Senator ABETZ: We did have questions on notice last time, and I was told that it would be an unreasonable diversion of departmental resources to attempt to answer it. Well, somebody has assisted the department in not having to divert these very special resources by providing me with a copy of this letter and the legal advice. So that has saved the department some work. But it does seem that there are genuine legal issues attached to compulsory arbitration going into the Fair Work Act.

Ms Paul: We will have a look at what we can find out about this later.
Senator ABETZ: Can I then ask whether it is possible, despite the stretched resources of the department, for this matter to be checked out so that we can ask in cross-portfolio tomorrow morning about this letter?

Ms Paul: We could give it a shot but, given the hour, that would be a bit optimistic, given that this goes back more than three years and may not have emanated from the department anyway.

Senator ABETZ: If it does not emanate from the department that will soon tell us something, won't it?

Ms Paul: Yes—that it might require more checking to make sure that is the case, if you see what I mean. We will do our best—

Senator ABETZ: If you could, I would be much obliged.

Committee suspended from 17:55 to 19:02

CHAIR: Okay. We will resume these estimates proceedings. We are questioning the department in outcome 4. Senator Abetz.

Senator ABETZ: Thank you, Chair, and thank you to the officials at the table. I turn to the asbestos agency which was announced in March of this year, with a budget of $12.3 million. Can you confirm for me that, whilst it was announced at $12.3 million, the budget papers now show the allocation to be $10.5 million?

Mr Kovacic: That is correct. The explanatory memorandum, when the bill was introduced, showed $12.3 million. That funding level was subject, of course, to confirmation in the budget process, and that budget process has seen a decision of $10.5 million for the funding of the agency.

Senator ABETZ: What is the maths on that? $1.8 million short or, in rough terms, a 10 per cent cut.

Ms Paul: Well, it is not really a cut, because it had not been appropriated. But the result was that amount less than the EM said. That is right, yes.

Senator ABETZ: Are we agreed that $10.5 million is at least 10 per cent less than $12.3 million?

Mr Kovacic: That is correct.

Senator ABETZ: Thank you. Now, in relation to asbestos matters generally, has the department in any way been briefed or is it aware that NBN Co. has criticised certain contractors for delaying the National Broadband Network rollout, alleging poor project management and other bits and pieces? Are they things that the department follows in any way?

Mr Kovacic: We would have seen the media reports generally in terms of issues around the National Broadband Network. I am not sure that we would necessarily be briefed on issues going to delays.

Senator ABETZ: Yes. Safe Work Australia would, I suppose, be a potential port of call for the government to seek information or advice.

Mr Kovacic: In terms of work health and safety regulation of NBN Co, it would be an issue that Comcare would be responsible for and I think in a very general sort of sense—
Senator ABETZ: Sorry, Comcare?

Mr Kovacic: As the Commonwealth's work health and safety regulator.

Senator ABETZ: Comcare confirmed that to us, because they look after Telstra and NBN and, if I recall correctly, Visionstream is part of Leighton's?

Mr Kovacic: But in terms of work health and safety regulation of contractors to NBN, my sense is that that might fall within the jurisdiction of state and territory work health and safety regulators.

Senator ABETZ: That is usually where occupations health and safety issues reside—in the state jurisdiction. It is just that the minister, Mr Shorten, has been quite active publicly in this space. I just wonder whether he has been availing himself of departmental advice in these matters. Can I ask: has the department been providing him with advice in relation to the asbestos issue?

Mr Kovacic: Yes, we have.

Senator ABETZ: Do you have a special node within the department that deals with these matters?

Mr Kovacic: Yes, it is Mr Kibble, who, you might be aware from last estimates heads up the Office of Asbestos Safety within the department.

Senator ABETZ: Can I ask: is Mr Kibble officially appointed?

Ms Paul: He is still in the department. The agency has not yet been created.

Mr Kovacic: It is still part of the department. The agency, if parliament passes the legislation—

Senator ABETZ: We have not yet passed it.

Mr Kovacic: I think the House has, but I do not think it has come into the Senate as yet. It will take effect from 1 July.

Senator ABETZ: Thank you for the information. Mr Kibble, in your current role, dealing with matters asbestos, are you aware of the NBN Co. being critical of contractors for being somewhat slow in the rollout of the National Broadband Network?

Mr Kibble: As Mr Kovacic indicated, we are aware of general media reports to that effect.

Senator ABETZ: Have you undertaken any inquiries to ascertain whether or not that criticism by NBN may have led to contractors trying to hurry things along a bit in the rollout?

Mr Kibble: No, I have not.

Senator ABETZ: So you have not investigated that?

Mr Kibble: I have not asked that question, no.

Senator ABETZ: All right. That is fine. Have you had occasion, Mr Kibble, to have a look at the participant workbook entitled NBN Safety & Awareness Course book?

Mr Kibble: I have not personally, no.

Senator ABETZ: Do you know whether or not it exists? Because NBN were not sure whether it exists. Comcare was not sure whether it existed and, as is the want, a savvy
A constituent has emailed me information, but I have not seen the book, either. I am just trying to discover, firstly, whether or not it exists.

Mr Kibble: I am not aware of it. I have not seen it.

Senator ABETZ: Right.

Mr Kovacic: We can seek to clarify that.

Senator ABETZ: All right. But as part of your inquiries you have not come across this document?

Mr Kibble: No.

Senator ABETZ: Because the allegation or suggestion is that in this whole booklet there are only two pages detailing asbestos handling, which would seem to be somewhat remiss if that were the case. But, as I say, I have no letters or anything like that that I can table in that regard. Talking now about matters occupational health and safety, the legislation that we passed recently removed the control test that used to exist in relation to the chain of responsibility? Is that correct?

Mr Kovacic: Senator, is this the Work Health and Safety Act?

Senator ABETZ: Yes.

Mr Kovacic: I might just ask the responsible officers to come to the table.

Senator ABETZ: As I understand it, the work health and safety legislation that passed relatively recently, the harmonised legislation, removed what I think was previously referred to as the control test.

Ms Ross: No, the control is still an aspect of the laws. It was not removed.

Senator ABETZ: But I thought we had discussion in the Senate about this when this bill came before us. All right: the control test has not been removed; it has been expanded to include everybody that might reasonably foresee something happening.

Ms Ross: Under section 19 of the new laws, there are duties for a PCBU to do so far as what is reasonably practical. Part of what is reasonably practical is governed by what is in their control—what they have the ability to control.

Mr Kovacic: PCBU, I should add, is a person conducting a business or undertaking.

Senator ABETZ: And that is now the test, but it reaches right through. The example I used in the Senate and which was, unfortunately, confirmed was that, if you are a property owner of a vacant bit of land and you appoint a property manager, who then appoints a construction company that appoints a subcontractor to do electrical works and an electrician gets electrocuted, the responsibility can go all the way back up the chain to the actual property owner because, if you were to ask the fundamental question—given the activity that you allowed to take place, namely building with electrics, could you foresee that somebody might potentially get electrocuted?—the answer is yes. Therefore, potentially the chain goes all the way back up to the property owner. That is correct, isn't it?

Ms Ross: Your duty is about what is reasonably practical for you to do, and you have to do everything that is reasonably practical to discharge that duty. So in some circumstances it is recognised that, with the engagement of a contractor with particular expertise, you would be discharging your duty by engaging that contractor to undertake a particular task.
Senator ABETZ: It will be interesting to do a compare and contrast with the Senate Hansard of the time and the answer just then. So it is the business unit, if you are involved and whether or not you could foresee something happening. Of course, the property owner could foresee the possibility of this happening.

Ms Ross: It is not about foreseeing; it is about ensuring that you put in place appropriate measures to discharge your duty.

Senator ABETZ: And there is still a duty with the property owner.

Ms Ross: But you may have done everything reasonably practical that you can do and discharged your duty.

Senator ABETZ: Boards of directors all around the country are grappling with that issue as we speak. I suppose the point I am getting to is: does this scenario also then play out for the Commonwealth and government institutions?

Mr Kovacic: It certainly does in respect of its own employees, yes.

Ms Paul: Indeed, Comcare has been working with each of us. As the chief executive I have those responsibilities as well. Comcare has been working, for example, with the defence department or some of these departments where they would be concerned that they put people in harm's way. The point that Ms Ross makes is the actual point, which is that what the legislation is looking for is the mitigation strategies et cetera. Most of us agencies, departments et cetera will have done some sort of audit or review or looked at what measures we have in place. It is the mitigation strategies that matter.

Senator ABETZ: But the same regime applies to the Commonwealth?

Ms Paul: Yes.

Senator ABETZ: I just wanted that confirmed, thank you. Mr Shorten has told the public that he has accepted assurances from Telstra that asbestos safety issues were under control. I understand he did that previously in his private capacity and not with input from the department—because he was not minister at the time. That is what I am assuming.

Mr Kovacic: In the brief bit of question time in the House that I saw yesterday, there were references to correspondence when I think Minister Shorten was Parliamentary Secretary for Disability, dating back to 2009, from memory.

Senator ABETZ: And in that role did he have any interaction with the department in writing those letters?

Mr Kovacic: I am not aware, but I am happy to take it on notice.

Senator ABETZ: Does the department have any oversight of the Safe Work Australia regulations in relation to matters asbestos?

Mr Kovacic: The Commonwealth is represented on the Safe Work Australia Council so we have a formal role, in terms of the governance arrangements, for want of a better description, at Safe Work Australia. We also have a very close working relationship with Safe Work Australia, so I would imagine that we would have had input into the work on formal documents, whether it is regulations, codes of practice et cetera that Safe Work Australia has developed.

Senator ABETZ: Was there a draft regulation or a draft code, back in 2011, in relation to interaction with asbestos?
Ms Ross: Safe Work Australia developed model regulations, dealing with asbestos, which the Commonwealth adopted.

Senator ABETZ: When was that?

Mr Kovacic: It was July 2011, I think.

Senator ABETZ: I understand a very perceptive senator asked questions about this at senate estimates two years ago.

Ms Ross: There are also model codes of practice dealing with asbestos—one is about removal and one is about the management of asbestos, and the Commonwealth has also made those codes as well. So operating in the Commonwealth there is a code about the removal of asbestos and the management of asbestos.

Senator ABETZ: In answer to question on notice 302_12 from the budget estimates of 30 May 2011, the heading is 'Asbestos and telecommunications duct—SWA draft regulations' and the question was whether the draft regulations will make any asbestos issues with pulling cables through existing telecommunication ducts safer or less safe, easier or more difficult and more expensive or less expensive for the NBN project. The assumption was made that there was not an answer readily available and it was taken on notice. It was then answered. I am just wondering what monitoring has taken place by the department, if any at all, or who is responsible for the monitoring of those regulations to ensure that they were complied with. That would be Safe Work Australia?

Mr Kovacic: It would be Comcare.

Senator ABETZ: Sorry, Comcare, yes.

Mr Kovacic: Comcare, because once the act is enacted and the regulations made the regulator then becomes responsible for ensuring compliance with it, and that would be Comcare in the Commonwealth jurisdiction.

Senator ABETZ: Did the department have any input into these draft regulations at all?

Mr Kovacic: We would have, as I mentioned before, through the normal governance processes at Safe Work Australia. Ultimately the model regulations were, from memory, signed off by at that stage I think it still would have been the Workplace Relations Ministerial Council, or endorsed as the model regulations at that level as well.

Senator Jacinta Collins: Senator Abetz, you should declare yourself as the perceptive senator.

Senator ABETZ: Oh, I am just far too modest for that—but I hoped you detected the irony in my voice!

Mr Kovacic: I might just add a point here. My understanding about the issue which is clearly of major concern at the moment relating to the Telstra pits is that Telstra has indicated that the pits are part of its infrastructure and its responsibility in terms of issues going to the safe management of asbestos. That was a point that I saw Mr Thodey from Telstra make in media comments that I observed last night as well as in a meeting yesterday.

Senator ABETZ: We will see where the responsibility ultimately lies, but Comcare had its view that the responsibility could in fact go right up the chain to the Commonwealth of Australia. But let us see where all that falls. Turning to Comcare: there has been a review of Comcare—is it Mr Peter Hanks?
Mr Kovacic: That is correct. Mr Hanks and Dr Hawke as well.

Senator ABETZ: Yes, Dr Hawke. Where are we at with those reviews? They have been provided to government?

Mr Kovacic: Certainly, and I think from memory that both of the reports were released publically earlier this year.

Senator ABETZ: So has the government adopted them? Is it consulting about them? Is it about to introduce legislation? Where are we at?

Ms Emery: The Hanks report was released publicly on, I think, about 30 March, and the Hawke report, I think, was released publicly on 1 May. The government announced on, I think, 2 May that it was accepting 21 recommendations from those reviews. That is our status at the moment.

Senator ABETZ: Parliamentary Secretary, can you tell us? Accepting 21 recommendations is all good, but are they going to be implemented? Are they going to be enacted? Do we know how they are going to be dealt with?

Senator Jacinta Collins: I am not aware of the timetable for implementation. I can take that on notice. The officers may be able to assist you further, but that is not an area I am familiar with.

Mr Kovacic: All I can add to that is, again, the point we were making earlier that the timing of any legislation would be a matter for government.

Senator ABETZ: We know that.

Mr Kovacic: All I can confirm is that, in terms of implementing the 21 recommendations that the government has indicated it supports, legislation would be required to give effect to them.

Senator ABETZ: Are you able to shed any light, Parliamentary Secretary, onto a timetable at all?

Senator Jacinta Collins: Not at this stage. I will refer again to the brief, if you want to come back to it in a moment, and see if that gives you anything more specific.

Senator ABETZ: I understand that Mr Shorten was written to on 19 April 2013. Comcare was not aware of this letter. It was about Comcare reforms. I will not read the individual's name out, but on 19 April 2013 this medical practitioner—a physician, in fact—wrote to the minister explaining some concerns. In 25 years of occupational medicine practice in the ACT, he witnessed countless dubious claims, low threshold acceptance and no adequate mechanism for ending the claim with a sunset clause. On the day that he wrote the letter he saw a man who had received a bi-monthly massage for 10 years. The masseur thought it would be 'good for him'. All this was being paid for courtesy of the taxpayer. I am just wondering whether the contents of that letter are accepted by the government. I assume you do not have that letter with you.

Senator Jacinta Collins: This was the letter I think you tabled yesterday, was it?

Senator ABETZ: Yes, but I didn't table it. I do not think so.

Mr Kovacic: No, you did not. I watched this part of the evidence yesterday, and I think you did not wish to identify—
Senator ABETZ: Yes. I provided a copy.
Senator Jacinta Collins: Okay.
Senator ABETZ: Sorry?
Mr Kovacic: You did not wish to name the correspondent.
Senator ABETZ: Yes, so I did not table it.
Senator Jacinta Collins: So this was the letter to which we were referring—
Senator ABETZ: Yes, but I did seek to identify the letter for ease of access.
Mr Kovacic: We are aware of the letter. It had been referred to Comcare for a response.
Senator ABETZ: So the government at this stage is not willing to state whether or not it accepts the premise in the letter, because if I might say it seems to support in the anecdotal personal experience of this physician some of the criticisms that have been made about the Comcare regime as it applies to the public sector.
Mr Kovacic: I am reluctant to express an opinion in terms of the letter without having a conversation with Comcare about it, but I can understand where you are coming from.
Senator ABETZ: It just seems to be an anecdotal personal experience from somebody with 25 years experience who is supporting, from what I can gather, what possibly Dr Hawke and others said more delicately about the operations, which are costing taxpayers considerable—
Mr Kovacic: If I might just add to what we have said which covers a broader issue in the sense that one of the key findings, if I can put it that way, from the reviews was that licensees that were self-insurers under the Comcare scheme had better return-to-work outcomes compared to premium payers, which are the ACT government and APS agencies. The review found that what underpins that is that licensees are prepared to intervene more quickly to determine claims and develop a rehabilitation plan. The 21 recommendations that the government has indicated it supports are really directed at improving the early engagement of employers under the Comcare scheme with injured workers and the effective provision of rehabilitation by employers. That is where the initial response to the recommendations is focused on: improving the early engagement and rehabilitation practice of Comcare.
Senator ABETZ: Has work been done on a safety rehabilitation and compensation amendment bill?
Mr Kovacic: As I indicated, legislation would be required in terms of giving effect to the 21 recommendations that government has responded to. In terms of precisely where that process is up to, I cannot go beyond saying it is a matter for government in terms of the timing.
Senator ABETZ: Parliamentary Secretary, can you tell us?
Senator Jacinta Collins: Sorry, can you repeat the specific question.
Senator ABETZ: As to whether or not the government has in mind to have a safety rehabilitation and compensation amendment bill?
Senator Jacinta Collins: I cannot help you.
Senator ABETZ: What about the chair of caucus? It is on the caucus agenda. It was passed—
Senator Jacinta Collins: Today's agenda?

Senator ABETZ: Yes.

Mr Kovacic: What I can say is that we certainly have provided advice to government as to how to take effect to implementing the recommendations.

Senator ABETZ: As far as the Senate is concerned, we have got two more sitting weeks and we are being told that we cannot say anything and that the parliamentary secretary does not know that an amendment bill has being drafted and passed by her own caucus today. I understand that in relation to the matters that I mentioned earlier—because I now have the agenda in front of me—that amendments to the Fair Work Amendment Bill also went through caucus this morning. We are just being told that we know nothing.

Senator Jacinta Collins: If you would like me to—

Senator ABETZ: Everything is taken on notice and with only two weeks of sitting left—

Senator Jacinta Collins: No, Senator Abetz.

Senator ABETZ: we are not going to have the opportunity of Senate committees, one assumes, looking at and investigating these bills with any degree of accountability.

CHAIR: Senator Abetz, did you say you have got an agenda?

Senator ABETZ: Yes. I daresay you do not want to know that I have.

CHAIR: I would be interested in seeing it, if you are saying that bill is on it’s.

Senator Jacinta Collins: Senator Abetz seems to know more about the caucus meeting I was unable to attend, because I was sitting in this committee this morning. If, Senator, you would like me to confirm the status of that bill throughout the course of the evening, hopefully I might be able to do so.

Senator ABETZ: That would be very helpful, and whether the bill implements the 21 recommendations that the government said it would adopt. Surely the parliament and the Senate are entitled to know these things and understand what the current agenda is. Can I briefly move to the Fair Entitlements Guarantee? That is what it is called in fact: Fair Entitlements Guarantee, which was formerly the GEERS. It reached $205 million in the nine months to March, taking the expected cost of the scheme to $651 million over the three years to 30 June 2013. Do we have any further estimates on that? Are we saying that things will be as per the budget documents or that things will change? It seems that whenever a budget document is delivered, or when an update is delivered, it changes.

Mr Kovacic: Two things I would say: portfolio budget statements indicate the predicted expenditure under the program. As I think we have canvassed in this committee previously, GEERS previously and now the Fair Entitlements Guarantee are both demand driven programs. So, to the extent that the demand exceeds what is projected, there is the possibility that additional funding would be required; similarly the extent that the demand is less than as projected—clearly likely to be surplus resources. The difficulty in terms of predicting in this sort of area has been something that we have highlighted to the committee over a number of years.

Mr Kovacic: Two things I would say: portfolio budget statements indicate the predicted expenditure under the program. As I think we have canvassed in this committee previously, GEERS previously and now the Fair Entitlements Guarantee are both demand driven programs. So, to the extent that the demand exceeds what is projected, there is the possibility that additional funding would be required; similarly the extent that the demand is less than as projected—clearly likely to be surplus resources. The difficulty in terms of predicting in this sort of area has been something that we have highlighted to the committee over a number of years.

Senator ABETZ: It is demand driven, but nevertheless a figure is—what is the term—'postulated', 'hypothesised'?

Ms Paul: Estimated.
Senator ABETZ: Estimated into the budget. On what basis was that estimation made? Did we take—like with asylum seeker arrivals—go for a 10-year average, which completely and utterly distorted the figure and was laughable in the extreme? I am just wondering how we arrived at this particular figure. Was it a 10-year average or was it—

Mr Kovacic: I think it would probably be a mix of things. One would be—

Senator ABETZ: Not 'probably'. What was it?

Mr Kovacic: I will let Ms Saunders correct me if I am wrong or add to anything, but I think a couple of key considerations would be our past experience in terms of a number of claims that may have been made in preceding years; also what might be average payments under particular claims and they might vary depending on the industry sector where those claims are coming from, the length of service and those sorts of issues, so they would all be factors that would go into the consideration. Sue, is there anything you can add there?

Ms Saunders: The costs are actually estimates only and they are our best estimates based on the claims experience that we are experiencing at that time. So certainly—

Senator ABETZ: 'At that time'? One year? Two years?

Ms Saunders: I guess there is a start—

Mr Kovacic: Perhaps we might take that on notice for confirmation.

Senator ABETZ: If you could. I would trust that you do not only look back, let's say, at the claim history over the two years, but you might also project forward. I suppose what I am getting at is: if Ford's announcement, for example, is carried through—and one assumes it will be, it is very likely that many parts manufacturers may well encounter unhappy times which could require the FEG to be raided—if I can use that term—or 'accessed' might be a more polite term.

Ms Paul: 'Accessed' is probably a better term.

Senator ABETZ: As a result of of which, I am just wondering how much that has been taken into account in the forward estimates. Do we just simply cast our eyes backwards in trying to determine the figure?

Mr Kovacic: I think we would look backwards. But I think equally one of the factors I should have mentioned is that clearly not all employers are unable to meet any outstanding employee entitlements in circumstances where they go into liquidation, so to the extent that that sort of proportion bounces around we would need to factor that into our thinking.

Senator ABETZ: The budget is predicated on slower growth and higher unemployment. In those circumstances, I am wondering whether those factors were taken into account as well in the forward looking—

Ms Paul: Why don't we take it on notice and spell it out. That is fine.

Senator ABETZ: I accept with all the goodwill in the world that, ultimately, it has to be a guess or an estimate or however we describe it, but I would like to think it were not calculated on the basis that we calculated the arrival of asylum seekers into the country over the next 12 months.

Ms Paul: We will spell it out.
**Senator Jacinta Collins:** Senator Abetz, one point to make, whilst this is being taken on notice, is that these estimates have been calculated for a considerable number of years. To my knowledge, the method of those estimates has not been significantly changed through the different schemes.

**Mr Kovacic:** Just to go to it again, we have tried to work with Treasury in terms of developing better predictions regarding likely demand, but it is very difficult to predict, for instance, the number of insolencies and liquidations and the proportion of employers who may not be able to meet their employee entitlements in those circumstances going forward. Those are some of the practical difficulties——

**Senator ABETZ:** Of course, it is a difficult task, and I accept that, just as it is to try to predict the number of boat arrivals. Taking a 10-year average is disingenuous at its extreme. I just hope those sorts of calculations were not employed for this task. We have talked about the cutbacks to the asbestos agency. I wonder, regarding the asbestos agency: was the department consulted about that or were you advised about the cut?

**Ms Paul:** It was a decision of government in the budget context.

**Senator ABETZ:** So you were advised to that decision?

**Ms Paul:** Yes.

**Senator ABETZ:** The cutback to the—we always change names, don't we—Fair Work Building and Construction——

**Senator Jacinta Collins:** I think they decided 'agency'.

**Senator ABETZ:** The building agency—let's refer to it as that. It seems like a good idea. That has received a significant haircut of $24 million. I wonder whether that was simply a decision of government that the department has to deal with or was that something that the department willingly offered up in its budget recommendations to the government?

**Mr Kovacic:** Certainly I had some conversations with the previous director of the Fair Work Building Industry Inspectorate, in terms of administrative efficiencies, which informed government's decision in terms of the ultimate decision around savings it took——

**Senator ABETZ:** Sorry—I did not hear the last bit.

**Mr Kovacic:** Which informed government's decision as to the save for FWBC.

**Senator ABETZ:** We are in a period of heightened industrial activity. It is escalating at a rather dramatic rate and the fair work building agency is now also undertaking the work—I am not sure why, but it is collecting unpaid wages, which the Fair Work Ombudsman used to do very effectively and efficiently and very professionally, but they wanted to do this as well. It gets a very significant haircut. I ask the parliamentary secretary: is the government comfortable that the fair work building agency will be able to still undertake all its roles?

**Senator Jacinta Collins:** Yes, Senator Abetz, the government is comfortable.

**Senator ABETZ:** If that is the case, why did the government predicate in its budgets previously a figure of about $33 million per annum and it is now cut down to around the $23 million mark?

**Senator Jacinta Collins:** As Mr Kovacic just said to you, he has provided some advice to the minister. I am not aware of the detail of that advice. I would need to take that on notice.
Senator ABETZ: When this building agency was established out of the ruins of the Australian Building and Construction Commission, we were advised that there will still be a tough cop on the beat and that it will be properly staffed and resourced to do the job they were established to do—that was another Labor promise—and that the money would simply go across. It went across and then it was taken off them.

Mr Kovacic: I might be able to help you there. With the ABCC and in the initial stages of the FWBC the agency was a chronic underspender in the order of $3 million to $5 million per annum.

Senator ABETZ: Because they were getting reserves for substantial and significant court cases. You would be aware of that.

Mr Kovacic: I do not think it was solely as a result of that factor. That is my understanding. All I can do is highlight that there were significant underspends in the agency over a number of years.

Senator ABETZ: You are willing to say that there was a significant underspend but you do not know that that underspend was because they were seeking to obtain funds in the event of High Court challenges and other legal challenges that they were expecting.

Mr Kovacic: I do not know. I did not run the agency. The point is that they were chronic underspenders and they never spent up to their budget level in ABCC.

Senator ABETZ: Because you would not expect the ABCC in its first years to be immediately involved in High Court actions et cetera, but if anyone wanted to appeal their decisions—

Mr Kovacic: But even the year before it transformed into the FWBC it still underspent, from memory.

Senator ABETZ: How long had it been operating? Five years?

Mr Kovacic: Yes. Five years is not an insignificant period, I would have thought.

Senator ABETZ: Have a look at the High Court lists sometime and see how long it takes cases to finally arrive at the High Court.

Senator Jacinta Collins: I accept the point that you are making, but I have sat through countless estimates on both sides of the table about the operations of this agency and its predecessors, and I do not recall the issue of building reserves ever being canvassed in this committee.

Senator ABETZ: You were that interested in the ABCC that at the first opportunity you abolished it!

Senator Jacinta Collins: No, we do not accept that we have abolished it.

Senator ABETZ: Let us not pretend that we had too keen an interest in the organisation.

Senator Jacinta Collins: It will be interesting to scour the Hansard and see if this issue of reserves has ever previously been canvassed.

Senator ABETZ: I think you will be surprised. Is the government granting money to organisations to assist or be involved in the two-year statutory review of modern awards?

Dr Morehead: Yes, there is an item in the budget to provide some assistance for the major parties involved in the modern awards review to assist them with their work on it.
Senator ABETZ: And which are the major parties?

Dr Morehead: ACCI, AiG and the ACTU.

Senator ABETZ: What will they be provided with?

Dr Morehead: There is $1 million this financial year and $3 million in 2013-14.

Mr Kovacic: The funding also encompasses the four-yearly review of modern awards, which is scheduled to commence on 1 January 2014.

Senator ABETZ: I was told that funding is available for the two-year statutory review, and that funding is also potentially available for resources required for the four-year review of modern awards.

Dr Morehead: Yes.

Senator ABETZ: Will this fund look after both aspects?

Dr Morehead: Yes.

Senator ABETZ: How will this money be divided?

Dr Morehead: At the moment that is being determined. The $1 million for this financial year will be distributed before the end of this financial year.

Senator ABETZ: So no determination is being made yet as to how much the ACTU, ACCI or AiG get?

Dr Morehead: We are about to finalise that. It is just about to be done.

Senator ABETZ: Still in the melting pot—all right. I turn to the issue of 457 visas. There has been some discussion about that in recent times in the media. Has the department's advice been sought in relation to that issue by any minister or interdepartmental committee?

Mr Kovacic: You would probably be aware that Minister O'Connor and Minister Shorten announced in late March, or perhaps early April, enhanced integrity measures which go to the role of the Fair Work Ombudsman.

Senator ABETZ: The Fair Work Ombudsman has now given us evidence as to the number of complaints. The FWBC was unable to really be of much assistance, and I know that DIAC gave evidence as to the numbers, because I was there. Are you able to indicate to this committee whether this department provided any advice that would suggest that there were 10,000 breaches of the subclass 457 visa system?

Mr Kovacic: Not being a regulator we would not be in a position to provide anything in the way of advice going to those sorts of issues.

Senator ABETZ: So you gave no advice on that number?

Mr Kovacic: No.

Senator ABETZ: It seems that every department and agency that I ask about this has no knowledge of and gave no advice in relation to that, so you have just joined a long queue. Now, I know that this comes under the immigration department, but does DEEWR do any
monitoring to get an understanding of 457 visas, their popularity, any problems associated with them?

Mr Roddam: Only really in relation to labour agreements. We have an advisory role to the department of immigration on those, which are not the standard 457 visa program. But we do not monitor the standard 457 visa program beyond the reports from the department of immigration.

Senator ABETZ: What were they called—EMAs?

Mr Roddam: No, they are different again. They are our labour agreements.

Senator ABETZ: Have you been involved in any more of those in recent times—or how many do we have under consideration at the moment?

Mr Roddam: My understanding is that the department of immigration has received the Roy Hill one that everyone is aware of—

Senator ABETZ: Yes.

Mr Roddam: as well as three additional ones in Queensland.

Senator ABETZ: Roy Hill plus three others. And you have had input into the interdepartmental discussions about them?

Mr Roddam: We have, yes.

Mr Kovacic: Senator, I might just add that I have, on a regular basis, conversations with my equivalent over at DIAC where we canvass a range of issues of mutual interest, and occasionally, depending on the circumstances, issues going to 457 visas crop up in those conversations. For instance, the issue around the integrity measures that I mentioned before certainly would have been something that was discussed in my most recent catch-up with the deputy secretary there.

Senator ABETZ: Yes, the integrity measures came up in the most recent discussion. But, as I understand it from DIAC, integrity measures and concerns were not really on the agenda until Mr O'Connor became minister.

Mr Kovacic: I think issues of compliance have been an issue more generally in the community. There have been a range of media articles over a long period of time which highlight instances where 457 visa workers have been underpaid, and clearly they are matters for the Fair Work Ombudsman to undertake investigations and appropriate prosecutions.

CHAIR: Who has made the other three applications for EMAs?

Mr Roddam: My understanding from the department of immigration is that we are not able to name the companies due to commercial-in-confidence.

Ms Paul: It is probably a question for that portfolio. I do not think we could go there here.

CHAIR: So you know, but you are not allowed to disclose it—is that what you are saying?

Mr Roddam: That is my understanding.

CHAIR: On commercial-in-confidence grounds?

Mr Roddam: That is correct.
Senator ABETZ: Can you tell us how many employees potentially might be involved—even if you cannot tell us in each one—as a global figure in the three?

Mr Kovacic: I think that is a question for DIAC.

Ms Paul: I think that is probably a matter for the other portfolio, to be honest. If you want us to take it on notice for them—

Senator ABETZ: It is either in your knowledge or it is not. It is pretty simple stuff.

Mr Kovacic: But we do not know—

Ms Paul: I do not think we know.

Mr Kovacic: We would not have the numbers in our head.

Senator ABETZ: Would Mr Roddam know?

Mr Roddam: I do not have that information with me, no.

Senator ABETZ: Not the exact but the round figures?

Ms Paul: No. It sounds like we will have to take it on notice.

Senator ABETZ: You are answering for Mr Roddam, Ms Paul.

Ms Paul: No. I said it sounds like we will have to take it on notice. I am not answering for him.

Senator ABETZ: Yes, I know—hinting very much to an underling that he should be taking it on notice.

Ms Paul: No; I was repeating what he was saying.

Senator ABETZ: It is the game of estimates, but it is singularly unhelpful.

Ms Paul: That is not what I was doing.

Senator ABETZ: Mr Kovacic, you said that there were these reports in the media et cetera about problems with 457 visas. I do not know why you ventured into that, when a former ACTU chief and Labor Party elder statesman, Simon Crean, says, 'Give us the proof,' because basically there ain't any. He is challenging people to come up with the proof, and it has not been forthcoming. Yet we hear from the department that it has been through the media.

Mr Kovacic: There is a prosecution that I understand the Fair Work Ombudsman is currently undertaking. I think it is a matter involving a company called Pocomwell, where there are underpayments in respect of three Filipino workers, from memory. Similarly, there have been reports, perhaps 15 months ago, that I can recall where there were instances of alleged underpayments of people working in the building industry—similarly in the hospitality industry, chefs in some cases. There is one I recall in terms of a worker in Hobart, in your home state, who was here on, from memory, a 457 visa, where significant underpayments were involved. There have been reports over recent years which highlight instances where 457 visa workers have been underpaid, and those matters have invariably been investigated by the Fair Work Ombudsman and, in a number of cases, prosecutions initiated.

Senator ABETZ: Nobody has been denying that anywhere—

Mr Kovacic: And that is the point I was making.
Senator ABETZ: in this debate. The question is: why has it all of a sudden become an issue that Mr O'Connor deems needs to be addressed with such fanfare, with such inflated figures, of 10,000 cases? You can talk about three Filipino workers and then reach back 15 months to another case. These cases have existed—thank goodness on a relatively small scale. That is the evidence from DIAC. That is the evidence from the Fair Work Ombudsman. One case clearly is one case too many, but to basically make this into an emergency situation in circumstances where there simply is not the evidence—something which a former ACTU president, Simon Crean, is willing to admit himself—I am just wondering about the wisdom of the department seeking to involve itself in this politically charged issue. Has the department had discussions with the Fair Work Ombudsman about its funding needs if it were to take on an extra workload in relation to 457 visa breaches?

Mr Kovacic: I think there is a measure in the budget which provides the Fair Work Ombudsman with additional funding for its additional responsibilities as a result of integrity measures.

Senator ABETZ: Will that be enough?

Mr Kovacic: That is a question which is better directed to the Fair Work Ombudsman. My understanding is that the answer is yes.

Senator ABETZ: But we do not know what the problem is or how big the problem is.

Mr Kovacic: The additional responsibilities that the FWO is being charged with under the integrity measures are ensuring that the responsibilities that a 457 visa holder is undertaking are those which are assigned in their visa and ensuring compliance with the market salary framework. So clearly some of the conversations in which we were involved with FWO and DIAC went to the issue of the nature of the responsibilities as well as to the issue of resourcing.

Senator ABETZ: With these 457 visa issues, were you asked to give advice as to whether there were any pockets of the economy where they were being abused more than in other areas?

Mr Kovacic: I do not think we were asked to provide advice on that issue.

Senator ABETZ: This extra funding for the Fair Work Ombudsman—in calculating that, did you calculate how many more inspectors they would need?

Mr Kovacic: I think those questions of detail are better directed to the Fair Work Ombudsman.

Senator ABETZ: I thought you were involved in ensuring that the allocation was an appropriate amount of money.

Mr Kovacic: We were involved in discussions around resourcing issues. But, in terms of where they landed, I think the questions are better directed to the FWO.

Senator ABETZ: Parliamentary Secretary, is it the government's view that foreign labour temporary workers are fine in the country but should not be employed in urban areas? Is that a view which is shared by the government?

Senator Jacinta Collins: Not to my knowledge. To add some broader context to this discussion—because you asked a moment ago why this particular issue is an emergency—this government has sought to address issues around the employment of foreign labour. This is
one of the reasons we responded with the Seasonal Worker Program. In that case we also responded to concerns from the NFF about the nature of employment arrangements for such workers. But I would not want the fact that that program was developed and is operating to evoke a suggestion that there is an argument that such workers should only be involved in rural or regional areas.

**Senator ABETZ:** You might like to pass that view on to the Leader of the Opposition in Victoria. I will not go further on that one. Are we agreed that there are 29,000 457 visa holders—in rough terms?

**Mr Roddam:** In the country at any one time, you mean? I thought it was more like 100,000.

**Mr Kovacic:** That question is probably better directed to DIAC.

**Senator ABETZ:** I wanted to put to the Parliamentary Secretary that, even if it is 100,000, if there are 10,000 breaches—that would be 10 per cent of them being breached—I would have thought any government with a conscience about it would be very concerned and would treat it as an emergency. But clearly you discount that there is an emergency—

**Senator Jacinta Collins:** No, I suggested to you—

**Senator ABETZ:** which I therefore suggest means you discount that figure of 10,000 breaches that Mr O'Connor—

**CHAIR:** Come on. It does not mean anything like that.

**Senator Jacinta Collins:** Senator Abetz, it is getting very late in the day for you to be continuing this verballing behaviour.

**Senator ABETZ:** It might be for you—and I can understand why it is getting late for you, because it is hugely embarrassing—

**Senator Jacinta Collins:** No, it is not an embarrassing.

**Senator ABETZ:** to have a minister who has now basically been shown up as inventing the 10,000 rorts.

**Senator Jacinta Collins:** I do not think you have established that at all.

**Senator BACK:** He has admitted to it.

**Senator ABETZ:** Exactly. Thank you very much. Come in, spinner.

**Senator BACK:** He admitted those figures came out of his head.

**Senator Jacinta Collins:** That does not mean he made them up. He did make them up. He admitted to making them up.

**Senator Jacinta Collins:** I think that is your interpretation. I have not seen the reference that you are referring to, but I am certainly not going to take your interpretation of it as valid.

**Senator ABETZ:** Have a look at the ABC AM transcript of Friday, 3 May. You may find that Mr O'Connor, when he was pinged on this, ultimately raised the white flag.

**Senator Jacinta Collins:** Senator, if that was the case on 3 May, why have you occupied this committee all of today and yesterday on these questions if it was supposedly established on 3 May?
Senator ABETZ: Because I want to see whether or not he got advice that was incorrect from professional officials, and clearly he did not.

Senator Jacinta Collins: I think it more likely highlights the fact that what you claim was represented—

Senator ABETZ: Clearly, he did not.

Senator Jacinta Collins: on 3 May does not establish what you claim it does.

Senator BACK: I think the reality is that, when your brother gives you a few figures, it pays you to check them, Parliamentary Secretary, before you come out and announce them publicly.

Senator Jacinta Collins: I am sorry, but I do not accept your characterisation of what has informed government on these matters.

Senator ABETZ: Mr Simon Crean has come out and suggested the unions should be somewhat more careful. The government's approach is that if Australian workers are available they should be used, and I think everybody would agree with that. Is anybody able to advise as to what is happening in relation to the Chinese embassy being built?

Ms Paul: What is the question?

Senator ABETZ: As I understand it, no Australian workers are being used, and they are—

Mr Kovacic: I understood that the Chinese embassy was built several years ago and that—

Senator Jacinta Collins: I certainly did too.

Ms Paul: I think, in short, we do not know.

Senator ABETZ: Sorry—their new embassy.

Ms Paul: I do not think we are aware of this issue. I am not even aware that there is a new embassy.

Senator ABETZ: If this department has no information on it, that is fine. We will move on.

Senator Jacinta Collins: Where is the new embassy going, Senator Abetz?

Senator ABETZ: I have no idea.

Senator Jacinta Collins: Okay. Maybe it is to separate it a bit further from the parliament!

Senator ABETZ: Well—no, I will not say what I was about to! There are certain community organisations that are somewhat concerned about the funding that is being made available for childcare workers et cetera. Without going into the arguments to and from about that, I ask, first of all, whether this department was tasked with providing advice on the issue and the amount of money that might be required to deal with the promise of increased wages for the childcare and aged-care sectors, for example.

Mr Kovacic: The department certainly provided advice to government on the issues that were part of the government's Early Years Quality Fund.
Senator ABETZ: Right. So you provided advice. I am not sure if you have seen the United Voice advertisements and brochures in relation to this?

Dr Morehead: Yes.

Senator ABETZ: Dr Morehead has. Is the document correct, Dr Morehead, when it says:

2. United Voice negotiates a new EBA.
4. Get the raise.

Is that actually how it works?

Dr Morehead: No, it is not.

Senator ABETZ: How will it work? Do you have to join a union to be the beneficiary of this?

Dr Morehead: You do have to have an enterprise agreement. As you are aware, you do not have to be a member of a union to come under an enterprise agreement.

Senator ABETZ: Can you have an enterprise agreement without any union involvement?

Mr Kovacic: Yes.

Dr Morehead: Yes.

Senator ABETZ: Thank you. Has the department, being aware of this document, done anything to inform childcare centre workers of the mischief and misinformation in this document?

Dr Morehead: What is happening at the moment is that the government has made the announcement about the fund as part of the national quality framework. As you may be aware, there are some 67,000 long-day-care workers in Australia looking after half a million long-day-care children; and, as you would also be aware, they are mostly female and mostly fairly low paid. This fund is about recognising that once you have a certificate III qualification—

Senator ABETZ: I am aware what the fund is all about.

Dr Morehead: What we are in the process of doing at the moment is working out what we call the micropolicy details of how the fund is to be accessed but the eligibility criteria established to date and then there is a body being set up to work out the micropolicy details to it.

Mr Kovacic: I will just add to that and I use the EYQF advisory board recently announced by Minister Garrett. That will provide advice on the implementation of the fund, including the application and assessment process, as well as details on calculating grant-funding arrangements. In terms of the details, the outcome responsible for child care and early childhood learning in the department—

Ms Paul: Is on tomorrow.

Senator ABETZ: Yes.
Mr Kovacic: is on tomorrow. It is probably the more appropriate area to address this question to.

Senator ABETZ: That is why all I am wanting to work out here is the workplace relations detail that that which United Voice is asserting is incorrect, and Dr Morehead has indicated that that is the case, that workers can in fact access these potential pay rises albeit, I understand, if every childcare centre were actually to follow the advice of United Voice there would not be enough money, would there?

Ms Paul: The fund is aimed at raising the professional standards. So it is targeting the height of the professional standard. The purpose is not actually to go everywhere; the purpose is to target the professional teacher standards. We can say more on that tomorrow when those policy folk are here.

Senator ABETZ: Yes, but there is, what, $300 million available, is that correct?

Mr Kovacic: That is correct.

Senator ABETZ: If we were to divide that by how many childcare workers did you mention, again?

Dr Morehead: There are around 67,000 odd long day care workers. There are obviously many more childcare workers in the country, but we are talking about long day care centres because, as Ms Paul said, this is linked in with the national quality framework and it is about ensuring more appropriate wages for childcare workers who are looking after the half a million children that are in these centres. It starts for people who have got Certificate III, in terms of the wage increase. As Mr Kovacic said, there is an advisory board being set up that will decide the micropolicy details of eligibility for the fund and how the fund will be distributed. As Ms Paul said, any further questions you may have on that side of things could be asked tomorrow. What we can say about the announcement is that, yes, you have to have an enterprise agreement; yes, you have to at least a Certificate III qualification; and, yes, you have to be a long day care worker in a long day care centre.

Senator ABETZ: So not all workers will necessarily get a pay increase under this scheme?

Dr Morehead: That is correct. And the fund—

Senator ABETZ: So with this United Voice document, the fourth step is 'Get the raise'—new funding flows; workers get raise. It should be 'Some workers might get a raise'.

Dr Morehead: As Mr Kovacic pointed out, the advisory board will be deciding the micropolicy details. But as I have said, what has been announced by the government is what I have just run through.

Senator ABETZ: Why is there the requirement that there be an enterprise agreement?

Mr Kovacic: You need to have an instrument that is enforceable, in terms of delivering the pay increases and an enterprise agreement is the only way that you can do that.

Senator ABETZ: Right.

Senator BACK: When we do raise this tomorrow I will be keen to know what happens at the end of the two years. I think the $300 million is $135 million commencing on 1 July 2013 and $165 million on 1 July 2014. I will be interested to pursue what happens beyond the 30 June 2015.
Ms Paul: Presumably that will be a matter for government. The commitment at the moment—

Senator BACK: It certainly would be a case in which it would crank backwards.

Ms Paul: I am sorry?

Senator BACK: It would not be expected to be withdrawn at the end of 30 June 2015.

Ms Paul: I imagine our answer will be: that will be a matter for government. It is a two-year measure as it stands.

Senator BACK: For about a third of the people who are eligible.

Ms Paul: I am sorry?

Senator BACK: For about a third of the people who are actually employed in the sector now.

Ms Paul: I am not sure what the proportion will be.

Senator BACK: About one in three.

Ms Paul: As Dr Morehead said, the advisory group is going to determine the micropolicy and the guidelines. But the people tomorrow will have more detail on that.

Senator BACK: We will pursue it further tomorrow.

Senator ABETZ: I have an idea that some legislation may have passed through caucus today, but let us keep that aside.

Senator Jacinta Collins: Are you going to inform me on some more legislation?

Senator ABETZ: When the ACTU provides you with letters—sorry; I should say: when you get ACTU letters—

Senator Jacinta Collins: I was going to say, 'They provided you with letters?'

Senator ABETZ: When you get ACTU letters and caucus agendas, you know things are going bad in certain places. But, leaving that aside—

Senator Jacinta Collins: I am not sure an agenda necessarily tells you what has been passed by caucus!

Senator BILYK: Can we have it tabled so we know what it is?

Senator ABETZ: Getting an agenda with advice as to what has happened in relation to certain items is helpful, and we will see whether my source is right or wrong.

CHAIR: I think you are going to be disappointed.

Senator ABETZ: Well, I hope I will be.

Senator BILYK: You do not!

CHAIR: If it does claim what you claim it claims, it is not right. Anyway, keep going. It is not a matter for the committee.

Senator ABETZ: No, Chair, but I enjoyed the banter. The Fair Work Commission indicated some real issues in relation to the new regime for registered organisations with the 1 July start-up date—getting their new rules in place, et cetera. Has that been brought to the department's attention?
Mr Kovacic: We have had some conversations with the Fair Work Commission. I think the sort of evidence that Ms Carruthers, from memory, provided to the committee last night is perhaps a little more detailed than the conversations we have had. Needless to say, a number of other organisations have also raised some issues in terms of some technical issues going to the registered organisations act as well.

Senator ABETZ: So what are we going to do about it? They are not going to be ready by 30 June, are they—or 29 June? I think somebody corrected me when I was at estimates yesterday.

Mr Kovacic: Yes, 29 June is the date. Again, that is a matter for government.

Senator ABETZ: Parliamentary Secretary, can you shed any light on how the government is going to deal with this issue?

Senator Jacinta Collins: Nothing further than what was described to you last night. In part, it is an issue for the Fair Work Commission. With respect to the issue at government level, I would have to take that on notice.

Senator ABETZ: The Fair Work Commission, if I might say so, in the circumstances have done a pretty good job in a very tight time frame, which was another example of an announcement being made without thinking about the timetable and the consequences of the timetable and about how you can implement, in an orderly fashion, that which was being required of certain, in this case, organisations.

Mr Kovacic: I might add: those amendments to the registered organisations act were enacted probably around this time last year, and the provisions, in terms of commencement on 29 June, were 12 months after royal assent was received. There has been a process of developing draft model rules, and the department has engaged with participants since early this year around developing those. So the time frame is perhaps not as condensed as your comments might have suggested; I would just highlight that.

Senator ABETZ: Draft rules had to be developed, didn't they?

Mr Kovacic: Draft model rules were gazetted in April. They are there for the guidance of registered organisations. That does not preclude registered organisations from developing their own rules. They do not need to follow the model rules. It is just an option that is available for them.

Senator ABETZ: Yes but then, after looking at the draft rules, they seek to amend their rules, and send them to the Fair Work Commission to make sure they are compliant. They then have to give the requisite notice under their rules to their members to have those rules adopted. And, as you might imagine, two-and-a-bit months just is not sufficient time. Anyway, clearly the government is aware of it, and it is a matter for government, and that is where it remains.

In relation to the second-tranche legislation, are we satisfied that the states were given three months notice, as they are supposed to be given, of that proposed legislation?

Mr Kovacic: Clearly the intergovernmental agreement also provides scope for amendments to be progressed within the three-month time frame in certain circumstances. There were discussions with state and territory officials around the second tranche, so it was the 2013 amendment bill in March and further discussions in April at a meeting of the Select Council on Workplace Relations with ministers. There have been——
Senator ABETZ: I am just asking about the timetable. Was it within the three months? It is either yes or no.

Mr Kovacic: Certainly the consultations occurred within the three-month time frame, but as I—

Senator ABETZ: So within three months or not three months?

Mr Kovacic: Within the three months, but the intergovernmental agreement also envisages capacity for amendments to be progressed more speedily in certain circumstances.

Senator ABETZ: What are those certain circumstances, and how have they been met in this particular bill?

Mr Kovacic: I would want to remind myself of the precise words, but if I were just to generalise: in terms of urgent sorts of legislation.

Senator ABETZ: And there is real urgency in allowing trade union officials to enter lunch rooms? There is real urgency to allow union officials to jump onto helicopters to get onto offshore platforms?

Mr Kovacic: Senator, you would be aware from the panel's report that there were a number of concerns expressed by a number of employers around a number of issues to do with right of entry—for instance, the issue of frequency of visits. The amendment bill certainly responds to the panel's recommendation in that space. Arising out of the consultations that the minister had around those recommendations—

Senator ABETZ: Excuse me. I just used two specific examples and asked why there was urgency, and you deliberately ignored that and talked about other matters that are favourable to the government. Would you mind answering the question that was actually asked? What—

Ms Paul: You were asking about the timing all round of the package. Mr Kovacic is telling you some of the reasons why that package might have been seen as urgent.

Senator ABETZ: If I can finish, Ms Paul, I was asking about 'generally three months', then we were told it was not within three months but there were certain circumstances where you could—as I understood it, in urgent circumstances—cut that time short, and I accept that. I then asked what was urgent about two aspects of this bill for which one assumes the urgency clause is being relied upon to push this through without the full three-month consultation with the states.

Mr Kovacic: And I was just about to come to those two elements that you mentioned.

Senator ABETZ: You talked about all the other matters first. All right, thank you.

Senator Jacinta Collins: I think there was only one.

Senator ABETZ: If you can answer that which I actually asked, that would be helpful.

Ms Paul: There was only one and the other package.

Mr Kovacic: I would just reiterate what Ms Paul has said, in the sense that there were a range of issues that were raised with the minister by stakeholders, and there is a package of provisions in the amendment bill which go to the right of entry which seek to address both the panel's recommendations and concerns that emerged from the consultations that the minister had around the panel's report.
Senator ABETZ: And the answer to urgency for union bosses to be able to go into lunch rooms as a default venue is?

Mr Kovacic: Senator, some of these issues were canvassed in the committee hearing on the bill. The act provides for right of entry for discussion purposes during meal breaks or during other breaks. What the provisions in the amendment bill do is recognise that in the majority of circumstances that is by agreement—

Senator ABETZ: We know what the bill does.

Mr Kovacic: The evidence from the AiG at the recent House of Representatives committee hearing into the amendment bill put it in the order of about 90 per cent plus, from memory. It provides a mechanism, in those circumstances where agreement cannot be reached, that the default location is the lunch room. The logic of that is that, if the only time that officials can enter for discussion purposes is during a meal break or other, the lunchroom was a suitable default venue.

Senator ABETZ: Have you finished? The question was: what is the urgency? This issue has been around in the workplace relations space—of venues being set and determined—for a while. What is the urgency to make the lunchroom the default? That was the only question. I know all the arguments and attempted justifications for it. That is all good. But I want to know what the urgency is: why this provision could not be provided with three months consideration?

Mr Kovacic: The government saw the provisions in the bill relating to right of entry as a package of amendments.

Ms Paul: So the urgency relates to the whole lot.

Senator ABETZ: I see. So you have a bill where you claim urgency for one clause and then you just link everything else in and say, 'The whole lot is urgent.' Is that the excuse the government is using, Parliamentary Secretary?

Senator Jacinta Collins: Senator, if anything, you are doing what you seek to accuse Mr Kovacic of doing. You are trying to cherry-pick particular provisions when the government's position was quite clear. We were responding to recommendations in the review with respect to right of entry. There are a mixture of issues around right of entry. When we chose to move forward on right of entry, we chose a balance of those issues to respond to. To just pick aspects of it and say, 'What's the urgency of that one aspect?' is not a fair characterisation of the issue.

Senator ABETZ: Where did it come up in the review that the lunchroom should be the default venue? Nowhere—was it?

Mr Kovacic: I indicated that there are a number of issues that were raised in consultations that the minister had on the panel's report.

Senator ABETZ: The parliamentary secretary—

Senator Jacinta Collins: I said I would be pretty confident it was raised in a number of the submissions.

Senator ABETZ: No—you talked about the review and the review panel made no such recommendation. If it was raised in submissions, it is quite clear that the review panel did not adopt the suggestion in the submissions. Was it—
Senator Jacinta Collins: What I said the government was doing was responding to the review's recommendations with respect to right of entry. We did not say we were adopting every aspect and limiting our response to only aspects that the review panel made recommendations on. Our consultations have been broader than simply responding to the recommendations of the review panel.

Senator ABETZ: That is fair and reasonable but for the urgency clause that is being invoked to try to rush this through in circumstances where you are going a lot broader, casting the net a lot wider, and especially in circumstances where you and I know the Prime Minister promised, when she was deputy leader, in Forward with Fairness, that there would be no change to the right of entry rules and that, if you did not believe her, you could take her mother as hostage. That is how certain she was that no changes would be made. In those circumstances, can you just tell me what the urgency was?

Senator Jacinta Collins: I have explained to you in relation to a previous matter that the government's position has been upheld with respect to the Fair Work Act. We have subsequently commissioned a review of the Fair Work Act and the government is responding to recommendations from that review. Mr Kovacic has highlighted that there have been some concerns around the frequency of access to workplaces, which some may regard as an urgent issue. In responding to the review recommendations, the government chose to address the right of entry issue as a package. We are not arguing that every aspect of that package is an urgent matter for every aspect of the workplace relations community.

Senator ABETZ: But we are going to invoke the urgency clause, aren't we, for the whole package—

Senator Jacinta Collins: For the package—yes.

Senator ABETZ: in relation to matters that were not addressed by the review panel and did not have to be addressed and in absolute contradiction to what the Prime Minister herself promised when she was the shadow spokesman, that there would not be any change to the right of entry laws.

Senator Jacinta Collins: I do not accept that it is an absolute contradiction, Senator Abetz. What we instituted with the Fair Work Act, which is what the Deputy Prime Minister at the time would have been referring to, is what was in the Fair Work Act. What we are now doing is responding to recommendations of the review.

Senator ABETZ: When she was deputy leader, she was in fact referring to the regime in the Workplace Relations Act in relation to right of entry and that there would be no change if Labor were elected.

Senator Jacinta Collins: Yes, and there was not in the Fair Work Act.

Senator ABETZ: We know that there have been a huge number of changes in the Fair Work Act already, but now we are having these extra changes made using an urgency provision in the intergovernmental agreement. I still remain to be convinced where the urgency lies in relation to those two aspects of lunch rooms and providing transport and accommodation for union officials to visit people on the offshore oil and gas platforms.

Senator Jacinta Collins: And we could continue the same point for the next half an hour. Government has chosen to respond to the review recommendations by dealing with right of entry as a package.
Senator ABETZ: We know all that. Can you just tell us what the justification is for the urgency. That is the only question I am asking. Where is the urgency to give union officials access to lunch rooms?

CHAIR: The question has been asked several times now—

Senator ABETZ: And not been answered.

CHAIR: The answer has been the same each time—

Senator ABETZ: Which is non-responsive.

CHAIR: It is the answer. I understand that it is not the answer that you wish or that you are seeking, but it is an answer.

Senator ABETZ: It is not responsive.

Ms Paul: We have been responsive in the normal way—

Senator ABETZ: If they had a justification to tell us that union bosses were simply not able to get into workplaces anywhere in the country and therefore we needed this as a matter of urgency to redress a wrong then that is fine—

Ms Paul: The evidence is the urgency relating to the package.

CHAIR: It does not really matter to me. You continue to ask the same question and get the same response until 11 o'clock but—

Senator ABETZ: Believe it or not, I have got a few other questions before 11 o'clock.

CHAIR: Then let's move onto that.

Senator ABETZ: Once again, there is no real answer. On 8 March 2013, an article on page 1 of the Australian asserted:

Unions will be given greater ability to recruit non-union members in workplaces and force long-running intractable disputes with employers into arbitration under major changes to the federal workplace laws that will spark a backlash from business.

Forget whether it sparks a backlash from business or not. Were the two issues that are raised—intractable disputes and greater access—review panel recommendations?

Ms Paul: Didn't we deal with this in evidence before the dinner break?

Senator ABETZ: Yes, and I am just asking again. Is it?

Mr Kovacic: From memory, I do not think the panel made a recommendation of an intractable. Certainly, there was commentary in the report, but I do not think there was a recommendation. It was raised with the panel by a number of, I suppose, organisations, persons, that made submissions to the panel.

Senator ABETZ: With this currently, is there any limitation on the Fair Work Commission on how it deals and determines penalty rates?

Mr Kovacic: Ultimately, it is a decision for the commission to decide whether or not modern awards should include remuneration for working unsocial hours. I think, from memory, not all modern awards include provisions around penalty rates. But, clearly, the amendment bill includes a proposed amendment to the modern awards objective, which requires the Fair Work Commission to have particular regard to the need for additional information.
Senator ABETZ: I only asked at this stage whether there were any restrictions on the Fair Work Commission from applying or invoking penalty rates?

Mr Kovacic: As I said, the decision is a matter for the commission.

Senator ABETZ: That is right. That is the current situation. Whether a modern award includes a penalty rate provision, the extent of those provisions et cetera are all determined by the Fair Work Commission and there is nothing in the legislative framework that restricts that?

Mr Kovacic: Not that I am aware of.

Senator ABETZ: Can somebody explain to me what the urgency is in relation to this bill that is currently before the parliament. We did not get the three months notice, as is required by the Intergovernmental Agreement. Now tell us what the bill is going to do.

Mr Kovacic: I will start with the latter part. The bill will require the commission to have regard to the need for additional remuneration for people who are working unsocial hours, if I can characterise it generally in those terms. At the end of the day it will still be a matter for the commission to decide, based on the evidence, whether or not to include those provisions. But the provision will provide greater transparency in terms of arguably the commission having to be explicit in its decisions as to how it has given consideration to that particular issue.

Senator ABETZ: Unsocial hours in all the circumstances will be determined by?

Mr Kovacic: Well—


Mr Kovacic: That is right. I suppose these are arguably issues in terms of—

Senator ABETZ: Parliamentary Secretary, what was the urgency with this provision that we could not give three months notice, given that it is not going to change anything in any material way?

Senator Jacinta Collins: I would not accept that it is not going to change anything in any material way. I think—

Senator ABETZ: All right. If it does change things in a material way, don't you have a duty and obligation then to give the three months notice? You cannot have it both ways.

Senator Jacinta Collins: This provision will reinforce that the Fair Work Act will be able to deal with penalty rates and ensure that workers will have access to compensation for working unsocial hours. As you will recall, these were the very things that were at risk under the previous Work Choices regime.

Senator ABETZ: So you did not fix it for six years, and now, in the death throes of this parliament, you have to rush it through when it is not going to change anything.

Senator Jacinta Collins: We are determined to ensure that in the Fair Work Act these protections for workers are very clear. So, when Tony Abbott says, 'I will maintain the provisions of the Fair Work Act,’ he knows he is maintaining the provisions of penalty rates for workers. That is the urgency.

Senator ABETZ: Thank you very much. So it is the political imperative that has driven this for the government, not any concern for workers. It is as a propaganda mechanism against
the leader of the opposition, and that is why you could not afford the three months notice that you are required to provide to the other states.

Senator Jacinta Collins: No, that is not what I said. That is not what I said at all.

Senator ABETZ: It is absolutely what you said. Absolutely.

Senator Jacinta Collins: And in terms of it being the political imperative, you know the track record of the previous government. You know what happened to penalty rates under Work Choices. There is a very real and likely prospect that unless the current Leader of the Opposition accepts that penalty rates are a significant aspect of current aware entitlements they will be at risk in the future. A very real prospect.

Senator ABETZ: All very good propaganda, but you are spinning your wheels on this. You are not getting traction in the community.

Senator Jacinta Collins: You have got a track record. The coalition has form on this and you know it.

Senator ABETZ: Why wasn't this fixed up in the Fair Work Act, then, when it was originally introduced? If this was such an urgent burning matter that you were so concerned about, you have left it for six years and now say—

Senator Jacinta Collins: We have not left it for six years.

Senator ABETZ: When did you win government?

Senator Jacinta Collins: The provisions in the Fair Work Act preserved people's penalty rates. What we are now doing is reinforcing it, in bold, underlined, so that no future government can claim that they can fiddle with the edges of it whilst maintaining the Fair Work Act.

Senator ABETZ: When did Labor come to government? Was it 2007?

Senator Jacinta Collins: We came to government and introduced the Fair Work Act to preserve and protect workers' entitlements from the Work Choices regime that you and your colleagues introduced.

Senator ABETZ: The question was: when did you win government? Can we agree that was in 2007?

Senator Jacinta Collins: Yes.

Senator ABETZ: Can be agreed that we are now in the year 2013?

Senator Jacinta Collins: And after several backflips—

Senator ABETZ: Can we be agreed?

Senator Jacinta Collins: After several backflips, Mr Abbott has said he will maintain in general terms the Fair Work Act. We are making it clear so that everyone understands what those protections are in the Fair Work Act and that they include penalty rates.

Senator ABETZ: I assume that is an answer saying that we are in the year 2013. My maths tells me—if I take 2007 from 2013—talking six years; and no action was taken in this area—

Senator Jacinta Collins: There was no need to.

Senator ABETZ: There was no need to? Why not?
Senator Jacinta Collins: Because the Fair Work Act was introduced. We changed the regime from Work Choices, which you introduced, and now that Mr Abbott seeks to claim that he will maintain the provisions of the Fair Work Act, we are ensuring it is very clear to the Australian public that that includes penalty rates.

Senator ABETZ: You do realise that this was announced before we announced our policy, don't you?

Senator Jacinta Collins: As I said, Mr Abbott has done countless backflips on this issue. We have chosen to make it very clear.

Senator ABETZ: So, Mr Kovacic, can I ask you: you have indicated that some awards do not have penalty rates; will this change require that all awards will have penalty rates, or will it continue to be at the discretion of the Fair Work Commission to make that determination?

Mr Kovacic: What the amendment will require is for the Fair Work Commission to have particular regard to the need for additional remuneration to compensate workers for having to work unsocial hours and, depending on the evidence, it will be a matter for the commission to determine. But the issue is that the commission will have to have particular regard in maintaining modern awards to the need for additional remuneration.

Senator ABETZ: And can we think of—

Senator Jacinta Collins: Not all awards involve unsocial hours.

Senator ABETZ: Can we think of any Fair Work Commissioner that has not been operating under that basis? That was how the Fair Work Commission has been acting and before it the Australian Industrial Relations Commission—

Ms Paul: But it will now be in the act of course. That is the point.

Senator ABETZ: The Australian Industrial Relations Commission has had the discretion of when to apply penalty rates, in what circumstances and how much they ought to be. That has been part of the regime. So the Fair Work Commission will continue to have absolute discretion.

Mr Kovacic: That is correct. What I said a moment ago was that there will be an explicit obligation on the commission to have regard to that factor, and I think that will lead to greater transparency because it will need to indicate in its decisions how it has had regard to that factor, to that obligation.

Senator ABETZ: Great urgency attached to allowing the commission to keep doing that which it—

Mr Kovacic: I might also add just generally in terms of the Fair Work Amendment Bill, the department had a number of consultations with state and territory officials around the provisions in that bill. It subsequently had continuing conversations particularly around how the bullying provisions in that bill will be operationalised, involving work health and safety regulators from all of the jurisdictions together with the Fair Work Commission. I think from memory we met at least three or four occasions before the introduction or around the introduction of the amendment bill with states and territories—

Senator ABETZ: But it was not within the three months, and urgency is being claimed. As we have already indicated, as a coalition, we do not object to those provisions; because
that actually confirms that which the Fair Work Commission has been doing and will continue to do. So the coalition actually supports this provision. All I have been trying to explore is: where is the urgency, given that it is ultimately going to be status quo, the Fair Work Commission, absolute discretion—it had before and now it is going to continue to have that discretion, but they are being told—

CHAIR: There is unanimous agreement about supporting the bill.

Senator ABETZ: Other than the urgency issue.

Mr Kovacic: The other point I would make—

Senator ABETZ: Other than the urgency issue.

Mr Kovacic: Bear with me. It certainly applies in respect of those elements of the bill that respond to specific panel recommendations. The consultations in—

Senator ABETZ: Oh, look—

Mr Kovacic: Bear with me—

Senator ABETZ: No, look—

Mr Kovacic: Consultations around the panel's report, in terms of states and territories, date back to July of last year. That, by my calculations, is a period, going through to February, of about six or seven months.

Senator ABETZ: Yes, but you cannot use the excuse that some things were out of the panel review, which people had notice of, and, as a result, we are going to whack in a whole lot of other things which have no urgency attached to them, but we are still going to deal with these matters without giving the three months notice.

Ms Paul: We are simply trying to round out our evidence by offering some comfort that we actually have consulted reasonably intensively, albeit within a certain time frame.

Senator ABETZ: Well, with a compulsory arbitration aspect, I think we know what the government's policy position is and their legal advice is. We shall see what is in the legislation. Do you want to take a break, Chair?

CHAIR: Why don't we go to the break now.

Proceedings suspended from 20:41 to 20:57

CHAIR: We will now resume our questions of the department in outcome 4.

Senator ABETZ: In relation to the bullying provisions that are in this second tranche bill, they are supposed to come into being on 1 July 2013?

Mr Kovacic: That is correct.

Senator ABETZ: The legislation has not passed the parliament?

Mr Kovacic: That is correct.

Senator ABETZ: The earliest that it could pass would be 17 June?

Mr Kovacic: That is correct.

Senator ABETZ: That gives us less than 14 days for the Fair Work Commission to advertise and appoint staff and tribunal members, and for forms to be made ready, et cetera. Can somebody tell me how all that is going to work?
Mr Kovacic: There are two elements to this. I mentioned previously that we have worked with FWC and had a number of consultations with states and territories around how the commission will operationalise the bullying provisions. My understanding—and Ms Emery will add to this—is that those arrangements are well advanced. I am also mindful of the evidence that the commission gave last night when you asked the same question which was, if I were to paraphrase it, that it will be extremely tight. There has been a lot of work done by FWC, informed by, I think, three series of consultations with states and territories around how the arrangements will be operationalised, and which draws on the lessons from, particularly, work health and safety regulators within their own jurisdictions.

Senator ABETZ: I understand that some of the states and territories are reluctant to cooperate because there will be the overlap between the federal regime and the state regimes and, as I was advised yesterday, the same behaviour potentially can be prosecuted, after 1 July, through the amendments to the Fair Work Act, at the same time as the same set of facts are being determined through a state based authority.

Mr Kovacic: I will make two comments in that regard. One is that all of the jurisdictions, where they have been available, have participated in the conversations that I mentioned a moment ago. We have reiterated on several occasions, in those conversations and before this committee, that the workplace bullying provisions in the amendment bill complement rather than supplant the work health and safety provisions.

Senator ABETZ: That is the sales pitch; I understand that.

Mr Kovacic: In terms of your—

Senator ABETZ: Others say it confuses, it duplicates, and—

Mr Kovacic: In terms of your comment, it is true that somebody will be able to progress matters both under the provisions in the amendment act, if it is enacted, and through the work health and safety regulations. But one of the issues that the commission is required to have regard to, in considering whether or not to make an order, is the extent to which those sorts of—well, I suppose I would refer you in particular to clause 789FF(2) of the Fair Work Amendment Bill 2013:

... the FWC must take into account:

(a) if the FWC is aware of any final or interim outcomes arising out of an investigation into the matter that is being, or has been, undertaken by another person or body—those outcomes; and

(b) if the FWC is aware of any procedure available to the worker to resolve grievances or disputes—that procedure; and

(c) if the FWC is aware of any final or interim outcomes arising out of any procedure available to the worker to resolve grievances or disputes—those outcomes; and

(d) any matters that the FWC considers relevant.

Senator ABETZ: I was told yesterday, and I do not think you dispute, that the same set of facts can be, if I can use the term, litigated or pursued through both the federal and the state channels at the same time.

Mr Kovacic: And I have said that a moment ago.

Senator ABETZ: Yes.
Mr Kovacic: But clearly, to the extent to which they are, they are considerations that FWC needs to have regard to, in terms of contemplating whether or not to make an order.

Senator ABETZ: Let us say that somebody feels aggrieved of a morning; what is there in the provisions of this bill to stop them from steaming into the Fair Work Commission that lunchtime and filing proceedings?

Mr Kovacic: I suppose there are two things. When you look at the definition of 'bullying' in the bill, not only is it consistent with what was recommended by the House of Representatives committee but it involves repeated behaviour towards the worker or a group of workers and that behaviour creating a risk to health and safety. So it needs to be repeated behaviour, and the behaviour itself needs to create a risk to health and safety.

Senator ABETZ: So what are going to be the checks on filing to ensure that that is the case?

Mr Kovacic: I think those sorts of questions are better directed to the Fair Work Commission.

Senator ABETZ: They do not have forms. They do not have staff appointed yet for the registry. They do not have tribunal members to deal with the issues yet.

Mr Kovacic: What I can say is that, in terms of the conversations that have been had with FWC and the regulators, if I can put it that way, in terms of operationalising, a key issue—and a point that was made by regulators—is that triage is an important dimension, in terms of how I understand FWC is likely to operationalise it. There will be a focus on exploring some of those issues, where somebody contacts FWC around a potential application, as to whether there are grievance procedures within the workplace and whether they have exercised those. Those sorts of factors will all be, I think, canvassed with potential applicants.

Senator ABETZ: But there is nothing stopping somebody from filing proceedings in the circumstances I outlined: they feel aggrieved of a morning and steam down to the Fair Work Commission at lunchtime and file a proceeding. It might get knocked out during the hearing process, but it was only once or twice and therefore not repeated or that the activity was not sufficient to—

Mr Kovacic: The commission's powers to dismiss vexatious or frivolous claims remains unaffected by any of the provisions in the amendment bill.

Senator ABETZ: That is why the coalition has suggested as policy, Parliamentary Secretary—

Senator Jacinta Collins: I am sorry?

Senator ABETZ: That there should be a filtering process so that these matters can be filtered prior to an application actually being lodged. Has the government considered that? Even Professor Ron McCallum thought it was a good idea.

Senator Jacinta Collins: Yes, and I think you will find that Fair Work Commission also thinks that it is a good idea, and I would envisage those sorts of matters would be encompassed in their arrangements when they develop the rules.

Senator ABETZ: That is interesting because if they are going to be developed in the rules, the Fair Work president told us that he had doubted there would necessarily need to be
any rules made for bullying when I asked about—to use your term Mr Kovacic—the extremely tight timetable.

**Ms Paul:** Perhaps that is because they already—

**Mr Kovacic:** Clearly, the bill envisages a process where the commission is required, if the provisions are enacted, to commence to deal with an application within 14 days. The expectation is that there will be what I might describe as 'administrative' staff that might start that process in establishing what might best be described as 'fact gathering'.

In terms of a scenario that is the premise of your question: firstly, I do not envisage that meeting the definition of bullying. But again, I reiterate that the provisions in the act, which are general provisions available to the commission to dismiss vexatious or frivolous claims, are unaffected by any of the amendments proposed in the amendment bill.

**Senator ABETZ:** Yes, but you see this is one of the issues that people can still file without going through a filtering process where they might be told, 'The circumstances in which you complain do not amount to bullying, and therefore you shouldn't be preceding to filing an application'. But we were told—and this is a figure that I think was plucked out of thin air—that they were expecting about 3½ thousand applications per annum relating to bullying.

**Mr Kovacic:** I am not sure that I would characterise that figure as being plucked out of the air. It certainly was premised on—

**Senator ABETZ:** Tell us the science behind it.

**Mr Kovacic:** I will reiterate what Ms O'Neill indicated last night, that the Productivity Commission in its report on bullying estimated the number of bullying incidences at the bottom end of the range. It was in the order of 350,000. Drawing on the commission's experience in the unfair dismissal jurisdiction—where about one per cent of employees make unfair dismissal claims—that was applied to the 350,000, which gives you the figure of 3,500.

**Senator ABETZ:** The commission needs to deal with these issues within 14 days of filing?

**Mr Kovacic:** It needs to commence dealing with them within 14 days.

**Senator ABETZ:** So, I assume that somebody who has been subjected to bullying prior to 1 July could file a matter on 1 July, and then the Fair Work Commission—without any staff; without any staff being trained; indeed, without tribunal members even being trained in how to deal with bullying matters; without registry staff being trained—would have to deal with them by 15 July. How is that going to work?

**Mr Kovacic:** But, Senator, those—

**Senator ABETZ:** If people are going to be appointed to these positions on the basis of merit, on the basis of capacity, then trained et cetera, how is all this going to happen in the 13 days—and that is the very most that there will be if it goes through the Senate on the 17th and the Governor-General signs off on it on the very same day, which is doubtful. Given the government the benefit of the doubt, 13 days to get all this into place is just is not going to happen, is it?

**Mr Kovacic:** Those questions are probably better directed to FWC.
Senator ABETZ: We did ask a number of questions there. I just want to know, from a government point of view, Parliamentary Secretary: is this another announcement that was not thought through with a proper timetable—

Senator Jacinta Collins: No.

Senator ABETZ: If you had said, for example, 'Give it another six months so that the commission can get its tribunal into place, the staff into place, the training into place, the forms into place and look at alternative dispute resolutions as a filter et cetera,' the chances are it would be looking a lot better for the government, I would have thought.

Senator Jacinta Collins: I did not hear either the president or Ms O'Neill say yesterday that they did not think that they would be able to cope with applications as they came forward. I did hear them say that some of their existing staff are already trained in dealing with issues associated with bullying. I will look at the record again, but that is my recollection from yesterday. I was assured from the evidence we heard yesterday that they will be able to build up to deal with cases as they start commencing.

Senator ABETZ: The definition of a worker in this bill includes contractors and subcontractors—

Mr Kovacic: That is correct. It reflects the definition of 'worker' in the work health and safety legislation.

Senator ABETZ: And it includes union officials?

Mr Kovacic: In terms of it could be any visitor to the workplace. It could be a client, it could be a union official—

Senator ABETZ: A customer as well?

Mr Kovacic: Yes.

Senator ABETZ: Would expletive-laden emails going around the workplace potentially be seen as bullying?

Senator Jacinta Collins: It needs to be repetitious, if I recall correctly from yesterday.

Mr Kovacic: And a threat to work health and safety.

Senator ABETZ: Yes. Is it the government's view, Parliamentary Secretary, that, if you want equality in this country, laws need to be broken?

Senator Jacinta Collins: Sorry, Senator, I am waiting for a bit more context to the question.

Senator ABETZ: Is it the government's view that laws need to be broken if you want equality in this country?

Senator Jacinta Collins: I am still waiting for context before I respond to a question like that.

Senator ABETZ: I would have thought that any government worth its salt—

Senator Jacinta Collins: Equality in what respect?

Senator ABETZ: Equality. It is clear that former union officials just have great difficulty in saying to the WA branch of the MUA that that sort of language is unacceptable. So you are following the line of the minister, Mr Shorten, who addressed the MUA conference. Did the
department have any input into the minister's speech when he went to the MUA conference which was titled '140 years of militant struggle'?

Mr Kovacic: I do not think so, but I will take it on notice to confirm one way or the other.

Senator ABETZ: If you could, that would be very helpful. And whether the department is aware whether, whilst the minister was over there, he took the opportunity to distance himself from the WA branch secretary, Chris Cain, who said:

Laws need to be broken, you’re going to get locked up. Because if you want equality in this country, you need to take action.

That is the man with whom the minister shared the stage. I still do not know or have not seen anything where the minister has said that he does not condone it, let alone does not condemn it. If he did, that would be good. If my attention could be drawn to that, I would be obliged.

Mr Kovacic: We may have some difficulty with that in the sense that officers were not present at that conference. Confirming that might be a bit difficult for us, but we will see what we can do.

Senator ABETZ: If you were not involved in his speech, that is fine. Sometimes ministers are known to issue press releases to condemn certain behaviours that do not get traction in the media, but they are usually posted on the ministerial and departmental websites.

Mr Kovacic: We will see what we can do.

Senator ABETZ: That would be helpful to know. I have been asking questions about the cost impact of strikes and industrial action taken. We are told that the statistics are undertaken by the Australian Bureau of Statistics. That is fine. When the Australian Bureau of Statistics tells us that, in 2012, 273,200 working days were lost due to industrial disputes, does anyone in the department then say, 'The average wage is … and we then multiply that by the days lost to determine what the actual cost to the economy is'?

Mr Kovacic: We do not.

Senator ABETZ: Do you know anywhere in government where that project is undertaken? I would have thought the cost of industrial action to the economy and to the nation might be something the government would wish to inform itself about.

Mr Kovacic: I am not aware of anywhere in government that undertakes that.

Senator ABETZ: Does anybody do the calculation of the number of working days lost to translate that into the number of full-time annualised workers—how many years are lost?

Mr Kovacic: No, not that I am aware of.

Senator ABETZ: You do not think that might be helpful in framing workplace relations legislation—

Mr Kovacic: For a long time, commentary or discussion around industrial disputes data has relied on the ABS data. That is something that dates back perhaps as long as I can remember. It is based on survey information that the ABS undertakes. I am not aware of it.

Senator ABETZ: That is the raw data, but then finding out what the actual cost is to the economy—

Mr Kovacic: All I can do is reiterate: I am not aware that anybody does it. It has been long-standing practice that any public commentary on industrial disputes data focuses on the
number of working days lost per thousand employees or the total number of disputes and days lost. I do not think that any government of any political persuasion has sought to cost that in any way.

Senator ABETZ: I daresay the figure would be increasingly embarrassing in recent years. Let me turn to the Building Code and the reason that there was no regulatory impact statement provided for that. We canvassed that at the last estimates. I was told by the department that the Office of Best Practice Regulation had basically said that everything is good and that it was not necessary to have a regulatory impact statement. Just by way of background, I could not believe that the Office of Best Practice Regulation could have come to such a conclusion given what the coalition saw as being a problem with the Building Code—the uncertainty as to the status of current projects; that it now mandated compulsory arbitration clauses to be included in all enterprise agreements entered into by participants; that there would be some enterprise agreements previously assessed as being code-compliant that do not contain such clauses; that the new provisions in the code are attempting to exclude state building codes; impose additional obligations on participants; Commonwealth and state regimes would come directly into conflict; arrangements to comply with the Victorian state code would render the contractor in breach of the Commonwealth code; and sanctions for breach of the code include exclusion from Commonwealth projects in the future—and so the list goes on. So I wrote to the Office of Best Practice Regulation, saying 'How on earth, in all the circumstances, could you have come to this decision?' There it was in the third paragraph of their response to me: 'The OBPR bases its assessment of whether a proposal is likely to have an impact on business or the not-for-profit sector on information provided by the department developing the policy.' Writing to the OBPR, you do not advise them of all the real practical on the ground consequences and you just tell them, 'Look, these are just minor administrative changes', and the department informs the OBPR that the proposed changes were likely to have only a minor impact. Based on this information, the OBPR assessed that an RIS was not required as it was likely to have a—guess what—minor impact on business. I am just parroting the words from the department.

Ms Paul: Are you going to table that letter for our assistance?

Senator ABETZ: I am happy to. It is a letter from Mr McNamara, albeit it is scribbled on. Let me have a quick look at it. If I would have had the opportunity to go to OBPR estimates, I would have asked them whether they were simply the ventriloquist for the department because that seems to be all they achieve.

Ms Paul: We certainly have not found that in the past.

Senator ABETZ: Other than that, it is a 2 May letter—

Mr Kovacic: I am aware of the letter.

Senator ABETZ: You are aware of the letter.

Mr Kovacic: Yes.

Senator ABETZ: This is an issue, is it not, that really comes back to Australian Public Service values about providing frank, honest, comprehensive, accurate advice, and does not that also apply to your fellow agencies that you give a full and proper account of what you are actually doing?

Mr Kovacic: We did.
**Senator Jacinta Collins:** You are achieving that was not the case, Senator Abetz. I suggest you give Mr Kovacic the opportunity to respond to the OBPR rather than verbal him.

**Mr Kovacic:** We did that. I reiterate the point that I think I made at the last estimates that in creating a building code, the intent and the outcome was to codify the pre-existing implementation guidelines. For instance, one of the points that you alluded to was in terms of the dispute settling procedure requirement. That was a pre-existing requirement of the 2012 guidelines and the changes in language were largely to either clarify the intent of particular provisions or, alternatively, were as a result of taking what was an administrative document and putting it into a legislative form. In terms of the issue of the advice we provided to OBPR, I stand by the fact that it was an accurate description of what was involved, and I highlight questions that Senator Sinodinos asked of Mr McNamara at Finance estimates last week where:

**Senator SINODINOS:** Without treading on the agency's toes, do you in effect try to check out their story by checking, for example, the extent to which they have consulted with other bodies, stakeholders and people outside with an interest in the matter?

**Mr McNamara:** Yes. One of the bits of information that we would ask for, as a general idea, is: what do you think the impact on business is going to be? And this happens in the RIS process, not just the preliminary assessment process. If agencies are saying to us, 'This is not going to have much of an impact on business; business is not going to be affected,'

This is the important bit:

...if we do not necessarily agree with that proposition, one of the things we would often do is ask them to quote from business groups or reassure us that they have consulted on that position and that position is agreeable to the relevant stakeholders. That is one of the things we often do.

Clearly, OBPR pushes back where they do not agree and that it is clear in the evidence of Mr McNamara provided. The fact is the department consulted extensively with stakeholders in developing the 2012 guidelines and, given that the building code was nothing more than a codification of those guidelines, it was not considered necessary to consult again, nor was there any dramatic change which was reflected in our advice to OBPR that the changes were of a machinery nature.

**Senator ABETZ:** A major stakeholder—and I will not mention their name—has written to me saying, the suggestion of the minister is that all we have done is make as a regulation something that has been in the guidelines of the Commonwealth since May of last year. The stakeholder says that is not true.

The code introduces a range of new issues. Top of the list is the matter that the new code introduced a provision, clause 18(2), that appeared to be specifically aimed at Victoria's construction policy, which New South Wales had flagged it would follow and later did. A building contractor must not refuse to consider a bargaining proposal on the ground that the third parties indicated:

(i) it will not procure services from a person covered by an industrial instrument that contains a provision of a particular type; …

Now, this is from a very respected major stakeholder which simply says that the assertion by the minister was untrue, and that it has had significant impact in the building sector.

The other feedback I have had about the issues in Victoria are just legion, and for you to sit there saying that you consulted with stakeholders, there was not a problem there at all and that
it was minimal does not reflect the view of somebody who I think we could both agree is a major stakeholder that—

Senator Jacinta Collins: Well, we would not know, because you have not identified the stakeholder to whom you are referring and in the absence of doing so I do not think you should be talking to officers about sitting there and representing a position.

Senator ABETZ: Well I have read out the fundamental proposition that it is now in conflict with a Victorian code, and it was designed to deal with that issue, and—

CHAIR: In fairness, you did suggest to the parliamentary secretary that we would both agree that this is a major stakeholder, and I think that Senator Collins is quite right in saying, 'How could we agree when we do not know who that is?'

Senator ABETZ: Look, if we want to play those games: fine. Of course.

Senator Jacinta Collins: We are not playing any games here, Senator Abetz. You are making assertions from an anonymous sources.

Senator ABETZ: Of course, of course.

Mr Kovacic: Senator, can I—

CHAIR: Senator, you are putting to the parliamentary secretary that she agrees that this person is a major stakeholder. How could she when she does not know who they are? I am just pointing out the obvious.

Senator ABETZ: Yes, as did the parliamentary secretary. And you know, I would be surprised if this stakeholder had not been in touch with the minister and the department. But look, I will leave it there.

Ms Paul: We should comment though, on the matter—

Mr Kovacic: I was just going to make the point that the department conducted a briefing session with key stakeholders, which involved representatives from Master Builders Association, the Australian Industry Group, the Australian Constructors Association and, from memory, the National Farmer's Federation as well?

Mr Edwards: No, it was Civil Contractors.

Mr Kovacic: Civil Contractors.

Senator Jacinta Collins: HIA.

Mr Kovacic: Yes, HIA as well as—

Mr Edwards: About a dozen.

Mr Kovacic: About a dozen key stakeholders in developing a series of fact sheets, which are available on the department's website. There was an opportunity for input into those fact sheets. Indeed, that was something stakeholders sought the opportunity to comment on before they were finalised. We certainly worked with them in developing those fact sheets.

Senator ABETZ: But see, talking at them is not the same as consulting.

Ms Paul: We did not say we did talk at them. We always listen to stakeholders.

Senator ABETZ: I have now just been advised that the stakeholders—

Mr Kovacic: But Senator—
Senator ABETZ: Excuse me. The stakeholders include the NBA, AiG, Victorian government and ACCI that have made these claims, now publically. The one that I was reading from, it is one of those—but I am not going to personally identify that one. But I think now, Parliamentary Secretary, that we can agree that the NBA, AiG, Victorian government and ACCI, are all major stakeholders. I hope we can be agreed on that, and can I simply say that what I read out from was from one of those four.

Senator Jacinta Collins: Well then, I can probably quite easily guess which one of the four it was; it has a highly politicised position on this issue.

Senator ABETZ: Well see: now you are doing exactly that which you complained of before, about myself and can I tell you—

Senator Jacinta Collins: I am sorry, I have been provoked by your behaviour and I apologise.

Senator ABETZ: You are wrong because it was not the Victorian government, and—

CHAIR: And now we have to try again. Now, this is what estimates is all about. If we keep going, we will narrow it down to one.

Senator ABETZ: In relation to union right of entry laws, is it correct that a union has a right of entry in circumstances where a union's own rules establish that it could represent someone?

Mr Kovacic: Provisions in the act enable right of entry where they have neither members or employees eligible to be covered by the relevant organisation.

Senator ABETZ: So ultimately the right of access will be determined by the breadth of a union's own rules.

Mr Kovacic: That was an important thing that flowed from the move from awards from being respondency based instruments to effectively being common rule instruments.

Senator ABETZ: Thank you for all of that, but I was just wanting to have the answer and the answer is that the union's own rules will determine the breadth of their right of entry potential.

Mr Kovacic: I was just checking with staff where representation orders might be in existence and whether that impacted on the right of entry. That might be the only limitation.

Senator ABETZ: So in the end the Fair Work Commission is required to grant access orders where a union's own rules establish that it could represent someone? That is correct, isn't it?

Mr Kovacic: Right of entry is exercised by permit holders subject to meeting the requirements in the act. The Fair Work Commission issues the permit to eligible representatives of registered organisations so I think it is a case of, once you have the permit, the scheme of the act enables you to exercise that right of entry. The permit is issued by the Fair Work Commission.

Senator ABETZ: To individuals?

Mr Kovacic: Correct.
Senator ABETZ: I was not asking about the permits. The Fair Work Commission is required to grant access orders where a union's own rules establish that it could represent someone. That is correct, isn't it? We do not have to talk about permits and other things.

Mr Kovacic: That is correct. I will come back to that issue that I touched on before where the commissioner has issued a representation order at a particular organisation can represent workers. Where there is a representation order in place, other organisations that may be eligible to cover employees at that workplace would not be able to exercise the right of entry.

Senator ABETZ: The answer to the previous question remains the same?

Mr Kovacic: That is correct.

Senator ABETZ: Can I ask the government whether it is concerned about reports of bikie influence, bikie involvement in the CFMEU in Victoria in particular?

Senator Jacinta Collins: I cannot speak for the minister, other than to say I am concerned about such reports.

Senator ABETZ: You are. That is good. How has the government expressed those concerns?

Senator Jacinta Collins: This is what I will need to take on notice.

Senator ABETZ: I think you might find a dearth of media releases on that one. I move on to the International Convention on Child Labour. Have we ratified that one?

Mr Kovacic: No, it is currently being considered by the Joint Standing Committee on Treaties.

Senator ABETZ: So whose idea was it that this should be exhumed or got out of mothballs because this convention, as I understand it, has been around for a long time?

Mr Kovacic: It is the only one of eight fundamental conventions that Australia has not ratified.

Senator ABETZ: Well, you describe it as fundamental.

Mr Kovacic: No, it is designated by the department. It is internationally recognised that there are eight fundamental conventions. This particular convention is but one of eight.

Senator ABETZ: That might be the jargon. When did this convention commence?

Senator Jacinta Collins: While the officers are looking up the details of that answer, I think I should elaborate on Mr Kovacic's statement. The ILO has been going through a process of auditing compliance with what they have regarded as the eight fundamental conventions. Whilst this convention might, as you said, have been in mothballs for some time, there is a process that the International Labour Organisation is going through to audit the progress of member countries with respect to what they have identified as fundamental conventions.

Senator ABETZ: How long has this convention been around for?

Ms Williams: This convention was adopted by the ILO in 1973.

Senator ABETZ: So this is a convention that the Fraser government and the Howard government did not ratify.

CHAIR: The Whitlam government should have started it back there.
Senator ABETZ: Exactly. The Rudd government did not, the Keating government did not, the Hawke government did not and not even the Whitlam government did. That was for very good reasons, I understand. What has been this great light bulb moment that makes us consider that which was rejected by the foreign affairs guru Prime Minister, Mr Rudd, by the union guru Bob Hawke and the man who loved the international stage, Gough Whitlam. They all did not see the desirability of signing up to this convention and now, in the death throes of this parliament, some are saying this government, ‘We are rushing to sign up to this ILO convention.’ Can you explain?

Senator Jacinta Collins: I think I have in part explained by explaining the process that the ILO has been going through.

Senator ABETZ: Yes, but that does not make it a good idea.

Senator Jacinta Collins: I am sure that Mr Kovacic can elaborate on what the requests have been to Australia with respect to that process that the ILO is conducting.

Senator ABETZ: Just because the ILO has been doing an audit does not mean that it is a good idea for Australia. We can be here all night hearing about what the procedures are from the ILO. I am not interested. What I want to hear is: what are the policy reasons, what are the benefits to Australia for us signing up to this ILO and why this change of mind? That is a policy matter and I ask if you can explain it.

Senator Jacinta Collins: You have two options. You can allow Mr Kovacic to respond in more detail about the factors that the government has considered in what I just outlined to you or I can take it on notice directly for the minister because this is not a matter that I am dealing directly with.

Senator ABETZ: In that case, take it on notice because I fear what I am going to receive by way of answer if it is not taken on notice. Can I ask about Minister Gary Gray’s comments about wage demands hitting big energy projects. That was on 27 May. Does the government agree? Is that government policy? Is concern being expressed that unions need to be mindful of making unreasonable wage demands that are not linked to productivity?

Senator Jacinta Collins: Without more context than your referring to some comment that Gary Gray may have made around energy projects, I am not in the position to give you an informed government response.

Senator ABETZ: You are not aware of Minister Gray's comments in relation to that?

Senator Jacinta Collins: No, I am not.

Senator ABETZ: Let us try the member for Batman, Mr Ferguson. Mr Ferguson warns power strikes will cost jobs. Are you aware of those comments?

Senator Jacinta Collins: No, I am not.

Senator ABETZ: I have a greatly briefed government and parliamentary secretary here. So we do not know whether these gentlemen are saying actually represents government policy because the parliamentary secretary does not inform herself. So, does the government believe that the MUA seeking 26 per cent over four years is a good move? Is it within the bounds of what the government believes are sensible wage negotiations?

Senator Jacinta Collins: I will take it on notice.

Senator ABETZ: Unable to tell us?
Senator Jacinta Collins: Well, I am not going to respond for the minister in relation to brief references to a variety of different statements in relation to a variety of different policy areas.

Senator ABETZ: But these are not statements. They are a fact that the MUA is seeking a 26 per cent increase over four years. But the government has no view on that?

Senator Jacinta Collins: I did not say the government had no view.

Senator ABETZ: All right, is unable—

Senator Jacinta Collins: I said that I would take it on notice.

Senator ABETZ: Is unable to express a view at budget estimates on that. Now, the supporting paid leave for living organ donors which was announced in April of this year: was the department consulted in relation to this announcement? It was made by the Minister for Health and Ageing and the Parliamentary Secretary for Health and Ageing.

Mr Kovacic: I am not aware that we were, but I will take it on notice to confirm.

Senator ABETZ: Right, because clearly that will have employment implications and cost implications. Look, on the face of it it looks like a lovely idea, but unless we actually know what the cost and dislocation to business might be it might be difficult to make a proper assessment of it. Now, 1.3 million dollars was committed to this over two years for a trial. But you have not had any input into how this figure was arrived at?

Mr Kovacic: I am not aware of it, but I will take it on notice.

Senator ABETZ: Right. So the salary will be based on the national minimum wage and paid to employers, who will then pass the money on to donor employees. Why it does not go straight to the worker, I do not know. Anyway, you were not consulted so you cannot assist us.

Senator Jacinta Collins: No, I think Mr Kovacic said that he would take on notice whether the department was consulted. It is not to his immediate knowledge.

Mr Kovacic: I am not aware of this—

Senator ABETZ: All right. Is there anybody in the body of the room—

Mr Kovacic: I asked officials because I certainly was not consulted.

Senator ABETZ: Yes. And there is nobody in the room.

Ms Paul: No,

Mr Kovacic: Which is why I want to take—

Senator ABETZ: So chances are, nobody was—but we never know. There have been a few changes made to the unfair dismissal regime that was in the first tranche, and also some rule changes. Has the department monitored that at all to ascertain whether they are working as expected? Or is it too early to tell?

Mr Kovacic: I know that there is a requirement in terms of the Fair Work Commission and the general manager providing regular reports to the minister about a range of matters. I think that encompasses unfair dismissal applications. But how that relates to the particular amendments that were given effect in the 2012 amendment bill, I will check.

Mr Cully: As Mr Kovacic said, there are some reports, including quarterly reports, that will provide some data on that, but it is too soon to tell.
**Senator ABETZ:** Yes. Too soon to tell. That is a fair enough response.

**Mr Kovacic:** Those quarterly reports, I think, are published on the FWC website.

**Senator ABETZ:** Yes. In relation to enterprise awards: I have been advised that enterprise awards are to terminate at the end of this year. Is that right? Unless they are modernised? Who can assist me with that?

**Mr Kovacic:** I will just get the officer. My recollection was that there was capacity for the parties to seek to have the enterprise award modernised. In circumstances where that did not occur, they would effectively cease to operate by a particular date.

**Mr Cully:** Yes, that is the way it has been—

**Senator ABETZ:** It is my understanding of it as well. Can I ask Mr Breen, or anybody from the department, has there been any feedback that that is mitigating against employers with enterprise awards from seeking to modernise them early? Because if they go to the commission to seek to have them modernised early and the modernisation is rejected, then that enterprise award ends there and then and is terminated rather than at its nominal expiry date, which I think would be 31 December 2013, when all of these are supposed to expire unless modernised.

**Mr Breen:** I am not aware of any feedback or—

**Mr Kovacic:** I have not seen any representations to that effect.

**Senator ABETZ:** Right. Because representations have been made to me to that effect, where employers are saying, 'If we went in early to have it modernised and the modernisation process was rejected, then we lose the benefit of, let us say, 12 months of this enterprise award'. I am just wondering if we know how many enterprise awards there are, because there might then be a huge rush on the commission towards the end of the year to have hearings on modernisation? If they can modernise them, all well and good. But if not they will only lose a month or two rather than what, if I might suggest—and it has only come to me of recent time—is a bit of a design fault, that if you seek to modernise, and the commission for whatever reason decides, 'No, we won't allow you to,' then the enterprise award stops there and then and cannot continue until 31 December this year.

**Mr Kovacic:** I will take on notice how many enterprise awards there might be. To some extent, enterprise awards themselves probably predate access to enterprise bargaining and enterprise agreements in the framework context. To some extent they are a bit of an anachronism—I use that word not in a derogatory sense. But clearly, there is the capacity for parties that have an enterprise agreement to negotiate an enterprise agreement. We will take on notice the question as to how many numbers there are.

**Senator ABETZ:** If you could. I think that it was yesterday that we canvassed the Fair Work Commission ruling that the notice period of terminating an individual flexibility arrangement under the Fair Work Act be extended from four to 13 weeks. Parliamentary Secretary, can I ask if the government accepts that decision from the Fair Work Commission? Does it want to legislate to overturn that decision?

**Senator Jacinta Collins:** As far as I am aware it accepts the decision—

**Senator ABETZ:** It accepts the decision.

**Senator Jacinta Collins:** But I will take that on notice for you to the minister.
Senator ABETZ: Thank you. Going back to penalty rates: there is nothing in the current legislation, if I heard you correctly, that prohibits or restricts the Fair Work Commission's discretion in this area?

Mr Kovacic: I think that is what I said before.

Senator ABETZ: Thank you for that. Can I be informed as to in which matters the government has intervened in recent times in the Fair Work Commission? And can I ask whether the government intervened in the SDA application with regard to youth wages?

Mr Kovacic: We have, and the government has lodged a written submission.

Senator ABETZ: Was that basically in support of the SDA application?

Mr Kovacic: If you bear with me I will get the precise words. The government made a submission on 17 May which submitted that there are 'cogent reasons for revisiting the junior rate provisions in the General Retail Industry Award 2010'.

Senator ABETZ: Thank you. What about supporting common matters by union applications regarding review relating to apprentices, trainees and juniors? Did the government intervene in that one?

Dr Morehead: Yes, Senator: the government made a submission on that case.

Senator ABETZ: Basically, in support of the union application?

Dr Morehead: We supported some of what the unions wanted and did not support others.

Senator ABETZ: How much, in rough terms—over 50 per cent?

Dr Morehead: I can read out what the government did submit support for.

Senator ABETZ: How many different aspects were there?

Dr Morehead: The government submitted support for four different aspects. That was to have a suitable increase to apprentice minimum wages, for both junior and adult apprentices; to include provisions in modern awards to facilitate competency based wage progression; to include school based apprenticeship provisions in seven modern awards which do not already have those provisions; and to pay course fees and text books associated with an apprentice's off-the-job training by the employer and other costs associated with traveling to attend training. These came out of the big review that the government did called Apprenticeships for the 21st Century.

Senator ABETZ: That is fine. What aspects did they not support?

Dr Morehead: I would have to take that on notice. I do not have that in front of me.

Senator ABETZ: All right, if you could.

Mr Kovacic: I might just add that the government actually supported the review of apprentice and trainee wages and conditions—and that dates back, from memory, to the government's submission to the 2010 annual wage review. So it has been a longstanding area where government has advocated for—

Senator ABETZ: That is fine. What about applications by unions regarding public holidays? Has there been an application made there that the government has intervened in?

Mr Kovacic: Yes, the government did make a submission there.

Senator ABETZ: On the side of the unions?
Mr Kovacic:  I am just looking for a precise summary of the government's submission in that matter.

Senator ABETZ:  While you are looking for that one, possibly Dr Morehead can look at whether the government intervened to oppose an application by employers with regard to penalty rates.

Dr Morehead:  Yes, Senator, the government has been very clear on its position all the way through.

Senator ABETZ:  Yes, that is fine—I just wanted confirmation. And opposing the Master Builders Australia's application with regard to work health and safety?

Mr Kovacic:  The government submitted, in that case, that work health and safety matters are allowable in modern awards.

Senator ABETZ:  And this was in opposition to what the Master Builders Australia were arguing?

Mr Kovacic:  The Master Builders were arguing that those provisions were not allowable matters; whereas, the government's view is that they were. If I could take—

Senator ABETZ:  Yes, but the unions were arguing that it should be allowed and the government intervened on the side of the unions.

Mr Kovacic:  No, the government intervened in the public interest and made a submission which indicated that its views were that work health and safety matters are allowable in modern awards.

Senator ABETZ:  In opposition to that which was being submitted by Master Builders Australia?

Mr Kovacic:  It was not the submission of the Master Builders, but ultimately Fair Work Australia made a decision that the matters are allowable.

Senator ABETZ:  So, who brought this application?

Mr Kovacic:  Master Builders.

Senator ABETZ:  Right. So it was a Master Builders application that these matters not be allowed in awards. The government intervened to oppose the Master Builders' application because it believed they should be allowed in awards.

Mr Kovacic:  No, the government intervened in the public interest to submit that these work health and safety matters were allowable matters in modern awards?

Senator ABETZ:  Yes, in contradiction to that which was being submitted by the Master Builders in their application.

Ms Paul:  Mr Kovacic is being technically correct about the status of the government's submission, though.

Senator ABETZ:  Oh yes, all these things are done in the public interest, just like Mr Riordan's appointment to the Fair Work Commission was based on merit. We have had all that before.

Ms Paul:  We could not say it was anything different. We can just say what it is.
Senator ABETZ: All I am trying to ascertain is on which side the government has been intervening in all these matters. What about the public holidays one? Have we found that one yet, Mr Kovacic?

Mr Kovacic: I am still looking for it.

Senator ABETZ: I think we got sidetracked with the Master Builders. We know that, because of heady matters of public interest, the government intervened on behalf of Barclay in the matter of Barclay and Bendigo TAFE.

Senator Jacinta Collins: Senator Abetz, one moment you say that Mr Kovacic has been distracted, and the next moment you throw in another distraction. If you would allow him to find the reference he needs to answer your question, he could then move on to Barclay, if that is the next one you want to canvass.

Mr Kovacic: In terms of public holidays, the government submitted that public holidays should attract penalty rates.

Senator ABETZ: Was that the argument being put forward by the unions in that case?

Mr Kovacic: I am not entirely sure in terms of that.

Senator ABETZ: All right. Take that on notice for us.

Mr Kovacic: I will.

Senator ABETZ: It would be highly surprising, would it not, if that were not the side the unions were arguing on—that penalty rates should apply for public holidays?

Senator Jacinta Collins: They may well have been arguing other matters as well.

Senator ABETZ: On the Barclay and Bendigo TAFE matter, I think we can be agreed that, for heady matters of public interest, Mr Shorten intervened on behalf of Barclay in the High Court.

Mr Kovacic: The minister intervened, as I have indicated previously, in the public interest.

Senator ABETZ: All of these are for the public interest, of course, and that is fully understood. Can you now point us to any matter of the public interest where the government saw it appropriate to intervene on behalf of an employer?

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

Senator ABETZ: Funny that.

CHAIR: Qantas maybe.

Senator ABETZ: I do not think you would want to go there, Chair, but I thought that might—

CHAIR: Possibly arbitration.

Senator ABETZ: I thought that might be the case. Can I take you to the Fair Work Ombudsman’s *Best practice guide: use of individual flexibility arrangements*.

Mr Kovacic: I do not have a copy.

Senator ABETZ: I would have thought, having listened in to Senate estimates, you might have had one with you, but on page 3 the Fair Work Ombudsman provides us with a case
study for the benefits. I have just been told it is on the Fair Work Ombudsman's website, if you can download it, if somebody has got the technical capacity to do that.

Ms Paul: I think you are in front of us there.

Senator ABETZ: I am with you. I like folders a lot better than these contraptions.

Mr Kovacic: My screen is blank, Senator.

Senator ABETZ: I understand that. The scenario is that 'Dave' trades off a penalty rate that would apply for the first half-hour of work to knock off work early so that he can coach his son's under-10s football team. It concludes:

Dave is better off overall because he can attend his son’s training, something he values as a significant non-financial benefit.

To the department's understanding, Chief Counsel, is that what individual flexibility arrangements were designed to achieve and allow?

Mr O'Sullivan: I think that is entirely consistent with what the explanatory memorandum actually says when talking about that.

Senator ABETZ: Thank you for mentioning that, because that was going to be my next port of call. On page 137 of the explanatory memorandum of the Fair Work Bill 2008, we were told in the illustrative example, in paragraph 867:

In Josh's case, however, he has agreed under the individual flexibility arrangement to give up a financial benefit (penalty rates) in return for a non-financial benefit (leaving work early).

So that is completely consistent with what the Fair Work Act allows.

Mr Kovacic: Yes, I think that is the case in there, but I would highlight those elements of that particular example:

Josh initiated the request for the individual flexibility arrangement, suggesting that he places significant value on being able to leave work early to coach the footy team.

Josh genuinely agreed to the arrangement.

The period of time falling outside the span of hours is relatively insignificant. It is only one hour out of the 37.5 hour ordinary week that Josh works.

Senator ABETZ: We can read all that, thank you.

Ms Paul: It is relevant, though, to your question; so we will keep going.

Mr Kovacic: It is particularly relevant, because these are considerations:

… he places significant value on being able to leave work early to coach the footy team.

Josh genuinely agreed to the arrangement.

The period of time falling outside the span of hours is relatively insignificant. It is only one hour out of the 37.5 hour ordinary week that Josh works.

So I think the importance of—

Senator ABETZ: Are you sure you don't want to read out the whole lot to us?

Mr Kovacic: I think it is important, Senator, to highlight the factors that would really go to determining whether or not the particular arrangement met the 'better off overall' test.
Senator ABETZ: We can come to that. Does having a non-financial benefit undermine the Better off Overall test?

Mr Kovacic: In some instances it might, and that is why those considerations I have highlighted can be critical in making that judgment.

Senator ABETZ: Do non-monetary benefits undermine the Better off Overall test?

Mr Kovacic: Potentially, Senator—it depends on the circumstances, which is why I read those particular points out in the example from the explanatory memorandum.

Senator ABETZ: But the non-monetary benefits are specifically allowed as being part of the Better off Overall test, aren't they?

Mr Kovacic: They might, but the question you asked was whether—

Senator ABETZ: What do you mean, 'They might'?

Mr Kovacic: They might meet the Better off Overall test—and, in certain circumstances, they may not; it depends on the circumstances.

Senator ABETZ: Of course. If you say to somebody, 'You're not going to get any penalty rates, but here's a chocolate bar instead', that would clearly be in breach of the Better off Overall test—

Mr Kovacic: That's correct.

Senator ABETZ: Unless it was one of these huge chocolate bars worth hundreds of dollars, but we won't go into all those hypotheticals!

Mr Kovacic: And even there it may not meet the 'better off overall' test.

Senator ABETZ: But the individual flexibility arrangements specifically allowed non-financial benefits in exchange for monetary benefits?

Mr Kovacic: Subject to the employees being better off overall.

Senator ABETZ: That's right—there's no argument about that at all. So, by simply allowing non-monetary benefits, of itself, does not undermine the Better off Overall test, does it? It depends on the circumstances.

Mr Kovacic: It certainly does depend on the circumstances.

Mr O'Sullivan: Including that the arrangement is genuinely agreed between the employer and the employee.

Senator ABETZ: Of course, we know all the other underlying conditions of individual flexibility agreements.

Mr Kovacic: I think it is important to indicate here that the minister has made it clear that the government would not support measures that would undermine the Better off Overall test, including allowing non-monetary benefits to be traded for penalty rates and other conditions outside the current framework of the Fair Work Act.

Senator ABETZ: And where did he say that?

Mr Kovacic: I would have to take that precisely on notice, Senator.

Senator ABETZ: Ah. See, I have a press release from the minister, of 15 May, that says: 'the Liberal Party policy document clearly outlines'—et cetera—and 'undermines the Better off Overall test by allowing non-monetary benefits'—full stop, Mr Kovacic; none of those
little added extras that you just provided. That is a media release of 15 May 2013, where he says the Liberal Party would 'undermine the Better Off Overall Test by allowing 'non-
monetary benefits'—something which the Fair Work Act itself countenances in its own illustrative examples and the Fair Work Ombudsman, in their case study, specifically countenances, as being appropriate, subject of course to it being genuinely entered into, the worker being better off overall, that it was not a condition of employment; we know all those other conditions. But the mere offering of non-monetary benefits, or trading non-monetary benefits, does not undermine the Better off Overall test, does it?

Mr Kovacic: It can in certain circumstances, which is the point that I made before—of itself, but in certain circumstances it can.

Senator ABETZ: Of itself it does not, does it?

Mr Kovacic: But in certain circumstances it can, and I think that is an important sort of qualification.

Senator ABETZ: But, you see, the qualification you just gave does not appear in the minister's press release of 15 May, and that is why it is so fraught, Mr Kovacic, when you seek to intervene to defend the minister in circumstances where the media release is very, very clear.

Ms Paul: Well, Mr Kovacic was not referring to the media release and, indeed, does not have it in front of him; he was referring to the EM in particular and what the EM actually means.

Senator ABETZ: Well, I think we can be agreed that the Fair Work Act does allow, with all the protections that have been referred to, that you can have the better off overall test applying with non-monetary benefits.

Mr Kovacic: Yes, that is correct.

Senator ABETZ: Thank you. It wasn't that difficult after all. I am just wondering whether the department provided any assistance—and take this on notice—with the minister's media release of 15 May 2013. Then Mr Shorten tells us in the House of Representatives:

They are now proposing—I love this, I do not know who dreamed it up, but they deserve a medal for idiocy—to make law that you can swap your hourly pay for non-monetary benefits.

This idiocy, to use the minister's terminology, actually currently exists in the legislation, subject of course to all the safeguards that we are agreed upon.

Ms Paul: Well, we don't have his—

Senator Jacinta Collins: Subject to many of the safeguards that were not there under Work Choices, where—

Senator ABETZ: Oh, my goodness, we are talking about today, Parliamentary Secretary.

Senator Jacinta Collins: you, particularly, Senator Abetz, have form. We can repeat yesterday's discussion, but—

Senator ABETZ: All right. Can we swap hourly pay for non-monetary benefits in the current regime?

Senator Jacinta Collins: We have already answered that question.

Senator ABETZ: And the answer is yes?
Senator Jacinta Collins: Under certain conditions.
Senator ABETZ: So it is possible?
Senator Jacinta Collins: Under certain conditions.
Senator ABETZ: So it is possible?
Senator Jacinta Collins: It is possible under certain conditions—
Senator ABETZ: Thank you. So, can you tell me—
Senator Jacinta Collins: the conditions that you were quite prepared to—
Senator ABETZ: Who thought of this idiocy?
Senator Jacinta Collins: trade away in government.
Senator ABETZ: Who thought of this idiocy, Parliamentary Secretary, that is allowable under the Fair Work Act?
Senator Jacinta Collins: The idiocy was probably that you are flagging that you are going to return to days of past. That is the idiocy.
Senator ABETZ: Just show us where, in our 38-page document, that it is stated—
Senator Jacinta Collins: It is what is not in the document that is the concern, Senator Abetz.
Senator ABETZ: Oh, right, it is what is not in the document that you are going to campaign on!
Senator Jacinta Collins: It is what is not in the document about penalty rates, what is not in the document about the protections around IFAs, what is in the document about a review of IFA arrangements—that is the risk.
Senator ABETZ: What? We do not even talk about a review of IFA arrangements.
Senator Jacinta Collins: You have publicly.
Senator ABETZ: No, we have talked about—
Senator Jacinta Collins: Yes, Tony Abbott has talked about it publicly.
Senator ABETZ: Oh, my goodness, Parliamentary Secretary!
Senator Jacinta Collins: He has given assurances to employers that he will review arrangements for IFAs.
Senator ABETZ: This is just desperate stuff. You are now getting worse than Mr Shorten was on Lateline after the policy announcement.
Senator Jacinta Collins: No, I have read them.
Senator ABETZ: Have we had a look at the decision of Commissioner Bull on Ecotech Building Services, and does that reflect the government's policy views and interpretation of what the Fair Work Act allows in relation to flexibility arrangements?
Mr O'Sullivan: I will have to take that on notice.
Senator ABETZ: All right, if you could. It is a decision of 13 May 2013, where the flexibility arrangement was sought to simply deal with entitlement to trade union training leave and blood donor leave. If you could take that on notice I would be much obliged. Have we had consultation on the Seacare report? Where are we with that?
Mr Kovacic: They are currently underway, which is the short answer.

Senator ABETZ: What does that mean—legislation is underway?

Mr Kovacic: We are consulting with stakeholders across May and June.

Senator ABETZ: Is the consulting still taking place?

Ms Emery: Yes, it is. The first consultation took place last week on Thursday with the Seacare Authority, and we have further consultations planned over the next couple of weeks with a variety of stakeholders.

Senator ABETZ: Parliamentary Secretary, would it be fair to say we will not be seeing any legislation on that score before the end of this parliament?

Senator Jacinta Collins: I will have to take that on notice. I am not aware.

Senator ABETZ: Can somebody assist me as to what happens or who supervises approved worker entitlement funds? Does anybody know what they are?

Mr Kovacic: Is this the one you were asking last time?

Senator ABETZ: Yes, with the redundancies. What is it? The approved worker entitlement funds, AWEF, in Australia represents the largest state or national redundancy funds: Incolink, ACIRT, Protect, BIRST, MERT, CERT, WACIRF and BURST. Supposedly $1.5 billion is held in trust for over 300,000 active members.

Mr Kovacic: My recollection is that they are established under Corporations Law, but I would need to take it on notice.

Senator ABETZ: So, this department does not monitor it?

Mr Kovacic: No.

Senator ABETZ: If I wanted to monitor that I would have to go to ASIC?

Mr Kovacic: Assuming my assumption that it is Corporations Law, I think that is probably correct.

Senator ABETZ: If there is a potential breach of the Safety, Rehabilitation and Compensation Act who looks into that?

Mr Kovacic: Comcare. It could be either. I think the Safety, Rehabilitation and Compensation Commission, together with Comcare, share the regulatory responsibilities, but I will just get Ms Emery to confirm that.

Ms Emery: Senator, exactly what sorts of breaches are you talking about?

Senator ABETZ: There was a letter written to the minister on 6 May 2013 in which he refers to a response by the minister's office, an adviser, of 22 January 2013—the letter says 12, but it means 13—in response to a letter sent to the Attorney-General by a Dr John Culviner on 7 December 2012.

Ms Paul: I do not think we have any of that in front of us.

Senator ABETZ: If you can take that on notice for me. There is a section in the act, section 89M, aimed at preventing corruption of the Safety, Rehabilitation and Compensation Commission.

Ms Paul: Have you told us who the correspondent was?

Senator ABETZ: Yes, Dr John Culviner.
Mr Kovacic: We will take that on notice.

Senator ABETZ: He is just wondering who would look into that breach because, if there were such a thing to occur, one would assume Comcare would not necessarily be the best look for such an investigation. If you can take that on notice. Since last time we have had the appointment of Jeff Lawrence to the Fair Work Commission. What a prophet I am—I predicted his appointment to the Fair Work Commission before he had even applied, on the basis that the merit test would be applied. He sailed through, as did a former Labor candidate. I think Mr Adam Hatcher is one of the vice presidents. First of all, can we confirm the recent appointments which were announced on 28 March. The two vice presidents are Mr Joe Catanzariti and Mr Adam Hatcher. How many applications were there for these positions?

Ms Paul: I will ask Deputy Secretary Michael Manthorpe to answer the question, because he chaired the merit-based selection process.

Mr Manthorpe: For the vice presidential positions there were 24 candidates.

Senator ABETZ: I am assuming that, without identifying them, there might have been some existing commissioners apply?

Mr Manthorpe: There were.

Senator ABETZ: We saw in the merit selection process no difficulty with Mr Catanzariti, representing the Law Council of Australia, condemning the creation of these two new positions and then applying for one of them? That is a good look.

Mr Manthorpe: That did not go to the assessment of his merit to undertake the duties of the position, in my view.

Senator ABETZ: What about Mr Hatcher? Rather than going through all the detail, in the past we have been provided with a list of applicants by category—

Mr Manthorpe: I think for the vice presidents that has already happened. There was a QON from last time that asked for a breakdown of the 24.

Senator ABETZ: The appointments were made on 28 March and the last estimates were in February. I may have put a parliamentary question on notice as opposed to it coming from estimates.

Mr Manthorpe: To save everyone testing whether or not that is the case, I can tell you what the breakdown is. The 24 comprised one consultant, four people with employer or industry backgrounds, four people with government backgrounds and 15 people with legal and or tribunal backgrounds. It was EW930_13.

Senator ABETZ: So we are absolutely confident that the best people got the jobs?

Mr Manthorpe: I believe that the process adopted by the committee which I chaired reduced the field to a short list of the highest ranked and most meritorious applicants, and I have no reason to believe that the government's decisions in terms of the appointments were anything but meritorious.

Senator ABETZ: How many names were submitted for the two vice-presidential positions?

Mr Manthorpe: There were seven on the shortlist.

Senator ABETZ: What about for the four deputy presidents?
Mr Manthorpe: There were 15 shortlisted as suitable as deputies.

Senator ABETZ: What about commissioners?

Mr Manthorpe: There were 25 shortlisted as suitable.

Senator ABETZ: And how many were appointed?

Mr Manthorpe: Two commissioners.

Senator ABETZ: What are their backgrounds? One is a Mr Lawrence, is it not, or is he a deputy?

Mr Manthorpe: He is a deputy. The commissioners were Commissioner Johns and Commissioner Wilson, both most recently with government backgrounds.

Senator ABETZ: How is Mr Johns described, category-wise?

Mr Manthorpe: In terms of how we would have thought of categorising him, he would have been described as a government body—

Senator ABETZ: I think we all know that he has got a good Labor pedigree and in fact persisted with his Labor Party membership whilst he was the Building Commissioner. Either I or somebody finally persuaded him that it might be a good idea to resign that membership. So this categorisation of people as being in the bureaucracy or whatever is fair but does not necessarily tell us the full history.

Mr Manthorpe: Perhaps so, but equally some of the people who were appointed and some of the people who were shortlisted were of a given category at the point in time in which we were looking at it but had a past on the employer side of—

Senator ABETZ: Gee, they would be few and far between, wouldn't they? Tell us how many of them have been appointed in recent years.

Mr Manthorpe: I do not have a list of recent years in front of me.

Senator ABETZ: A sawmiller's hand would be able to tell you the number. Those are all my questions. Thank you very much, Chair.

CHAIR: Thank you, everyone. The committee stands adjourned.

Committee adjourned at 22:21