SENATE

LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE

Wednesday, 31 May 2000

Members: Senator Payne (Chair), Senators Coonan, Cooney, Greig, Mason and McKiernan

Senators in attendance: Senators Bartlett, Coonan, Cooney, Ludwig, Mason, McKiernan, Payne and Schacht

Committee met at 9.04 a.m.

IMMIGRATION AND MULTICULTURAL AFFAIRS PORTFOLIO

Consideration resumed from 30 May.

In Attendance

Senator Herron, Minister for Aboriginal and Torres Strait Islander Affairs
Senator Minchin, Minister for Industry, Science and Resources
Senator Newman, Minister for Family and Community Services

General questions

Departmental Executive
Mr Bill Farmer, Secretary
Mr Andrew Metcalfe, Deputy Secretary

Refugee Review Tribunal

Outcome 1: Contribute to ensuring that Australia meets its obligations pursuant to the convention relating to the status of refugees
Output 1.1: Independent merits review of decisions concerning onshore applicants for refugee status

Dr Peter Nygh, Acting Principal Member
Mr John Godfrey, Deputy Principal Member
Ms Jill Toohey, Registrar
Ms Sophie Kuchar, Manager, Finance and Property

Migration Agents Registration Authority

Mr Ray Brown, Chairman
Mr David Mawson, Executive Officer
Mr Andrew Cope, Member of the Authority
Mr Len Holt, OAM, Member of the Authority

Migration Review Tribunal

Outcome 1: Contribute to ensuring that the administrative decisions of government are correct and preferable in relation to non-humanitarian entrants
Output 1.1: Independent merits review of certain decisions concerning applicants for non-humanitarian entry and stay

Ms Susanne Tongue, Principal Member
Mr Noel Barnsley, Acting Registrar
Department of Immigration and Multicultural Affairs
Outcome 1: Lawful and orderly entry and stay of people
Output 1.1: Non-humanitarian entry and stay
Output 1.2: Refugee and humanitarian entry and stay
Output 1.3: Enforcement of immigration law
Output 1.4: Safe haven
  Mr Abul Rizvi, First Assistant Secretary, Migration and Temporary Entry Division
  Mr Todd Frew, Assistant Secretary, Temporary Entry Branch
  Mr Bernie Waters, Assistant Secretary, Business Branch
  Mr Chris Smith, Assistant Secretary, Migration Branch
  Ms Jenny Bedlington, First Assistant Secretary, Refugee and Humanitarian Division
  Mr Robert Illingworth, Assistant Secretary, Onshore Protection and Review Branch
  Mr Vincent Giuca, Acting Assistant Secretary, Humanitarian Branch
  Mr Jim O’Callaghan, Assistant Secretary, International Cooperation Branch
  Ms Philippa Godwin, First Assistant Secretary, Border Control and Compliance Division
  Ms Nelly Siegmund, Assistant Secretary, Border Protection Branch
  Mr Dario Castello, Assistant Secretary, Entry Branch
  Mr Peter Vardos, Assistant Secretary, Unauthorised Arrivals and Detention Branch
  Ms Lesley Daw, Director, Detention Operations Section
  Mr Des Storer, First Assistant Secretary, Parliamentary and Legal Division
  Mr John Matthews, Assistant Secretary, Legal Services and Litigation Branch
Outcome 2: A society which values Australian citizenship, appreciates cultural diversity and enables migrants to participate equitably
Output 2.1: Settlement services
Output 2.2: Translating and interpreting services
Output 2.3: Australian citizenship
Output 2.4: Appreciation of cultural diversity
  Mr Peter Hughes, First Assistant Secretary, Multicultural Affairs and Citizenship Division
  Dr Thu Nguyen-Hoan, PSM, Assistant Secretary, Multicultural Affairs Branch
  Mr David Page, PSM, Assistant Secretary, Settlement Branch
  Mr Rodney Inder, Assistant Secretary, Citizenship and Language Services Branch
  Mr David Doherty, Acting Assistant Secretary, TIS Task Force
Internal Products
  Mr Vincent McMahon, First Assistant Secretary, Corporate Governance Division
  Mr Steve Davis, Assistant Secretary, Resource Management Branch
  Ms Fran Parker, Acting Assistant Secretary, CTC Review Task Force
  Mr Bernie Hackett, Assistant Director, Budget Strategy Section
  Mr Douglas Walker, Assistant Secretary, Visa Framework Branch
  Ms Karen Stanley, Acting Assistant Secretary, Ministerial and Communications Branch
  Mr Ed Killesteyn, Chief Information Officer
  Ms Cheryl Hannah, Deputy Chief Information Officer
Australian Government Solicitor
  Mr Bert Mowbray, General Counsel, Immigration

LEGAL AND CONSTITUTIONAL
CHAIR—I welcome members of the committee and officers back to this consideration of estimates for the Immigration and Multicultural Affairs portfolio. We will begin this morning with consideration of the Refugee Review Tribunal and I welcome Dr Peter Nygh, Mr Godfrey, Ms Toohey and Ms Kuchar. We will begin with questions from Senator McKiernan.

REFUGEE REVIEW TRIBUNAL

Senator McKIERNAN—Thanks very much. This morning I want to address two streams of questions. First are those relating to the establishment of the Administrative Review Tribunal and the implications and repercussions of that for the Refugee Review Tribunal.

Secondly, unfortunately we had not finished the discussion last evening with the department on the processing of boat people who have come in recently from the Middle East. I want to see if the RRT has had any involvement with the appeals or applications for review from that particular stream of people and what that is doing to the processing times of the tribunal. Perhaps you could start with the ART. There is going to be a $9 million saving in the overall costs of the establishment of the ART, spread over the four tribunals. Will any of that saving come directly from the RRT budget?

Dr Nygh—I think that is a question that is better put to our financial experts here. Ms Kuchar, do you have any information on that topic?

Ms Kuchar—In the PBS we have identified $5.1 million savings.

Mr Davis—Perhaps I could help. The savings relating to the amalgamation of the Administrative Review Tribunal were actually calculated by the departments of Attorney-General’s, Finance and Immigration. The tribunals themselves were not involved in that discussion of the exact magnitude of savings coming from tribunal resources. When I mentioned the figure of $1.2 million last night as a saving across both tribunals, the contributions from each tribunal is $0.7 million from the RRT and $0.5 million from the budget of the MRT as the pro-rata, if you like, proportion that was expected, given the relative level of resourcing of the two tribunals. But the tribunals themselves were not involved in those calculations, although they have been involved in the discussions of the establishment of the ART through working parties, et cetera.

Senator McKIERNAN—But if there is going to be a reduction in the budget, that could have an effect on the operations of the tribunal. Essentially, I am seeking to find out if it is going to impact on the processing times of applications, for example.

Mr Davis—As I said last night, in the current year the saving is only $0.5 million in 2000-01, because it was only five-twelfths of the overall saving of $1.2 million, which is an annual figure. The savings identified for the tribunals in this portfolio were in the corporate areas. How that comes to fruition in the new ART is something that I think is difficult to assess at this stage and is probably a matter that the Attorney-General’s portfolio has the main carriage of.

Senator McKIERNAN—Our real difficulty in this is that we have not seen the proposals for the ART as yet. That is not the fault of the immigration department or the tribunals but it does mean that we are operating somewhat in the dark as we are looking at figures for next year’s expenditure for a measure that we have not seen the detail on yet. There is a concern that if there are going to be savings in the region of $9 million through the amalgamation, something will suffer along the way. I am comforted to a point by what was said last night and this morning—that it may have minimal effect within the two tribunals that we are dealing with—but it is better to try and establish some benchmarks now for when we come back at
this time next year to look at things. If processing times are going to blow out and people will be waiting longer for decisions, with some being held in detention longer at greater cost to the public purse, perhaps now is the time to bring it to our attention.

Mr Davis—As Mr Metcalfe mentioned last night, in Budget Paper No. 2, at page 49, it does actually identify the savings as totalling $9 million coming from three of the four tribunals going into the ART and it identifies that, of the $9 million, $7.8 million of that comes out of the Administrative Appeals Tribunal. That is actually identified in the budget measures document that the Treasurer tabled at budget time under the Attorney-General’s portfolio.

Senator McKIERNAN—I want to move on; the rest of my colleagues want only financial questions. With regard to processing times, have any of those persons who unlawfully arrived from the Middle East in the recent large influx of boats got to the tribunal at this stage? If so, is it having any effect on the work of the tribunal as a whole?

Dr Nygh—Yes, at this stage there has been a relatively small flow-on of those persons to the tribunal. In the period from 1 July 1999 to 30 April, the tribunal received 246 new applications originating from the three immigration reception and processing centres. Of those, 194 came from Port Hedland, 40 from Curtin and seven from Woomera. Of those, 52 cases are currently active—19 at Port Hedland, 26 at Curtin and seven at Woomera. I might add, incidentally, that in three weeks time I am going to Woomera to deal with the seven cases at Woomera. That is a first for us. One hundred and ninety-four of those cases—that is, 194 out of the 246 applications—were finalised by the tribunal during this period. I might add that in 100 of these cases, again out of the 194, the primary decision was affirmed by the tribunal—

Senator McKIERNAN—What was that figure?

Dr Nygh—In 100 out of those 194 that had been finalised, the primary decision was affirmed by the tribunal.

Senator McKIERNAN—So that is over 50 per cent.

Dr Nygh—That is over 50 per cent, yes.

Senator McKIERNAN—What has been the average processing time?

Dr Nygh—The average processing time with detention cases—

Mr Godfrey—The average processing time out of Port Hedland has been 54 days and out of Curtin it has been 46 days so far. But you also say though, Senator, that in the 194 there were a number of PRC and Turkish cases. They have not all been cases from Iraq, Afghanistan and Iran.

Dr Nygh—I think we have a breakdown, haven’t we? To give you an example: in relation to Sri Lanka the set aside rate was 100 per cent; in relation to Iraq it was 76 per cent; and in relation to Afghanistan it was 68 per cent. On the other hand, in relation, say, to China it was 2.2 per cent. So you can see that, again, the set aside rate very much reflects the country concerned, as it does overall.

Senator McKIERNAN—The 54 days for the Port Hedland processing time and the 44 for Curtin would seem to be within the normal range of your targets for the tribunal.

Dr Nygh—It is; our target is 70 days.
Senator McKIERNAN—Has it had an impact on the wider targets from people within the community? Obviously, you have got to deal with the priority cases—those who are in detention. Has that affected the spin-out of processing times for the wider caseload of the tribunal?

Dr Nygh—Yes. Mr Godfrey will explain that.

Mr Godfrey—It has not had a major impact on processing times because it is 246 cases so far. We finalised 194 out of detention cases from those three centres, but we have finalised 5,000 cases so far this financial year. So it has quite a small overall impact on us. That is not to say that we are not geared up for dealing with a much higher volume should we in fact receive more cases. We have had a strategy in place to deal with that, and one of the reasons why Dr Nygh is going to Woomera is to see what the situation there is on the ground for our processing.

Senator McKIERNAN—That concludes my questions on the processing times. I want to ask about the membership of the tribunal. I noticed on 26 May that there were some more appointments to the tribunal: what is the current complement of members of the tribunal?

Dr Nygh—Again, I think Mr Godfrey was making some calculations. I will ask him to tell you about the outcome of his calculations.

Mr Godfrey—As of 30 April, we had five members who made up the executive, 33 full-time members and 18 part-time members, which gives a total of 56 members.

Dr Nygh—Incidentally, the appointments you referred to that were made were in fact reappointments of existing members. There were 23 persons reappointed for a term expiring on 31 January. That is of course when all of us expire at the moment.

Senator McKIERNAN—A long-term appointment. Was it your tribunal where an individual was not reappointed?

Dr Nygh—Yes, one person, I understand, was not reappointed.

Senator McKIERNAN—Can you offer any comment about the workload of that particular individual previous to the appointment? Is there any particular reason why one out of a group of 23 was not appointed? There has been some media speculation.

Dr Nygh—I cannot really comment on them because reappointments or appointments are of course not matters over which I have control. It is a matter for the minister and the government.

Senator McKIERNAN—I understand that but, as the senior officer, the senior member of the tribunal, did you have any comment on the workload of the individual?

Dr Nygh—This person was a part-time member and he carried the normal workload of a part-time member.

Senator McKIERNAN—His problem was that he spoke to the media.

Dr Nygh—Again, Senator, I cannot comment on that.

Senator McKIERNAN—Thank you, Dr Nygh.

Senator BARTLETT—I will just follow up on that. When reappointments are made and when this current lot expire—the large lot on 31 January next year—how are the appointments made? Is there advertising around the country for positions on the tribunal?
Dr Nygh—Not for reappointments. Reappointments, again as I said earlier, are a matter for the minister and the government. I do appraisals of all members, whether they are due to be reappointed or not, each year. Those reports go to the minister. It is then for the minister to make recommendations as to reappointments.

Senator BARTLETT—So when people’s terms expire, there is no automatic requirement to advertise those positions or whatever. It is just a consideration of whether or not they be reappointed.

Dr Nygh—They are not readvertised. As I said, it is a procedure again over which I am not involved.

Senator BARTLETT—If you are saying you provide appraisals for people whose terms are expiring, do you or other members of the tribunal indicate your level of satisfaction with the person’s performance?

Dr Nygh—I appraise a person as to whether or not his or her performance is satisfactory. I do that once a year for all members whether they are due to be reappointed or not.

Senator BARTLETT—So there is no additional information or assessment you make for people that are coming up for reappointment?

Dr Nygh—No, there is nothing additional. It is exactly the same for each person involved.

Senator BARTLETT—In terms of the appraisal you provided for the person who was not reappointed, did you or others in the tribunal express any concern about their level of performance, their effectiveness?

Dr Nygh—I did not express any concern about that person’s performance.

Senator BARTLETT—How does the ability of the minister to basically pick and choose people, presumably based on criteria outside the adequacy of the person’s performance, fit in with the requirement for the tribunal to be independent of government?

Dr Nygh—I do not think that is a matter that I can answer.

Mr Farmer—I think that governments themselves decide on appointments. You asked a question about advertisements. The short prospective remaining life of the Refugee Review Tribunal I think explains why it would not have been really necessary or, in some ways, sensible to go through a full advertising round. What we are trying to do is to ensure the continuing operation of the tribunal during the rest of its prospective life. But the government makes appointments taking into account a whole range of factors and that is the prerogative of the minister and the government.

Senator BARTLETT—What are those factors? Is there a check list of criteria?

Mr Farmer—No, there is not. Governments of whatever stripe take into account factors that they choose.

Senator BARTLETT—I guess getting back to the fundamental point, the government in my experience is fairly keen to emphasise the independence of all its tribunals, not just the RRT. As part of that, would it not be appropriate to have a publicly available set of criteria that appointments are made against?

Mr Farmer—That is not the system.

Senator BARTLETT—That is not the system for any tribunal appointments I suppose, not just the RRT?
Mr Farmer—I can only talk about our portfolio.

Senator BARTLETT—For the MRT as well there is no open criteria that is utilised?

Mr Farmer—We had an extensive system last year to make advice to the government about appointments to the MRT.

Senator BARTLETT—Are governments still able to choose whether or not to accept that advice and to use its own criteria alongside or separate to what you have put forward?

Mr Farmer—The government will take into account advice and any other factors it considers relevant before making recommendations to the Governor-General.

Senator BARTLETT—I guess the new tribunal is not going to come under your portfolio, so I will not ask you further about that one in terms of appointments to that.

ACTING CHAIR (Mr Mason)—So any further questions on the Refugee Review Tribunal? There being none, Dr Nygh, Mr Godfrey, Ms Toohey and Ms Kuchar, thank you very much. I call representatives of the Migration Agents Registration Authority.

[9.22 a.m.]

MIGRATION AGENTS REGISTRATION AUTHORITY

CHAIR—I welcome Mr Brown and representatives of the authority and invite members of the committee to address questions.

Senator McKIERNAN—I suppose the first thing is a welcome. It is the first appearance of the MARA in front of the Senate estimates committees and hopefully it will be a long, productive and fruitful association. I do not have a tremendous amount of questions for the authority representatives this morning. I am aware that the authority met with the Joint Standing Committee on Migration last evening and responded to a series of questions during the course of that hearing. Unfortunately, because I had other obligations, I could not personally attend that but I will be reading the transcript with interest. I have talked to some of my colleagues who participated in that meeting last evening and I do not wish to replicate or duplicate the questions that were asked of the authority then.

The major concerns that were raised last evening, which are just worth while teasing out a little, is that associated with the class actions bill, the Migration Amendment Bill (No. 2), that is before the parliament at the moment. It is a bill which is seeking to remove the ability for persons in Australia to embark on class actions. Part of the reason for the government putting the bill into the parliament is that there is a feeling, a sense, an accusation, that certain persons in the community are abusing the judicial process because by engaging in these class actions some of them benefit by prolonging their stay in Australia.

The questions I understand that were asked last evening of the tribunal go to the point of what MARA is doing to identify if there is abuse taking place and what MARA can do about it if such things are occurring in our community. Obviously you can only be accountable or responsible for the registered agents. I do not want to canvass everything that occurred last evening but it would be worth while just putting something on the record for this particular committee. I then have a couple of general questions following that.

Mr Cope—We gave a considerable amount of evidence at short notice last night to that committee and we are certainly most willing to provide further and better information to this committee. One matter we were presented with last night was the advertisements and we were asked to comment on those. In broad terms, whilst we as well as members of parliament exercise a great amount of disquiet about those advertisements we were guarded in some of
our responses on the basis that that clearly will be something that the authority will need to investigate and we did not want to prejudice any outcomes of those matters. Whilst we are most willing to try and discuss those issues we did not want to appear to exercise any bias or anything in those matters. One of the issues that comes out of that of course is not only whether the person is a registered migration agent but also whether the nature of the advice actually given, both in the advertisement and any subsequent advice given by a person, a lawyer or a migration agent or another person, constitutes immigration assistance. Part 3 of the Migration Act is very careful in delineating what is a matter before the courts and what constitutes immigration legal assistance versus something which is immigration assistance. The Migration Agents Registration Authority has a monitoring role in terms of the immigration legal assistance and possibly a referral power to the law regulatory authorities, such as law societies.

In terms of immigration assistance we would obviously be able to then investigate that matter and we have undertaken to provide a fairly quick response to the committee on a couple of matters that they raised. One of those elements may well be whether a bridging visa, that is quoted in the advertisement, constitutes immigration assistance within section 276 of the act. In broad terms we certainly are very much aware that there may be some breaches in terms of the code of conduct if it is immigration assistance and that these matters are almost entirely new to the authority. Some preliminary work has been done by the authority on some of the information. But certainly the advertisements that were provided to us last night give us disquiet, and we are very anxious to obtain information from that committee, including its report, in terms of taking up any further action as a result of the advertisements and matters against those individuals.

Senator McKIERNAN—Has any person or group made any complaints to the authority about possible abuse of migration provisions through the use of class actions, or indeed representative actions, in the courts?

Mr Cope—No. That was one issue that we had mentioned to the committee, and it is one of the reasons why the committee appeared perplexed and surprised at our lack of awareness. That is certainly one main reason.

Senator McKIERNAN—I do not wish to further develop those things here that were said to the meeting last evening. As I said, I will read the transcript of that and be involved in the formulation of a report from that committee. I appreciate what you have said about the adverts, and I would not want in any way to prejudice any investigations or possible action that may arise or result from those investigations. At this point I will leave those questions.

I have with me the 1998 annual report of the MARA, and I look forward to a more current one. I would expect that when you come back to us you will have an annual report in by the end of this year, in accordance with the normal reporting requirements of the parliament, and that will bring forward the details of what MARA has been involved in this year. Can I just ask one question to establish a principle. I note in the PBS there is a figure of $1.9 million, I think, mentioned for next year. Is that money that has been recouped through the fees that the authority charged to the registered agents?

Mr Davis—Senator, I may be able to assist. With MARA fees, the expenditure or appropriation is under a special appropriation and is a matching arrangement whereby the amount appropriated matches the fees raised. The $1.941 million would match the higher
level of expected fees for next year, so that is the estimate that is in the documents. But it is a special appropriation under the parliament and there is a matching arrangement.

Senator McKIERNAN—So the $1.9 million is the correct figure? I am actually peeved with my memory.

Mr Davis—Yes, that is my understanding—for estimates purposes.

Senator McKIERNAN—Are any taxpayers funds going into the MARA at all? I know there was an establishment amount that went in some years ago. Is there anything going in on a continuing basis?

Mr Cope—No.

Senator McKIERNAN—Nothing at all?

Mr Cope—No.

Senator McKIERNAN—that concludes my series of questions for MARA at the moment. I look forward to seeing you later in the year.

CHAIR—Senator Bartlett.

Senator BARTLETT—I would like to follow on from a couple of things without revisiting some of the things from last night through a separate committee. In terms of the broader issue, which I think goes to the broader work of the authority, and looking at advertisements again, not specifically for class actions but in general, you are saying that you monitor advertisements across a range of media ethnic press, for example. When you are examining those, is it possible for someone to place an advertisement that in itself is seen to contravene your code of conduct, or would you look at the details behind what the advertisement is about or can you tell from an advertisement itself sometimes?

Mr Brown—Some advertisements will contain breaches of the code, and effectively that is what we are looking for when we are monitoring advertisements—what might be a direct breach or something which indicates a style of operation or a mode of operation which may be of concern to us.

Senator BARTLETT—Would you be able to provide examples to us of ones in the past that you have found clearly breach, perhaps with identifying names blacked out or whatever, just so we could get an idea of what ones grab your attention?

Mr Brown—Certainly.

Senator BARTLETT—Leading on from that, you are obviously getting $1.9 million to do everything you do, what does that equate to in terms of actual permanent staff in the authority?

Mr Brown—Ten.

Senator BARTLETT—So would there be one or two people that basically spend most of their time doing things like checking advertisements through all the various forms of media on the Internet and that sort of thing?

Mr Brown—that will not form a major part of their activity. That would be part of a whole range of activities that any individual in the authority would perform.

Senator BARTLETT—How many ongoing—I am not sure what the proper term is—education or training activities does the authority do in a year?
Mr Cope—Just while Ray is finding the answer, on the misleading advertising element on page 34 of the 1999 annual report, whilst there are not specific examples of an advertisement incorporated into the report, there is reference to what sorts of activities the authority has actually identified. We will still proceed to give you that information, but simply there is some element in that annual report.

Mr Brown—Back to the educational activities, there are currently 552 approved continuing professional development activities.

Senator BARTLETT—And they would range in length and size and scope and are held around the country?

Mr Brown—Yes. Following on from that, it is relevant to note that since March 1999 there were 10,819 activities attended by agents.

Senator BARTLETT—On the issue of liaison, if you like, between yourselves and the department, is there any particular section of DIMA that you specifically plug into in terms of reporting to and getting information from about activities of agents?

Mr Brown—There is within the department a section which deals with MARA and where we have a direct liaison point, yes.

Senator BARTLETT—Has that got a name—a subsection, a sub-subdivision or something?

Mr Mawson—I believe it is called the Migration Agents and Assistance Section.

Senator BARTLETT—In terms of the part of the department that would be most likely to report to you alleged misbehaviour or concerns about activities of agents or bring to your concern worrying advertisements or whatever, they would be the people who would communicate with you normally?

Mr Brown—The established protocols are normally that matters would come through from there. We have had matters which have been reported to us directly from investigations of the department, not necessarily about advertising but about issues where something comes to their attention and they have reported to us. Normally, we would expect it to come through that area.

Senator BARTLETT—I am not sure if this is the appropriate section to ask this question of: it links in specifically to the activities of the authority, but it is a question to the department. On the issue of these class action advertisements that the department raised with a separate committee, but in relation to the relevant legislation, as examples of ads that were of concern to the department—examples of abuse and misuse—my understanding, at least from what the members of the authority told us last night, is that they had not had those ads brought to their attention. Wouldn’t it be appropriate, if the department has concerns about a particular ad and the activities of particular migration agents—and at least one of the ads has been provided to us from a migration agent—for them to report that to MARA?

Ms Bedlington—as a general proposition that is certainly the case. If the department becomes aware of something that could be of concern under the MARA code of conduct, et cetera, we bring it to the attention of MARA.

Senator BARTLETT—in this particular area where the ads have so upset either the department or the minister and somebody has brought forward specific legislation to deal with this type of allegedly inappropriate behaviour, I would have thought they would be at the top of the pile of issues that you would bring to the attention of the authority.
Ms Bedlington—In relation to those ads, as you are aware they are raised in the context of the provision of legal assistance. The matter was brought to the attention of the legal practitioners’ relevant body, the Law Society, and a copy of that advice was forwarded to MARA. So MARA was made aware of it and my understanding is that of their own motion they are looking at the matter.

Senator BARTLETT—They were made aware of the specific advertisements?

Ms Bedlington—That is right.

Senator BARTLETT—When would that have happened?

Mr Brown—As I mentioned to the committee last night, we were made aware of one of the letters which had been forwarded to a client and talked about requiring an additional payment for the matter to continue. We took it on to investigate that and look at what an appropriate response might be in terms of the code and whether the code adequately covers it. That matter is being looked at at the moment.

Senator BARTLETT—So that is in train?

Mr Brown—Yes.

Senator BARTLETT—Okay, I will not push on that one. Would copies of the actual advertisements have been provided to MARA?

Ms Bedlington—I do not think so, but certainly enough information that would have enabled them to identify what the ads were and where they were.

Senator BARTLETT—Would you think in terms of the operation of the role of the authority that ads, such as you have provided as examples of the activity of concern, are ones that they should be picking up in their regular operations?

Ms Bedlington—It is possible that they would. As you would be aware, the ethnic press is a very broad and wide-ranging press and some of the relevant ads are not in English. Within the available resources, MARA is quite likely to not pick up such ads.

Senator BARTLETT—So it is not necessarily a matter of concern to you or to the department that these ads have not come to the attention of MARA and they have not acted on them. You would not see that as an area of where performance needs to be picked up or whatever?

Ms Bedlington—There are a whole range of sources of information about what is going on in the industry that MARA can draw on. Certainly within the resources available to it, I would not expect MARA alone to pick up all such instances. Their primary source of subject for investigation comes from complaints or reports that are made by people who are concerned about what is going on in the industry. I believe that it is reasonable to say that should be the primary source of what they do. If they pick additional information up where they instigate investigations of their motion, that is good. But I think we need to look realistically at the very diverse nature of the industry and the number of sources of information that are available to MARA.

Senator BARTLETT—So there is no particular degree of concern at department level at the moment that things are passing the authority by and they are not doing their job in that regard?

Mr Farmer—in one of the answers to questions on notice, we talked about the role the department plays in monitoring the media and that of course will throw up a number of points
of concern to us across a range of our activities. Some of those relate to activities either by migration agents or by people who appear to be offering migration advice and I think it is a legitimate role of the department to make our own investigations where that is appropriate or to refer those instances to MARA. I think that has the effect of broadening the range of information that is available to MARA and I think that it is a good working relationship.

**Senator BARTLETT**—So in terms of your monitoring of media, et cetera, you would readily pass on material—advertisements or whatever—to MARA?

**Mr Farmer**—Yes, if we see a thing that is of concern and we think it is something that MARA should take up.

**Senator BARTLETT**—There is a reason why I am pushing this a bit. I think it would be fair to say that last night some members of a separate committee were, I think, expressing concern—or incredulity even—that MARA would have missed these blatant, outrageous advertisements and gave a clear indication that they needed to get a clipping service or something like that. So I was trying to get an indication of how much the department does that sort of thing, that rather than MARA having to go to the expense of getting a clipping service for every single newspaper in the country that there was that cooperation already happening.

**Mr Brown**—As we mentioned last night—and I think it is worth putting on the record here again—MARA has been actively involved in other areas of seeking to promote awareness of the scheme and seeking feedback from people. It goes to working with the department in terms of including reference to the scheme in the forms and working with the department in having posters displayed in immigration offices. It includes working with the department in terms of MARA participating in information sessions for electoral secretaries on the activities of MARA to make the members and their electoral staff more aware of its activities so that we can get feedback there. We talk to the MRT and to other bodies in terms of always looking to alert them or keep our focus in their minds, so that they will bring to our attention activities coming before them that they believe are inappropriate.

**Senator BARTLETT**—On the issue of class actions, I think you said again this morning you have not received any complaints about agents involved in the operation of class actions—that is what I recall you said. If the operation of class actions is of such concern and has been for some years anyway, has the department had any discussions with MARA about the involvement of agents in class actions and asking them to have a look at particular people?

**Mr Storer**—In terms of class actions, when they come to our attention and when we were trying to look at giving advice to the government about appropriate measures on various advertisements that came in the press, we went back direct to the legal people ourselves and the law societies and asked their opinion on these matters and what they intended to do.

**Senator BARTLETT**—So you did not at the same time talk to MARA?

**Mr Storer**—From our area we did not talk direct to MARA ourselves, no.

**Senator BARTLETT**—As activities that migration agents are involved in recognises that split between legal action and giving immigration advice. There is obviously some crossover there. Would it not be appropriate if it is an issue of concern to also inform and discuss with MARA the fact that this type of activity is causing concern and bring it to their attention?

**Mr Storer**—I guess it would be appropriate to do this more effectively—and from now on when these come to our attention. At that time we were more concerned in going back to the law societies ourselves. Where I work from, it is more in the litigation area and we go direct
to the people involved in these. But in terms of an overall departmental approach, I guess that if that has not happened—and I do not know whether it has or has not—then we could make sure that we pass on these things more effectively, yes.

Ms Bedlington—Senator, I will just add to that. The point Mr Storer makes, I think, is the most important one—that the class action issue is around the provision of legal assistance and, yes, some of the people involved are both lawyers who undertake litigation and migration agents, and therefore MARA would have an interest in activities that breach the code of conduct. But the class action issue is predominantly a litigation one. I would also add that, in the general run of business in terms of what the department knows about what is happening in the industry and what is happening out there in the community, we have very close working relationships with MARA. There is a lot of both formal and informal interchange about a whole range of issues trying to keep each other apprised of what is going on. That was going on at the time that the legislation area of the department was actually considering what might be a legislative response to the class action issue in particular.

Senator BARTLETT—Can I take it from what you said in the first part of your statement that you do not think that the class action issue is not one MARA necessarily needs to be involved in or particularly aware of other than in a general sense?

Mr Farmer—Senator, I believe that in the course of our discussions with MARA—and we do have regular discussions with MARA—we should, and we do, place emphasis on these code of conduct and ethics issues, and I have asked that this be included on the agenda for our next meeting. There are a number of issues that we would discuss there.

Senator BARTLETT—I guess I am mainly concerned—and, again, it might be my interpretation of some of the questions last night—because I would not want MARA to be left open to criticism that somehow or other this is due to their inaction or their inadequacy in detecting these types of activities.

Mr Farmer—Yes. I would share that concern.

Senator McKIERNAN—Can I clarify exactly what has occurred. Senator Bartlett addressed a question to Ms Bedlington about providing the adverts to MARA. Ms Bedlington replied saying that they had sent copies of the letters. Did the department send copies of the adverts to MARA?

Ms Bedlington—Senator, the context was in the referral of the matter to the Law Society and—

Senator McKIERNAN—My question was actually very specific, very short.

Ms Bedlington—Yes, I am trying to answer it.

Senator McKIERNAN—Please, I am asking you a direct question, and I would appreciate a direct answer.

Ms Bedlington—I am trying to give you a direct answer.

Senator McKIERNAN—Did the department supply copies of those adverts to the MARA?

Ms Bedlington—The department has provided a copy of the ads to the MARA.

Senator McKIERNAN—Thank you.

Ms Bedlington—What I was trying to give you was the context within which the advice to the MARA was provided. That, to my recollection, did not actually include a copy of the ads
but alerted them to the issue, which was the copy of the letter that went to the Law Society. Subsequently, I believe the department has provided a copy of the ads to the MARA, but the MARA could perhaps tell you whether in fact they already had the ads from other sources before that time.

Senator McKIERNAN—Could I ask them? But I am actually addressing questions to you and to the department at the moment. Sometimes it is required to give direct answers to questions and I would appreciate it if you would try to do that. When did you address to the MARA the copies of the letters?

Ms Bedlington—I do not actually have a copy of the letter with me to know what the exact date was and unless the MARA do I would have to take that on notice.

Senator McKIERNAN—When did you supply copies of the adverts to the MARA?

Ms Bedlington—I would have to take that on notice as well.

Senator McKIERNAN—I would appreciate receiving that. If you could provide them with a degree of urgency because they are of importance in the context of the deliberations of the other committee.

Mr Farmer—We will do that, Senator.

Senator COONEY—MARA seem to come across as a regulatory body making sure that people do not commit what would be called ethical transgressions. Is there any attempt on MARA’s part to get quality into the system so that if a person has a migration problem—particularly a refugee problem—he or she is going to get the highest quality of advice. Do you do anything about that at MARA?

Mr Brown—Senator, there is a lot of activity in regard to educational provisions. It was one of the features of this particular scheme which was not in place with the previous scheme where all agents have to participate in a continuing education program. As I mentioned earlier, since March 1999 agents have attended over 10,000 continuing education activities. Basically, it is aimed that within any 12-month period and as a condition to gaining repeat registration, an agent must demonstrate that they have attended a minimum number of continuing professional development activities.

Senator COONEY—I can understand—I think most professions do that these days; you have lessons and conferences. I take it you can go away somewhere for the weekend or a week and learn things like that. But what I was trying to get at is whether there is any attempt to get the top lawyer that would be coming out of a law school, into this area. A lot of them go off to big firms. I do not want to mention the names but you probably know them. What I am concerned about is whether or not we get the top minds into this area and whether MARA is doing anything about that.

Mr Brown—that is basically the operation of the individual commercial firms to decide who they recruit and who they appoint. But there are major law firms and major accounting firms—ones which I believe you would regard as being at the top of the tree—that are involved in this area and do have registered agents on their staff.

Senator COONEY—And what sorts of fees do they charge or do you have a limit on the fees that people can charge in this area?

Mr Brown—I do not know. I would imagine they would charge their normal commercial time for service fee that they would charge for.
Senator COONEY—And if they didn’t come along to the lessons you give and the conferences you have for further education, you would not be concerned about that because they would know the stuff in any event.

Mr Brown—Everybody must attend the minimum number of continuing professional development activities. There is some crossover; they must be gazetted. There would be some continuing legal activities which would fit with the migration side as well but basically they have to be gazetted as an appropriate activity for re-registration.

Senator COONEY—Who gives those courses? What I am trying to do here is to get an idea of just what the level of the education that you give is.

Mr Brown—We don’t actually give it. We go through the process of evaluating and putting forward courses for approval and gazetted. Courses are provided by a whole range of people, from universities to individual education providers. The migration institute itself provides courses. A lot of those courses will include departmental officers speaking, specialists on the particular topic and so on—a whole range of people.

Senator COONEY—What I am trying to do is to get some picture. Departmental officers will come along and tell you what the department does but these people, as I understand, are going to deal with the law and pretty important law, particularly as far as refugee law is concerned, because if we send somebody back there is a possibility they might be executed or tortured. What I am trying to do is to get some picture of what MARA is doing to ensure you get the top people advocated for those in that situation. I get the impression that what you do is to run a few courses each year, look at some ethical situations, ask people to be registered and that is it, but there does not seem to be any attempt to attract top line people into the area.

Mr Cope—There is one element. In terms of the CPD activities, there are not only the existing players in the profession who provide their seminars—such as the law societies, the Migration Institute, the Immigration Advice and Rights Centre, et cetera—but, because the CPD activities have to be prescribed they have got to be gazetted, and so we want to encourage a broad range of mechanisms through which they can occur. One of the mechanisms which is on the table, which has not been taken up as much as perhaps we would like, is publication of articles in leading journals. MARA has taken a broad view of the sorts of publications that could occur—so a law student could well be writing an article on refugee law, or any element of law that might have pertained to migration, and that could constitute preparation of material for publication in one of the approved journals, such as the law journal of the University of New South Wales or the journal of the Law Society of New South Wales. That is to encourage people to think and to write and to disseminate ideas in this very important area.

Senator COONEY—Perhaps I could give an illustration of what I mean. I went to Sydney to a great conference recently of regulators of companies which ASIC ran—Alan Cameron was involved—with people from all over the world; great minds and people with great experience coming and putting forward how corporations law works and what have you. Is there anything like that with MARA? Do you have international conferences? I am just trying to get a picture of what you actually do as a regulator.

Mr Brown—The MARA is, of itself, not an education provider.

Senator COONEY—Neither is ASIC an education provider, but ASIC is very interested in the quality of the way companies are run, the quality of the law that is applied and the quality of the way it is applied.
Mr Brown—I guess the approach that we have taken is to encourage the major education providers to be involved in this area and to provide courses which we believe are of a standard and involve people of the competence and ability to impart and improve the standards.

Senator COONEY—How do you do that? Do you talk to universities, or what do you do? I do not want you to go too deeply into this, but just give us a picture. The impression I have got—perhaps that is a fairer way of putting it—is that MARA sits there and, if any sort of criminal activity or unethical practice or something untoward takes place, it will react and say, ‘You should not do this’ or ‘We are going to register’ or ‘We are going to deregister you’ or ‘We are not going to register you and you have got to go to a certain number of courses’ and that is it. Is that a fair description of what MARA does?

Mr Cope—No, it is a proactive as well as reactive organisation. It is not just on the back foot, as it were. It is actually also out there as well, as we said before, trying to encourage awareness of the existence of the scheme, but also, for example, the entry standards. There has been a significant amount of work done in terms of ensuring the quality of persons entering this profession who are both lawyers and non-lawyers alike.

There is a reasonable amount of discussion with a significant number of universities on that score. As a result of those liaisons and consultations there can be other issues that arise in terms of trying to facilitate and encourage the greatest number of activities, because if migration agents do not have a sufficient number of education activities they cannot be reregistered each year. It is within the charter of MARA to ensure that there are sufficient activities of quality out there. It is not just a matter of getting any activity; it is a matter of getting an activity that fulfils the requirements as set out in schedule 1 of the Migration Agents Regulations which relate to the standards of approved activities.

Mr Brown—It is certainly not true to say that they are just sitting there waiting. The MARA has been, as Andrew is indicating, very proactive in going out to educational providers, encouraging them to participate, encouraging them to provide courses, working with them in trying to identify areas which would be appropriate for courses. There is a lot of work that goes on in that area. You may not be aware of it and you may not see it on the surface, but certainly there is a lot of work that goes on in that area.

Senator COONEY—How many universities run an immigration course, do you know?

Mr Brown—Off the top of my head, the University of NSW, the Victorian University of Technology, the UTS and the University of Western Sydney.

Senator COONEY—Do you know whether Sydney or Melbourne does?

Mr Cope—Melbourne university has had a course in immigration law. I am not sure if that is continuing at the moment. There was a person there, Kim Rubenstein. I am not aware whether it is continuing.

Mr Brown—Sydney university does.

Mr Cope—The University of Sydney is very active. Dr Mary Crock is very actively involved. In fact, in more recent times we are aware that there is a conference of the style that you were talking about—an international conference—coming up in November. That is simply in a private capacity, not as a member of MARA. There have been no consultations by that person in respect of those activities, but simply the awareness is a very important element.
Senator COONEY—Do the migration agents have to have a particular qualification that is approved by MARA?

Mr Cope—Yes, for entry.

Senator COONEY—Do you keep updating that, looking at that and trying to keep it fresh, if you like?

Mr Cope—that is in fact something that we have not mentioned much. There is reference to it in our annual report. It is a very significant and delicate issue because there are a number of factors that you need to take into account in terms of not prejudicing existing interests, anticompetitive issues. But certainly having now had some administrative experience as the MARA with the regulation of migration agents, and being able to look at the breaches found from complaints of the code, it allows us to then say that that should feed back into the educational standards which should minimise complaints of that nature in the future. But it is a period of consultation and a person must have sound knowledge if they do not hold a legal qualification.

Senator COONEY—Not in any monitoring sense but just to inform yourself, do you ever go down to the Refugee Review Tribunal or the MRT?

Mr Brown—we have had consultations with the bodies. For example, David and I have been talking with the members of the MRT when they had a session here in Canberra about six weeks ago. We addressed and spoke with all their members that they had brought together. We talked about our activities, about what we are establishing—there was greater contact and communication between us—and we were getting feedback from them where matters come to their attention which are of concern. We are working in that area.

Senator LUDWIG—Do you have an office in Queensland or do you handle it through an agent?

Mr Brown—There is one office of the authority, and that is in Sydney.

Senator LUDWIG—If work is generated in Queensland—or in Brisbane—for example, how does it reach you? Is there a contact?

Mr Brown—are you talking in terms of complaints or registrations?

Senator LUDWIG—all parts of your authority.

Mr Brown—it all comes through the authority in Sydney. It all comes through that one central office. If it relates to a conduct matter which goes back to somebody that is in Queensland and it is a which we believe warrants the participation of the conduct advisory panel, that panel includes people from Queensland. The principal member would normally engage somebody from Queensland to undertake the inquiries on that matter.

Senator LUDWIG—if there were complaints or subsequent mediation, how would that be handled out of Sydney for Queensland?

Mr Brown—that would take place in Queensland.

Senator LUDWIG—How would it be handled? Would you appoint someone or would you travel to Queensland, or how would that be dealt with?

Mr Brown—we have got mediators appointed or approved mediators from around Australia. We would look to identify a mediator in whatever location the complainant was in.
Being Australia-wide, we are not necessarily going to be send a mediator to every single spot, but we look to provide a very broad range in that.

Mr Cope—This is in the element where there is a mediated outcome. In the situation where the conduct is not of a financial nature, as you might appreciate, the authority does not have any constitutional power to order restitution but it tries to create the circumstances, the environment, in which a financial outcome to the betterment of the complainant will occur. In terms of the conduct of the agent over and above the issues of finances, a conduct advisory panel has been established to assist the authority in looking into those complaints and making recommendations. The members of that conduct panel are located throughout the mainland states of Australia. To that extent, there are members of the conduct advisory panel located in Queensland, who would be expected to look into the matters in Queensland.

Senator LUDWIG—I understand that, thank you. When was the last education or training session about your operations conducted in Queensland?

Mr Holt—By whom?

Senator LUDWIG—By anybody.

Mr Holt—The last continuing professional development activity conducted in Brisbane was on the 16th of last month. There is another one being conducted on the Gold Coast on 6 June, I believe.

Senator LUDWIG—Do you intend to conduct them in Townsville or Cairns or in the regional areas, or do you hope that they will come down?

Mr Holt—I beg your pardon?

Senator LUDWIG—Do you intend to conduct them in the regional areas, such as Cairns or Townsville?

Mr Holt—Remembering that the MARA does not conduct these things: there are activities conducted in Cairns. Off the top of my head I think the last activity conducted in Cairns was on the 17th of last month. There are opportunities for agents in Far North Queensland and in the central coast, if you like, of Queensland to join in to some of those continuing professional development activities later on this month.

Senator LUDWIG—Do you take an active interest in those?

Mr Holt—Personally?

Senator LUDWIG—From the Migration Agents Registration Authority viewpoint, not you personally, Mr Holt. I say that in the sense that you have a chapter in your annual report of 1999 which deals with education and training, so I take it that you have an emphasis on ensuring that there is a wide dissemination of both education and training in relation to migration matters under your area of expertise. One would assume—and that is the scope of the questions I am asking you—that in so doing you would then take an active interest in what is actually being conducted out in the continuing professional education area, and that you would then have input presumably about the matters that are of vital interest or of concern or of late breaking news and, as such, contact the people conducting these programs and feed information to them. Do you do that?
Mr Brown—We certainly have an ongoing and an active interest in what educational activities are conducted right around Australia—encouraging providers to provide courses as far reaching as possible. There are five different providers providing educational activities in Queensland. In terms of the MARA indicating to those bodies what we would like them to provide educational activities in, apart from immigration law, I could not say that we ring them up and say, ‘We want you to run a course in this particular topic.’

Senator LUDWIG—Perhaps less subtly than that.

Mr Brown—Our other hat is the Migration Institute hat, and the Migration Institute is very actively involved in providing those courses. We are very involved in trying to keep those courses current, to provide courses which are topical and to ensure that those courses are as far reaching and as wide as possible.

Mr Cope—To specifically answer one of your questions, Senator, there are in the order of 50 education providers around Australia, and some would operate in more than one state, if not all states. But of the ones that are located in Queensland there would be at least five. They include the department of immigration, the Queensland Law Society, a firm called MSI located in Fortitude Valley, Migration Professional Education located in New Farm and the South Brisbane Immigration and Community Legal Service Inc. in West End. They are some of the specific ones but obviously some providers provide national education. So because they are located outside Brisbane, or outside Queensland—regional Queensland included—that does not mean that those sectors are not being addressed. Given that registered migration agents need to complete at least 10 points of approved activities, the education providers will be well aware of the geographical spread of migration agents, and there are certainly many in regional Queensland.

Senator LUDWIG—Yes, I understand that. I see that on page 17 of your report. But on page 10 of your report it states:

Its core responsibilities are to handle initial and repeat registration applications, complaints and discipline, education and training.

So—at least as far as you say it is—it is part of your core responsibilities. You then say that your core responsibility is to not have any direct—please correct me if I am wrong—input into the types of educational programs that are being run, other than to promote them in a general fashion.

Mr Brown—There is a requirement for continuing education. Our core activity there is to promote that, to encourage providers to look at standards and to work with them in terms of the standards for those requirements. That needs to be met. We have not gone to the stage of saying, ‘We think you should run a course in this particular topic.’

Senator LUDWIG—Have you done a survey or conducted any research as to whether or not the information that is being put out there is hitting the mark, is relevant and helpful to the industry as part of that program to ensure that appropriate education and training is being conducted?

Mr Brown—we have conducted some review; some audit of activities have been conducted. We also seek to monitor it from other ways in getting anecdotal feedback from people who participate, and we get that on a regular basis from people who have attended. We also get feedback through the department itself in terms of advice that they have noticed, that there has been marked improvement in the standards of activities by migration agents. So there are a number of ways in which we look to try to monitor that.
Senator LUDWIG—You are not an approved training organisation, are you?

Mr Brown—MARA? No.

Senator LUDWIG—Do you participate in any of the boards dealing with training organisations or with curriculum development?

Mr Brown—Do we participate with?

Senator LUDWIG—With any of the boards on group training or with the various departments in relation to ongoing educational programs or that high level in terms of ensuring that there is education and training in your particular field. I am not saying outside your field. Are you on any of those boards?

Mr Cope—Only the general nature in terms of looking at the standards for entry for professional registration as a migration agent, other than those of lawyers, and that is a very general interaction at this stage.

Senator LUDWIG—You do not see a need or you have not considered it?

Mr Cope—We have not considered that issue in the manner in which you have put it.

Senator LUDWIG—Well, you do not have any input into the curriculum development, do you, in relation to the education and training of this area, it appears—unless I am wrong and that is what you are telling me?

Mr Cope—Page 11 of the annual report has a chart which provides a general overview of the legislative statutory responsibilities. Under the column of education, there are two tiers, two limbs, to that. The entry level is what I was referring to in terms of the liaison with the training and standard organisations to which you referred, because it is a MARA responsibility to make a determination as to what constitutes sound knowledge as far as the entry level standards are concerned. The MARA released a report last year and it is actively engaged in talking to a range of educational and other organisations about those standards. Part of those consultations is to consider all available and appropriate mechanisms.

Senator LUDWIG—Yes. That is the base point that I was working from. By way of explanation, there are two basic tests: one is a sound knowledge test and the second one is whether or not they have an Australian law degree.

Mr Cope—Correct.

Senator LUDWIG—It seems from the second perspective that you have some input into the process. In other words, you might determine that. But, in respect of the first, education, course development and curriculum development might be considered one of the additional factors that might provide sound knowledge. In respect of this, it seems that you are telling me that you do not have any fingers in the pie so to speak in those areas. So you just hope that it is all going well.

Mr Cope—No, far from it, Senator. To this date, one of the very first decisions taken as MARA in March 1998 was to postpone any further entry of education providers from that date until such time as a full review of the standards and the appropriateness of those standards was completed. At this stage, therefore, there are a number of approved providers as endorsed by the Migration Agent Registration Board, which is the predecessor of the Migration Agents Registration Authority. As part of that dialogue over the last two years, a report has been released. In that report, there are some proposed issues or mechanisms for going forward, and that is where that stands at this point. Nothing has been implemented, but
active consideration is given to what those entry level standards need to be. It is a matter of very great concern because it feeds directly into the cost factors for the Commonwealth in terms of incompetent advice given in the preparation of visa applications but also to the number of complaints that will come through. So we are very concerned with that issue and it is just a matter of coming up with the appropriate response to that.

Senator LUDWIG—In respect of the approved providers, in Queensland for argument’s sake, do you know whether or not they have been approved as approved training organisations under the local VET Act, the Vocational Education and Training Act?

Mr Cope—If they have in the context of continuing professional development, that may have been one of the elements in looking at them in terms of being an adequate CPD provider. But, in terms of the entry level, as I understand it. I do not think there are any Queensland domiciled training organisations responsible for that function, the entry level.

Senator LUDWIG—Well, no, in respect of being approved providers, the second issue, in terms of continuing training and education in the field.

Mr Cope—We may need to take that question on notice.

Senator LUDWIG—Please by all means take it on notice. What I am trying to establish in short—I thought it would not take me as long as this—is that in terms of education and training provision that you then were plugged into the local vocational, education and training authority; you had some discourse with them, or at least from afar you had a knowledge of their system so that the local providers were approved training organisations and therefore were reputable training organisations in Sydney, Brisbane and elsewhere because these systems are reproduced in New South Wales and Queensland alike. They have different names but they are similar I would imagine, and that provides a basis. But you are telling me, no, you do not.

Mr Brown—There are two elements to a trainer and certainly when an activity is put forward to us for approval, we look critically at the proposed course outline, at the degree of competence of those providing the sessions and at their qualifications in immigration law. It is a technical area and a specialist area. It is not an area where you just have somebody who is an education provider and therefore they can automatically qualify or be appropriate to provide something in immigration law and immigration practice. So it is a matter of looking at the competence and the ability of the person in that subject area. That is certainly looked at in a very critical way when activities are being assessed that are put forward to us for approval.

Senator BARTLETT—in relation to your $1.941 million coming from migration agents’ fees—it may be somewhere in here and I cannot find it, you might be able to point me to where—I would like the breakdown of those fees between commercial agents and agents in non-profit community legal centres.

Mr Brown—I could probably calculate it out in dollar figures. The breakdown between the two areas, as at 29 May there were 2,164 registered migration agents of which 277 were registered as non-fee-charging agents.

Senator BARTLETT—Is that an increase on the previous year? It seems a fairly small number.

Mr Brown—It is a slight decrease. So the majority of those fees would come from the 1,887 fee-charging agents.
CHAIR—As there are no further questions from the members of the committee for MARA, so I thank you, Mr Brown and your colleagues, for appearing before our estimates committee this morning and I am sure we will see you again. Having completed examination of the agencies, we will return to examination of the department. I think that we were up to output 1.2 last night, which is where we will resume.

[10.28 a.m.]

DEPARTMENT OF IMMIGRATION AND MULTICULTURAL AFFAIRS

Outcome 1—Lawful and orderly entry and stay of people

Output 1.2—Refugee and humanitarian entry and stay

Senator McKIERNAN—I was going to ask some questions on the processing times of people held in detention. Have you got an average of what it is taking to process the primary application, particularly from a boat person held in detention?

Ms Bedlington—I can give you the average processing times for people in the IRPCs who are almost all, if not completely all, boat people. For the period 1 July to 30 April, the time in detention to the finalisation of the primary application is made up of 164 days. That is the average which is about 67 days from the date of arrival to the lodgment of the application and then 97 days from the date of the application to the hand-down of the primary decision.

Senator McKIERNAN—Why does it take so long to lodge the application—67 days, which is over two months?

Ms Bedlington—A number of things happen in the time after their arrival and their being taken into detention, which includes the entry interview—which asks them where they have come from, why they are here and all the rest of it—then we go through the process, as we have explained to the committee on previous occasions, of working out whether there are issues that, prima facie, may engage Australia’s protection obligations. If the answer to that question is yes, we then facilitate the provision of application assistance. The way things are operating currently is that they may very well have spoken to their application assistance provider and the application itself is not physically lodged until after that event, so quite a lot has actually happened before the actual lodgment date. It is sort of down through the process. We have already had at least one initial interview from the department’s point of view and they have spoken to their adviser.

Mr Farmer—Could I just make a remark about this question of processing times. For us, it is a matter of great concern to try to reduce the processing times in ways that we can. We have had a variety of special units to do both the entry interview and, increasingly, the second determination of refugee status interview. We are running a task force which is looking at the whole process to look at ways in which we can reduce processing times, consistent with the integrity of the process. For us, that is one of the bottom lines. We do not think that we have the perfect system. We are working to find ways of making that process faster. Indeed, during the course of the budget announcements, one of the points that was made was that we will be funded in a different way now.

We will be given not a daily rate but a rate per detainee and that will give us, among other things, the capacity to make investments to reduce the processing times. For example, if we have to fund extra teams, if we have to incur extra expenditure—for example, to do medical examinations earlier in the process—then we will have the capacity to do that. I expect—and I very much hope—that if you ask that question later in the year we will be able to say to you,
'Between 31 May when you last asked that question and later in the year there has been a very substantial reduction in the average times.'

**Senator McKIERNAN**—Certainly, I will take that prompt on notice and will try and remind myself in November to follow it through and ask the question yet again. But it does seem to be an inordinate time to the lodgment of the application for protection—the average number of days. One could appreciate that there would be delays during the course of the backend of last year when we had lots and lots of people arriving in a very, very short period of time—I think in December something like 10 boats arrived in a matter of 20 days, and November was a lot worse.

**Ms Bedlington**—You are correct. That figure I gave you actually includes that group and it is because of the numbers that that number reflects that arrival of so many all at once and the time it took us over a matter of weeks to pull together the resources to deal with them.

**Senator McKIERNAN**—I looked up the fact sheets on the Net and they had not been updated recently on this matter. I noticed that the figure that we were given of the number that had been granted temporary protection visas, the last available public figure on the Net, was 161, but there have been a lot more than that. Going to the boats that arrived in a particular period of time, could you indicate, without going into the detail of the individuals who were on the boats, which boats have been processed to now?

Let me try and put this into perspective. On the information that I have got off the Net, the last boat from which persons received temporary protection visas was the *Unbunmaroo*, which arrived on 11 October last year. The people on that boat were granted temporary protection visas. This fact sheet was updated on 21 March. That would be five months between the arrival of the boat and the reporting of the grant of the temporary protection visas. It would match some of the average figures of time to grant, 164 days.

**Mr Metcalfe**—The copy that we have got with us here was revised on 26 May, so there would appear to be a more up-to-date fact sheet just in the last few days. Whether that update has actually found its way onto the Net in the last couple of days, I can check.

**Senator McKIERNAN**—I checked it very recently because I have been seeking to track this matter through. That is a five-month break, which would be in the order of the 164 days processing time to grant.

**Ms Bedlington**—Senator, the figures I gave you are the ones that have been finalised.

**Senator McKIERNAN**—At primary?

**Ms Bedlington**—Yes.

**Senator McKIERNAN**—Is it possible to isolate the boats of Middle Eastern origin from boats that come from other parts of the world, for example, South-East Asia? Is it possible to give us a breakdown on the numbers who have been processed, the grants that have been made at primary stage, and the numbers that have been refused?

**Ms Bedlington**—It would be easier for us to do that by country of nationality, rather than the boats.

**Senator McKIERNAN**—That is essentially what I am asking about, although with some of the boats coming in, the countries of nationality have not been determined for the persons on board until later in the piece.
Ms Bedlington—We can give you that information by country of nationality. We will take that on notice.

Senator McKIERNAN—I now have the information from the Net. It is updated as of 26 May. The last question I have got on this particular area is with regard to the mix of people coming in. Has that mix markedly changed since the legislation was passed by the parliament last year to grant temporary protection visas rather than permanent visas? Are we getting more family units coming in now to try and overcome the difficulty of sponsorship, or lack of the ability to sponsor for a period of three years if persons are granted temporary protection visas?

Ms Bedlington—I think it would be fair to say that there has been a very slight increase. Whether that is significant for the reasons that you have alluded to is another question. There is some anecdotal evidence that some of the families that have arrived have done it intentionally to circumvent the limitation on family reunion but the numbers are at the margin. I think it is really too early to draw any firm judgments about whether this is going to be an increasing trend.

Senator McKIERNAN—Just going to back to these fact sheets that are on the Net again: the sheet that I was able to get off on 26 May was obviously printed just before the update came through electronically. You must have been tracking it.

Mr Farmer—Our timing was perfect, Senator.

Senator McKIERNAN—Fact sheet 81 for the year 2000 has not given the nationalities of the persons on board. They have been given up until the last boat that arrived in 1999. Is that practice going to be continued? Is there a reason for it?

Mr Farmer—One of the difficulties we have had, and obviously there are many complexities in this case load, is in determining nationality. That is an issue where we are doing a lot of work to try and establish how to assess the credibility of stories. What we have come to believe is that some individuals look at the acceptance rates for some nationalities and will therefore present themselves as being of that nationality. We have to check that—that is the practice that we had adopted—if they are saying there are 36 Chinese boat people and then on another boat 40 Iraqis and 15 Afghans. We are coming across those credibility issues with this case load. That is one of the factors that I think means that we did not want to be misleading in listing nationalities.

Senator McKIERNAN—The headline in the West Australian newspaper on the 24 May was ‘Boat people make mass death threat’. Included in the body of the article is this particular quote, ‘Authorities inside the centre this week circulated a newsletter urging detainees not to commit mass suicide’, the detainee told the West Australian.’ We are talking now about Curtin Detention Centre in Western Australia. Has such a newsletter been circulated within the detention centre and how serious is this threat of mass suicide from within?

Mr Farmer—I will have to ask the officers who deal with detention matters to come to the table on this question.

Ms Daw—The newsletter, or letter that is referred to, is a regular means of communication by our service provider with the detainee population. The particular edition that was referred to, I understand, sought to inject to the population some information that they had established about what the Koran said in respect of self-harm to try and remind any waverers or any people who might be being led astray that this, according to their own religion, was not something that would be countenanced. But it was part of a regular vehicle for
communication with the detainee population to keep them up to date with issues, the services that were being provided, et cetera.

Senator McKIERNAN—So the threat seemed to be somewhat of a serious nature?

Ms Godwin—There are tensions from time to time in detention centres and you are probably aware that we have had earlier incidents in Curtin and in other detention centres. There was certainly a degree of unrest in the centre. The question of whether or not the suggestion of a mass suicide was credible or serious I think is more difficult to answer. It appeared to us in assessing the situation more as an expression of continuing unrest and concern about being detained in the first instance and the length of detention.

Mr Vardos—Just to add to that, we do take all threats seriously whether they are of self-harm, self-mutilation, suicide or whatever, so our response is heightened alert and heightened monitoring whether there is evidence that they are credible threats or not. So our response is to be on heightened alert irrespective of whether we think they are serious threats or not.

Senator McKIERNAN—I guess many of these threats could be motivated by the lack of information about processing times and the length of time taken to process applications or even to lodge applications. Would the newsletter that has been spoken about, Ms Godwin, go into the detail of what is happening with different processing, the applications and how they are being handled and so on?

Mr Metcalfe—I think you correctly identify that there are concerns within the centres about processing times. That is very much in the context that of course the people who have come to Australia without authority have been given some expectations—and some very false expectations—from the people who organise that travel, the people smugglers, who essentially say, ‘When you get to Australia you will be met by Australian authorities, you may have a short stay in a detention centre and you will then be released.’ We of course then have to operate in the environment of those expectations about swift release, and we have our processes that we have to work through and we do that as carefully but as promptly as possible.

So there is a measure of not only dealing with expectations of reasonable processing time but also a problem we have to confront of expectations of very swift release. So information is provided to people when they are first placed in detention about the detention environment and whatever. And through the entry process that Mr Farmer and Ms Bedlington described earlier of assessing whether people engage protection obligations and then moving through the various processing stages for those who do, there is continuing information provided.

On a couple of occasions we have sent senior officers from Canberra to the centres to advise people of the realities about processing times and why people should expect that there can be some periods of time before a decision will be known to them. With Curtin, for example, that caseload is now moving through. There are some visas obviously being granted from Curtin and so we are able to work with the group within the centre and remind them of the fact that these things take time but that there is some movement associated with that caseload.

Senator McKIERNAN—Did the threats in this particular instance motivate the department to get improved, more specialised medical assistance on site? It seems to me that if people are making threats against their own lives, particularly in a group situation, that there is probably a need for some psychiatric advice to be passed on. Has any of that been brought on site?
Mr Vardos—We have not sent specific specialists in response to the threats. The services are always available, including counselling and psychiatric services. The approach is to engage the people in discussion to see reason. I can confirm the points that Mr Metcalfe made. As recently as last month, we sent a senior officer from the Refugee and Humanitarian Division to Woomera to address the people there about processing issues. So the short answer to your question is: no, we have not deployed specialist services specifically in response to the threats that have come out of the centres, but the services are always available as necessary.

Senator McKIERNAN—What is available in a counselling sense? To what level of care does the counselling go, when people are making threats of self-harm?

Mr Vardos—I will have to defer the specifics to my colleague or take that on notice. We do have trained counsellors available at every centre on a full-time basis, but I want confirmation of that.

Ms Godwin—Senator, could I draw your attention to a question we took on notice at an earlier hearing. We provided a detailed response to that question which set out the range of health, welfare and other ancillary services available at each of the centres. If you wanted details of the numbers of staff, we could take that question on notice. That question, I think, goes to the range of services but does not actually mention the numbers, for example, of nurses or counsellors. We can pick up on these details now, if you wish. As I say, there was a very extensive setting out of the range of services at some earlier stage.

Mr Metcalfe—I think we should draw a distinction between the sorts of incidents that were perhaps somewhat exaggerated in the West Australian article which are largely attention-seeking episodes, where detainees are essentially saying, ‘We don’t want to be detained any longer, we want to be let go.’ I do not think there is any suggestion in that circumstance of any mental illness or anything that would require psychiatric assistance or counselling; rather, it is a matter of some very determined people who have been given false expectations and who, when they find those expectations are not met, clearly are going to seek to protest or to draw attention to their situation. Our response to that is an information provision response. As I said earlier, we seek to provide that information through a variety of ways. When a particular issue bubbles up, of course, we put some more effort into dealing with it. The medical resources that Ms Godwin has alluded to, and which were covered in the question on notice from last time, are in relation to people who have an actual medical need. I think we should draw that slight distinction between a potential group protest and people who have a particular medical requirement.

Senator McKIERNAN—Thank you for that and for the earlier information. I am not seeking to put myself in a position where I am making decisions on it, but I am concerned when threats of this nature are made, and particularly when they are then publicised, because that can feed on itself if that information is then fed back into that detention centre or into other centres around Australia. There is access to information from within. I am not saying that you stop the reporting of the matter. But it does concern me if something did occur following the publicising of something like this and the department had not taken all steps available to it to provide assistance to people. It would seem to me—of course, I am no expert on it—that if persons are threatening self-harm on a mass basis, there probably is a need for some form of specialist care. But the people who are on the ground are in a better position to make judgments as to who they bring in. If there was a need to bring specialist medical care, particularly psychiatric services, into various centres, what would be the procedure for that? Is that readily available for the service provider at the detention centres?
Ms Godwin—The contractor reviews their staffing requirements very regularly in all of the centres and they adjust those according to the needs of the detainee population at any time. As an example, if the number of children went up and they needed to have more education assistance or teachers, they would modify the number of staff.

Similarly, if there was an emerging issue of a medical, counselling or security need around threats of this sort, the contractor would be reviewing their staffing levels and making an assessment of whether or not they needed to bring in more staff and, if they did need to bring in more staff, what sort of staff they needed to bring in. But as I say, that is a process that goes on routinely. Obviously, a threat of this sort would prompt a review and then they would have to make an assessment of how to respond to that.

Senator McKIERNAN—Thank you for that, but I am asking particularly about specialist medical care. I do not believe there is a psychologist readily available in Derby which is the nearest town to the Curtin facility. I am not even sure that there is such a specialist in the northern reaches of that part of Western Australia, even in Port Hedland, but there may very well be. What would be the circumstance if such specialist medical advice was needed? What would the service provider be able to do in order to engage such advice?

Ms Godwin—Generally speaking their approach would be, I think, in the first instance to look in the local community to see whether or not there was a service provider that they could engage on a sessional or contract basis, or even on a full-time basis if that were required. They do have qualified counsellors on site in Curtin and they do draw on the resources of the medical practitioners in Derby as required on a referral basis. But if the local services were not able to respond to the requirements at any given time, they would then source personnel from outside the local area and fly them in, just as they do other staff.

Senator McKIERNAN—I have got some questions to ask about the proposed new facilities to be constructed at Darwin and Brisbane and also the redevelopment at Villawood, but I am wondering, before we move to that stream, if some of my colleagues have other questions.

Senator COONEY—Yes, this is on 1.2, going over to 1.3. Mr Barrett, the Auditor-General, wrote a report dated 17 February 1998 and he was talking then about the various costs to the department of the refugee system. He said that at that point, boat people represented about 0.01 per cent of the total number of people who arrive in Australia annually but there was about 10 per cent of DIMA’s budget spent on them. Would that still be roughly the position?

Mr Metcalfe—I think we would have to take the precise details on notice, Senator, but I would expect that, with the very substantial influx of people over the last nine to 12 months, that relativity would have changed. The numbers of unauthorised arrivals has jumped dramatically but, of course, so has the budget allocation in respect of that group.

Senator COONEY—Would it be one per cent yet, do you think?

Mr Farmer—Senator, if you would like us to give you the accurate—

Senator COONEY—No, just a rough estimate. I will put a proposition to you and then you can comment. The people that come here by boat and claim refugee status represent a very small percentage of all the people that you have got to deal with as a department and yet they take up a lot of the money. Not only that, more importantly, they impinge on the perception people have of the department and on the reputation that it should rightly enjoy. In other words, if you talk about the department of immigration, instead of people thinking, ‘Yes,
this is a department that settles people and brings parents across the seas to their children. They bring in those vital skills’, they think, ‘Here is a group that is coming down on the Kosovars and on the people fleeing the terrors of Saddam Hussein’.

I think the whole reputation is soured by a group of people who are very, very confined in numbers. A lot of the problems arise because of the detention. We have been over this again and again. You were asked about the issue of suicides and I think you, Mr Metcalfe, said that these are people who are making a calculated appeal for attention to highlight their positions. That may be right. I notice that Mr Barrett, in 4.75 of his report, talks about 11 suicide attempts at Port Hedland up to November 1995, none of which were successful. A lot of the problems arise simply because there is this mandatory detention and there is just no way out, which is in contrast, I think, to the situation in the United States and in Canada. We have been through this. I was just wondering why the department does not come along and simply say, as it suggests every now and then, ‘A lot of these problems just arise because of mandatory detention. That is in the act. That is a matter for the parliament and for the government. Both governments have gone along with this. That’s the real problem here and it’s not a matter to do with us, it’s a matter of policy.’ Have you ever thought of saying that?

Mr Farmer—I will say a couple of things. You asked first about the relativities. The numbers would have changed, and we can get those for you, but in general terms the number of illegal arrivals in detention as compared with the large number of other arrivals would still be very small. But the funds expended on detention costs are still very large. I suspect that the proportion of our budget would have gone up since that report was written, simply because of the large number of arrivals as compared with what it was a couple of years ago. So that is one thing.

If you would allow me to differ with you on a matter of perspective: from my perspective I look at what my colleagues have done over the last year, for example in relation to the Kosovars. I regard what we have done collectively as outstanding public service. We responded very quickly to a request from the government. We sent our officers overseas, we processed Kosovars quickly, we worked with other state and Commonwealth government agencies and non-government organisations to establish the safe haven centres. My colleagues worked, I think prodigiously, to make that exercise happen. I think that in the history of the department that particular exercise with the Kosovars is one where many DIMA officers did public service of an outstanding nature. Clearly, in relation to the remaining Kosovars there is an untidy chapter that is going to be written, but I think we have got to keep that in perspective. Certainly from the point of view of the department’s reputation, I do that. Thank you for indulging me in that—

Senator COONEY—I think we are in thunderous agreement.

Mr Farmer—I will just go on: what we have done, both in relation to the Kosovars and in relation to the illegal arrivals, is to accept and discharge the responsibilities that we are given. We will continue to do that.

You talked about mandatory detention. I would just like to say that I believe that views on detention are changing. The British, for example, have begun expanding their detention capacity, because they have concluded that if they do not do that then they are really exposed
in a global environment where countries which appear to have an open door policy are prey to increased people trafficking. I think the Canadians are beginning to think about what they might have to do in relation to detention. If anything, the thinking in some like-minded countries is coming our way.

Senator COONEY—I concede that. Obviously, an intolerance to refugees is growing throughout the world. In Ireland, for example, there have been problems and there are clearly problems in Germany. In Canada it is thought about, but I do not think it is getting anywhere near the situation we are in, and the United States has not. I think they are ones that we ought to compare ourselves with. But I agree that there is a strain throughout the world: you get right-wing tendencies in Germany, you get this interesting reaction in Ireland, you get the United Kingdom being as it is, and I think that France has started to get the stitch. I think that the Australian service is very good in lots of ways. You say your department has done well, and that is right, it has. But the perception—I am getting a lot of this from what has happened at Bandiana, but it is broader than that—is that the rules are so strict that there is just no discretion or room to move so that, for example, a lot of the Kosovars want to go back and do, and some ought to go back and do, but the remainder do not have to be forced onto planes and, in effect, locked up and kept in detention and all this sort of thing which creates a very bad impression. I think a lot of this comes about because, under the act, you are compelled as a department to detain people. There is just no discretion about it.

Detention causes a lot of costs in terms of money, but more than anything else it costs a lot in terms of reputation, I think undeservedly. You and your officers come loyally along to defend this under both governments and go through the tortures we sometimes inflict, when the right answer is that this is a wrong policy. We did a parliamentary report on this in 1994, and I did a bit that said we ought to do what we are doing now. So I have got to agree that I come to this with a coloured mind, but I think there is a lot of truth in what I am saying. If you read Mr Barrett’s report the same thing comes out. I do not know whether you want to comment on that.

Mr Farmer—Senator, there are a couple of things I would comment on. You talked about a growing international intolerance toward refugees. That was one point. I think what we are seeing is a very serious concern on the part of a number of governments about the growing illegal trafficking of people. That phenomenon is illegal in itself, but what it is also doing is having an effect not only on public opinion but on the capacity of governments to offer shelter and so on to refugees. There is no doubt that that illegal trafficking phenomenon is causing concern. Our minister has made the point a number of times that if people who are being trafficked succeed in a refugee claim, they are in effect taking a place that we would otherwise offer to someone who is living now in a refugee camp in the north-west of Kenya or somewhere else. There is an equation there that is really of concern.

Senator COONEY—Can I say two things about that. First of all, with respect to the queue, I do not know whether there are any names. That is what people have put to me. They say, ‘There isn’t a queue in the sense of there being a list of names with the parenting category,’ the ones that we tend to bring here as parents. In any event, I would have thought that if you are a real refugee under threat of death or torture you are going to take whatever means you can to get out, even if you pay to get out. I do not see that as reprehensible. I do see as reprehensible the people smugglers, but we are not getting at them. We are getting at some crews from Indonesia—you know the story. The law has got to take its course in regard
to these people. So we are punishing these small people. It is a classic issue, the same as with drugs, I suppose: do you get the people who sell on the streets or do you try to get the top people? We are trying to get the top numbers amongst the smugglers. I am not sure how successful we are.

When we talk in those terms, we tend to talk in terms of the people who are breaking the law and who are very reprehensible. Again, people have rung me and said, ‘There were 10 people who were sent back to Kosovo.’ I asked, ‘From Australia?’ and they said, ‘No; they have been executed there.’ This is the real problem. If we make a mistake, we send people back to execution and torture. I know I am a bleeding heart and a bit squeamish, but I do not like the idea of us being involved in that sort of thing. That is the other side of the picture. I do not know how it is all balanced.

CHAIR—Mr Farmer, do you want to make a response to that? Then we will continue estimates questions. I am not suggesting, Senator Cooney, that this is beside the point, but Mr Farmer may wish to make a response to that.

Mr Farmer—I will make two brief points. First, on mandatory detention, as you said, Senator, there have been a number of parliamentary and government examinations of this matter. The reasons for maintaining the policy are quite clear—our capacity to know where people are, to keep them here, to keep them in a known place for processing while things like character, health and their claims to be in Australia are looked at, their availability for removal and so on. One of the new phenomena is that—and do not get me wrong—we are competing in a global market. By that I mean that we and other countries, in terms of our legislative and administrative arrangements, are really sending messages about our readiness or otherwise to take firm action against illegal arrivals. The second point is in relation to the Kosovars. As you know, the minister has taken decisions personally in relation to each Kosovar and he has in effect given a number of them the capacity to make an application for refugee status. Those applications will be processed by people who would richly share your view. We do not want to make a wrong decision in relation to them.

Senator COONEY—I could not quite get to Senator Payne with the issue of executions and torture but perhaps—

CHAIR—I think that is unfair, Senator Cooney.

Senator COONEY—is it? If that is unfair, I will withdraw that, absolutely.

CHAIR—Thank you.

Senator COONEY—that is where a disproportionate amount of the budget goes, isn’t it—not into refugee claimants but into boat people?

Mr Farmer—I have not said disproportionate but it is certainly large.

[11.14 a.m.]

Output 1.3—Enforcement of immigration law

Senator McKIERNAN—are any proposals being put in place to cope with situations of difficulty in various nations around the world? There are a couple that spring to mind—Fiji and Zimbabwe—but there are a couple of other places. Are there any contingency measures in place to cope with potential situations that might arise out of either of those places? And would our safe haven visas be a useful method to cope with any humanitarian situations that arise out of those situations?
Mr Farmer—We have the legislative and other arrangements in place to cope with that sort of situation, but I would not want to give you the wrong impression. While those legislative arrangements are in place, the government has not taken any decisions about either of the countries you mentioned.

Senator McKIERNAN—For nationals of Zimbabwe and Fiji, for example, who are currently in Australia—have they been granted extensions or is there the ability to grant extensions on their visas, if they so request?

Mr Farmer—We would look at those matters on a case-by-case basis. It is true to say that we do not have a large case load.

Senator McKIERNAN—that concludes my questions, thank you.

CHAIR—We have matters to return to in 1.1, which we undertook we would come back to last night. We might now pursue issues under enforcement of immigration law, 1.3, and then come back to those matters later.

Mr Farmer—The one matter we talked about last night that we were to come back to—the newspaper article and so on—would come under 1.3 because it is an entry issue relating to the work of airport liaison officers.

Senator McKIERNAN—Senator Ludwig has a matter that may come under 1.1.

[11.17 a.m.]

Output 1.1—Non-humanitarian entry and stay

Senator LUDWIG—As I understand it, there was an announcement last night in relation to a Mr Speight. Is that correct or can that be confirmed?

Mr Metcalfe—Yes, Senator. Mr George Speight’s resident return visa has been cancelled.

Senator LUDWIG—in relation to the acts going on in Fiji at the moment surrounding Mr George Speight, it appears, from television reports, that he has a movement or a number of individuals that are closely associated with his activities. Is it similarly likely that you will obtain their names and treat them similarly by withdrawing their visas or if they should they wish to obtain them and travel to Australia?

Mr Metcalfe—The government has made it clear that if any of those persons held Australian visas then obviously they would be looked at very carefully, and if any of them ever applied for an Australian visa then obviously the character requirement would also be highly relevant.

Senator LUDWIG—Have you been able to obtain their names?

Mr Farmer—We are in the process of making inquiries. I really do not feel comfortable about going into details here about how far we have gone.

Senator LUDWIG—Certainly if I am going too far, then please—

Mr Farmer—I do not think you are, but I do not want to.

Senator LUDWIG—I was hoping you would not get the subtle difference!

Mr Farmer—If I could answer your question in this way: I think we share the same impulse here and we are acting on it.

Senator LUDWIG—I will leave it at that. Thank you very much.
CHAIR—Senator Ludwig has a question to raise in relation to tourist matters. Is it appropriate to raise that in 1.3?

[11.19 a.m.]

Output 1.3—Enforcement of immigration law

Senator LUDWIG—I think about 50,000 people overstay. At the last additional supplementary estimates, Senator Chris Schacht asked about a breakdown of the figures for those who return. The returnees amount to about 13,000. I think he asked about the breakdown of country of origin figures. In respect of the 50,000, as I understand it, it is a floating number. Could we get a breakdown of that floating number? I suspect it would change but at least if you could provide the figures, from the last time they were calculated out, as to the country of origin of the 50,000 or 54,000, as the case may be? If that is possible and it does not create too big a difficulty.

Mr Metcalfe—We probably have that information with us here, Senator. There is a biannual calculation done of the overstayer population in Australia and statistics are provided by country of nationality. Perhaps during the course of the hearing this morning we can try and provide that information to you.

Senator LUDWIG—Thank you very much.

Senator McKIERNAN—Proposals are contained in the budget to construct two new detention facilities in Darwin and Brisbane and it is also mentioned that the redevelopment of the Villawood establishment is going to go ahead. The Villawood proposal has been a long time in gestation. Can you bring the committee up to date as to what is exactly happening in regard to the construction work that may or may not be going on at Villawood?

Mr Farmer—I just make an introductory statement to say that we have completed a 10-year strategic view of our potential detention requirements. It is that review which has led to the announcements in the budget. That has enabled us to look at our requirements around Australia. That has taken into account our needs not only at Villawood but elsewhere, including, if you like, in greenfield areas like Brisbane. The international airport there has assumed very great significance in terms of the number of arrivals over the last few years. Would you like us to talk in particular about Villawood or Darwin?

Senator McKIERNAN—Villawood in the first instance and then I was going to move to Darwin. Perhaps my colleague Senator Ludwig wants to ask some questions about Brisbane. Could we start with Villawood?

Ms Godwin—You would be correct in saying that the decision was taken to redevelop Villawood a couple of years ago. There has been a lot of work done on that but it has been protracted, as you correctly point out, because of a number of factors. One was the suggestion, at an earlier point in planning, that part or all of the Villawood site would be required for the purposes of the Olympics and therefore redevelopment would in fact require us to move to another site. So a lot of effort was put into that.

By the time that was resolved and it became clear that Villawood was not required in the context of the Olympics, we were by then experiencing the very significant influx of people during last year by boat. That meant that the people who were working on the redevelopment of Villawood had to turn their attention to the development of capacity to receive and appropriately provide services to that large number of boat arrivals.
We are now in a sense back focused on Villawood. There are two things happening at Villawood. One is that we have taken a decision to recommission some of the existing buildings there at Villawood that are not currently used, so as to increase our immediate capacity in Villawood.

The other is that the redevelopment you mentioned will go ahead. So in fact we will both refurbish and redevelop the site, but we will stay on the site there at Villawood. It requires some part of the site that we are using to be moved to another part, and various things like that. So the refurbishment component is going ahead now and the redevelopment component is also an immediate priority, but that will obviously take a bit longer because it requires actual building work.

Senator McKIERNAN—The refurbishment is happening now. Last time I was there it was early February and the work was going to commence the very next day. There were already some prefabrication huts on the site; I think they were going to remove the kitchen.

Ms Godwin—Yes.

Senator McKIERNAN—So that work is actually happening now?

Ms Godwin—Some elements of the work are happening now; there are a couple of things that we are doing. As you say, there is work going on to upgrade the kitchens. As well as that, we have commissioned an additional building for what is the existing stage 1 to increase the capacity there in the secure area. So that work, as you say, has already commenced. If you went onto the site, you would actually see activity.

In addition to that, there is additional work that we have also now commissioned to bring into use some of the buildings that had not previously been used, or indeed, some buildings that are currently being used for non-accommodation purposes. So they are either being used for office space or ancillary services and we will commission those as accommodation and bring other buildings on stream as well.

Senator McKIERNAN—Have you got completion dates for both the refurbishment and the reconstruction?

Ms Godwin—The refurbishment will be finished during this calendar year. In fact, a large component of it we expect to be completed by about the middle of September and the remainder in a couple more months after that. The redevelopment component is scheduled to start this year, but it will take about 12 months to complete. So completion may well go into the next financial year.

Senator McKIERNAN—Moving on to Darwin, I must express my disappointment about the choice of Darwin. I am disappointed that it was not in Western Australia or even in Port Hedland—the shire had made a strenuous effort to get another facility located there. The parochialism aside, can you give the committee more detail about what is proposed for Darwin? There is an allocation of capital injection of $3 million for 2000-01. Has a site been selected yet? We are talking about a 500-bed facility, which is going to be a substantial facility. If it has not, I do not want to breach any confidentiality or get into any areas that may be difficult if there are contracts being negotiated and so forth.

Mr Vardos—The short answer is no, a site has not been identified. We are at the very early stages and we still have to go through the comprehensive consultation process that will be required with the Northern Territory government. We have simply identified the parameters in terms of the size of the facility that we would be looking at to establish: a 500-bed core
facility, but with the flexibility to expand it by adding demountable accommodation as necessary.

Mr Davis—The $3 million that you have referred to is actually the money for the demountable aspects of the facility. The core resourcing to lease the centre—to have it built and leased from the private sector—is in the general resourcing associated with some of the measures, or with a particular measure in the documentation. So the $3 million you refer to is simply the aspect of resourcing required for the demountable element of accommodation. The 500-bed core facility and other associated ancillary facilities are resourced through moneys in the measure itself which is referred to as ‘build the detention centre in Darwin’.

Senator McKIERNAN—What are the dates for construction, completion and occupancy?

Mr Vardos—The commencement will actually be from 1 July, implementation, 2000-01 financial year. Given our experience with Woomera, for example, we estimate it will take anywhere between 12 to 18 months to come close to completing a facility of that size.

Senator McKIERNAN—If you are making a comparison with Woomera, you did that in a matter of weeks, almost.

Mr Metcalfe—I think there is a slight distinction there in that the Darwin facility, of course, is a greenfields site and there would have to be a tender process to work through. So we are at a very early stage, and it will be some time. With Woomera, of course, we were able to use Commonwealth facilities on Commonwealth land and obviously moved very quickly, given the emergency we were facing.

Ms Godwin—if I could also make one other point, as Mr Vardos said, we will be working on this as a matter of priority from now. Commissioning may well be something that happens in a phased way also. There is the Woomera example, taking Mr Metcalfe’s point about the differences, but what we have done with Woomera is to commission it progressively, and we would certainly examine that as an option for a new facility at Darwin. If I can just pick up your point about the choice of Darwin—and allowing for the disappointment—it was essentially a practical one, because that is the point at which most of the boat people arrive, particularly from Ashmore and Christmas islands.

Senator McKIERNAN—that is just not acceptable, I must say!

Ms Godwin—I thought I would inject it nonetheless—and we are retaining Port Hedland.

Senator McKIERNAN—I understand, but I was supportive of the overtures coming from the shire of Port Hedland for an increased, enhanced facility there. I know the community in Port Hedland are supportive of the current facility that is in that town. They have come to accept its location, even though people generally do not like places of detention being located next to them. I do not want to dwell on that one, other than to record my disappointment and to dismiss all the excuses that are offered! Do you have a time frame in which you have to vacate the facility at Curtin, because that is in association with Darwin?

Mr Vardos—There is no specific date by which we have to vacate Curtin. Defence are being very cooperative in our occupancy of that facility. Obviously, they would like us to move on as soon as we can, but they have not forced a date on us and we are working cooperatively to make sure they are able to use their facilities as well.

Senator McKIERNAN—I have finished my parochial thing.
**Senator LUDWIG**—Unlike Senator McKierman, I have not yet formed a view about disappointment. You have set one for Brisbane. Can you tell me exactly where you are in that process?

**Mr Vardos**—It is not scheduled for work to commence in Brisbane until the 2001-02 financial year, so that is some way out. Obviously, planning will commence next financial year, but the significant expenditure will not happen until the year after that. Again, we have not engaged the Queensland government on this issue. It is very early days. As Mr Farmer mentioned earlier, we will be going through a tender process, a design process, so it will be rather involved. You are probably looking at the year after commencement for completion.

**Senator LUDWIG**—How big will it be?

**Mr Vardos**—We are looking at a 200-bed facility.

**Senator LUDWIG**—You have not spoken to the state government about it? I guess you should before they look at page 29 and ring you up.

**Mr Farmer**—The state governments are informed of the budget measures.

**Senator LUDWIG**—They know this much?

**Mr Farmer**—Indeed.

**Mr Metcalfe**—To anticipate your next question, the rationale for a detention centre in the Brisbane region is the increase in demand for that particular facility in Queensland. At the moment we have very limited facilities available to us and nothing that is specifically available to us. Brisbane, of course, is now the second busiest airport in Australia—it is now ahead of Tullamarine—and a fair degree of the clientele comes off air flights. Also there is a compliance case load in Queensland which, until now, has required transfer to Sydney, exacerbating the pressures on the facility at Villawood. This is a decision that is very clearly required for the growing case load Queensland.

**Mr Vardos**—Could I just add that the whole detention infrastructure strategy has a 10-year time frame with priorities coming on stream over that period.

**Senator LUDWIG**—Where are they accommodated in Queensland at the moment or are they all transferred to Villawood?

**Mr Metcalfe**—Not all are transferred to Villawood. The circumstances of detention vary. There is the capacity, under some longstanding arrangements, for a very small availability of room at the Arthur Gorrie Correctional Centre at Wacol. Our experience is that that is only used in exceptional circumstances. For families who may be detained—they come in on a flight and might be leaving the next day; they are not looking at long-term detention—our detention services contractor has organised some facilities: a motel close to the airport where a family can be settled in and kept overnight before they catch a flight home the next day, if that is the situation. If we are looking at anything longer than an overnight or a day or two, the usual decision is to quickly transfer people to Villawood, but that facility is under pressure and that is why we need something bigger in Queensland.

**Senator LUDWIG**—Is there a variation in your detention contractors’ contract to then include Brisbane or will you then be putting that out to tender to look at whether or not to have new contracts for detention—

**Mr Metcalfe**—As we were discussing last night, we currently have a single detention service provider. We are in the process now of ascertaining whether we extend that contract or
whether we open it up for new competitive tendering. At this stage, detention services and all our facilities are provided by the ACM arm and we have no current plans to move away from anything other than a sole provider across Australia.

Senator LUDWIG—I understood what was asked in the questions put last night. The question was whether it was for a new establishment—and I think you said yes last night but I just wanted to confirm it—or whether it was just a variation in the contract with ACM to pick up Brisbane or whether, in fact, you had to then enter negotiations again and draw up a new contract?

Mr Metcalfe—No. Were ACM still our service provider when Brisbane came on stream, I think it would be our expectation at this stage that ACM would be able to provide services to us in the new Brisbane facility as part of the existing contract. There is capacity to provide for their services in any range of areas. For example, when they were first appointed, the detention centres were based in Sydney, Melbourne, Perth and Port Hedland. Since that time we have extended to Curtin and to Woomera and ACM have been very cooperative and able to meet that particular requirement. We are talking ahead into the future, so I do not want to be absolutely black and white in what I am saying. If Brisbane was opening tomorrow, for example, it is certainly my expectation that it would happen under the existing contract with ACM. But we are a couple of years away and there are some decisions that have to be made down the track. It is obviously important that we do not pre-empt those decisions.

Senator LUDWIG—Thank you very much.

Ms Godwin—Could I just add one thing which I think is also important. It relates a little to the point that Mr Metcalfe was making. Built into the 10-year detention strategy is a requirement for us to review the need for each of the centres as we progress through the strategy. The size of the facility, for example, would be reviewed. The points that we have made are our initial planning but it may well be that, as we have with Villawood, we actually find that we need a larger facility or something with a slightly different configuration in the initial planning. That will be reviewed progressively as we work through the 10-year strategy.

Senator LUDWIG—Yes, I appreciate that. I understand where we are in the time line. I thought it was a matter that I would continue to ask at each opportunity as we go through the estimates to see how we are progressing and we will know how we are going in the future.

Ms Godwin—We will try to be ready.

Senator COONEY—Have the contracts been let yet or about to be let? I think you said that they were to be tendered.

Mr Metcalfe—The detention services contract?

Senator COONEY—No, the building of the new structures—one in Darwin and one in Brisbane.

Mr Metcalfe—No. We are at a very early stage for both the Darwin centre and the Brisbane centre. We are at a slightly more advanced stage in relation to elements of Villawood but not the actual new building. We now have to go through a process of developing the tender specifications and putting the document out to the market, so there is quite a long way to go. Clearly, we know what we need to do and we are now focused on doing that.

Senator COONEY—The people you are tendering to—will they be people like Australian Correctional Management and Group 4 or are you going to make it wider than that?
Mr Metcalfe—The intention is that we would be basically putting a tender out to the market requiring the availability of facilities. We would essentially be saying that we have a need for the next 10, 15 or 20 years, whatever the period of time might be, for a facility that is essentially an immigration detention centre, and we would be looking for someone to provide that facility to us. We would then lease that from them on an ongoing basis. In addition to that, a detention services provider would then actually come on site and provide those services. You could not rule out that the building owner and the detention services provider are the same company but that is certainly not necessarily going to be the case.

Senator COONEY—The reason I asked you that—and my comment on it—is that I notice in the audit report entitled The management of boat people done by Mr Barrett that he has photographs on pages 43, 44 and 45 of measures taken to prevent people escaping or getting onto roofs. I think one shows razor wire, the next one shows a structure to stop people getting off the stairs and the next one shows what is called ‘bullnosing’ to stop people getting on the roof. I think what that illustrates is that there are special needs when you are building prisons or detention centres. In Port Phillip in Melbourne there were a series of suicides—I do not know whether you picked that up—after it was put up partly, or perhaps solely, I forget now, because they left hanging points there. I was just wondering whether you are going to keep that in mind when you are looking at the tendering and whether you are going to get people who are experienced in the actual building of prisons?

Mr Metcalfe—Certainly a part of the specifications for the building will ensure that it accords with best practice in this area. I would make the point—and I have made it before—that detention centres are a somewhat different environment from prisons in that detention centres are administrative detention, not correctional detention. We often find a configuration of single men, single women, families and whatever. So, in designing detention centres, in many respects there is an even more challenging task, because we are looking at a minimum-security environment but with a small proportion of the group who may give higher security concerns. We are looking at families—men, women—all being in detention. We are looking at culturally diverse backgrounds. We are looking at a whole range of issues rather than just, for example, a men’s prison or a women’s prison. We are very mindful of that and those issues will be clearly identified through that tender process.

Senator COONEY—I understand the distinction. You have made it over the years between the prison and the detention centre, but if you look at the Audit Office report Mr Barrett talks of 11 suicide attempts in November 1995 at Port Hedland. It is a while back. The report was written in February 1998, I think.

Mr Metcalfe—From memory—it was a long time ago—I think it was one particular instance of a group who climbed onto the roof and a couple of people actually jumped off. Hence I suspect that the Auditor-General would have highlighted the building measures, the bullnosing that was put in place to prevent people from actually climbing on those roofs up at Port Hedland.

Senator COONEY—Even when Mr Hand was minister I remember there were people on the roof at Port Hedland soon after it was put up.

Mr Metcalfe—Yes, I recall that.

Mr Vardos—Could I just add something that goes to the question that you have asked. We will not be designing the centre ourselves. What we do is set out a statement of requirements and there are, I think, six architectural firms that I am aware of in the country that have
specific expertise in designing youth detention facilities, women’s facilities, et cetera. That is where the expertise resides and they would respond to our basic design brief, so the specific issues that you raise about hanging points, et cetera, are picked up in that type of environment.

Senator COONEY—I can understand, Mr Vardos, but that was what was thought about Port Phillip, which you would be familiar with, and yet you had the problems. This is one of those situations where I would ask for the contract, which has not been formed yet, but when it is formed and I ask for it, I hope you keep up with your usual practice of saying it is commercial-in-confidence and therefore you will not give it to me, because I would hate to have looked at a contract—

Mr Metcalfe—To set the record absolutely straight, I think ultimately we indicated that—after consulting with the company and overcoming commercial in-confidence and security concerns, as we are mindful of the company’s interest in this—there was a particular point associated with litigation surrounding the contract that was also relevant as well.

Senator COONEY—The point I want to make is that I would hate to have looked at a contract and then something to be built according to that contract and somebody to have hung themselves or used the facilities in some way to do injury to or to destroy themselves.

Mr Farmer—I totally agree.

Senator COONEY—It is a big issue. I had not quite gathered that, Mr Metcalfe. The contract is still being drafted in effect, is it?

Mr Metcalfe—The facilities contracts for the new facilities are at a conceptual stage only, I would say, and we have a major job ahead of us to take it through the design specifications. We will obviously need to bring in expert assistance in developing those specifications and working up the documentation towards a tender. I would expect that part of the tender would probably attach a draft contract, so we are certainly aware that there is a very substantial task ahead of us now in implementing these decisions.

Senator McKIERNAN—On the implications of the revised resourcing arrangements for detention costs: there is some explanation in the PPS but I must admit it is not exactly clear to me as to what the meaning of them is.

Mr Farmer—The nub point is that you are talking about detention days—that reference to 18 weeks of detention—

Senator McKIERNAN—The fixed level of supplementation for arrivals.

Mr Farmer—that is, as you point out, a new measure in this budget and it basically changes the arrangement as follows: at the moment, an unauthorised boat arrival who comes to, let us say, Curtin, means that we receive a per diem amount from the Department of Finance and Administration through our purchasing agreement for as long as that person is in detention. Some people stay for really quite a short time of a few weeks; others will stay for a very considerable time, depending on appeals, litigation, difficulties with removal and so on. That system is being changed. The government will now give us for each unauthorised boat arrival a fixed amount of 18 weeks of the per diem. That is designed to give us the capacity and the flexibility to meet some of the challenges that we have obviously confronted and I believe met very successfully over the last year. We have had to develop new management approaches and new detention facilities at very short notice.
This arrangement is giving us the capacity to do that, as well as to introduce measures to shorten processing times. There is an incentive in it, obviously. Part of the incentive is to enable us to do things like front-end load the medical processing. When we had 300 people a year coming in, it was perfectly feasible to put people through various stages of processing and, if a decision were taken to grant them an onshore protection visa, we would give them a medical to check that they did not have TB or anything else like that. They would then be released. That took time. What we are now able to do is essentially move that medical process earlier on to right at the beginning, or as close as we can to it, so that we are not keeping people in detention longer than we need to. We are also not keeping people in detention when we are unaware of medical conditions they might have. There are a variety of flexibilities and incentives built into that new approach for us.

Senator McKIERNAN—You have talked about the agreement about money going to the department. How in turn is that reflected then to the contractor at the various detention centres? Will a similar arrangement be made with them or will they be paid per diem?

Mr Farmer—No, we will honour the contract with them. That contract has differing amounts for each of the centres that will vary at each centre according to how many detainees there are. But our commitment to the contractor remains. Of course, that concentrates our mind as we look at procedures designed to make our processes as efficient as possible. Consistent with integrity, we are not going to rush into anything while sacrificing integrity. We have to have that as a core element in what we do.

Senator McKIERNAN—It would be interesting to come back and examine that in practice after its implementation on 1 July. Why was 18 weeks chosen as the time line? The information from Ms Bedlington this morning on the most recent arrivals is in the region of 160 days to primary decision.

Mr Farmer—that is a good point. It is one that has focused my mind amazingly, as you can imagine, as I have looked at the departmental budget. We focused on this interdepartmentally. There was a committee of secretaries and all of the departmental secretaries produced a report to the government. It was that report that led to announcements by the government about this whole spectrum of measures relating to illegal arrivals. During that process, we focused on detention among other things and looked in principle at ways in which we could reduce processing times without reducing the integrity of the process.

There is a real challenge involved in doing it. We will be reviewing our progress on this target at the end of the year to see whether we can do it consistent with integrity. But we are making every possible effort to make this happen. Senior colleagues and I meet every morning and we have been doing so for the last three or four weeks. We will continue to do so for the next three or four weeks to get our systems to the maximum extent possible functioning in a way that meets a number of desiderata—maintaining integrity, shortening processing time and easing our management burden with long-term detainees. I think it is a very positive step, but one that poses an enormous management challenge for the department. We are trying to rise to that.

Senator McKIERNAN—What flexibility is in the funding arrangements for that 18-week period, 126 days? That has given me a perspective on the 160 days that Ms Bedlington mentioned. What happens in the event of that average remaining at 160—and that is only for primary—when there are still people who would be in review after that, and possibly litigation after that, or possibly even the inability to arrange a repatriation to the individual’s home?
Mr Farmer—I am very confident that it will not remain at that. I think the steps we have already initiated—including a number of other agencies involved in the process doing a number of checks that I will not go into here, and being engaged at different stages of the process—are laying a good foundation for what we need to do after 1 July. But your question is one that occurs to us daily and we are determined to do what we can to get the period down. We are bending every effort to that end.

Senator COONEY—I just ask, in the interests of the old profession, whether in these new buildings you are going to have interview rooms where lawyers can interview their clients, with perhaps coffee facilities.

Ms Godwin—Do you mean in the new facilities that have been talked about in the detention strategy?

Senator COONEY—Yes—and scones, Senator Mason says.

Ms Godwin—I cannot comment on the scones, but certainly in the planning for the facilities we are looking at the totality of requirements of use within the facility—that is detention, the management of the detainees and ancillary services that go to things like recreation, health, education and processing. So all of those requirements will need to be looked at in the planning process.

Senator COONEY—but this is not processing. This is for the lawyers, if they are allowed to come, especially in Darwin but in Brisbane too—you have very outstanding lawyers in Brisbane. Is it going to be purpose built?

Ms Godwin—The short answer is yes, Senator. There will be those sorts of facilities. We already have those sorts of facilities in a number of the detention centres—the capacity for private dialogue with either a visitor or an adviser. To the extent that the adviser is part of the process there are interviewing rooms for them and so forth. So yes, that will all be built in to our plan.

Senator COONEY—that can be fairly formidable. It used to be very formidable at Pentridge. The minister would remember Pentridge. Minister, did you go to the facilities in Pentridge ever?

Senator Newman—Once, when I was a law student. Kind of a long time ago, you know.

Senator COONEY—it wasn’t all that long ago, Minister. But they can be very frightening, can’t they? So you are going to keep that in mind?

Ms Godwin—I think it goes back to the point which Mr Metcalfe was making, Senator, and which we have made many times before and you acknowledged that. We will be planning a detention facility with all of the requirements that go to that, not a prison.

Senator McKIERNAN—I want to move on to a different set of unlawful arrivals in Australia. I note with interest the response to the question on notice from Senator Ludwig about the fines on Malaysian Airways and how they dramatically decreased in the 1998-99 financial year, and the fact that the department’s electronic travel authority, the ETA system, was given the reason for that dramatic reduction. How many airlines are now using the ETA system?

Mr Castello—the answer is that at least 52 airlines are using the system, and certainly all of those airlines that deal with Australia.

Senator McKIERNAN—How many airlines do come into Australia on a regular basis?
Mr Castello—I do not have that number but I think it would be in the order of about 20.

Senator McKIERNAN—Okay, excellent. If the system has the same impact with the other airlines as it has had with Malaysian over that period of time, we can see a reduction in the amount of revenue that is going to be gained through the fines and penalty systems.

Mr Farmer—We would hope so. That would obviously suit us on a number of levels. But there are many, I think, barriers in the path of that. We are trying to work through the process of extending our system to other airlines.

Senator McKIERNAN—One of the incentives to the airlines has been the increase in penalties for them bringing persons into Australia that is going to rise to $5,000. Was the increase in the penalty in July this year or July last year?

Mr Castello—The increase in the penalty to $3,000 occurred on 1 July last year.

Senator McKIERNAN—Is it proposed to increase it to $5,000?

Mr Castello—I think we are waiting for the minister to give an announcement on that shortly.

Senator McKIERNAN—I thought he had already made the decision.

Mr Farmer—we will find out, Senator.

Mr Castello—An announcement is expected shortly.

Senator McKIERNAN—I have to check the Internet more often; I really do. That will be a big incentive for the airlines to increase their processing. Do you have any information on the nationalities and the numbers that are coming in unlawfully by airlines now? We were given some information in May from a question on notice—it was actually percentage information—but I am aware that we are getting close to the end of the financial year and information such as this will be compiled. One would hope it will be published in the annual report which will be subject to the scrutiny of the committee at the next meeting. Is there any brief information that you can give to us now or do you just want to leave it until then?

Ms Godwin—we can take it on notice and give you the detailed statistics, Senator. It is certainly true that we keep the statistics of people refused immigration clearance—that is, they have arrived in an unlawful manner—by nationality by month, so we could provide you with a comprehensive table which will give you all of that information that you require.

Senator McKIERNAN—that would be sufficient for now. Another area we have not, to my knowledge—I certainly have not tracked unlawful arrivals in this country—talked about is those that come in by ship, rather than boat. We know the published statistics on the number of people who come in as stowaways on vessels but I note in response to a question—I think it was from Mr Ferguson—that you said that in the period between March 1996 and 30 April 1999 there were 263 ship deserters. What further information can be supplied to the committee on the persons who come in as ship deserters? They are still unlawful arrivals.

Ms Godwin—Yes, they are. I do not actually have statistics on the ship arrivals with me—I apologise for that—but we could certainly provide that to you.

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Mr Metcalfe—Sorry, could I just interrupt? I am not sure exactly what we have just offered you. The minister has answered a question from Mr Ferguson which provided the figure of 263 but I am not quite sure what you have now asked us to do.
Senator McKIERNAN—I do not think it was your minister who provided the answer to the question for Mr Ferguson. Indeed, I will not even confirm at this point whether it was to Mr Ferguson, but I can certainly arrange that you be provided with some information which will enable you to track that down. I think the response to the question to Mr Ferguson actually came from possibly Minister Macdonald, because it stated in one part of the answer: My department does not collect statistics on seafarers who apply to remain in Australia.

So it certainly would not have been your minister.

Mr Metcalfe—We can certainly try and assist you with the statistics in relation to ship deserters, which I would take to mean crew who do not leave when their vessel leaves, other than where they are flown out in accordance with normal practice and whatever.

Senator McKIERNAN—What are the arrangements for crew who have come to Australia on foreign vessels? Is there a standard arrangement for them to be issued with visas upon arrival in this country?

Mr Castello—As members of a crew they get a special purpose visa automatically, so they are covered by their continued employment by the ship and their stay in Australia is covered by a special purpose provision until they leave, as long as they remain signed on to that ship or are being moved by their shipping company out of Australia.

Senator McKIERNAN—Is there a time limit on that SPV?

Mr Castello—No, there is not, as long as the ship is still in Australian waters.

Senator McKIERNAN—Is there an ability within that visa for the person to leave the vessel and travel to other parts of Australia? Is there a standard arrangement for them to be issued with visas upon arrival in this country?

Mr Castello—No, I do not believe that is possible. It is for a crew member who is still attached to the ship whilst the ship is in Australia. It is not to enable that person to have a holiday in Australia. A separate visa would be required for that.

Senator COONEY—A sort of self-executing visa.

Mr Metcalfe—The special purpose visa is an interesting type of visa because it is not a visa that needs an application. It is a visa that is granted by operation of law for particular categories of people for the duration of that particular purpose of stay in Australia. Perhaps the most colourful example is that members of the royal family, when they come to Australia, do not need to apply for a visa but have a special purpose visa for the purpose of their travel to Australia. Her Majesty, of course, as head of state, does not require a visa at all. Other examples are foreign military forces who are travelling to Australia for exercises in Australia and so on. UN personnel, for example, who might be transiting Australia on their way to East Timor, are another category of special purpose visa. So ships crew are a very longstanding exception to the rule that you have to apply for a visa. Their visa attaches to them as long as they have the purpose of being here with the ship. The point Mr Castello made is that if their purpose for being here with a ship then dissipates and if they are really having a holiday or working or something like that, their visa would cease to exist and they would become an unlawful non-citizen unless they had another visa issued to them.

Senator McKIERNAN—I will respect the chair’s wish not to be diverted to other matters on the periphery, even though they may be colourful. What controls has the department got on seafarers? I was quite surprised to see those numbers that were given in the response to
question No. 263. Over a three-year period, it is not an inconsequential number. When will the department find out when a person is a ship deserter? I am asking the question in the context of my understanding of your response, Mr Metcalfe, that there is no application for a visa; therefore the department would not necessarily have a record of who is on a particular vessel when it arrives here, the number of crew and their nationality.

Mr Castello—The Migration Act has very strict provisions in relation to this. There is an obligation on the master of the ship to declare the number of crew who arrive on the ship, and that is monitored by Customs with the arrival of the ship. Customs do monitor the departure of the ship and there is an obligation and severe penalties on the master if in fact they do not declare that a member of the crew has not rejoined the ship. They are then the people who are reported to us as being deserters.

Senator McKIERNAN—The onus of responsibility is on the master?

Mr Castello—Yes, monitored by Customs.

Senator McKIERNAN—As opposed to the owner or the person, company or corporate body who charters the vessel?

Mr Castello—I think the liability would extend to those other bodies as well, but I would have to refer to the act. Certainly, it is an obligation on the master to report any missing crew member.

Senator McKIERNAN—Have you got a unit within the department that monitors this particular area on its own, or looks particularly at it, or does this just come under the general compliance of the department?

Mr Castello—They come under general compliance.

Senator McKIERNAN—Have the numbers been on the increase? The figures have been given over a three-year period. Are the numbers increasing with the increased numbers of foreign vessels that are coming into Australia?

Ms Godwin—We would have to take that on notice. As we do not have the up-to-date figures with us, it is hard to comment on whether there has been an increase. We could look at that when we provide you with the data that we have said we would provide.

Senator McKIERNAN—Yes, if you would. I ask it particularly in the context—I know it is not your portfolio, but to give you a background—that there are what are known as single voyage permits which are granted to foreign vessels carrying goods between Australian ports. Those single voyage permits have increased almost by 100 per cent in the three-year period to 1998-99. I am just wondering if there is a matching between the increasing issuance of single voyage permits to foreign vessels and the number of crew who seek to leave the vessel and remain in Australia. Do you have any detail of the number of those ships’ deserters who have made application to remain in Australia, either by way of an application for a protection visa or by some other means? Would their special purpose visa have limitations as to what other type of visa class that they could apply for while they are here? That is two questions in one, I am sorry.

Ms Godwin—It is, and I think we need to take both of them on notice.
Senator McKIERNAN—In taking it on notice, would you also give me details, when you find out what they are, of the nationalities of those persons and, if it is possible from your records—I guess that where people had made application you would have records—of the vessels and the flag under which each vessel had entered Australia. I think you had better say something. Hansard just will not record nods. I keep telling them, but they will not do it.

Ms Godwin—I apologise. I am not personally able to tell you whether we, in fact, had that. Mr Castello has nodded so I presume we will be able to provide you with that information.

Mr Castello—I believe that we can provide that information for those deserters that have been reported and those that have come to us. We would all of that information.

Senator COONEY—Do they still prosecute deserters? You might get some figures on that from the magistrates courts. It does not matter; I am going to an area that comes from a long memory.

CHAIR—Perhaps not the expertise of this department.

Senator McKIERNAN—I think you have answered this question. Are there any dedicated areas within compliance that look at this particular area? I think you have said that there is not; it is just within general compliance.

Ms Godwin—if I could say something there: there is an area in Mr Castello’s branch referred to as the air and sea ports operation section. They maintain close contact with Customs and other agencies around these sorts of general issues. In terms of the compliance activity that flows from somebody coming to Australia and then not rejoining their ship, that is part of our general compliance activity. As you would know, we have compliance staff at state and territory offices throughout Australia. Ships deserters would be but one of the case loads that they would be looking to try to locate as part of their ongoing work.

Senator McKIERNAN—one of the other disturbing statistics that come from that question, to which I think Minister Macdonald responded, is that of the 263 ships deserters in that three-year period, 148 have been located, which leaves a gap of 115. In terms just of numbers it is not very many, but as a percentage, and if it is a growing number, it is nonetheless of concern. Minister Vanstone, when she was talking about illegal arrivals in Australia on Stan Grant’s show Face to Face on Channel 7, had this to say:

People from other countries in a big country like Australia are very difficult to hide unless you get them straight into the metropolitan area. That is the new threat we have seen. They have not given up trying to come in on the broader coastline but they are now trying to bypass that and come right into the metropolitan where, of course, it is easier to hide people.

That quote may not necessarily have been made in the context of persons coming in on vessels, it may have been made in the broader context of illegal arrivals. I think it probably was. The ships and the people that we were talking about or addressing at the moment in some instances come directly into metropolitan areas throughout Australia.

If one was to accept what Minister Vanstone was saying—unfortunately she is not here today, but we do miss her—those vessels actually come into the metropolitan areas throughout Australia. If you take the capital cities, most of them have a port very close to
them, so it would be quite easy for people to lose themselves within the metropolis which is close to the port of entry. Is there any particular monitoring going on from within the department on those major ports? Do you have any idea of the number of persons who arrive at our ports each day or each week on those special purpose visas?

Mr Castello—No, I do not have a number. There would be very large numbers involved. Customs has the responsibility for the primary monitoring of arrivals at all seaports. They do monitor these arrivals very closely and they report to us any irregularities, both in terms of people who are on board who perhaps should not be there, and in terms of those who fail to depart. Those people are then illegal, unlawful non-citizens. They become subject to compliance action in the normal way.

Senator McKIERNAN—I have got some more questions here but I am not sure how much more useful information we will be able to get at this hearing. You have taken a number of specific questions on notice about the matters that I have raised. I ask you to, in addressing those questions, be as broad in terms of your response as possible because it will hopefully cut down on the amount of time we need to spend in asking follow-up questions at the next occasion. I think at this point I will probably cease my questions. I really do not think there is anything more that I can get at this time because you will again take them on notice. If you want, I can probably just rework the questions that are here and provide them to you as well. But I think you have probably got the general drift of the area I am addressing questions to.

Mr Metcalfe—Could I just make one comment and one suggestion? Firstly, the comment is that we will obviously do all we can to provide the information to the committee as soon as possible. We may need to rely upon the Australian Customs Service for some of that information and we will obviously need to approach them to a greater or lesser extent. Secondly, given your general interest in this area, if you like we could certainly see if the minister would be prepared to offer a briefing to you on some of these broader issues. It is not an issue that I recall that we have looked at in detail in the committee before, but if you have an interest in it then certainly we could raise that with the minister.

Senator COONEY—When you are getting those questions on notice answered, I wonder if you could answer one on famous deserters that have come to Australia—Henry Lawson's father and a few others. There are some very famous names in Australian history—in business and elsewhere—who deserted and who have contributed mightily to the country.

CHAIR—I am sure the department will use their judgment as to the best use of their time and resources in preparing those answers, Senator Cooney.

Senator COONEY—You would be interested in that too.

CHAIR—I am always interested in intellectual stimulation. That is why I spend so long in estimates. Do you have any more on 1.3?

Senator McKIERNAN—No, only to say that question on notice that I was quoting from earlier was actually from Senator O'Brien to Minister Macdonald. I apologise if I was somewhat misleading on that. We will supply you with the full detail of the question on notice so that you are fully on top of the matters that we are addressing. I had only a portion of the response from the minister, and that was why I was not able to readily identify it for you then.

CHAIR—Unless there are further questions on output 1.3, Enforcement of immigration law, I will note for the record that I have a series of questions from Senator Kim Carr to be placed on notice, and we will move to output 1.4.
[12.22 p.m.]

Output 1.4—Safe havens

CHAIR—Senator Cooney, do you have any questions on output 1.4?

Senator COONEY—I will just ask this question and you can answer it shortly: Australia has not followed up what has happened to the people that we have sent back from Australia to Kosovo?

Mr Metcalfe—The short answer is no. We are aware that some of the people who went back are interested in coming back to Australia, and some arrangements are being put in place to ensure that they can make applications if that is their desire.

Senator COONEY—As you know, people here get reports back from Kosovo and then quite properly raise them as issues and very properly say, ‘Why don’t we do something about that?’ Do you have any comment on that?

Mr Metcalfe—The comment I would make is that people who have gone back have gone back voluntarily. They are amongst a group of around 900,000 Kosovars who have returned to Kosovo over the last year or so. Of course, there are very substantial international resources in Kosovo—KFOR, UNMIK, UNHCR, IOM and a whole range of international UN bodies and NGOs who are there specifically to ensure that the people there are in conditions of safety.

Senator COONEY—A lot of these people did not go back voluntarily, and things are very grim in Kosovo. Is the department able to take it any further than what you have said—not in the sense that you have not taken it as far as you can, but in the sense that the department even now or hereafter be able to do something about checking those issues? What will be said is that a lot of people went from Bandiana, specifically, but no doubt from other places as well, under actual compulsion, if not under legal compulsion. What does the department say about that sort of thing?

Mr Metcalfe—I certainly accept that the implications of their remaining in Australia illegally was made quite clear to people. Some of the group in Bandiana chose to remain in Australia illegally for a week or so, but they did agree to get on that plane. There was absolutely no force whatsoever used to secure their departure from Australia. We accept that many people may have preferred to have stayed here. They accepted that their cases had been looked at individually by the minister. The minister intervened to allow a significant number of people to apply for protection or other permanent visas. He provided extensions of stay to a significant number because of medical, trauma or other reasons. But our expectation was that the group who upon the advice from UNHCR were able to return to Kosovo would do so. They got on the bus and the plane by themselves. They signed applications for travel documents knowing that would allow them to return.

Senator COONEY—if people have issues to raise, within limits, would the department be prepared to look at the issue and give a reply?

Mr Metcalfe—Certainly, if there are any particular issues. I recall that there were some particular matters raised at the previous estimates round. We have looked at those and I have corresponded with you on that. If there are any further such issues, we will treat those matters very seriously, and we will look at those very carefully.

Senator COONEY—As far as what happens in Kosovo goes, I think you have said that the department relies on reports from UNHCR. Does it rely on other bodies as well or just UNHCR?
Mr Metcalfe—UNHCR is our principle adviser on that issue. But a range of reports is available about conditions in Kosovo.

Senator McKIERNAN—I have about four questions on 2.1: Settlement services and just a few short questions on Australian citizenship. Other than that I have nothing further. Senator Ludwig has some questions on the corporate area on IT.

[12.26 p.m.]

Outcome 2—A society which values Australian citizenship, appreciates cultural diversity and enables migrants to participate equitably

Output 2.1—Settlement services

Senator McKIERNAN—I note in the PPS that the integrated humanitarian settlement services are being reviewed and subject to fully competitive tendering arrangements which were previously provided on the grant. What further information can be supplied to the committee on the status and progress of the outsourcing of specialist host arrival services to migrants and humanitarian entrants under this program?

Ms Bedlington—The consideration of the proposals in response to our request for proposals is very close to completion. We expect decisions on the preferred tenderers to be made within the next couple of weeks. We will then move to offer contracts to those preferred tenderers so that we can bring the exercise to completion.

Senator McKIERNAN—The new contracts, according to the book here, are scheduled to commence in July 2000. Will arrangements be in place for that to be fully operational by then?

Ms Bedlington—That is quite feasible, unless contract negotiations become protracted. If the preferred tenderer is comfortable with what is offered in the contract, that is quite possible. We need to put it in the context that the actual transition, the implementation of the new service model, is intended to take place over about a three-month period where there will be some continuation of existing service agreements with our existing service providers in parallel to any of the new tenderers.

Senator McKIERNAN—That has answered my next question. There isn’t going to be a gap where perhaps a new contractor would come in and would need a lead-time?

Ms Bedlington—There is not going to be a gap.

Senator McKIERNAN—I assume the amalgamation between the advanced English for migrants program and the literacy and numeracy program is a cost saving measure. What further detail can be supplied about that? Is it, as I have interpreted it, a cost saving measure?

Mr Hughes—that is something that comes within the DETYA portfolio. We understand from that portfolio that it should not result in any reduction of services available to migrants previously eligible for those English language services.

Senator McKIERNAN—I think DETYA is still going at an estimates committee—if we finish pretty reasonably, I might be able to get my questions in to them. That is all I have in that particular area, 2.1.

CHAIR—Anything on 2.1, settlement services, Senator Cooney?
Senator COONEY—Mine are pretty general questions that go over the lot, so if Senator McKiernan and Senator Ludwig have done theirs I will just ask some general questions at the end.

CHAIR—There are no questions on output 2.2. We move to 2.3.

[12.32 a.m.]

Output 2.3—Australian citizenship

Senator McKIERNAN—There seems to be a fall-off in the take-up of Australian citizenship, despite efforts including the initiatives of the 50 years celebrations of Australian citizenship. Does the department accept that there has been a fall-off in the take-up rate in the grant of citizenship?

Mr Hughes—There has certainly been a reduction in the absolute numbers of people applying for citizenship. However, that is only to be expected when you take into account the reductions in the migration program in recent years and also the reduction in the pool of eligible non-citizens. At the moment we have something like a 75 per cent citizenship rate amongst eligible non-citizens, which is up from the high 60s at the start of the decade. The pool of eligible non-citizens has dropped from 1.13 million down to about 940,000 and, of course, the new feeder group of migrants has dropped off in recent years. So, in fact, the rate of citizenship has improved quite significantly over the decade, but the absolute numbers of people applying in particular years have consequently reduced somewhat.

Senator McKIERNAN—Of those figures that you gave the committee, the pool would probably be the better measurement of the effectiveness of the campaign over the years. But one would imagine that from within the pool of 1.13 million there would be a number of people who, because of age, may no longer be with us, not necessarily having left the country.

Mr Hughes—That is theoretically possible. The pool is currently about 940,000, so it has been reduced. That is theoretically possible but I do not think mortality is one of the major influences.

Senator McKIERNAN—Would you put the reduction in the size of the pool down to the efforts to encourage persons to take up Australian citizenship if mortality is not going to be one of the things—

Mr Hughes—There is a variety of factors; it is hard to attribute it to any particular one. Looking at the situation of more recent migrants, I refer, for example, to the department’s longitudinal study which looked at migrants in recent years at certain points after they have arrived. The most recent information that has been published regarding a sample of migrants who have arrived after the three-year point—therefore they have had time to be eligible for citizenship and make up their mind if they want to do something quickly—shows that something like two-thirds of migrants had taken up citizenship after being here for three years, and something like another 20 per cent intended to apply. The most recent information about relatively newly arrived groups suggests both a high actual take-up of citizenship and, for those who do not do it virtually straightaway, a strong intention of most of the balance to do it in due course.

Senator McKIERNAN—You mentioned a three-year period within the longitudinal study but the study is older than three years, isn’t it?

Mr Hughes—Yes, it is, but it is a good recent reference point of research on what migrants are doing now as opposed to, say, 10 or 20 years ago.
Senator McKIERNAN—I cannot recall the details of what nationalities—apart from the two-thirds that are now Australians—those migrants who are included in the longitudinal study are, because citizenship is attracting different people at an earlier point in time for different nationalities. Do you have any information in your head at the moment about what groups constitute the longitudinal study?

Mr Hughes—I do not have that degree of detail. Traditionally—and the longitudinal study tends to confirm this—in terms of migrant categories, it is the humanitarian migrant groups who have the highest and quickest take-up rates, with family following that, and business and independent somewhat behind. As far as nationality groups are concerned, off the top of my head, it has been groups such as some Asian source countries, which have citizenship rates of over 90 per cent; the people of Greek origin have citizenship rates of something like 96 per cent; for UK origin it is 65 per cent; and, at the lower end of the scale, I think we have the Japanese and United States origin in the 20 to 30 per cent range.

Senator McKIERNAN—I look forward to the annual report on that. I want to ask this question because of what occurred last night. I am aware of the report of the Citizenship Council and I am aware of the minister's speech in accepting that report. One controversial area of citizenship is that of section 17 of the Citizenship Act. I do not think the minister has yet accepted the recommendations of the Citizenship Council on section 17 of the act, but I may not be interpreting the words that the minister used in his press statement in the manner in which other people have interpreted those in different reports that have been received. That is my fault, and I accept that. What can you add with respect to section 17 of the Citizenship Act, which deals with the dual citizenship provisions?

Mr Farmer—On this occasion, I think you have got it dead right.

Senator McKIERNAN—I still maintain I probably got it right yesterday, but the effluxion of time and the added resources of the departmental officers have meant that I have to cop the fact that I probably misinterpreted the illegal workers review.

Mr Farmer—It is a statement of fact: the government has not yet finished addressing the recommendations of the council.

Senator McKIERNAN—Is it still under review?

Mr Farmer—Exactly.

CHAIR—Any more questions on 2.3?

Senator COONEY—May I ask questions arising out of that dual citizenship?

CHAIR—Yes, Senator Cooney.

Senator COONEY—I will just tell a little story. Madam Chair, you will have to forgive me again for going to my family but it will explain where I am coming from. Recently my son Jeremy had his 30th birthday, on the basis of which he got phone calls from friends overseas, some of whom are quite brilliant scientists and what have you. I think they expect to come back home, but I am not sure whether they will. It seems to me—this is a question that has been asked on occasions before, I know—that we are losing a lot of people overseas. People born in Australia I think are as good as any; I would put it at that level. Have you got any ideas, Mr Hughes, of how many people we are losing and how many are coming back, in that
sense of people with higher education or what have you—and, indeed, just generally—leaving Australia and coming back?

Mr Farmer—Each year about 30,000 people—roughly; it might be 29,000, it might be 33,000, but it is something like that—indicate on their departure cards that they are leaving the country permanently.

Senator COONEY—Have we got any other way of finding out about this loss, and whether they are coming back after a period, or is it just the cards? Do you keep any records as to who goes and who comes back, perhaps years later, and what effect this has on the community and learning facilities generally? Have we got any purchase on that?

Mr Farmer—In a general sense we analyse the 30,000 or so people who go, based on the information on the cards. The conclusion is that they would, generally, speaking be younger people and skilled people. We do not analyse the individuals, but that is a characteristic of the case load.

Senator COONEY—Have we got any idea of how many stay over there or how many come back? Probably not.

Mr Farmer—Australian citizens, obviously, can come back whenever they like. They may change their mind from the information they put onto the outwards card.

Senator COONEY—I wonder how many of them get dual citizenship overseas. Would we know that?

Mr Hughes—We do not know that. We know only of cases that come to our notice.

Senator COONEY—Without being intrusive at all—you could not and should not be intrusive in this area—is there any methodology we could develop, do you think, to find out just what we are losing in terms of our own citizens and the sorts of things that they might do overseas?

Mr Farmer—If I could just say one thing, one of the points suggested by the Citizenship Council report is that, in a global economy and a global environment of the sort that you are referring to, if there is a citizenship barrier to people coming into or out of Australia and participating fully in that, then we should be looking at that. That is really what the reports are saying.

CHAIR—Thank you. Senator Cooney, do you have any further questions in relation to outcome 2? You said you had other issues you wished to raise and I do not want to preclude you from doing that.

Senator COONEY—There was one other; I think it has been overlooked. There was one other thing that Senator McKiernan and myself were going to raise about the blue shirt.

CHAIR—The yellow shirt, in fact—yellow shirt, blue trousers, yellow socks.

Senator COONEY—This is a matter that happened—I do not want to name names—in 1995. There has been some publicity given to it recently. Mr Metcalfe, I do not know whether you know anything about that, particularly in reference to a Somalian family who were on
Mr Metcalfe—I am certainly happy to give you what I know, but it is an old matter. As you said, it happened in 1995, and for some reason it obtained a bit of publicity in an Australian paper and a New Zealand paper in the last fortnight. I think that might possibly be related to the fact that the gentleman concerned might be taking or might have taken some litigation in New Zealand. I am not sure of that, and I will be fairly careful in what I say.

What we do know is that one of our airline liaison officers stationed in Singapore in 1995 appeared to have this gentleman referred to him. As I think you may be aware, Senator, in Singapore we do not have access to the actual boarding gates at Changi Airport. Our airline liaison officer is at the front of the airport at the check-in area. The information that we have available to us is fairly scant—given that so much time has passed. The airline concerned referred this gentleman, who was inside Changi Airport, to our airline liaison officer at the checking desk, with a query as to whether or not he appeared to be a bona fide passenger.

My understanding is that he was not actually intending to travel to Australia. That is correct. He was, rather, travelling to New Zealand. He was travelling on a passport that was not recognised by Australia, on a national passport that was not valid to travel to Australia. Our officer indicated that this gentleman would not be free to travel to Australia if he ever sought to do so. I think the recollection of those concerned is also that the New Zealand authorities asked for action to be taken in relation to the visa for New Zealand and our officer basically acted as an agent of the New Zealand authorities in relation to that.

So the reason that we are fairly vague in our comments is that we do not have any documentary records to hand. We are checking to see if there is anything more that can be uncovered. Our officer, who is now stationed overseas on a posting, recalls the incident but in very broad terms. We do not have much more detail.

CHAIR—it is a shame Hansard cannot reflect the efforts some committee members have gone to to ensure this issue was discussed in all its vibrancy.

Senator McKIERNAN—I am just standing against the culture of the Immigration Department. Once upon a time we used to be able to have somewhat of a competition between Mr Killesteyn and me on ties. I notice that he has even now gone for the dull and boring ones. But, on a serious matter though, and I accept that what you—

CHAIR—it is personal style, Senator McKiernan.

Senator Newman—I think my job is to defend officials.

CHAIR—Mr Killesteyn’s tie looks very good from here.

Senator McKIERNAN—it is meant in the nicest possible way, as Mr Killesteyn will recognise, I am sure. But I was concerned with the Australian newspaper article about this. Unfortunately, it seems to have gone astray. I did not have it last night and we do not have it now. The Australian newspaper—it was not the Australian newspaper—

Mr Metcalfe—It was a Sydney Sunday paper, I think.

Senator McKIERNAN—the newspaper that Senator Cooney was quoting from was a New Zealand paper. That had a photograph of the writing in the passport. Would it be an accepted departmental practice for an officer at an overseas desk to write in a passport?
Mr Metcalfe—It is a good question, Senator. In the particular circumstances, there was a desire to ensure that there was a recognition that that passport was not valid for travel to Australia. As to the precise circumstances, what facilities our officer had made available to him at the airport at that particular time I am simply not sure. But our expectation is that our officers working in that situation overseas work to the highest possible standards.

Their role is to advise and assist airlines. They are stationed in those airports for a dual role, which centres around assisting airlines. The first part of that role is to assist airlines to detect people who are non-bona fide travellers, and who would be of concern should they come to Australia. Quite often our officers work together with equivalent officers from other like-minded countries. Therefore, they can assist a number of airlines, not merely airlines that are flying directly to Australia.

The second aspect of their role which is important is the facilitation role of genuine travellers. Quite often we have people who are genuine travellers to Australia who may have misplaced a document, or their visa has expired, or they need to get here very quickly for urgent personal reasons such as a funeral, sickness or whatever it might happen to be. We have found over the years that those liaison officers working with airlines in those hub airports to our north have performed a very useful role in assisting the travel of genuine passengers. So their role is that of assisting airlines through those two mechanisms. But, as I said, we expect that they operate at a high standard of professionalism in doing that.

Senator McKIERNAN—I take it that you are probably following through and getting more information on it, but I am concerned about this hand-written message in the passport, and what standing such a hand-written message would have for other officers at other airports throughout the world. I would not have thought that it would be a practice, if in fact it did occur—

Mr Metcalfe—I do not know whether it was our officer’s writing. It may well have been, but that is purely speculative. It is not a practice that I think would be widespread. I think it was a particular situation where there may have been a concern that the passenger may have been seeking possibly to travel to Australia on a passport that was clearly not recognised by Australia. Putting all of that together, yes, there may have been a situation where there was a desire to ensure that anyone looking at that passport would at least have a question raised in their mind as to whether it was valid for Australia and the facilities were such that nothing more could be done. There is a lot of speculation in those comments that I have just made.

Senator LUDWIG—in relation to the IT outsourcing infrastructure initiative at page 31 of our statement, it talks about cluster 3 in relation to the Department of Immigration and Multicultural Affairs. It says that on 1 July 1998, CSC Australia Pty Ltd signed a contract in relation to outsourcing. My question relates to the contract itself. With CSC, it has been in operation, as I have said, since July 1998. What failures since that date have occurred in relation to the achievement of service level agreements, or SLAs as they are colloquially called?

I think it is a question that has been raised before during estimates, so if you have given an answer similar to that from the last time that we asked that particular question then perhaps you could express it as a percentage, if possible, depending on how you keep those figures. If you need to take that on notice, I am only too happy for you to do that too.

Mr Killesteyn—that is a difficult question because to simply say that there is a percentage of failures probably masks the complexity of the computing arrangements that we have in place with CSC. CSC provides a whole range of services from desktop computers, to laptops,
to network services and to mainframe services. In any computing environment, certainly in all the years that I have been involved, there is some point in the network which is failing. But whether it actually results in a dramatic collapse of the ability of the organisation to do its business, that is generally not the case because things are remediated and repaired fairly quickly. I would have to take it on notice specifically to give you some percentage, although as I said I am not sure whether it is a meaningful percentage in terms of actually measuring the particular overall performance of the outsourcer.

Senator LUDWIG—I am happy if you take that on notice. If you think a percentage is not appropriate and may take more time than you might wish to contribute to it, then some indication or indicative measure that you use yourself to gauge the performance level of your contracts as against the failure rates, or the services that might not be provided, will do fine. Do you understand what I am seeking?

Mr Killesteyn—Sure. We have a number of key service level agreements in the cluster. There are approximately 300 across the cluster of SLAs, as they are called. That has been reduced quite significantly as a consequence of a review that we recently completed. But we focus on a few key ones and we can certainly provide some information on how those are going.

Senator LUDWIG—Thank you. When you are looking at that—and you might want to also take this on notice—the issues that surround that are: who manages the CSC contracts from DIMA’s perspective and how many people are employed in doing that; the overall cost, whether it has been increasing or decreasing in terms of IT outsourcing and CSC—that is IT outsourcing, I guess—and whether you have a mechanism to work out response times for CSC. It might be a performance measure that you use. If you do not have one, then perhaps you could give the nearest rival you have got to it, to determine whether their response times are adequate. Your down time is being addressed rapidly by CSC if there is a computer down time. That sort of information is the area—

Mr Killesteyn—Again, there are many different SLAs that cover response times. It depends entirely on which component within the network is causing a problem. If we had a problem in Port Hedland, for example, the response time would be substantially different from the response time requirement, say, in a capital city office. That allows for the issues of getting people on board to address the problem—problem analysis and so forth. There is no one standard response time. It varies across the particular area that we are concerned with.

Senator LUDWIG—Having heard that, I accept that but there must be a process where you can determine that a response time input over the year would be outrageous and a response time of two or three days in Sydney would similarly be outrageous.

Mr Killesteyn—It is a response time per incident. So for each of the several hundred service levels we have—and I guess it is more of question of whether this is of use to you—we can provide some information about response times, but it gets to be a rather complicated table.

Senator LUDWIG—Perhaps given the direction of the questions I have asked, could you take that on notice and look at the core issues that I am particularly looking at? Then, if we need to explore it further, we certainly will have another opportunity of going through that and asking you some more questions with greater specificity about the information that we are looking at in this respect. I am trying to gauge the performance of CSC and the outsourcing requirements of DIMA, whether they are being satisfied—that is, the base level—and whether
or not you are experiencing a rise or fall in service and whether or not the costs are rising or falling as a consequence of the two aforesaid questions.

In addition—you might be able to help me with this—where matters such as that are outsourced, how secure is the DIMA database and the level of protection that is afforded? I am happy for you to take that on notice, too. I understand that DIMA does keep quite extensive databases which are of a sensitive nature. Where you have got IT outsourcing and contractors which may be called in to assist in bringing computers that have failed back on line, then to what level does that expose your database protection? I may have got that question wrong but you can understand the thrust of what I am saying.

Mr Killesteyn—I understand the question. The cluster 3 contract provides for CSC to meet all the relevant government security requirements, not only security but also privacy legislation. From an infrastructure point of view, all aspects of our network services, which are the particular issues that might provide access from external sources, need to be accredited by the Defence Signals Directorate and meet those requirements that they put on government agencies generally.

In terms of staff, all CSC staff working on any aspect of DIMA’s infrastructure need to go through a security clearance process that the department manages. That also includes clearances through DSD and, to the extent necessary, ASIO. They are subject primarily to the same provisions that any other Commonwealth employee is subject to. There is a contractual requirement in the cluster 3 contract to do so.

Senator LUDWIG—Whilst you are having a look at CSC matters, if there are any sanctions imposed for non-compliance or non-performance, at least we close the loop on that circle when you go back to have a look at the information that I have sought. We will see if any sanctions have been imposed. I have asked that question in case I do not see it in the answers. The other matter I have is of a more general nature directed towards the department in relation to the GST implementation or the ANTS package. Do you have a budget for the implementation of the ANTS package? I am not too sure whether I have been able to skim and find that, but can you tell me what the budget is?

Mr McMahon—We were given no specific government budget externally by the government. We have, nevertheless, allocated resources within the department to meet GST. Our estimate at the moment is that the total cost of preparing for the GST would be about $1.8 million. The substantial amount of that relates to system changes to ready ourselves for the GST.

Senator LUDWIG—And there is no expenditure in the portfolio budget statements that go under that heading?

Mr McMahon—No.

Senator LUDWIG—Are you saying that has been met internally within the department for the implementation?

Mr McMahon—No. The only adjustment in the budget is a reduction to our base of a little over $6 million to reflect the savings that will come from the wholesale sales tax.

Senator LUDWIG—On the other side of the coin of the ANTS package, you have mentioned the implementation within your internal systems, but what about information to communities you have contact with about the ANTS package? Have you expended any budget in respect of advising them of the ANTS package?
Mr McMahon—There may be a very small cost associated with that. We certainly took very substantial measures in informing the people we needed to inform. We wrote out to everybody who had a business number on our SAP system, which is our financial system. In addition to that, there has been correspondence sent out to grant recipients to explain the changes to them.

Senator LUDWIG—Do you know the cost of that? You could take that on notice if you do not have it.

Mr McMahon—We could take it on notice, but it is obviously just going to be the mail-out cost of 5,000 letters or whatever. We did not specifically factor that into the budget.

Senator LUDWIG—Have you sought to place advertisements in ethnic newspapers or through other means or in pamphlets to explain the ANTS package?

Mr McMahon—Not to my knowledge. Essentially, we are not taking a role in respect of ethnic communities in general because the government itself is doing that through the taxation office. Our responsibilities have been more directed towards people that we have clear business relationships with.

Senator LUDWIG—What about the information that you may have on your databases? Has Treasury made any requests for the information that you contain on databases so that they can target mail or direct mail those people?

Mr McMahon—No, I do not believe so.

Senator LUDWIG—Could you check that or are you certain?

Mr McMahon—I will check that.

Mr Hackett—We provided some advice to Treasury in the early days of implementation for the GST. They sought our advice on non-English speaking communities and what facilities were available for providing translation services, essentially for translating tax reform related information.

Senator LUDWIG—How long ago was that?

Mr Hackett—In November-December.

Senator LUDWIG—What did that consist of?

Mr Hackett—There were two levels of information. The first one was the principal languages which we considered were worthy of translating tax information material into. We provided them with information on the top 20 languages that we thought were relevant and an additional 10 that they could use their discretion on. We provided them with the top 20 and then the top 30, if you like. The second level of information we provided was the Ethnic Communities Council’s migrant resource centres’ contacts and addresses.

Senator LUDWIG—And how did you provide that; was it a database or information on disk?

Mr Hackett—No, correspondence. That information was provided directly to the Treasury. Subsequent to that, we also provided the same information to a committee being run by the Australian Taxation Office for communication of the tax reforms.

Senator LUDWIG—Is that information available? How does it work; is it interdepartmental? If it is available, I certainly think the committee might—
Mr Farmer—The details of the migrant resource centres and FECCA and so on is publicly available information. Our role is basically to enable information to be provided to communities in their own languages. We, with a number of departments, work so that government programs are accessible to other communities.

Senator LUDWIG—Yes, I think it is a very good initiative. I wonder if that correspondence is available? That is the question. Or is it interdepartmental and not available? Chair?

CHAIR—You are seeking correspondence from Mr Farmer. I am not sure what Mr Hackett said, but if the information is publicly available, I am sure it can be made available to the committee.

Mr Farmer—We can take on notice the question about the information that was made available. As I understand it, it is really the contact details of community groups such as the MRCs.

Senator LUDWIG—To the extent that you have said, yes—or other information.

Mr Farmer—I will take on notice your request for that information—whether it is correspondence or just the details.

Senator LUDWIG—Yes. I think Mr McMahon is going to take on notice whether there was any other information provided outside of what we have talked about. If there is, I understand you are taking that on notice and you will get back to the committee in response to that?

Mr Farmer—Yes.

Senator LUDWIG—that would be appreciated. Thank you very much.

Senator Newman—I think the officer was talking about working together with other departments through the tax office.

Mr Hackett—that is correct.

Senator Newman—for instance, I am sure my department was doing that too.

Senator LUDWIG—Only to the extent of this department.

Senator Newman—Yes, but the information that these communities need is often based on their entitlements or their obligations to other departments—for instance, in my case it will be families and compensation for retirees and people on income support. We would be working together with this department in order to get information via ethnic press and publications in the sorts of languages that have been advised. Tax would be doing the same, I guess.

Mr Hackett—Yes. The initial request that we responded to was from the Treasury start-up office. They were particularly keen to get information about the assistance that was available for business to covert over to various changes they had to make for the new tax system. We provided that information originally to the Treasury start-up office only. Subsequent to that, as part of the NESBI strategy that the committee on communications considered, they sought the same information and we made that information available to that committee. The committee is comprised of representatives from most departments—virtually all departments, in fact.

CHAIR—If there are no further questions, that concludes—

Mr Metcalfe—I do not want to stop us finishing, but—

CHAIR—You look like you do, Mr Metcalfe!
Mr Metcalfe—Earlier on I indicated to Senator Ludwig that I thought we would have some details of overstayers in Australia and their nationalities in absolute terms and proportion. I do have that as fact sheet No. 80, produced by the department. It is on the Internet, but I have a copy that I could make available to the committee.

CHAIR—Thank you, Mr Metcalfe, that would be helpful.

Senator COONEY—Chair, just before you thank everybody, can we thank you. I must confess you have been the one who has stayed at the chair all the time and shown patience and grace.

CHAIR—Thank you, Senator Cooney. On behalf of the committee, I thank the officers of the Department of Immigration and Multicultural Affairs for their assistance with our consideration of estimates. I thank Minister Newman for her assistance this morning. I thank the secretariat, who put a great deal of effort into preparing for these committees, and I thank Hansard and the attendants, in particular. I close this consideration of budget estimates.

Committee adjourned at 1.11 p.m.