

**Senator O'NEILL:** What are you offering them?

**Mr Smyth:** As has been released by the government, there are higher up-front payments and there are higher outcome based payments that are potentially relevant to various case loads.

**Senator O'NEILL:** Okay. This is budget estimates. Can we have some numbers around this?

**Mr Smyth:** If we can take that on notice, I can get that to you.

**Senator O'NEILL:** Mr Smyth, if you are already in discussions—as you said, on Wednesday the 3rd—with providers, I'm sure you must have some numbers that you were speaking with them about.

**Mr Smyth:** There are a lot of different elements to that. I don't have all of those exact numbers on me at the moment. They are commercial negotiations—not negotiations, but discussions with those providers—that we're currently undertaking, and we haven't reached any final point.

**Senator O'NEILL:** If the numbers are unclear, how are the budget figures being calculated?

**Ms Hartland:** Maybe I can add to that. There's obviously an agreed bucket of money that's there. Within that bundle of money, it's about what the level of up-front fees and ongoing activity fees are and things like that. Absolutely it's budgeted and there's a budgeted lot of money there; it's just the discussion, as Mr Smyth has said, around how that is divvied up, how that is cut. I'm happy to take on notice fee structures—

**Senator O'NEILL:** Ms Hartland, the reason that we sent you to letter indicating all the things that we want is that everyone is aware of the timing that is real and pressing before us right now. We asked you to come prepared.

**Ms Hartland:** Yes.

**Senator O'NEILL:** This is the period in which, on behalf of the Australian people, we as elected senators, particularly in opposition, are asking questions of some detail. You are able to negotiate, so you do have numbers at hand that you are using in discussions with providers. It's not unreasonable for us to ask for those numbers.

**Senator Payne:** I think the discussions are ongoing—that's the point the officials have made.

**Senator O'NEILL:** Well, we're asking for the starting point, Senator Payne. Why do you need to hide this as well? You've hidden so much this week. It's a very simple question.

**Senator Payne:** I think the officials have answered it.

**Senator O'NEILL:** No, they haven't, Senator Payne, with respect.

**Senator Payne:** Well, you and I are going to differ on that.

**Senator O'NEILL:** It won't be the only thing.

**Senator Payne:** The officials have taken it on notice.

**Senator O'NEILL:** Mr Smyth, can I ask again for—

**CHAIR:** Senator O'Neill, the officials have taken it on notice. Unless you're going to ask a clarifying question, I think we need to move on.

**Senator O'NEILL:** Well, if this committee is going to obfuscate and hide the facts from us—

**CHAIR:** Senator O'Neill, we have limited time today.

**Senator O'NEILL:** then it's almost pointless going through this farce. Mr Smyth and Ms Hartland, I want to be clear: we've come, giving you notice, asking for detailed responses to our question. It cannot continue in this way. I will ask again for the figures that Senator Marshall asked for.

**CHAIR:** The officials have been answering the questions and the officials have every right to take questions on notice.

**Senator O'NEILL:** Can we receive that information in the course of the hearing this morning?

**Ms Hartland:** Maybe also I can just add a little bit more to this that you'll see in the budget papers around the reinvestment money—so in terms of the bundle of money that is going into the future employment services model. I think this goes to one of your questions that was put to us. \$249.8 million will be invested in the new employment services arrangements over the five years. That includes spending on the new employment services trial and extending jobactive and the complementary employment arrangements. That is within that bundle of money that we talked about.

**Senator MARSHALL:** You also talked about a bucket of money?

**Ms Hartland:** Yes. That was when I was talking about the investment in the budget papers to say that all of the work that's going into the new employment services model is there—of that \$249.8 million over the next five years—and that includes the new employment services trial and includes extending jobactive and the

complementary programs. To answer Senator O'Neill's question, everything we are doing has to be within that amount of money.

**Senator MARSHALL:** Is the digital platform actually ready?

**Mr Smyth:** That is the question I answered earlier. We do have quite a sophisticated digital platform already that we are using for our online trial and that will continue to be enhanced over the period of the trial and in the coming months, as well. We will be engaging in a lot of discussions with providers, with employer groups and with participants around the design of that online platform as we move through the trial phase.

**Ms Hartland:** We have taken quite a lot of care in terms of doing these early digital trials, to then move to this online digital platform by 1 July.

**Senator MARSHALL:** That's your target date—1 July?

**Ms Hartland:** Yes. As Mr Smyth said, though, we have already been trialling the platform. Those were the numbers that the witnesses gave you earlier around the 9,000—

**Mr Smyth:** Yes, 9,500.

**Senator MARSHALL:** At this stage do you expect to meet the 1 July date?

**Mr Smyth:** Yes, we do.

**Ms Hartland:** Yes.

**Senator MARSHALL:** Are you able to describe for me the key elements of the new platform that are being trialled? I know that might be too broad a question but—

**Ms Jensen:** The elements of the New Employment Services platform will be introduced progressively through the life of the trial, with the overarching intention to develop a more personalised and tailored service. As you have heard previously, we have got the existing online trial platform that job seekers will enter from 1 July this year and then additional enhancements will be made over the life of the trial. Key elements of the new employment services platform that will be tested in the trial include: supporting the delivery of a points based activation system; online learning and training applications; and improved job seeker assessment processes.

**Senator O'NEILL:** One of the issues that concerns me following the inquiry into jobactive is the determination at the very outset of levels 1, 2 and 3—

**Ms Hartland:** [Inaudible].

**Senator O'NEILL:** Yes, in my mind it is 1, 2 and 3—you are calling them A, B and C. From the evidence that we received that seems quite flawed—I'm sure you have read the report. How does that intersect with the determination of who you put on this digital trial?

That's my first question. Related to it—but it might be easier to answer it in one lump—is: what protections with this digital platform are there for people who are misplaced into a higher level of ability and actually might have no digital access capacity or skill? There are a lot of people whose identity issues mean that when they arrive they don't tell their reality and they're misallocated, and that would complicate this incredibly in my view. So how are you anticipating that problem, and how have you responded to it in the period of the trial? I'm sure it would have come up.

**Mr Smyth:** In the current online servicing trial—which allows people to opt out because they are not confident in their ability to digitally self-serve, they prefer a face-to-face servicing arrangement with a provider or they don't have digital access—we allow them to drop back to the provider model that we currently have. At the moment, out of the 9,500-odd people that have been referred into the digital trial, around 7.7 per cent have opted out of the trial—so less than 10 per cent—because they prefer the face-to-face servicing arrangement or they weren't confident in their digital capabilities, and around half of one per cent have opted out because of internet access issues. So that's only around 39 people that have opted out because they don't have access to online communications.

In moving to the new arrangement for the trial in the two regions that we're looking at, it's anticipated that effectively the stream A, in broad, would become those people that are serviced through the online arrangement, because they're the most job ready and capable of self-servicing, and that effectively the stream B and C people would move into our enhanced services model, which is a more intensive approach to managing an individual's needs through face-to-face provider arrangements, as is currently the case. So what we are looking to do over the course of the trial is to ensure that we have very strong assessment up-front to ensure that we are only streaming those people that are appropriate through the new trial into digital self-servicing arrangements. That will expand and improve over time—there's no question about that—as we add additional functionality to that system. But we

will have as part of our initial assessments a determination as to whether somebody is capable of digitally self-servicing or not and whether they actually have access to digital capability through internet access and the like. Then, once we've streamed people into that arrangement, we're going to have reassessments occur at particular points in time to ensure that we're seeing progress from those participants towards getting an employment outcome. If they're not, we'll make an intervention or a prompt to ensure that we're actually following up with those individuals that are not progressing through the system.

**Senator O'NEILL:** I've got a lot of questions about that. Will the intervention or prompt be, 'I cut your payment, and then you have to come and talk to me before you can get it back'?

**Mr Smyth:** There will still be mutual obligation arrangements that will need to be undertaken by participants.

**Senator O'NEILL:** Let's not call it 'mutual obligation arrangements', because that's got a very broad meaning to lots of people. My question is—

**CHAIR:** Senator O'Neill, don't tell the officials what they can and can't call things. Let's keep going.

**Senator O'NEILL:** I'm asking a specific question, and I would like it if you could answer in terms that I think people can understand and that are less contested. If somebody at a particular point of time, as you indicated, is, based on your assessment, not responding in a way that you want, you described what you called an intervention point. Is that intervention point going to be what we heard a lot of in our evidence—that the payment is cut in order to trigger the person to contact the service and re-engage directly? Is that the mechanism?

**Mr Smyth:** That is not necessarily the mechanism.

**Senator O'NEILL:** It's not necessarily the mechanism?

**Mr Smyth:** Sometimes, if people actually do miss some of their obligations, they can have a payment suspension under the targeted compliance framework, and that then requires a re-engagement on the part of the participant.

But, before a person got to that, we would be looking to actually have the system give us some information that says, 'This person is not progressing through the system', and therefore our contact centre may make contact with that particular person. We may send them an SMS. There are a number of ways that we can contact a person to ensure that they're actually progressing and that they're not in difficulty, so that we can reassess their needs.

**Senator O'NEILL:** Thank you. That's a much clearer answer for me. You're saying that in some circumstances, at a particular point in time, the intervention will be an SMS prompt: 'Come and see us'? And that's all it will be?

**Mr Smyth:** It could well be. Or it could be a phone call. Also, at any point in time, people are able to phone the national customer service line or our contact centre to receive assistance as well.

**Ms Hartland:** If I can just add—

**Senator O'NEILL:** Can I just ask a bit more before we come to you?

**Ms Holgate:** Sure. I was just going to say about the contact centre—that we might just talk about that.

**Senator O'NEILL:** Great. I want to come to that in a second. It could be an SMS contact from the agency to the individual, or a phone call from the agency to the individual. What other options, other than cutting people's benefit, are there? What else do you have in your armoury of ways of interacting?

**Mr Smyth:** It's not about cutting people's benefits. We are genuinely interested in assisting people to achieve an employment outcome. So, over the course of the trial, we are looking to build a level of sophistication into the system to ensure that we are giving people the prompts and the assistance that's required throughout the course of their period within jobactive to get them to an employment outcome. The targeted compliance framework will still be applicable but it is certainly not front and centre in terms of getting a person into an employment outcome.

**Senator O'NEILL:** In the trial period, what percentage of people have had an intervention prompt that was a stopping of their payment?

**Mr Smyth:** In our current online services trial, there are obviously suspensions and there are penalties. In terms of demerit points, which are suspensions, we've had 1,148 participants with a single demerit. We've had 174 participants with two demerits. That is when a payment is suspended and then requires the participant to re-engage.

**Senator O'NEILL:** That was a sample size of about 8,000—9,500 was it?

**Mr Smyth:** 9,517 people that have been referred into the trial.

**Senator O'NEILL:** So that's 10 per cent, roughly. Ten per cent of people have had their payments stopped?

**Mr Smyth:** They had their payments suspended until a re-engagement occurs, and that usually occurs within 48 hours.

**Senator O'NEILL:** You're aware of the evidence we received in the committee. You're aware of what was being called a 'suspension' by the department and of the practical outcome of that on people who were finding themselves very destabilised. They were unable to get their payments back and they had insufficient time to make payments for housing et cetera. You're telling me that 10 per cent of people in the trial you're conducting have found themselves in a situation where that reality is happening for them?

**Mr Smyth:** The targeted compliance framework goes through a series of demerit point suspensions before a participant is then reassessed and it is determined whether or not they're still capable of meeting their mutual obligation arrangements and if they are not and the participant reveals new information to us that we may not have had under the initial assessment, then they go back to zero and we start again. If a person is still capable of meeting their mutual obligation arrangements, then they still progress through the targeted compliance framework.

**CHAIR:** Senator O'Neill, I would like to jump back to cross portfolio and deal with that so we can release those officers.

**Senator O'NEILL:** Sure.

**CHAIR:** Senator Marshall.

**Senator MARSHALL:** Thank you. We did ask some questions about advertising. Do you have an itemised list of all advertising and information campaigns run by the department for the current financial year?

**Ms Hartland:** I'll bring the appropriate people to the table. I think the Department of Finance also answered some of these yesterday, but there were basically two campaigns: a jobs campaign and a small-business campaign.

**Senator MARSHALL:** Right. How much was attributed to both of those?

**Ms Hartland:** In the jobs campaign there was, in 2018-19, \$15 million. In the small-business campaign there was \$7 million.

**Senator MARSHALL:** What have you planned from here on in?

**Ms Drayton:** The jobs campaign ceased on 16 March this year, and there is no further advertising plan for that for the remainder of this year or, indeed, going forward. With the small-business campaign, the advertising actually ceases tomorrow.

**Senator MARSHALL:** And you have no plans for any other campaigns?

**Ms Drayton:** No.

**Senator MARSHALL:** Are you able to provide the details of the add buyers and placements?

**Ms Drayton:** For the campaign?

**Senator MARSHALL:** Yes, for both of them?

**Ms Drayton:** Where the advertisements—

**Senator MARSHALL:** Yes. If you've got a table of all that, that would be good, if you just want to table that?

**Ms Drayton:** I'll start with the jobs campaign. I'm hoping this is what you were after.

**Senator MARSHALL:** So am I.

**Ms Drayton:** We had two bursts of activity for the jobs campaign. It ran across television, radio, press, digital, social and CALD specialist and indigenous publications. Is that the information you're after?

**Senator MARSHALL:** Sure.

**Ms Drayton:** Similarly for the small-business campaign, we had television, radio, press, digital and specialist CALD and indigenous publications that was used for that.

**Senator MARSHALL:** Have you got some details about how many ads and how much was spent in each platform?

**Ms Drayton:** Sure. I'll start again with the jobs campaign. For the 2018-19 financial year we spent \$5.2 million in television, \$1.3 million on radio, \$1.5 million in the press, \$1.7 million on digital, and we had the specialist publications, the CALD and indigenous, which was \$258,000 and \$148,000. For the small business campaign for the same current financial year we spent \$269,000 on television, \$174,000 on radio, \$137,000 on press, \$9,800 for indigenous publications and \$540 for CALD publications.

**Senator MARSHALL:** What was the objective of the campaigns?

**Ms Drayton:** The jobs campaign was about raising awareness of the employment services that are available to assist both people who are looking for work and employers who are looking to employ people. It's to drive people to the government's employment services. The small-business campaign was about letting people know about the range of initiatives that are available to small businesses to assist them.

**Senator MARSHALL:** Have you measured the success or otherwise of the campaign?

**Ms Drayton:** From a communication perspective, what we measure is the response to the advertisement. It's tracking information such as how many people were driven to the website and how many people's awareness was raised as a result of the campaign. We do have information on the jobs campaign. We don't have as much information on the small-business campaign, because it has just so recently been out in the public and is finishing tomorrow, but I can give you the tracking information, if that would—

**Senator MARSHALL:** Yes.

**Ms Drayton:** What we found, after the result of two phases of the jobs campaign, was that 50 per cent of small to medium employers recognised the campaign. Of those who recognised the campaign, 43 per cent said that they'd learnt something new; 58 per cent recalled that there were financial incentives to help people employ eligible staff; 70 per cent said they were likely to consider using the government services to hire people and 29 per cent said that the advertisements encouraged them to find out more about the financial incentives available. The other thing that we did was track hits to the website, and we'd had over 915,000 page views since we launched the campaign. That's the only information we have on the small business campaign—

**Senator MARSHALL:** Before you go on, what's your normal rate of page views?

**Ms Drayton:** I don't know that I can answer that. I'll just check with my colleague.

**Ms Fairweather:** We won't have that one to hand, but it's something that I could—

**Senator MARSHALL:** If you're using that as a measure of success, you've got to measure it against something—what if it's less!

**Ms Drayton:** For the website for the campaign, I don't know that that there would be something to compare it to, because it was a new site, and it was really seeing how many people were driven to the site as a result of the campaign.

**Ms Fairweather:** It certainly built up over time. So that's the total number of views, but it started out very small and then began to grow, grow, grow.

**Senator MARSHALL:** All right. Can you give me an itemised list of all the AusTender contract notice numbers for all the advertising information campaign contracts?

**Ms Drayton:** We can. It might be easier to table that.

**Senator MARSHALL:** That would be excellent, thank you.

[09:41]

**CHAIR:** Insofar as they can be released—and I expect most of them probably can't—cross-portfolio is released. We will therefore move back to outcome 1. Senator O'Neill, you have the call.

**Senator O'NEILL:** If I could go back to this digital trial of engagement with employment services—to clarify, of the 9,500 in the trial, 1,148 have had a single demerit and, as a consequence of their demerit, they've had a suspension of their payment subject to their re-engaging with the employment agency and going for a face-to-face appointment. Is that correct?

**Mr Smyth:** I'll get my colleague to talk about how that's actually operating.

**Ms Jensen:** That's correct. Sixteen per cent of the total commenced jobseekers, or 1,148, had one demerit point due to not completing their job search requirements; and then 2.14 per cent of total commenced jobseekers, or 174 jobseekers, have had two demerit points due to not completing their job search requirements.

**Senator O'NEILL:** Okay. Do we have any data on the reasons that people got caught up in this process?

**Ms Jensen:** We do have some early evaluation data. When asked why they didn't report their job search on time—the reason for the demerit was largely that they just didn't get around to reporting their job search on time—many trial participants said they left the reporting to the last minute and missed or forgot the deadline. The other finding is that jobseekers who start in the trial at an earlier stage are more likely to forget to report, and, in the course of the trial, we've been putting in changes in notifications and reminders that appear to have helped

jobseekers who start later to remember, so their trend is likely to change. But I note again that this is early evaluation data.

**Senator O'NEILL:** Ms Jensen, I'm sure you heard the evidence that we heard about how people were finding the compliance regime: 'It's 20 jobs. Do the search. Provide the information.' What you've just described to me, in my way of hearing what you said, is that you've trained people to comply with the system but they're actually actively out looking for jobs—this is what they were certainly telling us—and the system is interfering with them actually doing the searching themselves.

**Ms Jensen:** No, that's not what I said.

**Senator O'NEILL:** No, but you're telling me about people getting better trained in meeting your requirements as a system.

**Ms Jensen:** What I said is that over the course of the trial we've put in more regular notifications to remind them about the importance of reporting their job search. Obviously a key part of activation is that people do need to report that they have complied with their mutual obligations, and that occurs in the digital trial in the same way that it does with face-to-face servicing. Jobseekers with face-to-face servicing need to report to their providers that they've complied with their job search obligations. In the same way, with the trial there is an online way for them to report.

I would also say that there are a whole range of safeguards that we're putting in place, or have put in place, for the trial and that we'll continue to enhance as part of the pilot. That includes up-front assessment to ensure that people have the access they need and receive training for digital access. It includes reassessments over time and support for jobseekers, if they're having trouble with their requirements, to ring into the contact centre. There's a free helpline there. If they're in Digital Plus, they get additional face-to-face support.

**Senator O'NEILL:** Can I just ask about the reassessments over time. This was one of the issues that were certainly raised as a concern—that people couldn't get reassessed into the right job stream in a timely way.

**Ms Jensen:** Again, as I just said, the pilot will include additional safeguards when the jobseekers are streamed into the service, and then the reassessments will also be triggered by a change in circumstances. Potentially, if they aren't complying with mutual obligation and if they're not making progress towards employment, that will also be a trigger. So the key message is that, if they're having trouble, they will not stay in Digital First. They will receive additional assistance, whether that's going into Digital Plus, where they get additional face to face assistance, or going into enhanced services in the pilot.

**Senator O'NEILL:** If you can table for us any information, that would be really helpful. But can I go back to ask about the 9,500 people who are on the trial. What's the demographic construction of that trial? Who's on it?

**Ms Jensen:** We're just finding that for you.

**Senator O'NEILL:** Is it across every state?

**Ms Hartland:** Yes.

**Senator O'NEILL:** Every age?

**Ms Hartland:** Yes.

**Ms Jensen:** While my colleague finds the particular demographics, the online trial's been carefully designed so that it has a representative group of jobseekers that reflects both regional and metro areas and all the key demographic groups.

**Ms Hartland:** It is designed to be representative of the overall demographic. It's stream A, and you're probably aware of that.

**Ms Jensen:** We've found that information. My colleague Mr Dowie has that.

**Senator O'NEILL:** Are you able to table that?

**Mr Dowie:** Senator, you asked about the demographic breakdown.

**Senator O'NEILL:** Would you be able to table that? Then I might be able to ask better questions.

**Mr Dowie:** Yes, we can table that.

**Senator O'NEILL:** Thank you. That would be helpful. I'll come back to that.

**Mr Dowie:** I'll just get the appropriate information from the officials.

**Senator O'NEILL:** Thank you. Ms Hartland or Mr Smyth, how many job-ready or stream A participants are long-term unemployed? The 9,500 are stream A?

**Ms Hartland:** Correct.

**Senator O'NEILL:** How many job-ready or stream A participants are long-term unemployed—because the 9,500 is stream A, right?

**Ms Hartland:** Correct.

**Mr Smyth:** Are you referring to all stream A in jobactive or just in the online trial?

**Senator O'NEILL:** In the online trial.

**Ms Hartland:** I don't think we've got that breakdown.

**Mr Smyth:** I'd have to check. I'll have the staff check whether we've got the actual breakdown of that. I do have those numbers for the jobactive case load.

**Senator O'NEILL:** Can we start with those?

**Mr Smyth:** Sure. Under the current jobactive case load, which is a total of 643,606 as at 31 January of this year, stream A participants out of that are 254,985—

**Senator O'NEILL:** Sorry, could you say that again?

**Mr Smyth:** As of 31 January, the total case load is 643,606. Stream A is 254,985; that's 39.6 per cent. Out of that case load, long-term unemployed, which is 12 months plus, is 93,703; very long term unemployed, which is 24 months plus, is 44,585, or 17.5 per cent; and extremely long term unemployed, which is five years plus, is 6,124, or 2.4 per cent.

**Senator O'NEILL:** And they're people in stream A?

**Mr Smyth:** They're in stream A; that's right.

**Senator O'NEILL:** To the layperson, when they hear 'stream A', the term 'job ready' is attached to that. If, of 254,000 people, 93,000 have been unemployed for more than 12 months; 44,000, more than 24 months; and 6,000, more than five years, you'd have to really question whether the term 'job ready' attached to these people has any sense or meaning.

**Ms Jensen:** An important clarification here is that these figures, which are 'long term' on the jobactive case load, include many people who are working part-time. For example—

**Senator O'NEILL:** The underemployed?

**Ms Jensen:** single parents who have part-time requirements to reflect the importance of balancing their care responsibilities with work are included in 'long term', and they often find the flexibility of being able to do their requirements online actually assists with that balancing of care and work. So it's not a straightforward situation; there are a number of people who are actually working part-time in the case load.

**Senator O'NEILL:** Yes, and we did get evidence from them, in the course of the hearing, about trying to balance going to their part-time job—or, often, jobs, because they're underemployed and seeking employment in multiple places in very insecure employment—against what I would characterise as overly officious interventions from some people within the jobactive network demanding that they attend, at short notice, meetings when they should be at work or when they should be attending English language classes. That's one of the problems that these people that you're talking about are caught up in and who are, in some cases, in a system for five years where they're reporting and not getting a decent job.

**Ms Jensen:** The new reforms are reflecting the government's intention to provide more flexible approaches to activation, so they are actually directly responding to stakeholder concerns about the need for more flexibility around how that activation and activities occur. That is exactly the sort of flexibility that we'll be testing in the employment services reform pilot.

**Mr Dowie:** I think it's worthwhile adding to Ms Jensen's answer, because you did mention the case of jobseekers who mentioned they found the current experiences quite inconvenient, having to balance their work requirements with their reporting obligations. Under the new arrangements, those jobseekers—particularly those who will be able to be serviced digitally—will no longer have to attend face-to-face interviews with their jobactive providers. They will have that greater degree of flexibility to be able to enter into their reporting in an online environment at a time that suits them.

**Senator O'NEILL:** Mr Dowie, have you spoken to people who've been reporting into this system for years, haven't been offered a job and are just exhausted and have had their whole identity damaged by the process that you're overseeing—I'm sure in good faith?

**Mr Dowie:** The answer to that question is: yes, we have spoken to those jobseekers. As part of the process that the government undertook to develop a new employment services system, and as part of the Employment Services Expert Advisory Panel, over 1,400 stakeholders were consulted on their experiences with the system,

including jobseekers, and the department has a regular dialogue with the Australian Unemployed Workers Union, who do represent users of the system, to find out more about their experiences and to have a dialogue about where aspects of the system can be improved and how information can be exchanged. As part of those consultation processes that I mentioned, many people told us that they wanted a system that gave them support, that helped them in their particular circumstances. So, for some of those jobseekers—

**Senator O'NEILL:** How many told you, 'We want a job'?

**Mr Dowie:** Many jobseekers have told us that they would like a job. In terms of the system that we're moving towards, it's about putting in place a system that gives individuals the support they need when they need it, which means providing more disadvantaged jobseekers with more support and allowing those jobseekers who don't need that level of support—

**Senator O'NEILL:** You can see why I'm going to be struggling here. Offering more support; going to digital—there's an appearance here that digital is going to be better. And, for a few people, it may be the case. But we're talking about people here—in substantial numbers: 160,000 in stream A—who are long-term unemployed of various kinds.

**Mr Dowie:** Part of the reforms here are about ensuring that disadvantaged jobseekers get more tailored support through the enhanced servicing stream. That's a significant part of what the reforms are trying to achieve.

In terms of the digital servicing element, part of that will be about not only offering people a more flexible way of reporting their obligations and completing their job search, but also offering more tailored and more personalised support that digital technology can offer about identifying the sorts of jobs that might be most appropriate for those jobseekers and identifying the sorts of training and other activities that jobseekers can do that can enhance their chances of finding work.

**CHAIR:** Senator O'Neill, unless you're very close to finishing this line of questioning, I'm going to offer the call to Senator Paterson.

**Senator PATERSON:** I also have some questions about the new employment services model. Mr Dowie, you look like you're about to add something to a previous answer?

**Mr Dowie:** No.

**Senator PATERSON:** You were just leaning expectantly towards the microphone. I didn't want to cut you off. One thing which might be helpful for the committee for you to cover is the consultation process that led to the development of the new model.

**Mr Dowie:** Certainly. The consultation process that led to the new model commenced in January 2018 with the establishment of the Employment Services Expert Advisory Panel. That particular panel and its working groups met 28 times from its formation in January 2018 to when it concluded in October 2018. As part of that process, a discussion paper was established and made publicly available. A series of national consultation sessions were held throughout the middle of 2018; 23 of those sessions were held right around the country, in every state and territory, in metropolitan and regional locations. We received over 400 written submissions to the public discussion paper, plus we had over 500 people attend those consultation sessions. In addition to that, what the department did in supporting the activities of the Employment Services Expert Advisory Panel was to undertake some new design research, which meant having some very detailed, qualitative interviews with users of the system, which included jobseekers, employers and even some participants in the system as well. So, all up, taking into account the number of people who participated in the process, there were over 1,400 views that were fed into the Employment Services Expert Advisory Panel. That panel considered those views, which informed their report *I want to work*, which was publicly released on 14 December 2018.

Following the release of that report, further consultations were undertaken with stakeholders throughout December 2018 and January 2019 to gauge their views on what that report said. In terms of the specifics of that, I have some information here which may benefit you in terms of the consultation process that we did undertake in December and January. We had a further seven consultation sessions, and they included consultations with a further 18 peak bodies, 11 providers and 23 jobseekers. Those sessions were held on 19 December 2018, 11 January 2019, two sessions on 17 January 2019, a further session on 18 January 2019 and a final one on 8 February 2019. And I should note that those consultation sessions were undertaken in both metropolitan and regional areas.

**Senator PATERSON:** Okay. What are the plans for ongoing consultation during the pilot?

**Mr Dowie:** It's intended that there will be a reference group that would operate at a national level to provide the department with advice around how implementation is going, in addition to two pilot working groups which

will be focused in the two pilot locations—one in the mid North Coast of New South Wales, and one in Adelaide south, South Australia.

**Senator PATERSON:** What kinds of safeguards are in place to ensure that people are getting the right level of service?

**Ms Jensen:** As I said earlier in response to Senator O'Neill's questions, there are a range of safeguards, starting with the way that people will be assessed for their digital readiness and access before being streamed into Digital First or Digital Plus; the fact that jobseekers can opt out if they're not comfortable with the digital servicing; and the fact that there will be triggers for reassessment to make sure that, as their circumstances change, the level of servicing remains appropriate to their needs. Also, the providers in Enhanced Services will be doing additional assessments to ensure that those who are streamed into the tier requiring really intensive support are streamed appropriately.

**Senator PATERSON:** Will there be any reduction in red tape for participants in any model?

**Ms Jensen:** Certainly, one of the objectives of the new model is to reduce red tape both for employers and for Job Services providers. That will be an element of the pilot that we will co-design with providers and continue to get feedback from them and ideas on how to reduce red tape. Similarly, one of the roles of the working group in the regions will be also to engage with employers and get their feedback on how the red-tape reduction is happening for them.

**Mr Smyth:** Also, we will be utilising participants in the trial to give us feedback as to how it is working for them in terms of their reporting requirements and their ability to actually self-service. That will be built back into ongoing design modifications—because, at the end of the day, this is a trial and we're trying to get it right. We're trying to focus on assisting people into employment; that is our main focus. So, stripping out some of those elements that can be better done digitally and be more streamlined, the way that the system is ultimately designed to improve outcomes for participants, for employers and the like is central to what we are trying to do here.

**Ms Hartland:** Can I add that we are looking at how our footprint on the ground, how people on the ground, are working, and working with the contact centre people to be able to get that continuous feedback loop as well. As Mr Smyth said, it's a trial, a pilot, designed to actually provide that ongoing information so that we can tweak it as we go along and so that, when the full rollout happens, we've got a timely way of feeding that back into the system, as well as formal evaluation. I don't want to use too much jargon but it's very much a citizen centred and agile approach that we're adopting.

**Senator PATERSON:** I think there's great merit in the trial methodology because we shouldn't be rolling out programs on a big level until we know they're going to be effective. Even with the best of intentions, sometimes programs don't work out as intended. Testing it on a small scale, as you are here, and evaluating it on an ongoing basis and making changes as you go along is exactly what we should be doing more often in government. So I'm very pleased to see that. What have we learned so far from the online employment services trial?

**Ms Jensen:** Senator, just bear with me while I get to that part of my folder.

**Ms Hartland:** Maybe I can just start by outlining a little bit about it while Ms Jensen is finding her place.

**Senator PATERSON:** Please.

**Ms Hartland:** The trials commenced on 1 July 2018. The purpose was to test a self-service employment services model for job-ready jobseekers. That was then extended by a further two years from June 2020 to June 2022, alongside the extension of jobactive, and that's in addition to the expansion of the trial that was announced at MYEFO in 2018-19. Ms Jensen?

**Ms Jensen:** I should stress that these are early evaluation results, but the feedback from focus groups and interviews indicates that jobseekers who participated in the trial had generally positive views and experiences. Most trial jobseekers who participated in the discussions were satisfied with the information provided to them about online employment servicing, reporting that it was clear, self-explanatory and sufficient to understand what was required of them. Many jobseekers who provided feedback also indicated that online servicing was more convenient than face-to-face servicing, resulted in a greater sense of empowerment, and reduced the burden and costs associated with travelling to a provider's site.

**Senator PATERSON:** It's good to hear it was well received. Was there any feedback about changes that could or should be made?

**Ms Jensen:** It doesn't look like there have been major changes coming—

**Mr Smyth:** There is no question that there are always going to be issues with programs like this. Some people with low levels of English proficiency and ability to access the service online indicated that they had some

difficulties there. Those people can opt out. It is a voluntary trial, so they can opt out and go straight back into our normal servicing arrangements through jobactive. We are constantly monitoring that, and that gives us great feedback to ensure that we are constantly enhancing the program as we go.

**Senator PATERSON:** Yes. And giving options to people with different needs is really important too.

**Mr Smyth:** That's correct.

**CHAIR:** We have a document that has been presented for tabling, 'Current caseload statistics as of 28 February'. If everyone is happy with that being tabled, it is so ordered. Thank you very much.

Mr Dowie, you mentioned, in passing, that part of your consultation had been with the Unemployed Workers' Union. What is the status of that organisation? We have had them before this committee a few times. Has there been any due diligence done as to the number of members, who they represent and their financial backing?

**Mr Dowie:** Obviously the AUWU are best placed to answer those detailed questions. Having said that, I'm not aware of their financial backing. I understand that—

**CHAIR:** But you are consulting with them and therefore treating them as a representative body effectively. The department didn't have a look into who they represent?

**Mr Dowie:** In terms of who they represent—

**CHAIR:** Not who they claim to represent but who they actually represent—their membership, their financial backing.

**Mr Dowie:** If you are asking me whether I have looked at who the members are and where they get their financial support from, the answer is no, I don't have that information.

**Senator O'NEILL:** Can we go to the broader figures that we were discussing before to bring it back to where we were. Stream A is designated in the general community as job ready, and we've discerned that 93,000 long-term unemployed, 44,000 very long-term unemployed for 24 months or more, and 6,000 unemployed for five years or more are in the stream A job ready line. That's lot of people. Can we go to stream B?

**Mr Smyth:** Certainly.

**Senator O'NEILL:** What would you have to be doing to get yourself into stream B?

**Mr Smyth:** This is where people would have vocational barriers to employment, so it may be—

**Senator O'NEILL:** Like they can't afford TAFE or something?

**Mr Smyth:** Exactly; and the level of training and skills that they actually have as well. In stream B, the current case load—this is as of 31 January—is 270,032 or representing 42 per cent of the entire jobactive case load.

**Senator O'NEILL:** Is there any differentiation within stream B, or is that—

**Mr Smyth:** Yes, there is—in terms of the demographics of stream B?

**Senator O'NEILL:** Yes.

**Mr Smyth:** Were you after the long-term and very long-term unemployed figures again?

**Senator O'NEILL:** Yes.

**Mr Smyth:** In terms of long-term unemployed—this is 12 months-plus—it is 217,524 or 80.6 per cent; very long-term unemployed—and these are subsets of that, obviously—for 24 months-plus is 164,916 or 61.1 per cent; and extremely long-term unemployed—that's 60-plus months—is 73,361 or 27.2 per cent.

**Senator O'NEILL:** Could I go to stream C now—could you give a general overarching descriptor of people who would find themselves allocated to stream C?

**Mr Smyth:** To get into stream C you need to have an ESA, which is a more thorough assessment of a person's abilities and barriers. In stream C people have vocational and non-vocational barriers to employment; so that may be that they have underlying mental illnesses, drug and alcohol-related issues, and the like. In stream C we have a cohort case load of 103,390—that's 16.1 per cent of the entire jobactive case load. In terms of the long-term unemployed—12 months plus—it's 89,517 or 86.6 per cent; very long-term unemployed—24 months-plus—is 75,954, which is 73.5 per cent; and extremely long-term unemployed—60 months-plus—is 45,886 or 44.4 per cent.

**Ms Hartland:** Senator, would you like someone to come to the table to actually give more of an idea of the sorts of issues that people in those streams have? I know we've given you a broad overview; do you want to get into the detail of the sorts of people—

**Senator O'NEILL:** Thank you for the offer, but can I ask if you could provide that on notice at this point in time. That would be helpful. That seems to be one of the very significant problems: people getting misallocated and not getting the support they need. That's certainly evidence we've received.

**Ms Hartland:** You're absolutely right, and I think the idea of the new employment services model is to direct more case-managed support to people that are clearly stuck in those streams and are very long-term unemployed. Certainly, the idea is to be able to channel resources into that.

**Senator O'NEILL:** It seems like an extraordinarily large number. The long-term unemployed, very long-term unemployed and extremely long-term unemployed seem to be big chunks of every stream. I think that's really important for people in the general public to understand—that you can be in job stream A and considered job ready and be in that job ready stream for five years.

Can I take you to your response to just one paragraph in the report that I think is the intersection of what we've been talking about. We've been saying numbers here and percentages, and it's easy to gloss over.

**Mr Smyth:** No, it's people.

**Senator O'NEILL:** Each one of these is a person—

**Mr Smyth:** That's right.

**Senator O'NEILL:** a person with family, with aspirations and with hopes; people who were born with a great sense of what they're going to be able to do in this country. They're being directed into a system and the whole of the country thinks that they're going in there to get a job, but the figures you've just indicated are that a lot of people are going to go in there and they stay in there. They're not getting a job.

**Senator SIEWERT:** It's not transition.

**Senator O'NEILL:** If we come to this paragraph, I just want to get a response from you about the intersection of these realities, what we've described for those hundreds of thousands of people—643,000 people—who are in this system that you're churning through. Jobactive services is that system. It says: 'Jobactive services are offered to employers free of charge with financial incentives available. However, over time there has been a reduction in the number of employees using public employment services. Only four per cent of employers used the jobactive system in 2018.' That is cited in the Department of Jobs and Small Business *I want to work: employment services 2020 report*, which was published in December last year. So it's a pretty fresh figure. This is my problem. As I'm talking to people, I hear: 'My son's unemployed. I can see they're becoming depressed. Their anxiety is rising. They're very, very concerned.' We've just had Senator McCarthy in here wanting to ask about Indigenous young people. The intersection with people's mental health and wellbeing is tied up in their sense of a future. We're sending 643,000 people into this system of A, B and C: 'You've got to do this. You've got to do that. We're going to do it digitally. We're going to do it face to face or you'll get a reassessment. We're going to cut your payment.' They're getting this system, and only four per cent of the jobs in the country—

**Mr Smyth:** It's not four per cent of the—

**Senator O'NEILL:** Four per cent of the employers.

**Mr Smyth:** It's employers, and some of those are very large employers as well.

**Senator O'NEILL:** Four per cent of the employers think this service is good enough for them to engage with to get people who are unemployed into the workforce. Isn't that a massive problem? It looks like one to me.

**Ms Hartland:** Mr Smyth might want to say a little bit more about the figures, but obviously this has come out in the report and that's why we're looking at changes to the employment services model. Obviously it is an issue and we see it as an issue and we're trying to look at how we make improvements on that. You're correct.

**Senator O'NEILL:** What's the targeted compliance that you set for yourself in terms of getting 50 per cent of the employers to use the service? You've got 100 per cent of the unemployed people forced into it and you've got four per cent of the employers engaged. That seems just plain ridiculous to me.

**Ms Hartland:** Certainly we're working with employer groups and things to do that. Chair, I know the senator asked about us knowing that we were dealing with people, but can I just say that there is not an individual in the department that doesn't realise that we're dealing with people on the ground and they're people that want the dignity of having a job. I just don't want you to think that people in this department aren't there for the right reasons.

**Senator O'NEILL:** I don't doubt your care, but I do doubt the system, a system that forces 100 per cent of people into it, when we have documented evidence across every state in this country, in regional contexts, in city

context, of people saying, 'You are burning me with the system,' and the righteousness of the way in which people are being contained—

**CHAIR:** Senator O'Neill, can we get to a question please? This is not a forum for statements.

**Ms Hartland:** That's why we are looking to the changes in the system.

**Senator O'NEILL:** Yet there is only four per cent of employers putting jobs into the system—for 100 per cent of the unemployed.

**CHAIR:** Senator O'Neill, we need to get back to questions. This is not a forum for senatorial statements.

**Senator O'NEILL:** We need to get back to putting people at the centre of a jobs narrative—

**Senator PATERSON:** I have a question, Chair, if it helps.

**CHAIR:** No; I've indicated that Senator Siewert has the call next.

**Senator O'NEILL:** rather than churning them through a system of compliance, a system so bad that employers don't want to engage with it.

**CHAIR:** Senator O'Neill, move back to questions or I'm going to give the call to Senator Siewert.

**Senator O'NEILL:** Can I go to the detail of what you've given me here, thank you very much, Mr Dowie. This is the sample that we have got in the digital trial. Is that correct?

**Mr Dowie:** In the online services trial, yes.

**Senator O'NEILL:** I was asking about the demographics.

**Mr Dowie:** Yes.

**Senator O'NEILL:** So you've got a gender split here—

**Mr Dowie:** That's right.

**Senator O'NEILL:** of 41 per cent female and 59 per cent male?

**Ms Jensen:** I believe, for the trial, the proportions are 42 per cent female and 58 per cent male. That compares to the proportion in the regular jobactive case load, which is 41 per cent female and 59 per cent male. So it's very comparable, in other words.

**Ms Hartland:** So that last column is saying that, overall, the case load is at 41 per cent female and 59 per cent male. Our pilots have got 42 per cent female and 58 per cent male—so it's a little bit higher in terms of female but basically mimicking the case load that we've got.

**Senator O'NEILL:** For the age split, I see here it's predominantly under-25-year-olds—55 per cent?

**Mr Dowie:** Yes, and that's broadly comparable with the 47 per cent of the comparative group.

**Ms Hartland:** It's a little bit higher in terms of the under-22s but pretty comparable in terms of 22 to 24-year-olds and 25 to 29-year-olds. So it's not a perfect match, but it's pretty close.

**Senator O'NEILL:** And the state-territory split—I'm a senator for New South Wales, and we are the most populous state. I see we're here at 23 per cent?

**Ms Jensen:** That's 23 per cent of the regular case load.

**Ms Hartland:** Yes, 24 per cent in terms of the trial. I think they're pretty similar—26 to 27, 25, 25, 24, 23, 15, 14, 6, 7, 1, 1, 1.

**Senator O'NEILL:** Let's be clear: we're talking about stream A participants only?

**Mr Dowie:** Yes. These figures refer to those participants on the Online Employment Services Trial. They are stream A, but they're not the full set of stream A; they are the more job-ready set of stream A, which we've determined through a JSCI assessment process—JSCI being the Job Seeker Classification Instrument.

**Ms Hartland:** So it's a subset of a subset, if you like, to actually get those—taking your point before—that are more likely to be job ready.

**Senator O'NEILL:** Let's talk about how many of them are former prisoners and offenders.

**Mr Dowie:** The total number of ex-offenders who have participated in the Online Employment Services Trial is, as of 28 February 2019, 86.

**CHAIR:** Is that self-identified or is that based on records you're getting from state government? How is that tracked?

**Ms Jensen:** It's generally self-identified through the questionnaire used for the JSCI, so it does rely on self-identification.

**Senator O'NEILL:** Can I ask if you check, in that instrument that you're describing, if people have secure housing?

**Ms Pitt:** There are 18 factors that we look at in the JSCI, and I can go through those. They are age and gender; recency of work; jobseeker history; education; vocational experience; English proficiency; country of birth; Indigenous status; Indigenous location; geographic location; proximity to a labour market; access to transport; phone contactability; disability or medical conditions; stability of residence; living circumstances; criminal convictions; and other personal factors. Those are the characteristics that go into the Job Seeker Classification Instrument.

**Senator O'NEILL:** And it's all by self-disclosure, isn't it?

**Ms Pitt:** Yes.

**Senator O'NEILL:** So you are aware of how desperate people might be to look like they're a good person to employ and how corrupted self-reported data might be in a situation where you're struggling to get some dollars to get food in your stomach or that of your children? What I'm saying to you is that it's a failing instrument.

**Ms Pitt:** Well, it's a longstanding instrument, and it's really—

**Senator O'NEILL:** Just because we've been doing it for a long time doesn't mean we've been doing it right.

**Ms Pitt:** That's correct. But we do undertake regular trailing independently, with academics and also within the department, to look at how the JCI is delivered—whether it is over the phone or through the trial. Now we are looking at people conducting the JCI online themselves, and then looking at the comparability between people giving—

**Senator O'NEILL:** More truthful answers.

**Ms Pitt:** Answering the questions on the phone and answering the questions themselves. And there is strong comparability between those data.

**Senator O'NEILL:** So people are telling the truth in the same context.

**Senator SIEWERT:** I don't know if the issue of the protection of people's privacy has been addressed—and I realise that what is available through the media is not the full story. The budget papers talk about employers being able to look online to find potential employees. How is that going to work? And how is somebody's privacy going to be protected through that process?

**Ms Jensen:** It might be useful to get Ms Kovacevic, who runs our employment services system, up to the table to assist with that.

**Senator SIEWERT:** It partly goes to the issue you have just been talking about in terms of the limited engagement of employers in the current system. I realise that it is an attempt to increase that engagement., but if someone is looking online and being able to contact potential employees, how is that going to work?

**Ms Kovacevic:** All our jobseekers come through our online platform via the MyGov portal. Obviously that is a whole-of-government portal and there are safe and secure privacy principles around that. Employers also have to register to use our online system. There are a number of verification processes that the department undertakes to ensure that employers are who they say they are. Jobseekers do have a choice as to whether they share some of their information with employers when they are applying for jobs.

**Senator SIEWERT:** So employers who want to contact people online will not be able to look through a list of people and say they want to try Mr Smith, Mr Bloggs or whomever, a person would have to see what jobs are on offer online and then apply?

**Ms Kovacevic:** Correct. Jobseekers need to apply for those vacancies.

**Senator SIEWERT:** And what mechanism are you then going to use to encourage employers to go online to this process?

**Ms Kovacevic:** The department's website is a no-cost service to employers; they can advertise their vacancies at no cost. With other online job boards, like SEEK, they need to pay a fee.

**Proceedings suspended from 10:29 to 10:47**

**CHAIR:** I resume this hearing. For the Education session later today: we are formally releasing ASQA, the Australian Skills Quality Authority, by agreement, and we will resume the Jobs and Small Business portfolio in outcome 1. Senator Siewert has the call.

**Senator SIEWERT:** I want to go back to the new employment services model and then I've got a couple of questions about ParentsNext. So I properly understand, I will go to the current jobactive program, which is now being rolled out to 2022, and the new process will just apply to the trial sites. That's correct, isn't it?

**Ms Jensen:** Yes, that's correct. From July this year, the employment services trial will apply in South Adelaide and mid-north coast New South Wales. In the meantime, the contracts are being extended, yes.

**Senator SIEWERT:** Okay. I want to be really clear about what changes there are for the people that are still on the normal jobactive—what I'll term 'normal' rather than the trials. Are there any changes there? Will the new job capacity assessment, of which I understand there's reform to the process in the trial areas, also apply to the rest of jobactive?

**Ms Jensen:** It won't apply in the rest of jobactive. The purpose of the trial is obviously to work carefully with all stakeholders and trial those new features, including changes to more flexible assessment, activation and enhancements to assessment. However, I wouldn't rule out if, during the course of the trial, the new approaches could be at a later stage rolled out.

**Mr Smyth:** As we improve the online servicing system and model and the platform that we utilise, the government can make a decision to—and we're constantly improving the system anyway. That can flow out to, obviously, the broader jobactive.

**Senator SIEWERT:** I'm concerned that all the issues that we raised in the jobactive report like assessment—I won't go through the list, because Senator O'Neill has been touching on some of those—are still going to apply for the next two years. It's the same old, same old. Bear in mind what you've just said about the online system. The long-term unemployed people that are in stream A that really should be getting additional help, the young people that should be in more intensive systems—all that sort of thing—and the poor job capacity assessment process that's being undertaken at the moment are all going to remain the same?

**Ms Hartland:** It's clearly a balance here about getting the system right and getting the improvements in the system right rather than rolling everything. The government has chosen to do it in this way in a staged approach, and, as Mr Smyth has said, we can't possibly pre-empt that there might be things that are adopted early through these trials, but I guess it's that judgement call about whether you roll out everything all at once and the systems issues that that brings with it or whether we trial and gradually make changes. The government's opted for the latter, but I can't pre-empt whether there would be other trials, other pilots or other things that might happen throughout this.

**Senator SIEWERT:** Thank you. If you've told Senator O'Neill this, I will look on the *Hansard*. How much money is there for the enhanced services stream or the new employment stream? For the new services, how much is being allocated to the provision of the new supports and services process?

**Ms Hartland:** In the pilots?

**Senator SIEWERT:** In the pilot sites.

**Ms Jensen:** In terms of the pilot of the new employment services model, \$176.8 million has been allocated overall.

**Senator SIEWERT:** How does that break down?

**Ms Jensen:** I do have a breakdown here. That breaks down into \$31.5 million for ICT costs, \$102 million for new employment services payments, \$11.6 million for contact centre support, \$4.3 million for the impact on the Department of Human Services—

**Senator SIEWERT:** Is that all the ICT stuff?

**Ms Jensen:** Yes, meaning ICT—some communications.

**Senator SIEWERT:** Yes.

**Ms Jensen:** There is \$27.4 million for related costs to establish and administer the new arrangements such as, for example, evaluation and communication costs and so forth.

**Senator SIEWERT:** Thank you. Is the evaluation process going to be ongoing through the process?

**Ms Jensen:** Just bear with me. I've got some information on the evaluation. I'm just getting to that.

**Ms Hartland:** Partly the answer is that there are formal evaluations that will happen, but what you might have missed earlier is that there'll be ongoing learnings that are coming from it on the ground and through the contact centre and things that we will feed back in. What I'm looking for is a continuous feedback loop—

**Senator SIEWERT:** Into the trial itself?

**Ms Hartland:** Yes, and Mr Smyth has just reminded me that there's a formalised reference group as well.

**Senator SIEWERT:** Okay. Don't bother repeating anything you've already said. I will go and check that. I don't want to waste people's time. I will go check the *Hansard* if you've already articulated that.

**Ms Hartland:** There is some more we can add.

**Ms Jensen:** It's that kind of real-time action research, quantitative and qualitative, throughout the life of the pilot. We can keep feeding findings through and enhancing and modifying over the life of the trial.

**Senator SIEWERT:** Who's undertaken the evaluation? Is it going to be in house or are you going to tender it out—or have you tendered it out?

**Ms Jensen:** In the normal way, the department would manage the evaluation, but we may contract out elements of it.

**Ms Hartland:** We've got an evaluation unit that is in the organisation, but, as Ms Jensen has said, there might be a combination. It's yet to be decided, really. There could be a combination of some of that being contracted out to independents, to academic organisations and the like, but we're happy to keep you posted on how we'll manage that.

**Senator SIEWERT:** Thank you. I'm conscious I'm going to get pipped in a second. Can I go to ParentsNext? I have two specific issues I want to follow up. Have you seen the letter that the community affairs committee received from the library association around providers using library services for meetings to see participants?

**Ms Hartland:** I haven't, but I'll just check whether Mr Manning has.

**Mr Manning:** The library association wrote to the department last year. We saw that one. We haven't seen a letter since then.

**Senator SIEWERT:** Okay. I thought you might have. I'll probably have to ask a few questions on notice. So they wrote to you previously, because this is a subsequent letter basically saying: 'We've written to you before. The situation is ongoing'. They list a number of issues, but in particular providers are continuing to use libraries in a fairly public way to see participants. There's the whole issue of referring participants for activities in libraries, but this is actually to use their facilities to meet participants in a fairly public space.

**Ms Hartland:** I'm not aware of that or the follow-up. If you pass that letter on, we can have a look.

**Senator SIEWERT:** I will pass that letter on. It is on the Community Affairs website. It came subsequent to us tabling the report, and we have now put it up online.

**Ms Hartland:** We'll have a look at it.

**Mr Manning:** Certainly, in relation to these issues as they arise, we very much like to receive particulars, because that way, rather than going out generally, we can target and work out whether or not there is a problem and, if so, what the provider should do. We'd be interested in getting that and we'd be happy to meet with the library association to have those discussions if it would help resolve those issues. If we know who is doing it, we're then able to take much more direct contract management action in relation to it.

**Ms Hartland:** Obviously, if it's a systemic problem, as Mr Manning's saying, there's a bigger issue we need to deal with, but a first step would be that, if we can get the letter, we can then approach the association and work out what's happening.

**Senator SIEWERT:** I'll make sure I get you a copy today.

I'm sure you saw the article about providers avoiding granting medical exemptions. Have you seen the article on that from *The Guardian*?

**Mr Manning:** I've seen the media article, yes.

**Senator SIEWERT:** Has anybody raised this issue with you?

**Mr Manning:** By coincidence, at the time the article came through, Mr Jalayer and I were meeting with PeoplePlus to discuss other issues. They raised it with us, so in that sense, yes, that issue had been raised with us. We weren't aware of the detail, and of course we'll subsequently follow that up separately. I'm not aware of particulars of any other complaints being made of the same nature.

**Senator SIEWERT:** To be clear: you then raised this with them?

**Mr Manning:** They actually raised it with us. I understood they had comments sought in relation to the article. We discussed it very briefly. What I was saying is that we will, having seen the article, follow that up as we always do when those types of issues are raised.

**Senator SIEWERT:** Do you know or do I have to ask DHS how many people have medical exemptions?

**Mr Manning:** As at 31 January, there'd been 2,055 grants of exemption for temporary medical incapacity. That's 12 per cent of the total exemptions granted as at 31 January.

**Senator SIEWERT:** That's 10 per cent of the total exemptions?

**Mr Manning:** No, that was 12 per cent. So that's temporary medical incapacity. There's another category, temporary incapacity illness. An additional 711 of those have been granted, which was four per cent of total exemptions as at that time.

**Senator SIEWERT:** Do providers have to report to you when there's an exemption granted?

**Mr Manning:** No, not in every case. The system would be updated, so that information would be in the IT system but they don't have to report that.

**Senator SIEWERT:** Do they have to, in the system, report when people apply? Do you have oversight of the number of people that apply so that you can check how much this is happening? This is one situation; we don't know how many other providers are doing the same thing.

**Mr Manning:** There are requirements in relation to when exemptions are denied, which Mr Jalayer can run you through.

**Mr Jalayer:** When a provider has an exemption requested, it needs to be reported in the system as to whether it's been—

**Senator SIEWERT:** Okay. Have you got the numbers that have been applied for?

**Mr Manning:** We'll have to take that on notice. We don't have that.

**Senator SIEWERT:** If you could take on notice how many are in the categories we were just talking about—the temporary and the illness and the permanent.

**CHAIR:** This issue of employers having a lack of awareness about jobactive, is there any reason, when a jobseeker, who is coming through a jobactive provider, comes to an employer that they would know that?

**Mr Smyth:** It's a good question. This is one of the issues that, when I've been going around the country meeting with a lot of providers and employer groups, they don't sometimes realise that they're dealing with a jobactive provider, that they are dealing with one of the names of our providers and that's where they're getting a number of their employees from, but they may not be actually aware that that is the jobactive system. In some respects, I suppose that four per cent is an underrepresentation of the number of employers out there that are actually engaging with the jobactive system. The short answer is they don't have to say they're from jobactive or anything like that. The key thing for us is we're trying to get people into employment, obviously, and it's not necessarily about the branding being sold to potential employers as being jobactive, as such.

**Ms Hartland:** I don't want to get into the pedantics of the calculation, because we want that figure to be as high as it possibly can. The four per cent, as I understand it—and our evaluation people can talk more about this—includes all sole traders across the country that are probably never going to actually utilise jobactive because they're not going to hire anyone. Having said that, I think the numbers certainly need to be higher. Mr Smyth is right. I know when I go around the country and if you talk to sometimes some of the very big employers and they don't know where they're actually sourcing their people from. It's not always highlighted by the providers either. They're sourced to go and find people for them. I've got no doubt that the statistics are still low but I think they're probably not exactly as they seem; there's a little bit more richness to that and complexity in it.

**Mr Smyth:** We have a number of programs to increase the level of employer engagement as well, and I've talked to a lot of our staff in our state and territory offices to ensure that they are actually out on the ground meeting with employers, employer groups and the like to build that number. So there's an active kind of process going on within the portfolio at the moment to ensure that that number continues to improve.

**CHAIR:** Thank you. Senator Askew do you have any questions?

**Senator ASKEW:** Not at this stage.

**Senator O'NEILL:** I will go back to where we were. One hundred per cent of people are forced into the system and four per cent of employers officially engaging with a system that is supposed to get people jobs is a very big concern, in my view. I appreciate what you've just said. But Senator Siewert mentioned Seek. Was it in answer to you that we heard the Seek platform mentioned? People have to pay to put a job up on Seek. They don't have to pay you to put anything on, do they?

**Ms Hartland:** No.

**Senator O'NEILL:** It's a free service to businesses but so far away from where they are that they're not even seeking a free service to put their job on there?

**Ms Jensen:** We might just get Ms Shannon up to the table from the evaluation area, because she's got a clarification of that figure around employers engaging with jobactive.

**Ms Shannon:** My branch has had the opportunity to do some research. Basically, with the commencement of jobactive, we started to systematically collect business ABNs. So when jobseekers are placed with a business—

**Senator O'NEILL:** Can I remind you, I do have a lot of other questions. I'm really happy to get a detailed on notice so a short statement would be helpful.

**Ms Shannon:** The short answer is: when we look at businesses that have at least one employee, so hiring businesses, we find 14.6 per cent of those businesses use jobactive in their first year of operation. The figure, as I think the secretary referred to, of four to five per cent includes sole traders who aren't hiring anybody. When we look at businesses who are hiring somebody, we find it's a figure more like 14 per cent. It's still, as has been reflected in the table, a figure we would like to see grow, but I think that gives a bit more context in terms of employer usage of jobactive services.

**Senator O'NEILL:** One of the things that small businesses say to me is they are overwhelmed by people being forced to send 20 applications all the time. We talk about red tape, but this system is using small businesses to clean up the red tape that they are generating and that's a very big problem. The National Employment Services Association is vital in an input into this. What consultations have been undertaken with the peak body for employment service providers?

**Mr Dowie:** As part of the work of the employment service expert advisory panel, the Australian Chamber of Commerce and Industry was actually a panel member and contributed to the work that the panel undertook. In addition to that, the panel engaged with a number of other employment peak groups including the Business Council of Australia and including a number of chambers of commerce and industry around the country.

**Senator O'NEILL:** Has that engagement led to a significant increase in the engagement of those services with you?

**Ms Jensen:** What it led to was it informed the expert panel report, and the government has recently announced reforms that will include addressing the issue of burden on business potentially—I think the average is actually 15 job searches per jobseeker but potentially up to 20—by allowing much more flexible activation. So, again, that is one of the elements that will be tested in the trial so that, rather than having a more belts-and-braces approach to activity, including job searches, activation will be tailored to personal circumstances and the relevant job market.

**Senator O'NEILL:** Can I ask you to take on notice what specific feedback you have provided. If you can give us some more detail on that and on any of the feedback that has been adopted and the changes you have implemented as a consequence?

**Ms Hartland:** Is that from NESAs?

**Senator O'NEILL:** Yes. And what stakeholders have had input into the new fee schedule?

**Ms Hartland:** You want us to take that on notice?

**Senator O'NEILL:** Yes, unless you can give me a quick answer now.

**Ms Hartland:** Just to clarify, you are talking about how we have arrived at the fee schedule. Is that what you mean?

**Senator O'NEILL:** Yes.

**Ms Hartland:** Not the consultation we are having directly that's happening now.

**Senator O'NEILL:** That is what we were discussing earlier. I'm still hoping to get those numbers from you but this is the process that preceded that.

**Ms Hartland:** The process to get to that point.

**Senator O'NEILL:** Yes: what stakeholders had input into the fee schedule.

**Ms Hartland:** Sure. I will have to—

**Senator O'NEILL:** If you can provide that easily today that would be helpful. Do you have any further information for me, Mr Smyth?

**Mr Smyth:** I think, as Mr Dowie said, it was a very extensive consultation process where a lot of the feedback that was gathered through the independent panel's review of the model and their deliberations helped inform the government's decision to, obviously, significantly increase the level of fees going into the enhanced services model. But we can take it on notice as to who was part of that consultation.

**Ms Hartland:** Because, for example, Mr Smyth and I took part in a number of consultation sessions with a whole variety of organisations from the Salvation Army and jobseekers to some of these organisations and providers to talk about where you'd go with more up-front fees in the process and those sorts of things. So there's been quite a detailed—

**Senator O'NEILL:** That comes to my earlier question, which was asking about the detail of what's being offered now, so I'm hoping you might still be able to get to that. Can I just finally ask one question with regard to the area we're discussing. The requirement for face-to-face attendance actually provides—and I'm very mindful, being a senator from a regional part of the country, that money to put petrol in your car and to get to places is a very, very big impediment for people in the regions in addition to many other things—a very important window of opportunity for women, and it's predominantly women, who are being subject to violence in their home. I'm concerned about a change to the digital platform that one very important opportunity for women fleeing violence will be shut down to them if they no longer have the cover of an excuse to attend. I'm sure that you know that across the country today people will be walking in because it's the only place they're being allowed to go. My question really is: what are you doing to give proper consideration to the good bit of the engagement with your system for people who are fleeing domestic violence; and what's the scale of what is being reported to you about this particular system being used as a tool for women to flee violence in their home?

**Mr Smyth:** Senator, that's a seriously complex question to answer. There is no single response that I can give you, but we are aware of the issue. We're aware of the issue across a number of our programs, particularly in relation to ParentsNext. In a number of discussions that I've had with ParentsNext providers is that it is a very important vehicle for a lot of those participants to engage with providers who are then able to wrap appropriate services and make the appropriate interventions around those participants. We're conscious that that is also the case, and I know of a number of incidents where jobactive providers have dealt with some very difficult circumstances of their participants and have been able to resolve those, as you say, because there's been face-to-face—there's no question about that. We are conscious of it, and we will look at how appropriate interventions, safeguards and feedback loops are made available in our online system to be able to determine whether people are in a potentially high-risk circumstance. We talk to the Department of Human Services and the Department of Social Services on an ongoing basis about how you can better identify people that might be subject to some of those circumstances and appropriately apply interventions and systems to be able to intervene where necessary. It's something that we are very conscious of and that we will continue to assess and reassess as we go down this path.

**Senator O'NEILL:** I thank you for that answer. As you said, it's much more complex. If you could apply yourself to a more fulsome reveal of what it is that you are doing in this space and the systems that you have operating there as that is a critical element that I think needs to be given careful consideration for any planning going forward. Can you just tell me, with your trial of the 9,500, if that reality factored into your determination of the demographics that you engaged with, or was it just sitting off to the side?

**Mr Smyth:** Again, it is difficult. The new online trial that we're doing is of people that are coming into our system, so it is not the existing case load. It is new participants that are coming into the system that are selected. I suppose it's us seeing what's happening with those participants, whether they actually are progressing or whether they're not and then making the appropriate intervention if they're not progressing. Also, those trial participants exit that system in six months—and I know that's a long time—if they are not progressing in the system and they haven't received an outcome. But also we look at whether there are circumstances that we can look at from the information that we have through the JSCI and whether there are issues that might arise.

**Senator O'NEILL:** We were having a bit of a discussion about self-reporting—

**Mr Smyth:** Yes, self-reporting and all that. There is an ability when somebody isn't progressing to relook at that JSCI and for a participant to make contact with our national customer service line to advise us of their circumstances but also for a reassessment to occur.

**Senator O'NEILL:** Amongst the jobseeker characteristics that you identify in the trial of 9,500 people there are categories in addition to age where you talk about equity, culturally and linguistically diverse, ex-offenders, homeless, Indigenous, mental health issues, people with disabilities, refugees and stronger participation incentive. I would love a more fulsome indication of what is going on with those cohorts. If you can provide any further data, qualitative and quantitative, that would be much appreciated.

**Mr Dowie:** Certainly.

**Senator O'NEILL:** I want to go on to a quick question with regard to savings. How will the efficiencies of \$59.4 million over five years that are indicated in the budget be reinvested in the employment services system?

**Mr Smyth:** That figure is actually a return to budget. So, out of all of the money that was utilised from moving people in the pilots to the digital arrangements and the like, there was a reinvestment made of nearly \$250 million and the net figure of the save was \$59 million that is returned to the budget.

**Senator O'NEILL:** Can you be clearer for me, then. I have not completely understood that. Give me the background and the context.

**Mr Smyth:** There are a number of elements that go into making money available for reinvestment into the two pilots.

**Senator O'NEILL:** The one we have been discussing?

**Mr Smyth:** No. This is the pilots that we are running through the new employment services model on the mid north coast and in south Adelaide starting on 1 July this year.

**Senator O'NEILL:** Yes.

**Mr Smyth:** Over the forward estimates there is a net figure of \$59 million that remains that goes back to the budget.

**Senator O'NEILL:** Is it going back to the budget of employment?

**Mr Smyth:** It goes back into consolidated revenue.

**Senator O'NEILL:** So it is money that is coming out of employment services for the government to spend in other places?

**Mr Smyth:** Potentially in other places. That is a decision of government.

**Senator O'NEILL:** So it is a net loss to employment services?

**Mr Smyth:** It's \$59 million that is coming out of the employment services system and back into consolidated revenue.

**Senator O'NEILL:** It is a cut.

**CHAIR:** You characterise it the way you want to, Senator O'Neill, but the official has answered the question.

**Senator O'NEILL:** Yes, they have, and it is clearly a cut.

**Ms Hartland:** Just to make this clear—and I think I said this earlier—overall there is an investment of \$249.8 million into the new employment services model. So there are a whole series of ons and offs. I can take you through it in detail.

**Senator O'NEILL:** Would you like to provide that on notice? If you could step me through it on paper, that would be good.

**Ms Hartland:** I can—

**CHAIR:** In the interests of time, how long would it take now?

**Ms Hartland:** I can probably do it in a couple of minutes.

**CHAIR:** All right. Step us through it.

**Ms Hartland:** There are two main components to the new employment services model, as we said. There's the pilot of the new employment services model, which is the \$176.8 million. That includes \$31.5 million going into ICT costs. There's \$102 million for the new employment services payment. There's \$11.6 million for the contact centre support. There's \$4.3 million that goes to the Department of Human Services. That's largely around IT changes that they need to make, but there's probably also a little bit of communications money involved in that, I believe. There's \$27.4 million for related costs about establishing and administering the new arrangements. That's around property and some of the evaluation that we talked about earlier with Senator Siewert. Then there's an extension of the complementary jobactive programs and other initiatives, which have an overall cost of around \$73 million. This includes—this isn't definitive; it doesn't go through everything, but it goes through the main sorts of things—\$35.3 million, as we talked about earlier, for the employment fund injection; \$8 million for the extension of the online employment services trial; \$6.5 million for Launch into Work; and \$15 million for the extension of early access to tailored employment services. I think that largely covers the bulk of the things. There are probably a couple of other things that are there.

**Senator O'NEILL:** How will outcome payments change under the new system?

**Mr Smyth:** I think that goes to the earlier discussion.

**Ms Hartland:** That goes to your earlier question around what we're talking about with providers at the moment in terms of fee schedules. I think in that I've outlined the \$102 million for new employment services

payments. When I spoke earlier around a package of money that's there, that's what we're talking about with that package.

**Senator O'NEILL:** So the efficiencies of \$59.4 million will not be going into expanding that \$250 million? The \$250 million is what you've got?

**Ms Hartland:** The \$250 million is the reinvestment. And on top of—

**Senator O'NEILL:** But it's less \$59.4 million?

**Ms Hartland:** The \$59.4 million, as Mr Smyth has said, is around some of efficiencies that have come through the digital trialling that has happened. There are ons and offs here but there is \$249.8 million that is actually going in to look at reinvestment into all of these aspects of the new—

**Senator O'NEILL:** And \$59.4 million is the off?

**Ms Hartland:** Correct.

**Senator O'NEILL:** Thank you very much.

**Senator CICCONE:** I want to ask questions on Harvest Labour Services. First, I wanted to clarify: with the Seasonal Work Incentives Trial, is that the same as Harvest Labour Services or is it a slightly different program?

**Ms Hartland:** There are two different aspects to this. Are you interested in both of them?

**Senator CICCONE:** I just want to ask if you can clarify that for me first.

**Mr Smyth:** The Seasonal Work Incentives Trial ceases in the middle of this year. The government has made an announcement about expanding and reforming the Harvest Labour Services program.

**Senator CICCONE:** That program, the trial was, what, \$27 million previously—is that right?

**Ms Hartland:** While we're looking at this: there are two different aspects of this that are two different aspects—

**Senator CICCONE:** And that finishes 30 June?

**Mr Smyth:** The Seasonal Work Incentives Trial finishes 30 June this year and the new Harvest Labour Services arrangements come into effect with \$24.1 million over the forward estimates.

**Senator CICCONE:** Obviously there's a bit of a cut there of \$3.4 million in terms of the outcomes?

**Ms Hartland:** Yes. Although there's also a Seasonal Worker Program pilot to look at regional workforce shortages. That's, I think, \$2.9 million over the forward estimates as well. There are a couple of different programs that are actually looking at it from, if you like, either a domestic labour point of view or a seasonal worker and international point of view. There are two different aspects. While we've got the one trial or one pilot that's going off there are two other things that are coming on.

**Senator CICCONE:** How much of the money that has been allocated is going towards the expansion of these regions? Is it from 11 to 16?

**Mr Smyth:** Yes, from 11 regions to 16 regions. There are five additional regions that are coming on.

**Senator CICCONE:** How much of that money has been allocated towards that expansion or increase in the regions?

**Ms Hartland:** There is \$24.1 million over the forward estimates in total. That's about the expansion. We've got some further detail.

**Ms O'Regan:** I think the question was about the funds allocated to the additional up to five regions. \$8.6 million has been allocated for those additional regions.

**Senator CICCONE:** That was my next question. Can you provide an answer on how much each of those regions are going to get per allocation?

**Ms O'Regan:** We've assumed an average cost of \$1.7 million for each of the new regions, noting that those regions haven't yet been selected.

**Senator CICCONE:** How much of the money that has been allocated is going towards improving the websites? I also note the accessibility of this website. Can you provide some information on that?

**Ms O'Regan:** \$450,000 in the 2019-20 year has been allocated to improve the Harvest Trail website.

**Senator CICCONE:** What exactly are we improving?

**Ms O'Regan:** The usability and intuitive nature of the website to ensure that the audiences of the website can use it more easily. We have employers, we have working holiday-makers and we have jobseekers using that

website. If you would like to hop on and have a look you can see that there are some improvements that can be made to make it easier to navigate.

**Senator CICCONE:** There are also some changes where it's introducing four-, 12- and 26-week outcome payments. How much are the four-, 12- and 26-week payments?

**Ms O'Regan:** The amounts are: for a four-week outcome, \$500; for a 12-week outcome, \$1,000; and for a 26-week outcome, \$1,250.

**Senator CICCONE:** What were those figured based on, or how did you come to those figures?

**Ms O'Regan:** I would have to take on notice the detail, but they're broadly similar to some of the stream A outcome payments that we have for certain categories within the jobactive model. Some are based on stream A, stream B and that kind of thing. I can provide that on notice.

**Senator CICCONE:** Yes. Were there any other external stakeholders consulted about the reforms?

**Ms O'Regan:** Yes, there certainly were. We consulted with a wide range of stakeholders towards the end of last year. I have a list here of 20 or so organisations that were consulted.

**Senator CICCONE:** I'll probably take that on notice.

**Ms O'Regan:** Yes, we can provide that on notice.

**Senator CICCONE:** Has the program been reviewed previously or have there been any other reviews as part of this program? Any other feedback from key stakeholders or industry that the department receives regularly?

**Ms O'Regan:** I can tell you that the program has been filling around 90 per cent of the vacancies that they identify for placement. Some of those vacancies are filled with working holiday-makers. That's the purpose of these reforms, to try to encourage those vacancies to be filled by domestic jobseekers.

**Senator CICCONE:** But what is the take-up rate? Still quite a low rate compared to the Trail, which was around four or five per cent?

**Ms O'Regan:** I don't think we have a calculation to hand on—

**Senator CICCONE:** No assumptions about how many seasonal workers we're expecting to encourage into the program?

**Ms O'Regan:** We certainly have some estimates of how many outcomes we would expect to pay.

**Mr Smyth:** We're expecting an increase from around 1,200 currently to around 7,200 annually from 2020-21.

**Senator CICCONE:** How do you expect to get to that figure?

**Mr Smyth:** With the new incentive arrangements that are in place as well, the new promotion of the arrangements as well, and through the website and with providers.

**Senator CICCONE:** How much has been spent on the promotions or advertising?

**Mr Smyth:** I think that goes back to the enhancements of the website and the like that have been made.

**Senator CICCONE:** Who's paying for the travel of people who go to remote areas?

**Ms O'Regan:** Sorry; which people are you referring to?

**Senator CICCONE:** People who are part of the Seasonal Workers Program. My understanding is that there are people who end up in remote areas. I'm curious to know the costs involved with travel.

**Ms O'Regan:** I don't think there's any funding specifically allocated. Some of the existing Harvest Labour areas—and there are 11 of those—do cross over into Community Development Program areas, so they are considered to be remote in terms of employment servicing. Are you talking about jobseekers who might relocate for the work?

**Senator CICCONE:** Yes.

**Ms O'Regan:** That's one of the reasons that we wanted to incentivise outcomes, the idea being that HLS providers working collaboratively with CDP providers and jobactive providers, because they're eligible for an outcome, would invest in those jobseekers. That would include, we would expect, assisting with transport and accommodation, which are some of the key barriers for jobseekers to engage in this kind of work.

**Senator CICCONE:** How much would you contribute towards that cost?

**Ms O'Regan:** It's factored into the outcome payments. The idea is that those outcome payments would be reinvested to cover those sorts of costs.

**Senator CICCONE:** And the same with accommodation?

**Ms O'Regan:** Yes.

**Senator CICCONE:** How is the department expecting to go round assessing and matching the right people in the right roles?

**Ms O'Regan:** That's the job of the Harvest Labour Services providers, working with jobactive providers and CDP providers to identify jobseekers who would be suitable for that sort of work. Harvest Labour Services already have a strong employer engagement role. They're specialists in this industry and they have strong links with industry, so they would be identifying the vacancies to be filled, working with the jobactive providers to identify suitable jobseekers and doing the matching.

**Ms Hartland:** It's a contracted arrangement for us, Senator, so it's not our people on the ground that are actually doing that work; it's contracted to these specialist providers. Our role is one of making sure that the program is working, evaluating and compliance et cetera with those organisations.

**Senator CICCONE:** I'm assuming we get regular feedback from those contractors about how things are travelling along.

**Ms Hartland:** Yes. We have systems in place where they have to provide us with information on a regular basis so that we can actually see, and then we have people on the ground through our state networks and things.

**Senator CICCONE:** How regular is that feedback?

**Ms O'Regan:** I don't know if we have anyone here from the Harvest Labour Services program area, but there are regular reports that come through, particularly from our National Harvest Labour Information Service. They provide regular intelligence reports about the level of demand in the industry.

**Ms Hartland:** We can take it on notice and get you some further detail if you'd like.

**Senator CICCONE:** Yes, if you could. Is there a template or a format the department provides for contractors to fill in certain questions or feedback on how the program is going?

**Ms O'Regan:** I'd have to take on notice exactly how that is done.

**Senator CICCONE:** All right. I might just leave it there for now, Chair, given the time constraints today.

**CHAIR:** Thank you. Senator Askew, did you have some questions?

**Senator ASKEW: How many jobs were created in the last 12 months?**

**Mr Neville:** In the 12 months to February this year, employment has increased by 284,100.

**Senator ASKEW:** A pretty good outcome. What percentage of those would have been full time?

**Mr Neville:** The change in full-time employment over the same period was 210,000, so just under 74 per cent of the increase in employment was accounted for by full-time jobs.

**Senator ASKEW:** What proportion would have been full time in the increase that's been achieved since 2013?

**Mr Neville:** I'm not sure I've got that information with me, but since September 2013 employment has increased by 1,288,200. In fact, I do have the number. Full-time employment has increased by 739,200. I can do the maths for you.

**Ms Hartland:** I've got it as 9.2 per cent.

**Mr Neville:** But that's the increase, not the share.

**Ms Hartland:** Yes, the increase. We just have to do a calculation to work out the share.

**Senator ASKEW:** That's not a problem. Would you have statistics available on the proportion of jobs growth from when we had a Labor government?

**Mr Neville:** I have information for the 12 months to September 2013. Over that period of time, total employment increased by 84,600, or 0.7 per cent, and full-time employment fell by 20,300, or down by 0.3 per cent.

**Senator ASKEW:** What was the unemployment rate when Labor left government as well?

**Mr Neville:** In September 2013, the unemployment rate was 5.7 per cent.

**Senator MARSHALL:** Can I go back to the Harvest Trail program—or the new program, actually. Can the department provide current figures on how many Australians have been placed into employment through the Harvest Labour Services program? That's what my question says, but probably the question should be: how many people have been placed into employment?

**Ms O'Regan:** I think Mr Smyth gave that response earlier. There are around 1,200 currently. That is the number of local jobseekers receiving working-age income support being placed by HLS providers.

**Senator MARSHALL:** Can you provide a breakdown of the regions that successful applicants have been placed in?

**Ms O'Regan:** I'd have to take that on notice.

**Senator MARSHALL:** Has the program led to long-term permanent work outcomes?

**Ms O'Regan:** Let me just have a look to see what I have here.

**Ms Hartland:** We might have to take that on notice as well. I'm not sure whether we've got that—

**Mr Smyth:** I'd have to check on that, actually.

**Senator MARSHALL:** Do you have any information on the retention rates for the placement of employees?

**Ms O'Regan:** We'd have to take that on notice too. There is evidence that short-term outcomes can be a helpful stepping stone into longer-term sustainable work. I think there's evidence to show that the likelihood of long-term employment increases with every short-term placement up until around four short-term placements. After that, my understanding is that it tends to level off.

**CHAIR:** I would accept that, but the very nature of this program is it's for harvest—it's temporary, short-term work.

**Senator MARSHALL:** But the program is supposed to rotate people through different crops and different times. Not everything comes from—

**CHAIR:** But, by definition, that can't be a full-time job.

**Senator MARSHALL:** No, that's the point. It's potentially about long-term employment. But, anyway, there are lots of different objectives. Has the department received any feedback from agricultural businesses about the Harvest Labour Services?

**Ms O'Regan:** I quoted the stats around the placement rates before, which are around the 90 per cent mark. I think there is evidence that that's an indication of success in terms of filling those vacancies. I'd have to take on notice the specifics of feedback, but certainly, as part of the ongoing management of the program, we're continuously working to improve it and, as the secretary mentioned, our contract management process to do that.

**Senator MARSHALL:** What evidence did you use to base the reforms on?

**Ms O'Regan:** As I mentioned before, we did quite an extensive consultation process with a large number of industry peaks and representative bodies. I can provide that on notice. I have it here, but I've already undertaken to provide that on notice.

**Senator MARSHALL:** Who you consulted with?

**Ms O'Regan:** Yes.

**Senator MARSHALL:** Is the department aware of the current employment shortfall for farm businesses, particularly in horticulture?

**Ms O'Regan:** We do have some data from our employer surveys which suggests that a large proportion of vacancies are filled, but that's at the national level and there would undoubtedly be significant variation by region. We have a statistic that around 98 per cent of vacancies were filled, and I think that was for the 2018 year. It might have been the 2017 calendar year.

**Senator MARSHALL:** The reforms don't commence until 1 July 2020. Is that right?

**Ms O'Regan:** That's right.

**Senator MARSHALL:** How are those reforms assisting farmers today?

**Ms O'Regan:** We have the Harvest Labour Services that exists today. This is building on that program and adding up to five additional regions and incentivising the placement of domestic jobseekers. It's still a successful program and is available in those 11 harvest labour areas right now.

**Senator MARSHALL:** How much does the service provider get to place a jobseeker?

**Ms O'Regan:** Currently or under the reforms?

**Senator MARSHALL:** Both.

**Ms O'Regan:** I believe there's a placement fee of \$45 currently and that will increase to \$50 under the reforms, acknowledging that the fee hasn't increased since 2015 when the contracts were signed. Then, under the reforms, obviously there's also the outcome payments that we're proposing to introduce.

**Senator MARSHALL:** That's regardless of whether it's an Australian or someone on a working holiday?

**Ms O'Regan:** The placement fee is regardless, but the outcome fee is only for those on a working-age payment.

**Senator CICCONE:** On that, how do the \$50 fit in with the aim of the program to encourage more people to work? How do we get to the \$50 rate? Can you explain a bit more?

**Ms O'Regan:** The rationale for the program is to assist growers to fill vacancies. It wasn't established on the basis of only filling those vacancies through domestic labour. However, these reforms are designed to incentivise—to give Australian jobseekers the first option for those jobs.

**Senator MARSHALL:** Is there a cap on how many working holiday makers will be placed?

**Ms O'Regan:** No, there's no cap.

**Senator MARSHALL:** Can you provide a list of current Harvest Labour Services providers?

**Ms O'Regan:** I can certainly take that on notice—yes. I don't have it here with me.

**Senator MARSHALL:** Will the providers be paid regardless of the placement being successful?

**Ms O'Regan:** They'll only be paid if they achieve the outcome. Are you talking about the outcome fee or the placement fee? The placement fee is paid regardless.

**Senator MARSHALL:** When does it actually become a placement—when someone takes up formal employment or—

**Ms O'Regan:** I believe so. I'd have to look at the detail of the guidelines as to what actually triggers that payment, but, yes, when a—

**Senator MARSHALL:** Could you take that on notice for me and also what's considered and determined to be a successful outcome?

**Ms O'Regan:** Yes, I can do that.

**Ms Hartland:** As Ms O'Regan has said, the outcome payments are designed to keep people in the job. There are those four-, 12- and 26-week marks. They're ramped up to provide that incentive. You're right—there's the \$50 sign-on, if you like. There's a \$50 sign-on and then, like many of our other programs, the four-week, 12-week and 26-week outcome payments.

**Senator MARSHALL:** Have you designed an evaluation program for this?

**Ms O'Regan:** Yes, there is money allocated for an evaluation.

**Senator MARSHALL:** What about ongoing monitoring?

**Ms O'Regan:** Yes, part of our core business is to monitor how the programs operate, and we have a contract management process for that.

**Senator MARSHALL:** If you could give me some details on the evaluation program, that would be good.

**Ms O'Regan:** Okay.

**Senator MARSHALL:** You can take that on notice if you like.

**CHAIR:** We're done on outcome 1, colleagues? All right. In that case, insofar as they're not required later on, we can release outcome 1 with our thanks.

[11:45]

**CHAIR:** We will now move on to outcome 2, workplace support.

**Senator MARSHALL:** Just while we are changing: the seasonal worker program pilot, that's the new scheme we were just talking about—

**Ms Hartland:** Sorry, Senator, what was that?

**Senator MARSHALL:** The seasonal worker program pilot is the new scheme we were just talking about? No, that's another one—

**Ms Hartland:** No.

**Senator MARSHALL:** and that's in outcome 2. Okay. We seem to have a lot of these.

**Ms Hartland:** It's not designed to confuse you; it's just that one has that—

**Senator MARSHALL:** It has, regardless!

**CHAIR:** It may not be designed to confuse us, but it may confuse us.

**Senator MARSHALL:** If you're happy for us to start, that's where I want to start.

**CHAIR:** We're in the correct outcome there, yes? We're happy with that?

**Ms Hartland:** Yes, Chair.

**Senator MARSHALL:** This was included in my correspondence to you earlier. Just how will this pilot differ from the existing Seasonal Worker Program?

**Ms Hartland:** I can start while people are coming to the table. There are four key areas of difference between the pilot and the existing arrangements. The first is around the ability to move workers between the pilot and existing arrangements. The second is around a change to the deed of agreement for approved employers that are participating in the pilot, and we can go through in detail what that all means. The third is around some increased compliance presence on the ground, and the fourth is around labour market testing. Do you want us to go through each of those in detail?

**Senator MARSHALL:** Are the guidelines developed? Are you able to table them or just provide them to us?

**Ms McCormack:** The guidelines are currently being developed, and they will be available on the departmental website when they have been developed, but we are still in the process.

**Senator MARSHALL:** Maybe you'd better give me—

**Ms Hartland:** In terms of the ability to move workers between farms without prior approval of the department, approved employers that are participating in the pilot will be able to move seasonal workers between farm placements during their visa period without prior approval from the department. One of the issues was around getting that flexibility to allow farmers—and it goes to your point before—to use seasonal workers for short harvest seasons and unpredictable picking periods. They can then move people around. Under the general Seasonal Worker Program, approved employers are required to obtain departmental approval before transferring seasonal workers to a new placement.

The second area is that a customised deed is going to be used between the approved employer and the department. That will include strengthened obligations—and this is the quid pro quo, if you like, with some of the flexibility—to ensure that wellbeing and welfare requirements for seasonal workers continue to be met where approved employers move workers between farms. Those obligations will maintain compliance in terms of protecting the workers from exploitation while the pilot model of improved flexibility and increased self-management and accountability by approved employers is trialled under the pilot.

There will be new seasonal worker regional coordinators and also additional Fair Work inspectors deployed on the ground to monitor and assure the welfare of workers through regular and also unannounced monitoring visits. The pilot-approved employers will be required to provide regular reports on the worker arrangements and the placements. Currently, we've got contract managers that undertake monitoring visits on a regular basis, but they don't do unannounced visits, so that's the other change.

Finally, the pilot-approved employers won't need to undertake the labour market testing within those pilot regions during the pilot. This is because—and this is an important part of this—the regions will be selected based on known agriculture workforce challenges and industry feedback, in which that labour market testing is required, and it will remain valid for that period, for that six months. It's happening at that high end, so we already know that that labour market testing has been done, and it will be applied without doing a separate test for that. They're the key changes.

**Senator MARSHALL:** How's the pilot going to be advertised to employers?

**Ms McCormack:** The department will not call for applications to participate in the pilot. Instead, the department will invite selected labour hire firms and contractors with an established Seasonal Worker Program history of operating in the regions, as well as capacity to operate under the conditions of the pilot.

**Senator MARSHALL:** Will there be conditions? Will people who have breached employment standards in the past be invited to participate?

**Ms McCormack:** Approved employers who are currently suspended from the program will not be invited to participate.

**Ms Hartland:** As I said, there are improved compliance mechanisms and people on the ground and FWO input into this process as well, because we're very aware of some of the compliance issues that have been raised in the past.

**Senator MARSHALL:** Will they have to demonstrate as part of being approved that they actually know what they're supposed to pay people?

**Mr Hehir:** That's part of the process that we'll be looking at, and that's why we're going to existing approved employers who have a strong track record. Rather than opening up to new providers who would have to learn the system entirely, we will go to the approved employers in those regions who know what they're doing and who don't have a history of compliance issues.

**Senator MARSHALL:** When do we think this will be up and running?

**Ms Hartland:** It's to be implemented from 1 May this year.

**Senator MARSHALL:** But we haven't finished the guidelines, and they're not up?

**Ms McCormack:** That's correct. As the secretary said, we'll be introducing it from 1 May, with the aim of certainly getting people on the ground in potentially the peak picking season, which is generally towards the later half of the year.

**Senator MARSHALL:** How and when will the pilot be reviewed?

**Ms Hartland:** It will be reviewed after 12 months.

**Senator MARSHALL:** Will the pilot just continue on, or will it end in 12 months?

**Ms McCormack:** The department received funding for one year, so it is a terminating pilot—and then depending on the results of the review.

**Senator MARSHALL:** Are the people involved in that extra, on top of the current program? There are limits to the program, aren't there, or is it an open—

**Ms Hartland:** We've reallocated some people from within the program to work on the pilot, as a subset, for a period of three months so that it then—is that right? Is that a different—

**Mr Hehir:** Sorry, Senator, are you talking about the seasonal workers, or are you talking about departmental staff?

**Senator MARSHALL:** No, seasonal workers.

**Ms Hartland:** Sorry, Senator.

**Ms McCormack:** The pilot is expected to run in up to three regions. It will run concurrently with the usual Seasonal Worker Program, and the workers will come from the 10 participating countries, as they currently do under the normal program.

**Mr Hehir:** That's part of the reason for commencing it early—so we can let the providers go out and see whether they need to select more people. They need time to go to the countries and identify potential participants and then time for them to be brought over. It does have a long lead time between the 1 May commencement and the actual picking season, but that's part of the nature of the program.

**Senator MARSHALL:** Okay. I probably want to move onto 'Protecting vulnerable workers—National Labour Hire Scheme and other measures'.

**Ms Hartland:** Senator, I know you have sent through a question on that. That is one for the Fair Work Ombudsman. We can talk about some of it, but it depends on the nature of your question.

**Senator MARSHALL:** I was wondering how you are going to administer it within the department.

**Mr Hehir:** The Fair Work Ombudsman will.

**Senator MARSHALL:** They'll be administering it, will they?

**Ms Hartland:** Yes—\$10.8 million over four years has been provided to the Fair Work Ombudsman for this.

**Senator MARSHALL:** Given that you have got most of these already, can you answer the ones that are within your area?

**Ms Hartland:** Sure.

**Senator MARSHALL:** I was going to ask you how the scheme is going to be administered within the department. If it is not going to be, that is all right. But the budget papers say the cost of administering the scheme will be recovered from the registered labour hire operators through prescribed annual fees and charges. Is the workplace ombudsman going to manage all of that as well?

**Mr Cully:** Yes, they would manage the process of measuring the fees.

**Senator MARSHALL:** Will the department have any involvement at all?

**Mr Hehir:** Our involvement was in the policy work in the development of the scheme. We've handed over to the Fair Work Ombudsman.

**Ms Hartland:** Chair, can I correct the record. I gave you a figure of \$10.8 million. I was actually looking across the wrong line. It is \$15 million.

**CHAIR:** We will now move to outcome 2, 'Small business support'. I welcome the Minister for Small and Family Business, Skills and Vocational Education, Senator the Honourable Michaelia Cash. Minister, do you have an opening statement?

**Senator Cash:** No, I don't—other than to say I was delighted to see that small and family business were a centrepiece of the budget.

**CHAIR:** Absolutely, we were all delighted to see that. Senator Watt.

**Senator WATT:** Good to see you again, Minister Cash. You would be aware that the Senate passed a motion ordering you to attend estimates today to answer questions about the ongoing scandal involving your office and it leaking information.

**Senator Cash:** I think you are paraphrasing there. But I believe a statement was actually given, in response to that proposed order from you and Senator Cameron, that I was attending estimates. As such, I am here.

**CHAIR:** The minister was always going to attend estimates and is attending in the slot where she was always going to attend.

**Senator Cash:** Correct—I am the minister for small and family business.

**Senator WATT:** I should have said that Senator Cameron sends his apologies that he is unable to be here as well. I'm sure he'll catch up with you another time.

**Senator Cash:** On the campaign trail.

**Senator MARSHALL:** Time's actually running out for him—and for all of us!

**Senator Cash:** In Tasmania. I will see Doug when I am down in Tasmania with you, Senator Askew, because I believe that is where he is heading.

**Senator ASKEW:** He is in the south.

**Senator Cash:** Oh, he's in the south and you're in the north.

**Senator WATT:** If the Aussie's rumours are true, you may be seeing him again in Canberra next week. We will wait and see what happens. We're conscious this could be the last estimates session before the election, and you'd be well aware that on many occasions Labor senators have given you every opportunity to correct statements that you have made to the Senate about the role of your staff in leaking confidential police information regarding a raid and you have consistently declined to take that opportunity to correct your statements. I really wanted to give you one last opportunity before we head into an election to level with the Australian people and correct the record.

**CHAIR:** Minister Cash, you can answer the question if you wish to.

**Senator Cash:** Thank you. I believe this question has been asked on—

**CHAIR:** I think it's been asked and answered on many occasions.

**Senator Cash:** numerous occasions since 2007. I was also, obviously, asked in the Federal Court under oath, and I provided a statement in relation to that that I do note was not challenged by the AWU or its lawyers. But I would respond to Senator Watt by saying: the issue is actually—as the Australian people do know, and are still waiting for an answer for—on whether or not, when Mr Shorten, who wants to be the alternative Prime Minister, was in charge of the AWU, did he, as someone said to me, misappropriate AWU members' funds for his own election campaign, to the tune of \$25,000? And did he get the appropriate authorisations of AWU members' funds to make a donation of \$100,000 to GetUp!?

Chair, as you know, the Federal Police are in possession of documents taken from the headquarters of the AWU that were to be provided to the Registered Organisations Commission to assist them in their investigation of the AWU and whether or not there was a misappropriation when Mr Shorten was the secretary of the AWU. The AWU have now had this court case going for, I think, 16, 17, 18 months on the basis that under no circumstances do they want those documents to ever see any light, whether it be by the Australian people or, I'm assuming, by the members of the AWU. I personally believe the members of the AWU deserve to know: Did Mr Shorten misappropriate your funds? Did he utilise them for his own purposes when he was the head of the AWU or did he get the appropriate authorisations—\$25,000 to his own election campaign and \$100,000 to the activist organisation GetUp!?

**Senator WATT:** I let you go there because doesn't the fact that you consistently make comments like that every time you are asked about this just prove, yet again, that this entire exercise—the referral to ROC, the raid

on the AWU offices—has just been a politically motivated exercise to denigrate Mr Shorten, which you only double down on in the way that you just did?

**Senator Cash:** Absolutely not.

**Senator WATT:** So the tirade which you just launched again against Mr Shorten, as you have every other time, isn't politically motivated?

**Senator Cash:** Again, I have consistently stated that there are questions to be answered, and that is actually, Senator Watt, what this case is all about.

**Senator WATT:** No. What the case is all about is the union challenging the legality of the raid that was conducted when their records were seized. You know that—you're a lawyer.

**Senator Cash:** The union has had documents taken from it by the Australian Federal Police and they do not want those documents to ever see the light of day.

**Senator PATERSON:** I wonder why.

**CHAIR:** Something to hide, maybe.

**Senator WATT:** You don't think it's possible that a union, just like any other organisation or member of the public, might just like to see the law upheld and that, if they believe that the police have conducted their activities—

**Senator PATERSON:** Not according to Sally McManus.

**Senator Cash:** That is a very, very good point—break the rules at all costs.

**Senator PATERSON:** Upholding the law is not the priority for her.

**Senator WATT:** Look, I know you're all stressed about unions and the fact that people have woken up that wages are a bit low and you're keeping them down and that unions need a greater role—

**CHAIR:** Let's get back to questions, Senator Watt.

**Senator WATT:** but, as I say, every time Senator Cash comes in here and tries to deflect with another attack on unions and another attack on Mr Shorten, all you do is confirm the statements that were made by Mr Davies—

**CHAIR:** Senator Watt, let's get back to questions, and preferably questions that haven't been asked and answered many, many times.

**Senator WATT:** Minister Cash, I remember last time we were talking about this in estimates you used the whole, 'I haven't seen a certified transcript of evidence given in court, therefore I can't answer questions' excuse. Have you now seen transcripts of the evidence given in court?

**Senator Cash:** I have seen some transcripts, but, Chair, I would also be mindful of the fact that this matter is still before the courts.

**Senator WATT:** Sure, but you would have seen the transcripts and media reports in which I think Mr Davies, your former chief of staff—and, if it wasn't him, it was Mr De Garis, your former media advisor—admitted there was a political dimension to the raid on AWU offices and their leaking of that raid?

**Senator Cash:** That is their evidence.

**Senator WATT:** So you are aware of their evidence?

**Senator Cash:** That is their evidence.

**Senator WATT:** And doesn't the fact that every time you are asked about this you go after Bill Shorten just confirm to the Australian public that this entire sorry saga has been a political exercise which has blown up in your face and the face of the government?

**CHAIR:** Senator Watt, you've—

**Senator Cash:** Absolutely not.

**CHAIR:** already asked that question. Minister, you can respond if you wish to—

**Senator Cash:** Absolutely not.

**Senator WATT:** So you stand by all of the statements that you've given the Senate up until now about this matter?

**Senator Cash:** Again, I stand by the evidence that I have given, yes.

**Senator WATT:** So when you said to the Senate that your staff told you that their information about the raid came from a media source, you stand by that?

**Senator Cash:** That is what I was told and that is the evidence that I gave.

**Senator WATT:** Even though we now know from the court case that it actually came out of your office?

**Senator Cash:** Again, the evidence that I gave was to the best of my knowledge at the time. Evidence has now been given in the court case, but, again, Chair, I would be mindful of the fact that the matter is before the courts and, as such, no findings have been made.

**CHAIR:** Absolutely.

**Senator WATT:** Have you had an opportunity to review the transcripts of the last estimates sessions of this committee and the committee in which the AFP gave evidence?

**Senator Cash:** I believe I may have.

**Senator WATT:** So you'd be well aware by now that the AFP maintained to estimates—and in fact the DPP did as well—that the letter you sent to them did not constitute a witness statement?

**Senator Cash:** I believe, Senator Watt, that you are totally, completely and utterly paraphrasing the evidence that was given. I don't have the evidence in front of me, but I do believe the evidence given by the AFP was that I did provide them with a statement.

**CHAIR:** And this issue was very well canvassed at the last estimates.

**Senator WATT:** It was, but what happened at the last estimates was that Senator Cash used the old, 'I haven't seen the transcripts, so I can't comment on that.' It's sort of like how she says—

**CHAIR:** No. Actually, that is not correct. I remember that estimates round very well.

**Senator WATT:** it's happening in court so I can't answer, it's happening in parliament so I can't answer, it's happening here so I can't answer—

**CHAIR:** Let's get back to questions—preferably new ones, Senator Watt.

**Senator WATT:** I actually reviewed the evidence of the AFP and the DPP before I came up today, to remind myself of what they said, and they very clearly said that the letter that you sent them did not amount to a witness statement. So you are familiar with that evidence?

**Senator Cash:** They also said that I provided them with a statement.

**Senator WATT:** They also said that they would have liked to have had the opportunity to interview you but that did not occur?

**Senator Cash:** They also sent me a response to my statement thanking me for it and advising me that if they had any further questions they would contact my office. They did not.

**Senator WATT:** I have seen those letters, because we got them out of some questions on notice from the last estimates, and I notice that they had to put in at least two requests to get anything from you to assist with their investigation.

**Senator Cash:** They put in an initial request, which would be just that: an initial request for a voluntary statement. There was a follow up with my office—

**Senator WATT:** A month later.

**Senator Cash:** and that was it. And, Senator Watt, I would remind you that they did not come to me until five months after the event itself. But, in any event, Chair, I provided a statement and they said, 'Thank you. If we have any further follow up questions we will get back to you,' and they did not. I'm assuming that if they did, they would have.

**Senator WATT:** But you will recall that at the last estimates the AFP said very clearly that they would have liked the opportunity to interview you and that there were questions that they had that were not addressed by your letter, so I'm wondering whether—as a former lawyer, as a minister, as someone who is supposed to adhere to the ministerial standards—you have reflected on their evidence and taken any steps to speak with the AFP to provide them with information that you haven't provided them up until now?

**Senator Cash:** Again, I provided a comprehensive recollection of my knowledge to them and, again, Senator Watt, you fail to understand that they thanked me for my statement and said, as you have acknowledged because you read the letter, that they would come back to me if they had any further questions, and they did not. So perhaps your questions are better put to the AFP as to why they did not come back. One can only assume they had no further questions.

**Senator WATT:** I don't think it's fair to say that your statement was 'completely comprehensive' or however you put it. All you did was send them some transcripts of *Hansard*.

**CHAIR:** That's your characterisation, Senator Watt.

**Senator Cash:** That's your opinion; that is your characterisation.

**Senator WATT:** Yes, and your characterisation is that it's a comprehensive statement. So, when they clearly wanted to interview you and all you could bother doing was send them transcripts from *Hansard*—which anyone can access online—would you call that comprehensive?

**Senator Cash:** Yes, I would, and I would also remind you, Senator Watt, that it was in a voluntary capacity and, again, they thanked me for my statement and said that if they had any further follow-up they would refer it to me, and they did not.

**Senator WATT:** So, you haven't offered to go and speak to the Federal Police since the last estimates?

**Senator Cash:** I would have thought that if they had any further follow-up, given their response to me—they had at least five or six months, I think it was, before they handed it down; it could have been longer. They could have come back to me; they did not.

**Senator WATT:** You might remember that at the last estimates I was also asking about the revelations that emerged in the court case that at least one of your former staff members admitted deleting text messages that they'd sent to a staffer in Minister Keenan's office, I think it was, who it seemed was in on this as well—

**Senator Cash:** Again, you're being incredibly generous—I would actually need to see that evidence.

**Senator WATT:** Well, you remember, though—you said that you've seen some of the transcripts, and you've certainly seen the media reports in which Mr De Garis admitted deleting text messages between him and Minister Keenan's staffer.

**Senator Cash:** Well, that is his evidence.

**Senator WATT:** Yes. So, have you made any inquiries since that evidence was given to assure yourself that no evidence relevant to this police investigation was destroyed?

**Senator Cash:** That is not for me to do. That is for the AFP to do.

**Senator WATT:** You don't think you've got some responsibility as a minister to ensure that your own staff don't destroy evidence that might be relevant to a police investigation?

**Senator Cash:** Mr De Garis has not been my staffer since around 2017, in October.

**Senator WATT:** Have you said anything to your current staff about the need for them to comply with the law?

**Senator Cash:** I believe that my current staff understand their obligations.

**Senator WATT:** Well, you probably thought the same thing about Mr De Garis. Did you?

**Senator Cash:** All staff should comply with the law, and in Mr De Garis's case he resigned.

**Senator WATT:** Just remind me: did Mr Davies resign because he was involved in this leak as well?

**Senator Cash:** Again, this has been canvassed at several estimates. Mr Davies resigned for family reasons.

**Senator WATT:** So, even though we've got evidence in court from two of your former staff that they conspired with another minister's office to leak confidential police information about a raid and then at least one of them has destroyed evidence relating to that activity, you've never thought it was necessary for you to talk to your staff about the fact that they should just comply with the law?

**Senator Cash:** Again, I think that is a very generous summation of many months and many days of evidence in the Federal Court. I don't necessarily agree with the summation that you have given. In any event, Mr Davies and Mr De Garis have not been members of my staff for 18 months.

**Senator WATT:** But how can you be confident that any of your current staff comply with the law, given that you've got a track record of employing people who are willing to break the law for political gain?

**Senator Cash:** Well, there was no finding in relation to the breaking of the law—

**CHAIR:** Senator Watt, that is a statement that is completely without justification.

**Senator Cash:** In fact, there was no finding in relation to this case.

**Senator WATT:** They've admitted it. Mr De Garis admitted it to you when he resigned. They both admitted it in court.

**Senator Cash:** Again, your characterisation of what occurred is incredibly generous, because there was no case pursued against anybody.

**Senator PATERSON:** Perhaps I could make an observation. This is a pattern of behaviour from Labor senators of accusing people, under privilege, of breaking the law.

**Senator WATT:** Well, they've admitted it in court.

**Senator PATERSON:** This is a civil matter between the union and an agency.

**Senator Cash:** And there were no findings by the AFP.

**Senator PATERSON:** People have been called as witnesses to assist in that inquiry. No-one has been charged. It's outrageous for Labor senators to smear individuals by using the benefit of parliamentary privilege.

**Senator WATT:** You know why no-one's been charged, though, don't you?

**CHAIR:** Senator Watt, let's get back to questions.

**Senator WATT:** You know.

**Senator Cash:** Is that a question for me?

**Senator WATT:** Yes. You know why no-one's been charged. You remember what the AFP and the DPP said about this.

**Senator Cash:** Again, you'd need to go back to the AFP.

**Senator WATT:** Well, I don't need to go back to them. The transcript from the last estimates was very clear, from both the AFP and the DPP, that the only reason no-one's been charged, the only reason there hasn't been a finding, as you put it, is that a number of witnesses, including yourself, were not willing to give a witness statement. How can you rely on that as an excuse?

**Senator Cash:** Again, that is an incredibly generous characterisation. You put that to me last time and again I refer to what I stated last time: you are just wrong. In fact, Senator Watt, I will just remind you that you put to Ms Close:

... it would be reasonable to conclude that the refusal of Minister Keenan, Minister Cash, and some of their former staff to provide witness statements prevented the DPP from prosecuting?

Ms Close stated:

I don't think it was the lack of statements from Minister Cash or Minister Keenan ...

That was actually her evidence.

**Senator WATT:** It is good that you've decided to look at one bit of the transcript. I encourage you to look at the remainder of the transcript, which is pretty clear, including the evidence of the DPP, who said that in their view there was a prima facie case that a crime had been committed, that it was in the public interest to prosecute someone but that they did not think there were reasonable chances of a prosecution because there was insufficient evidence based on people not providing witness statements. So you might want to look at that bit of the transcript as well. Just to complete this, even though you have had two staff members who have admitted in court that they conspired to leak details of a police raid to the media in breach of the law, you haven't ever thought it was necessary for you to have a little fireside chat with your staff to remind them of their obligations to behave lawfully?

**Senator Cash:** Again, Chair, I think that is a very generous summation—

**Senator WATT:** Yes or no?

**Senator Cash:** that Senator Watt has made, and staff are clearly aware of the statement of staff standards.

**Senator WATT:** Why are your current staff aware of that and your former staff weren't?

**Senator Cash:** Again, this has been canvassed on so many occasions now.

**Senator WATT:** But what has changed to satisfy you that your current staff are aware of the statement of ministerial staff standards when your previous staff weren't?

**Senator Cash:** I have nothing further to add.

**Senator WATT:** Because you haven't done anything about it?

**CHAIR:** Senator Watt, you have asked your question and it has been answered.

**Senator WATT:** Yes. I think it is pretty clear. I'll see you back after the election. We will still be talking about it.

**Senator Cash:** That's fine because I will still be waiting to see whether or not there was a misappropriation of funds by Mr Shorten.

**Senator WATT:** See? You are politically motivated the entire time. You just can't stop, can you?

**Senator PATERSON:** You are definitely not politically motivated, Senator Watt—I know that!

**CHAIR:** As we do not have any further questions on outcome 2, we will suspend a few minutes early for lunch.

**Proceedings suspended from 12:22 to 13:29**

**Comcare**

**CHAIR:** We will resume this hearing. Welcome back, Minister Cash.

**Senator Cash:** Thank you very much, Chair.

**CHAIR:** We are now with Comcare. Welcome. Did you wish to make any opening remarks?

**Ms MacLean:** No, thank you.

**CHAIR:** In that case—Senator Marshall.

**Senator MARSHALL:** Does the agency have a policy on donations or gifts?

**Ms MacLean:** I'm just thinking. I don't think we do, but I'd like to go and check that, if I could.

**Senator MARSHALL:** Right. Even if you don't have one, would you have a register of donations or gifts?

**Ms MacLean:** We would have a register of gifts, which makes me think we probably have a policy on receiving of gifts, but I don't believe donations are included in that. But, again, I'd like to check that.

**Senator MARSHALL:** If you take that on notice, I'd appreciate, if you do have a policy, you providing it to the committee.

**Ms MacLean:** Yes.

**Senator MARSHALL:** And if you do have a register, would you provide that register or a copy of the register to the committee?

**Ms MacLean:** Certainly.

**Senator MARSHALL:** If you do make it public at all, just let me know.

**Senator CICCONE:** I want to ask a couple of questions, if that's all right, Chair. Could Comcare just take us through what the current satisfaction rates are for employers and injured workers?

**Ms MacLean:** Employer surveys that we conduct—let me just have a look and see if I've got something here.

**Senator CICCONE:** I think previously in annual reports these figures have been—

**Ms MacLean:** Yes. We do survey our employers through the National Return to Work Survey and we do have measures in our annual report that we report against. That's a biennial survey—every two years—and at the moment that's being administered by Safe Work Australia.

**Senator CICCONE:** Do you know what the current figure is?

**Ms MacLean:** I don't. I'd have to take that on notice.

**Senator CICCONE:** Also for injured workers?

**Ms MacLean:** I'll ask Mr Hughes to answer.

**Mr Hughes:** The National Return to Work Survey has a number of metrics in it. We'd be able to provide you what we get through that process, certainly, about what employees are saying and what employers are telling us.

**Senator CICCONE:** That'd be good.

**Senator MARSHALL:** It's pretty low satisfaction, I would say, isn't it? Or are you satisfied with the rates? You are?

**Mr Hughes:** I think the nuances in the questions that are asked, I don't believe that—

**Senator MARSHALL:** It's the questions' fault!

**Mr Hughes:** No, the Return to Work Survey is focused on getting jurisdictions a better understanding of what some of the barriers are to returning to work and what some of the experiences are that injured workers have through the process, and jurisdictions use that for a raft of reasons. So I think, if we can take it on notice, we can provide you with the fulsome information in that space.

**Senator CICCONE:** Are there any particular policies to try to get better satisfaction or to get those levels to a more acceptable rate? In the last annual report, I think the satisfaction rate amongst injured workers was around the low 70s. Are there any policies that Comcare's looking at to try to increase that?

**Ms MacLean:** In a general sense, we're always looking at how we can improve the services that we provide to the people that we provide services to either through the claims space or the regulatory space, so we are on a continuous improvement journey, if you like. We constantly review those KPIs and those stats and we have a look at what we can do to improve in that regard.

**Senator MARSHALL:** What do you do?

**Ms MacLean:** We work with agencies.

**Senator MARSHALL:** Because the satisfaction rate is not improving, is it?

**Ms MacLean:** We work with agencies. There are a number of factors, though, that actually influence the satisfaction rate, as Mr Hughes was alluding to. It's not something that you just can take exactly on face value without understanding what we're actually asking and what we're actually measuring that make up that component of that satisfaction rate.

**Senator MARSHALL:** Your timeliness of claims management is going backwards. Why?

**Ms MacLean:** Some of our return-to-work statistics aren't improving as much as other areas, but we continue to work with agencies to get people back to work. Our aim is to get people to recover and return to work as soon as they possibly can. Comcare works with agencies. We are a claims manager and the insurer, but agencies are the rehabilitation authorities and have an obligation to get their employees back to work as much as Comcare does.

**Senator MARSHALL:** What do you do about that? The target for those who return to work after 13 weeks is 73 per cent. The actual is 66 per cent and that's not improving.

**Ms MacLean:** We are looking at things like new programs in early intervention. We are working in the strategic space with agencies to pilot concepts to get people to come back to work earlier. We work in partnership with the agencies to ensure we can improve in that area. It's not a piece of work that Comcare does on its own; it's part of a process in which other players or people have to work together to support employees.

**Senator MARSHALL:** Are there any areas where you're meeting your targets?

**Ms MacLean:** I believe there are. We are doing quite well in some of the return-to-work rates.

**Senator MARSHALL:** Which ones?

**Ms MacLean:** If you bear with me, I'll have a little look at some of the statistics that I have in front of me.

**Senator MARSHALL:** You don't meet them for 13 weeks, 26 weeks or 78 weeks.

**Mr Hughes:** You're focusing on the incapacity duration rates, and that is a focus for Comcare. Of the targets we published in our corporate plan and reported against in our annual report, there are areas such as the funding ratio, claims determination time frames et cetera where Comcare is meeting its KPIs. You're right to pick up on the incapacity durations; it's an area of focus for our organisation. Ms MacLean has pointed out a number of programs that are commencing in that space, some in pilot form and others focused more on what we can do in this construct of employer and claims manager to improve the way we return people to work in a timely manner.

**Senator MARSHALL:** You've come to that on a number of occasions but haven't told me anything you do.

**Mr Hughes:** You've asked us a series of questions—

**Senator MARSHALL:** You tell us you're constantly looking at improvement but you haven't told me anything you're actually doing. I'd like to know something you're doing to address some of these rates, particularly of satisfaction for employers and injured workers. Those are all going backwards: four out of the five criteria went backwards and the fifth criterion stayed the same.

**Ms MacLean:** That measure, though, is not measured solely on the experience of the person dealing with Comcare. As I said, that will be their whole experience in relation to their claim and their return to work. It encompasses all of Comcare, the employer and any provider that might be involved in that rehabilitation.

**Senator MARSHALL:** You're saying these things are meaningless—that we can't look at them and deduce anything from them. What is the point of having them?

**Ms MacLean:** I'm not saying that they're meaningless. I didn't say that at all.

**Senator MARSHALL:** I thought you were trying to tell me we can't look at that and draw any conclusions.

**Ms MacLean:** No, you're putting words into my mouth. I didn't say it was meaningless. If you go back and check the transcript, you would find that I didn't use the word 'meaningless'. Please don't put words in my mouth.

**Senator MARSHALL:** Fair enough, that was my word. What use are these figures?

**Ms MacLean:** They help us monitor how we are performing and how we can work better with agencies to get employees back to work.

**Senator MARSHALL:** What have you actually done?

**Ms MacLean:** We regularly meet with employers and discuss their performance at the agency level. We talk to employers one on one about cases and how they can work to get people back. Sometimes a different provider is needed but, again, the decision doesn't rest solely with Comcare; it is a partnership with the employer where we, the employee and their rehab authority work together to get people back to work.

**Mr Hughes:** From a scheme and subordinate legislation point of view of rehab and return to work, Comcare has been engaged with our stakeholders for some time on a review of the section 41 guidelines for rehabilitation authorities. There is also work happening through the Heads of Workers' Compensation Authorities in relation to the framework for approval of workplace rehab providers. As Ms MacLean just mentioned, we sometimes hear from rehab authorities that providers are part of the issue as well. A raft of work is happening in the subordinate legislative space. There are also pieces like further e-modules or e-products which we're making available to the jurisdiction to help rehab case managers work through the processes and understand what's better practice in these spaces. There is a long list of things we're doing in that space.

**Senator CICCONE:** Are there any feedback avenues you discuss with industry, unions or any other bodies external to Comcare about their experience with injured workers or employers? I would have thought talking to these key stakeholders would be a valuable tool in trying to make one's experience the best it could be.

**Ms MacLean:** I think that lends itself to our research and innovation agenda, where we're asking what we can do to get ahead of the game with some of the challenging things for us and employers, like psychological injury. We are a member of the mentally healthy workplace alliance. We have discussions there about what we as a group of agencies or organisations can do. It's not just Commonwealth agencies; Safe Work Australia is a member, as is the National Mental Health Commission and other bodies like Beyond Blue. We meet to talk about what we can do to support employers and employees in getting back to work if they're psychologically—

**Senator CICCONE:** Do you have any internal bodies that constantly review these figures and try to look at how we can improve, like Senator Marshall—

**Ms MacLean:** Internal bodies of Comcare?

**Senator CICCONE:** Comcare, within government and with other agencies about how we can improve these figures? They've constantly been going back for many years now.

**Ms MacLean:** I wouldn't necessarily say that that's exactly right. I don't think the performance has been constantly backsliding for years. It has probably been a little less stable than we would have liked and perhaps not always heading in the right direction, but we are working on it. We're very aware of it. We review it and say, 'What else do we as an organisation need to do?' That also involves piloting with agencies things like new access for people that are suffering from mental health disorders so that we can intervene early before it becomes a psychological injury or a claim. We work with agencies like Beyond Blue. We're also looking at how we can bring in an early intervention strategy with agencies that don't have those in place. Agencies don't have those across the board, because agencies manage their own work force. We can't impose early intervention strategies on them but we're trying to show leadership by saying, 'If you don't have one, here's a pilot you might like to sign up to, and we can see how it works, in which the person then can be triaged as to whether they need to speak to a healthcare professional, go to their doctor or whatever.' We're constantly saying, 'Yes, this isn't good enough and we would like to do more and do better.' It's not something we work on in isolation on our own; we have to work with other agencies in relation to that.

**Senator CICCONE:** Let's go to the Peta Martin case. In 2012 her original application was rejected by Comcare. Ms Martin lodged an appeal with the AAT, which ruled in her favour. In 2015 you appealed the Federal Court decision and had it overturned. Ms Martin was successful in appealing to the full bench of the Federal Court, which found in her favour. In 2016 Comcare decided to take this matter to the High Court. The High Court sent the decision back to the AAT to reconsider their position, and they found in Ms Martin's favour. Comcare then launched another appeal to the full bench of the Federal Court on a legal technicality. We now learn that, once you got there, you didn't proceed with the case, and you're up for hundreds of thousands of dollars in Ms Martin's legal costs. It has been reported in the paper that you spent nearly half a million dollars prosecuting that. Can you tell me how that sequence of events fits into your being a model litigant?

**Ms MacLean:** Comcare has a responsibility to ensure the Safety, Rehabilitation And Compensation Act is applied consistently, appropriately and in accordance with the law. That has been our consistent approach for any matter that potentially has schemewide implications. So that's the first thing that we look at.

In relation to the Martin matter, there were elements about that initial claim that we felt were obviously scheme significant. We sought special leave to go to the High Court, which was granted. We successfully argued that; our

appeal was successful. The High Court acknowledged that the matter was scheme significant and made a decision in our favour. It was remitted back to the AAT; I absolutely accept that. We then were going to, and did, go to the Federal Court. On reviewing the evidence and the advice—because we always seek external legal advice—we said, 'Actually, no.' Additional information had been provided by Ms Martin at that point, which we did not have and were not aware of when we first started that journey. So, but for the information that we had at the end of the process, we may have made a different decision earlier on. But you don't always have all of that information in front of you at the time that you make a decision. You make the best decision that you can at the time, and at that time we thought it was a scheme-significant issue, on which the High Court ruled in our favour. That's how that unfolded.

**Senator MARSHALL:** Don't you think it's a little bit odd that a scheme that's set up to benefit injured employees is being used against them on technicalities to try to deny payment of compensation to them? What is the purpose of the scheme?

**Ms MacLean:** The purpose of the scheme is to support employees that are injured at work. However, there are a lot of complexities that are associated with that in the way in which an injury or a disease or whatever may occur. When a person is injured at work through an administrative action that a manager may enact through a discussion, which, on the face of it, is just a normal action—like giving feedback in relation to X or Y or advising of an outcome of something or a decision that's made by management—if a claim on the face of it is not strong enough because of that, we will feel we need to test the law in relation to that. That's exactly the reason, with the Martin case, that we went to the High Court. If that had been allowed on its merits at that particular time, in essence it could have meant that every person that was getting feedback in relation to X or Y could lodge a compensation claim because they had a perception that they were going to be bullied in relation to it. It's about protecting the integrity of the scheme. And, to add to that, when we did realise, when we went back to the Federal Court and at that point in time looked at that and got that external advice, we said: 'No, that's fine; we've got this extra information now, and so that's it.'

**Senator MARSHALL:** That's it, after six years and hundreds and hundreds of thousands of dollars, even though you're required to deal with claims promptly and not cause unnecessary delay in the handling of claims and litigation.

**Ms MacLean:** Can I also submit that Ms Martin also lodged many appeals in relation to this matter. This was not just Comcare lodging an appeal; Ms Martin lodged counterclaims. And I don't actually, unfortunately, have control of the legal system and how long it takes for matters to be heard in these respective courts.

**Senator MARSHALL:** No. I'm making the point it took you six years to realise that you were wrong and not to proceed.

**Mr Hughes:** No, I think—

**Senator MARSHALL:** Have you learnt anything from this case or would you do the same thing under the same circumstances?

**Ms MacLean:** We do review the matters after each occasion.

**Senator MARSHALL:** What have you learnt from this case?

**Ms MacLean:** I think it would be fair to say you learn every day, don't you. So, yes, we learnt from this case.

**Senator MARSHALL:** How much has this particular case cost Comcare?

**Ms MacLean:** I haven't got the exact figures with me, but I think it's in the vicinity of \$425,000.

**Senator MARSHALL:** That will be the total costs?

**Ms MacLean:** I understand so, but I'm happy to go and confirm that.

**Senator MARSHALL:** I thought there were costs on top of that too?

**Ms MacLean:** No, I don't believe so.

**Senator MARSHALL:** Do you believe that this represented value for money?

**Ms MacLean:** Yes, I do, because I think that we have an obligation to protect the integrity of the scheme.

**Senator MARSHALL:** Do you think Ms Martin has been treated fairly during this process?

**Ms MacLean:** I think Ms Martin's been treated appropriately.

**Senator MARSHALL:** That wasn't the question. I said, 'Do you think she's been treated fairly?'

**Ms MacLean:** I think that's an interesting term to use. There are many other players in this besides Comcare. I think she's been treated fairly because we've acted appropriately against the legislation.

**Senator MARSHALL:** Do you think Comcare has behaved as a model litigant?

**Ms MacLean:** Yes, I do.

**Senator MARSHALL:** Are you out of this? Is there an exit strategy or is it over now?

**Ms MacLean:** I believe the matter's finished.

**Senator MARSHALL:** It looks like we're going to be back next week, so we'll probably have some more questions on that.

**Senator PATERSON:** Don't be a pessimist!

**Senator MARSHALL:** It's getting more depressing by the hour, I understand.

**CHAIR:** No pessimism here!

**Senator MARSHALL:** I'll ask the minister—you're a cabinet minister, aren't you? Has the Prime Minister confided in you when he's going to get around to calling this damn election?

**CHAIR:** I don't think that's covered by estimates, Minister, so feel free to ignore that one!

**Senator Cash:** Thank God!

**Senator PATERSON:** I just have one quick question. I'm not sure if you'll be able to assist me with this, but I hope that you might. A question on notice returned to another committee caught my eye, and it involves Comcare. The first question, basically, is whether or not you were consulted in the preparation of the answer. It's question reference No. FO39 to the Department of Finance in the Finance and Public Administration Committee in February. It was asked by Senator Marshall and it's in relation to complaints against parliamentarians that have resulted in Comcare claims. Was Comcare consulted in the preparation of this answer?

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

**Senator PATERSON:** You don't know whether, only a month or so ago, Comcare was consulted by the Department of Finance about a complaint against parliamentarians in order to provide an answer?

**Ms MacLean:** Are you asking me about the QON or are you asking me about the action?

**Senator PATERSON:** I may well ask you about the action, but first I want to ask about the QON. I just want to establish whether the Department of Finance has consulted you on any of the answers it's provided to the Finance and Public Administration Committee.

**Ms MacLean:** I'd have to take that on notice. I don't recall so, but I would like to take that on notice.

**Senator PATERSON:** Are any of the staff here today able to assist you?

**Ms MacLean:** No.

**Senator PATERSON:** How common is it for another department to seek Comcare's input in providing an answer?

**Ms MacLean:** I don't think it's very common at all.

**Senator PATERSON:** Indeed, so if it had happened recently it would have stood out.

**Ms MacLean:** It would have stood out; that's why I don't recall it. I actually had responsibility for clearing all the QONs before they went. I just want to cover myself.

**Senator PATERSON:** I don't want to verbal you, but is this a fair summary: probably they didn't, but you just want to make sure that they didn't, and that's why you're taking it on notice?

**Ms MacLean:** Yes.

**Senator PATERSON:** In that case, you probably won't be able to assist me if you weren't consulted in the preparation of the answer. Thank you.

**CHAIR:** Thank you very much. That's it for Comcare. You are released with our thanks.

#### Fair Work Ombudsman

[13:53]

**CHAIR:** We'll now move on to the Office the Fair Work Ombudsman. Minister, I understand you're staying with us for the time being.

**Senator Cash:** I will stay, yes.

**CHAIR:** I welcome representatives from the Office of the Fair Work Ombudsman. Did you wish to make an opening statement, Ms Parker?

**Ms Parker:** No, I don't.

**CHAIR:** In that case, we'll go straight to questions. Senator Ciccone?

**Senator CICCONE:** In the budget, one of the measures was the structure of the sham contracting unit; I've just got a few questions there. How will the unit be structured?

**Ms Parker:** My apologies; can you repeat that, please?

**Senator CICCONE:** How will the sham contracting unit at the Fair Work Ombudsman be structured?

**Mr Campbell:** The sham contracting unit would be effectively a compliance team within the operations group. We have a number of compliance teams inside operations which have a specialty area or characteristic which is one of their primary areas of focus in terms of compliance activity. That would be one of them.

**Senator CICCONE:** So it would be just an expansion of your compliance team?

**Mr Campbell:** No. It would be a new function inside the compliance enforcement branch.

**Senator CICCONE:** What other areas does the compliance team look after?

**Mr Campbell:** It's probably easier if I break it down that way.

**Senator CICCONE:** That would be great. Thank you.

**Mr Campbell:** The inspectors in the cross-operations group are broken into compliance teams, as I've indicated. There is one which is focused on campaign activity—audits, that is. Then there is one focused on overseas workers. There is one focused on general protections—that's your traditional freedom-of-association-type activity. There is one that is focused on young workers. There is a regional spread of officers too. They're placed in our regional locations. I think there are 23 round the country. They're generalist inspectors. They work right across the Fair Work Act. They can work across any one of those subfunctions as well. We also have another unit who are a customer engagement team. They're focused on, effectively, recidivist activity. So the sham contracting unit would be another team like that.

**Senator CICCONE:** Where will the unit be based—in any particular office of the Fair Work Ombudsman?

**Mr Campbell:** We tend to try and base it where the work is but also where we can get the best candidates for it. So we would look to have a presence certainly in Sydney and Melbourne, where the largest portion of our inspectorate operations are, but we would also look to do some analysis and testing about where else we might want to place some of our inspectors to make sure we get them most involved in this work.

**Senator CICCONE:** How soon do you think the unit will be up and running?

**Mr Campbell:** Being thoughtful to the budget process, we would obviously look to start recruitment reasonably quickly. We have recruitment processes underway pretty regularly anyway to refresh changes in the organisation, so it would just be a matter of commencing.

**Senator CICCONE:** You might be able to take this on notice, but how many staff or full-time equivalents would you have in the units?

**Ms Parker:** Mr Scully will answer that one.

**Mr Scully:** As the measure was costed, there are 12 FTEs associated with this initiative.

**Senator CICCONE:** And SES?

**Mr Scully:** No SES.

**Senator CICCONE:** Are there any KPIs that need to be met as part of the unit?

**Mr Campbell:** We would set KPIs like we do for the other compliance teams, and they'd be based around the priority areas. But it'd be a mix of litigation outcomes, enforceable undertakings and compliance notices, so looking to make sure we're using the full spread of enforcement outcomes that are available to us.

**Senator CICCONE:** I think earlier Senator Marshall was asking the department about seasonal workers. The Seasonal Worker Program is the area that the ombudsman looks after. How will the ombudsman allocate the funding specifically to respond to the pilot that is underway?

**Ms Hannah:** We will allocate the funding between two groups, between our operations group and our education function.

**Senator CICCONE:** Will any of this funding be spent on additional staff or other costs?

**Mr Scully:** Yes. This is a measure that has a 12-month period for the pilot. The costing for this measure was a small number of additional ASL in 2018-19 and then into 2019-20, and a small amount of additional travel for it. So it's broken up into staffing costs, and there's a small allocation for travel for people to get out to where the Seasonal Worker Program is happening.

**Senator CICCONE:** When would the ombudsman review the arrangements in place to see how effective the pilot or program is?

**Ms Hannah:** We review our programs and operations on a very regular basis, and we're able to reallocate resourcing as we see appropriate. But that's an ongoing process.

**Senator CICCONE:** How often does that happen? Is it every six months, three months or 12 months?

**Ms Parker:** We have what's called an 'enforcement board', and one of the things we do is an annual work plan for our priorities. We have six priorities—one of them is sham contracting, and another one is vulnerable workers, which obviously is around the Seasonal Worker Program. Migrant workers, in particular, are another focus, and so is horticulture and so on. As part of that forward work plan, we have fortnightly meetings of that board. We set up our KPIs or performance metrics though that, and then there's generally a regular progress report on how the measures that we've received are going as part of that formal evaluation.

For this one, which is the 12-month pilot, I would expect to have a detailed look at how we're going at least twice during that six months—are we performing against what we said we'd perform against; what needs to change; how are we going? But, in addition to that, if there's individual activities under that, which there will be, they'll come up for discussion. So if we decide we're going to do a campaign or an audit, for example, on a particular region, that comes up to that board, which is the deputies and myself, and we look at how that's going to run, how many people are needed, what it's going to cost and what the targets are. We approve that, and then we monitor it and assess it at the end. It's quite a rolling process, as Ms Hannah said, but we're pretty hands on with it in terms of that board.

**Senator CICCONE:** Does any of that feedback get fed back to the department for any potential review?

**Ms Parker:** Yes. The department, as you know, runs the Seasonal Worker Program. Our side of that is about employer compliance, and so we will regularly work with them and tell them how their program's going. There's a very good relationship between those two programs.

**Senator CICCONE:** Good. Going to protecting vulnerable workers, I know the Fair Work Ombudsman has been allocated just under \$11 million over the next four years to deal with the issues relating to vulnerable workers. How will the money be used differently to what your office has been doing in the past and also in how it goes about conducting investigations?

**Ms Hannah:** We would be very grateful to receive this money, and we can certainly do more with more. From an education perspective—and then I'll let Mr Campbell talk about investigations—what we would be looking at doing is spending more money on our activities, so more on social media advertising and more on out-of-home advertising, which would particularly target places like airports and pubs and clubs where backpackers visit. We're also looking at translating our materials into more languages and planning some new tools for the horticulture industry and the fast food, restaurant and cafe industry as well.

**Ms Parker:** That's our education and knowledge side. We also have a compliance, enforcement and litigation side. Through our board, we'll have an annual program of work. We will allocate that additional funding and will be able to do, we expect, more litigations. We expect to be able to do more compliance and enforcement, so more investigations, inspectors, people on the ground, and getting out to workplaces and working with people. But there's a large program for us too with working with stakeholders. We do work pretty hard on working with the unions, community groups and employers to say, 'This is actually a community problem, not just an enforcement or a compliance problem. We need to change culture.' That's a big part of our work as well.

**Senator CICCONE:** This may be premature, but are there any particular activities planned for the course of the year? Is there a schedule that you—

**Ms Hannah:** Yes, absolutely. One that we're working with stakeholders on at the moment involves our horticulture work. What we're planning is a horticulture showcase, which is a new online portal of tools, videos, guides and resources for the horticulture industry and for workers in that industry. Next week, we're going to survey our stakeholders. We work with a stakeholder group and a stakeholder council who inform our strategy and work. We'll be asking them questions about the information they want to see, the information they think is missing, the sorts of problems they're experiencing in the workplace in dealing with their workers and their preferences about how they want to receive that information. We'll take that information on board, we'll design a whole range of new tools and information, and then we'll come back to our stakeholders and test it with them.

**Ms Parker:** We're also doing more audits. With horticulture, there is what we're calling a revisit campaign. We did significant compliance work over the last few years in the horticulture harvest trail sector and found high levels of non-compliance. Part of what we're doing is working with stakeholders, as Ms Hannah said, but we're

also going back to those employers who were non-compliant and going back to test them again. If they are not compliant, then we will look at compliance, leading to litigation.

**Senator MARSHALL:** You have to have two strikes—

**Ms Parker:** No. The employer is still there. Just because we even litigate the first time, it doesn't mean they're now perfectly fine. What we're saying to them is: 'We might have issued a compliance notice or we might have issued an infringement notice or we might have ended up with you having a penalty, but we don't necessarily trust you're now fine. We need to come back and see that you are now actually complying.' It is keeping the pressure up. I suppose that's what we'd call it.

**Senator MARSHALL:** Is your level of prosecutions for breaches going up or going down?

**Ms Parker:** That's a good question. In terms of us taking things to court?

**Senator MARSHALL:** Yes.

**Mr Campbell:** Litigations are one part of our compliance and enforcement suite. Overall, our enforcement outcomes are up year-on-year. Litigation at this point is about steady. I don't have the updated numbers for you right now, but they're tracking to be on or about the same as last year.

**Senator MARSHALL:** But you're doing more audits, more checks—

**Mr Campbell:** Yes. Ms Parker flagged that what we try to do when we're revisiting these employers, where we've found unlawful conduct previously, is to take it up notch if that previous compliance outcome hasn't been, I suppose, responded to positively. So, if the employer continues to not pay people correctly or fails to issue pay slips or to continues the conduct, then they're not going to get off in the same way that they did previously. They won't get a letter of caution and they won't get a compliance notice; they'll get an increased enforcement outcome. It might be litigation. We give people a chance, but at the same time we don't blindly trust that they will change their ways.

**Ms Parker:** Senator, in answer to your previous question, over the last few years we've had about 50 litigations a year, and there are also other cases on foot. They often take a couple of years to get through the courts once they're in. Some of the additional money will be used for more litigation, so we have to increase—

**Senator MARSHALL:** It might be just my perception, but I seem to recall that, in the past, there were some quite high-profile prosecutions that were then well publicised, which probably does more than all of your other education programs put together.

**Ms Parker:** Yes, I think that's true.

**Senator MARSHALL:** Again, it may just be my perception, but I don't recall seeing or reading about any cases such as that for the last few years.

**Ms Parker:** We do have 50. Not all of them are high profile. We do get media coverage—there is no question. In terms of big-name companies and so on, that's probably what you notice more than others, but we're certainly getting very positive outcomes from courts. So, I don't think it's changed that much. We have priorities and we're reviewing that and we're reviewing pretty carefully what we litigate. I think what you are getting at is right—that we have to litigate where it is going to have a big impact so that people get the message and it sends a message out to the community. So, we do have to be pretty careful. With the budget we have, we can do about 50. Therefore, we need to pick ones that will have an impact.

**Senator MARSHALL:** How widespread is noncompliance with people's legal obligations—

**Ms Parker:** That's a very good question.

**Senator MARSHALL:** Because I've seen over many years that there has been an attitude that there are a few bad employers around but it's not the whole. But as we progressed over the years it seems to have dawned on everybody that it's widespread—systemic. I think your audits show that, don't they?

**Ms Parker:** Yes—we target particular sectors. Again, with the resources we have, we have to be like other regulators, which is to choose the areas we think are going to be the most noncompliant. In that regard, we are always going to go after those that are more likely to be noncompliant. It is difficult for us to say the extent of noncompliance. It is absolutely true that coverage, community concern and attention to this matter have grown significantly in the last few years. We would have to say that in certain industries, for sure, and in certain sectors there is a real problem with noncompliance. I think that's correct.

**Senator MARSHALL:** You have one element of your audit in different industries and random inspections. Are you able to respond to every individual's complaint of underpayment and investigate that and resolve it?

**Mr Campbell:** We certainly do our best to assist every customer who comes to us—resolve their issue. We don't investigate every request for assistance we get. It's not always that a person will want an investigation. They'll actually just want us to put a call in to their employer and—

**Senator MARSHALL:** Ultimately, they want the matter resolved but that's—

**Mr Campbell:** That's it. That's the mechanism.

**Senator MARSHALL:** That's really what I'm asking. And what if the employer says, 'Go to hell'?

**Mr Campbell:** Well, they're asking for it. What we try to do is to have a look at each matter on its merits. If we can intervene in a way that gets an outcome, we'll do it. If an employer thumbs their nose at us, then that's asking for a little bit more attention than they might otherwise have gotten if they had just dealt with the engagement with us—

**Senator MARSHALL:** The question I'm asking is that if someone comes to you and they have in fact been underpaid or not received an entitlement they have, they won't be able to walk away from your office without having that matter resolved for them. This is on the presumption that it is accepted that there is a breach.

**Mr Campbell:** That's right. If there is evidence—

**Senator MARSHALL:** On that basis, if you determine it's not a breach, that's fine. It has been put to me that people have said, 'We've gone and they've said, "Yes, you've been ripped off, but there's nothing we can do about it."'

**Mr Campbell:** Normally, if we can't resolve it for them there'll be some factors about their complaint—

**Senator MARSHALL:** But you can resolve an underpayment for them.

**Mr Campbell:** Yes. I'm not trying to be mischievous here. If there is no evidence, if there is no employment relationship, if there is no contract, if there's a denial that the person ever worked for them—I'm trying to give you examples of the types of issues—

**Senator MARSHALL:** I know that is common. We've taken plenty of evidence with committee about that.

**Senator O'NEILL:** And if there is an inadequate paper trail.

**Mr Campbell:** There might not be employment records, which again is a contravention, which we can deal with through an administrative fine, as you know. But it doesn't change the fact that it doesn't help us then to form a picture of what an individual might have been owed in terms of an underpayment. What I am trying to say is that if we can assist a person or a claimant, we will. If there are issues where we can't overcome it, then we might seek to encourage an employer to resolve it, irrespective of some of those challenges. But, again, it comes down to the attitude of the respondent a little bit too.

**Senator MARSHALL:** Okay. Well, again, the point I'm really getting at is that people aren't turned away from you and it's not a resourcing issue. Anyone that's got a complaint will have it listened to?

**Mr Campbell:** Yes.

**Senator MARSHALL:** It will be determined by you where there's an issue, and it'll be resolved one way or the other?

**Mr Campbell:** Yes, and if we can't help, we'll explain why.

**Senator O'NEILL:** Ms Parker, you indicated that there are particular industries and sectors that remain very problematic.

**Ms Parker:** Yes.

**Senator O'NEILL:** Can you put on the record what they are.

**Ms Parker:** We have a set of annual priorities we focus on. Some of those are sectors and some of those are cohorts, if that makes sense. One of the sectors I mentioned was horticulture. We have ongoing concern about the horticultural industry and we're working with the sector pretty closely on all of that. Then we have cohorts such as vulnerable workers. 'Vulnerable workers' is a pretty board thing, but, in particular, we're interested in migrant workers. Migrant workers have a number of categories. They're often young, they often don't have English as their first language, they don't understand the laws in Australia necessarily and so on. You know all these things, of course. They're a cohort we focus on across all our sectors.

Fast-food restaurants and cafes are another big one for us. They've been getting quite a bit of attention in the media, too, as you probably know. Another one we have in highlights—and these are not the only areas we focus on—is supply chains, particularly new franchisees, new franchisors. Part of our role there is to try to educate people who are thinking of taking up a franchisee arrangement and talking about what they are required to do and

how they can seek assistance if there are issues happening with the franchisor et cetera. The supply chain is about that—the responsibility, of course, going right to the top. The other one is sham contracting, and, of course, in the budget, we announced some additional funding there. That part of it is about those workers who are purported to be independent contractors when they are in fact employees, and that's a key interest and a focus for us as well.

We also have public interest criteria, if you like. If there are issues that are of significant public interest or concern or if there's a blatant disregard for the law, it doesn't matter if they're in those categories. If there are employers who are blatantly disregarding the law, we will go after them, if you like. If there's a scale or it's impacting a lot of workers in the community, we will make that a focus. And we also take opportunities to test new laws. We have new laws around protecting vulnerable workers—accessorial liability, around that supply chain issue. We will look for matters where we can actually test the law—

**Senator O'NEILL:** Have you undertaken any action of that kind yet?

**Ms Parker:** Yes, we have.

**Senator O'NEILL:** With regard to which supply chain, and is it one case or multiple cases? Just fill out the detail for me.

**Mr Campbell:** Senator, I don't have a list for you of the matters that we've commenced involving protecting vulnerable worker contraventions, but I can get that for you. From my recollection, there are four matters that were put into court. Two involved Crust pizza outlets. The other one is a plumbing business. I've forgotten what the third one is. We haven't yet commenced proceedings against a franchisor for the particular franchisor obligation. I think it's section—I won't guess. But I can get that for you.

**Ms Parker:** Would you like us to take you through some of those with our special counsel?

**Senator O'NEILL:** Yes, I'm particularly interested in this.

**Ms Dennis:** We have commenced four litigations, which are currently before the court, involving protected worker actions. The first matter is called Desire Food. That matter involves false and misleading contraventions in respect of that matter. The second matter that we've got is Pulis Plumbing, which has an apprentice. Again, that involves false and misleading information of documents. The fourth one, China Bar, involves the same situation. That really involves circumstances where in an investigation, and in these three particular matters, there are circumstances where people have underpaid, and as part of our investigation we ask for records and are provided with records that are false and misleading to the Fair Work Ombudsman, and we bring proceedings that relate to that. The fourth investigation is called A&K Properties. That's the fourth PVW one. In that one we're actually testing something that's a little bit different, which relates to the reverse onus, which is a situation where someone doesn't have records. We're seeking to rely upon the reverse onus to say that because they don't have records that should work in favour of the Fair Work Ombudsman. All of these matters are currently before the court.

**Senator O'NEILL:** Nothing has completed yet?

**Ms Dennis:** No. We were only able to bring proceedings in respect of contraventions that occurred after September 2017. Tracking how long it takes matters to get through the court is the reason why we haven't had any come to completion as yet.

**Senator O'NEILL:** Ms Parker, and counsel, too, have you had a look at the franchising report that was delivered in the parliament recently?

**Ms Parker:** Yes, we have.

**Senator O'NEILL:** Are any of the recommendations from that informing your work? Have you provided any advice to government in response to it?

**Ms Parker:** We didn't do a submission. It is some time ago that that first started, I believe. We didn't do a submission at the time but, yes, definitely, we are particularly interested in franchising. As I said, it's one of our priorities. Supply chains, as well, fit in that category. So we're certainly interested in looking at how we can change culture in the franchising sector.

**Ms Hannah:** I can add a little bit more. We are aware of the findings and we're willing to assist in implementing them. We're already talking to the department about ways that we can be involved and what we can do to help the implementation. We are working on that.

**Senator O'NEILL:** I think we might be back, and I'll have more questions around that if we get back, so I just foreshadow that. I have a final couple of questions with regard to temporary migrant workers and their treatment in the course of the time that we've had this government. How many temporary migrant workers have used the Fair Work Ombudsman and the Department of Home Affairs assurance protocol?

**Ms Parker:** I'm just trying to find a number—48.

**Senator O'NEILL:** For context, the assurance protocol is to designed to do what? What's it supposed to be doing?

**Ms Hannah:** It's designed to give migrant workers confidence and comfort to approach the Fair Work Ombudsman to report an issue and be involved in an investigation with us.

**Senator O'NEILL:** How many temporary migrant workers do we have in the country?

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

**Senator O'NEILL:** Can you give me a rough number?

**Ms Hannah:** No, I can't. Sorry, I don't have that figure to mind.

**Senator O'NEILL:** Ms Parker, can you assist with that?

**Ms Parker:** Was it how many migrant, temporary—

**Senator O'NEILL:** Yes.

**Ms Parker:** How many in total?

**Senator O'NEILL:** Yes, we do have that somewhere, I think. Perhaps in a submission? We should know it.

**Ms Hannah:** I can tell you by visa category. Student visa holders are 486,934, working holiday-makers are 118,524 and skilled visa holders are 83,470.

**CHAIR:** So that's at a point in time, is it?

**Ms Hannah:** That's as of June 2018.

**Senator O'NEILL:** 2018?

**Ms Hannah:** Yes.

**Ms Parker:** So 776,479 in total for the 2018 financial year.

**Senator O'NEILL:** So that's—

**Ms Parker:** They have work rights. They're the visa holders with work rights.

**Senator O'NEILL:** So we're talking 750,000-plus people?

**Ms Parker:** Yes.

**CHAIR:** Do we know how many of those are actually working?

**Ms Parker:** That's what we don't know. No, I don't think anyone would know that.

**Ms Hannah:** For international students, it's about 50 per cent. But for the total cohort, no.

**Ms Parker:** That's just students, though, so we really don't know.

**CHAIR:** How do we know with students but not with other cohorts?

**Ms Parker:** Immigration's data—it's a very good question!

**Ms Hannah:** A very good question!

**Ms Parker:** The only data we have is what we get from Immigration—so I don't know. The difficulty for Immigration is that there are always going to be those people who are on working holidays who may or may not work, and they are around the country—they're travelling all the time—so it's really difficult to keep tabs on them. The tax office is able to if they're paying tax, but—

**CHAIR:** To be clear: we're not talking about a cohort of 700,000-plus people?

**Ms Parker:** No, it's potential—

**CHAIR:** We're actually talking about a cohort of people potentially less than 350,000?

**Ms Parker:** Who have just got the right to work, yes.

**Senator O'NEILL:** Potentially anything, if the numbers aren't known.

**Ms Parker:** That's right—not in terms of how many of them are actually working.

**Senator O'NEILL:** So we don't know who we need to be looking after?

**Ms Parker:** We do know the sectors that they're most likely to be working in if they're students—

**Senator O'NEILL:** Like fast food, restaurants—

**Ms Parker:** Correct.

**Senator O'NEILL:** and cafes, which are all in one of the industries that you think—

**Ms Parker:** And horticulture.

**Senator O'NEILL:** And horticulture. That's predominantly where they're working where they're most at risk, according to your description?

**Ms Parker:** That's our assessment, yes.

**Senator O'NEILL:** Okay. So 48 temporary migrant workers have used the Fair Work Ombudsman and the Department of Home Affairs assurance protocol, and that's it?

**Ms Parker:** Yes. They're only the ones—

**Senator O'NEILL:** For what period of time?

**Ms Hannah:** As of 8 January 2019.

**Senator O'NEILL:** I'm just not quite sure of the time there that we're covering off.

**Ms Hannah:** Sorry; it's February 2017 to 8 January 2019.

**Senator O'NEILL:** So 48 people over two years, roughly. Back to you, Ms Parker; you were—

**Ms Parker:** I was only going to say that they're the ones who, obviously, are concerned that they might have been in breach of their visa, and they're the ones who will then come to us. If they want our help and they're too nervous to come because they've breached their visa, then we can give reassurance there.

**Senator O'NEILL:** Could I ask about the process. If you're one of these 48 people in the last two years who has contacted the Fair Work Ombudsman for assistance, which for a whole lot of reasons might appear to be quite a brave and, certainly, a minority thing to do—

**Ms Parker:** I think that's true, yes.

**Senator O'NEILL:** If they do that, are they asked for the details of their visa or residency status?

**Ms Hannah:** Yes, we do ask that.

**Mr Campbell:** If it's relevant.

**Senator O'NEILL:** So that's a standard question? I just want to clearly understand your process. If you could provide further information on notice, that would be good. Talk me through it, Mr Campbell.

**Mr Campbell:** We don't need to know their visa type necessarily to determine their underpayment. It's relevant where they have a work right, like a 457 visa or whatever it's called now—I apologise—that has a particular nominated salary attached to it. Alternatively it comes down to the work they're in, the award that covers them and their classification within it—what they've been paid and the difference. The visa type is of concern generally to them and maybe to the department of immigration, but it's not determinative of our action. Does that make sense? It's not something that drives a certain behaviour on our part. They're just another worker, effectively.

**Senator O'NEILL:** But it is a question that is asked?

**Mr Campbell:** Only for the purposes of determining if there's a nominated salary that might be attached to it. If, for example, a student has worked 40 hours a week when they should have only worked 20—

**Senator O'NEILL:** Which, we saw, was part of the very big problem with the 7-Eleven Group.

**Mr Campbell:** Yes; we've traversed this ground over a number of years. But the reality is that that's not of concern to us. We will look to enforce the entitlement over that 40 hours. If an individual has concern, Border Force might respond by taking action against them for that breach and then we can give them comfort by using this protocol. We would assist somewhere between 1,500 and 2,000 visa workers each year through our processes.

**CHAIR:** So your job is to make sure that people get what they're entitled to get, not to consider whether they've done anything else—

**Ms Parker:** That's right.

**Mr Campbell:** We're kind of blind to it. It's an input, but it's not one that's necessarily determinative of action on our behalf.

**Senator O'NEILL:** Is there any requirement for you to share that information with the Department of Home Affairs?

**Mr Campbell:** No.

**Senator O'NEILL:** Do you share that information with the Department of Home Affairs?

**Mr Campbell:** No.

**Senator O'NEILL:** If you were requested by the Department of Home Affairs to give that information, what would your action be?

**Mr Campbell:** We have disclosure obligations under the Fair Work Act. If another regulator comes to us for information to assist them or endorse their statute or jurisdiction if they feel there's been a contravention, we'll assist them.

**Senator O'NEILL:** Have you been requested to give information about these—

**Mr Campbell:** I honestly can't recall an instance where Border Force has come to us and said, 'Do you have records of this individual working in excess of their hours?'

**Senator O'NEILL:** Can you check on that and provide an answer on notice?

**Ms Parker:** We were on the Migrant Workers' Taskforce together with Immigration and the other relevant departments and them ever wanting that information didn't come up there.

**Senator O'NEILL:** But you can understand why this would be an issue if you were a migrant worker in the country?

**Ms Parker:** Of course, yes.

**Mr Campbell:** The perception is there for them. But, in our experience as a regulator, it's not something that we have seen play out. That concern doesn't play out in the way that it is in the minds of some of the workers that we assist.

**Senator O'NEILL:** But you have had only 48 come forward?

**Ms Parker:** On that particular issue, yes. But lots of migrant workers—

**Mr Campbell:** You might want to ask Border Force, but I don't know that there are large numbers of working students being turfed out of the country for working in excess of 20 hours a week.

**Senator O'NEILL:** But it's not just students we're talking about in this temporary migrant worker categories where you've said there's 486, 118,000—

**Ms Parker:** With work rights.

**Senator O'NEILL:** So there are different cohorts that might be in very different situations.

**Mr Campbell:** A working holiday visa holder would be, I assumed, removed from the country for staying beyond their visa terms. I'm looking to individuals with work rights that are relevant to us, and so international students' work rights are contained in a way that working holiday visas aren't.

**Senator O'NEILL:** Can I ask what happens if somebody's visa expires close to the time in which they advise you. This was one of the questions we had in the course of the hearings around 7-Eleven and the other recalcitrants at the time. Do you continue the action if they're not in the country?

**Mr Campbell:** Where they remain a willing witness, absolutely.

**Senator O'NEILL:** Are they able to give evidence from another country? Do they have to come back to Australia?

**Mr Campbell:** If we're required to put a witness in the box as part of our litigation then we'll bring them back. We've done that before. It's not always necessary because we can get up affidavit evidence. That's not always challenged. We have been able to recover moneys for people overseas before. It's not easy, obviously. It's better to have a willing witness in the stand, but it's not impossible.

**Senator O'NEILL:** How many people have you returned to Australia to give evidence in person?

**Mr Campbell:** I don't have the numbers, but we haven't had to do it on a huge number of occasions. I can get the number for you.

**Senator O'NEILL:** Thank you. I might have more questions for you when we see you later in the week.

**CHAIR:** We will let you go with our thanks.

**Proceedings suspended from 14:34 to 14:48**

## **EDUCATION AND TRAINING PORTFOLIO**

### **In attendance**

Senator Birmingham, Minister for Trade, Tourism and Investment

Senator Cash, Minister for Small and Family Business, Skills and Vocational Education

### **Department of Education and Training**

Dr Michele Bruniges AM, Secretary

Mr Marcus Markovic, Deputy Secretary, Corporate Strategy

Ms Jackie Wilson, Deputy Secretary, Early Childhood and Child Care

Ms Alex Gordon, Deputy Secretary, Schools and Youth

Mr David Learmonth, Deputy Secretary, Higher Education, Research and International

Ms Nadine Williams, Deputy Secretary, Skills and Training

### **Corporate**

Mr Craig Boyd, Group Manager, Finance, Technology and Business Services

Mr Mike Ford, Branch Manager, Budget, Planning and Performance

Ms Gaby Medley-Brown, Group Manager, People, Parliamentary and Communication

Ms Susan Charles, Branch Manager, Communication Branch

Ms Belinda Casson, Branch Manager, People Culture and Capability

Ms Jocelyn Ashford, Branch Manager, People, Parliamentary and Communications

Mr Simon Gotzinger, Chief Lawyer, Tertiary, Skills and Legislation Legal

Ms Genevieve Davin, Senior Executive Lawyer and Branch Manager, Schools, Child Care and Corporate Legal

### **Early Childhood and Child Care**

Ms Kelly Pearce, Group Manager, Early Learning Policy and Network

Ms Rhyan Bloor, Branch Manager, Early Learning Policy and Network

Mrs Margaret Pearce, Group Manager, Payment Integrity

Ms Julie Birmingham, Branch Manager, Payment Integrity

Ms Laura Angus, Branch Manager, Payment Integrity

Ms Kylie Crane, Group Manager, Payment Policy and Engagement

Ms Belinda Catelli, Branch Manager, Payment Policy and Engagement

### **Schools and Youth**

Mr David Pattie, Group Manager, Improving Student Outcomes

Ms Catherine Orchard, Acting Branch Manager, Curriculum and Student Learning

Ms Lyndal Groom, Branch Manager, Student Participation

Ms Kim Ulrick, Branch Manager, Teaching and School Leadership

Ms Suzi Hewlett, Group Manager, National Policy and Data Reform

Ms Oon Ying Chin, Branch Manager, National Policy and Data Reform

Mr Jeff Willing, Branch Manager, National Policy and Data Reform

Dr Gabrielle Phillips, Branch Manager, National Policy and Data Reform

Ms Quyen Tran, Branch Manager, National Policy and Data Reform

Mr Mark Sawade, Group Manager, Funding and Data Collection

Mr Joey (John) Baker, Branch Manager, Funding and Data Collection

Ms Tanya Blight, Branch Manager, Funding and Data Collection

Ms Genevieve Watson, Branch Manager, Funding and Data Collection

### **Higher Education, Research and International**

Mr Dom English, Group Manager, Higher Education  
Ms Drew Menzies-McVey, Branch Manager, Funding and Students  
Mr Robert Latta, Branch Manager, Governance, Quality and Access  
Mr Damian Coburn, Branch Manager, HELP and Provider Integrity  
Ms Carolyn Shrides, Branch Manager, Research Policy and Programs  
Ms Karen Sandercock, Group Manager, International  
Mr Travis Power, Branch Manager, Quality Frameworks  
Ms Greta Doherty, Branch Manager, Partnerships  
Ms Natalie Horvat, Group Manager, Strategy and Data  
Dr Andrew Taylor, Branch Manager, Market Analysis and Data

**Skills and Training**

Mr Bryan Palmer, Group Manager, Skills Market  
Mrs Kelly Fisher, Branch Manager, VET Market Information  
Mrs Fiona Lynch-Magor, Branch Manager, Workforce and Apprenticeships  
Mr Chris Alach, Acting Branch Manager, Skills Outcomes and Financing  
Mr George Thiveos, Group Manager, Skills Programs  
Dr Richard Chadwick, Branch Manager, Tuition Assurance Taskforce  
Ms Jasmin Fielder, Acting Branch Manager, Skills Programs Compliance  
Ms Mary McDonald, Group Manager, Industry Skills and Quality  
Mr Adam Luckhurst, Branch Manager, Industry Advice  
Ms Linda White, Branch Manager, Foundation and Industry Skills  
Dr James Hart, Group Manager, VET Reform  
Ms Katerina Lawler, Branch Manager, VET Policy

**Australian Curriculum Assessment and Reporting Authority**

Mr David de Carvalho, Chief Executive Officer  
Ms Janet Davy, Director, Curriculum  
Mr Peter Titmanis, General Manager, Assessment and Reporting

**Australian Institute for Teaching and School Leadership**

Mr Edmund Misson, Acting Chief Executive Officer

**Australian Research Council**

Professor Sue Thomas, Chief Executive Officer  
Dr Tony Willis, Executive General Manager  
Ms Kylie Emery, Executive General Manager

**Australian Skills and Quality Authority**

Mr Mark Paterson AO, Chief Commissioner

**Tertiary Education Quality and Standards Agency**

Professor Nicholas Saunders, Chief Commissioner  
Mr Anthony McClaran, Chief Executive Officer  
Mr Robert Oliphant, Director

**Department of Education and Training**

[14:48]

**CHAIR:** We will now resume the hearing with representatives from the Department of Education and Training. Minister Cash remains the minister at the table. I welcome Dr Bruniges. Do you wish to make an opening statement?

**Dr Bruniges:** While I don't have an opening statement, I'd just like to make a note that on Wednesday I received a letter from Senator Marshall on behalf of a number of committee members asking the department to respond to a series of questions. That letter included 20 questions and a request to table outstanding questions on notice. Some of those questions have been tabled, and I have staff here this evening to answer or provide the information that you have requested.

**CHAIR:** Thank you, very much. I will also formally release TEQSA with our thanks and apologies. Due to timing, we will not be needing them today. I'll also thank the department for its agreement in a slight reschedule.  
[14:49]

**CHAIR:** We are going to move now to outcome 2, higher education. Senator Pratt, you have the call if you're ready?

**Senator PRATT:** I'd like to refer now to the department's response to SQ19, No. 28. This response outlines the number of additional places to universities over the cap. I want to begin by asking: how much funding has been provided to universities over the cap?

**Mr Learmonth:** If I've understood your question, I think the answer is none above the cap. Can I have the reference to that QON again?

**Senator PRATT:** It is No. 28. You advised on 12 November 2018 an additional \$92.5 million for Commonwealth supported places at five regional universities over four years; is that right?

**Mr Learmonth:** Yes, I've got that. There's been nothing since then, sorry. I've got the answer in front of me now. There have been no additions since those that are spelt out in the answer.

**Senator PRATT:** We had discussion in this place last estimates. In the 2018-19 budget, the government announced funding for additional Commonwealth supported places in Tasmania, USQ and Southern Cross University. I know at that time there were a number of universities with outstanding calls waiting to see if they would be funded over their cap. Am I correct, therefore, in saying that they haven't been granted any extra places?

**Mr Learmonth:** The only universities that have been granted additional places have been the eight set out in that answer—the three in the budget last year and the five subsequent to that in MYEFO. There have been no others.

**Senator PRATT:** The five in MYEFO?

**Mr Learmonth:** The five in MYEFO last year—Fed U, USC, Newcastle, USQ and James Cook and—

**Senator PRATT:** You're confirming—?

**Mr Learmonth:** There have been no others.

**Senator PRATT:** Is there any possibility of funding any further ones between now and 30 June this year?

**Mr Learmonth:** As with any additional places, it would be a matter for the minister from time to time.

**Senator PRATT:** In Universities Australia's press release from this budget there is money for a range of universities including James Cook, Tropical Enterprise Centre, the Curtin University Dementia Centre for Excellence. Are these funded from outside education and training?

**Mr Learmonth:** I missed the two you mentioned. I think I heard 'dementia centre'?

**Senator PRATT:** Curtin University Dementia Centre and the Tropical Enterprise Centre at JCU, are they in this portfolio?

**Mr Learmonth:** I don't think they are.

**Senator PRATT:** Where are they?

**Mr Learmonth:** Without knowing the detail, they would either be ARC or NHMRC or MRFF or the Department of Industry, Innovation and Science. It could be any of those.

**Senator PRATT:** What provision does this budget which has just been announced have for future announcements for universities in terms of special projects, infrastructure? Where's the line item for any of that funding?

**Mr Learmonth:** There is no line item for anything else.

**Senator PRATT:** Is there some money in there that has not yet been allocated to universities?

**Mr Learmonth:** No. Any decision to allocate money for universities would be reflected in a change. There has been no such decision.

**Senator PRATT:** Are you providing any contingency funding for any other universities other than what was done up to MYEFO last year?

**Mr Learmonth:** No government would generally work on the basis of contingency funding. They will take a decision to do something or not, and the amount will be reflected in the budget accordingly. There would be no further decisions in relation to any universities and no funding provided other than that announced in the budget last year and in MYEFO last year.

**Senator PRATT:** You reject the word 'contingency' despite the fact that the department, through the government, has made a range of one-off payments?

**Mr Learmonth:** Contingency is money set aside for something that might happen. It tends not to be the way government works. It will either take a decision to pay money or not. It tends not to put aside money. Contingency is usually associated with things like project risk—we will need to spend more on X than we had planned.

**CHAIR:** Mr Learmonth, I asked you—I think it was you—a question last estimates about the net operating surplus of the university sector. Could you remind me what that figure was again?

**Mr Learmonth:** Yes, the net operating surplus for the sector in 2017, which is the latest, altogether was \$2 billion, which was a just under 28 per cent increase on the 2016 operating surplus of \$1.6 billion.

**Senator PRATT:** I would like now to ask about the MYEFO cuts to research. These totalled \$328 million. How has that \$328 million been redirected in the portfolio?

**Mr English:** I believe I've answered this question at length in at least two previous estimates. We do not have a process of taking these funds and allocating them directly against other spending items. That is a matter for the government through the usual ERC processes to determine how to make the numbers across the budget add up.

**Senator PRATT:** The question on notice SQ19, No. 32 says '134 of that have been redirected to universities'.

**Dr Bruniges:** That's the additional 34.1 over four years for rural and regional enterprise—

**Mr Learmonth:** I think you'll find that the answer simply says that the minister announced an additional \$134.8 million. My reading of the answer doesn't suggest it was a redirect or anything; it simply says that money was announced.

**CHAIR:** It always pays to check.

**Senator PRATT:** I've got the answer right here in front of me but my question was: are there announcements that have already been made out of that \$328 million or is that new?

**Mr Learmonth:** As Mr English explained, there's no—

**Senator PRATT:** You said you'd take that on notice and then you said 'We announced \$134.8 million,' and I took that to mean that is a redirection of that 328?

**Mr Learmonth:** I think the answer is in response to the question which is set out there in the question on notice, which was funding for the announcement in relation to the additional places.

**Senator PRATT:** So you just take that that was a straight out cut then to research?

**CHAIR:** Senator Pratt, that's well characterised. The officials have clearly answered.

**Senator PRATT:** So you are essentially saying that that \$328 million has just come from the bottom line of the research and universities sector and hasn't been redirected anywhere?

**Mr Learmonth:** I think the difficulty is this notion of redirection. As Mr English explained, governments tend not to label blue dollars and red dollars and try and match them up in different ways. It's all fungible. They will take some decisions to spend and decisions to save and they'll determine what the net bottom line needs to be across the board. In that case, they have made some saves, in a similar time frame they've made some announcements. The question was about those announcements, and we've given the detail about that.

**Senator PRATT:** Of course, but, equally, we should be mindful of so-called new funding decisions actually coming off the bottom line somewhere else.

**CHAIR:** We don't call tax increases 'savings' like the previous Labor government, Senator Pratt.

**Senator PRATT:** The endeavour mobility grants, one of the government's student mobility programs, had \$64 million cut from it, and we asked some questions about this at the last estimates. Can I have an update on that cut at last year's budget and how the sector was consulted in relation to that change?

**Mr Learmonth:** We might need to return to that one, sorry.

**Dr Bruniges:** Can we return to that, Senator? We're just getting the relevant officer.

**Senator PRATT:** That's fine. I'll go back to the issue of the research cuts, just briefly. Are you aware of what the minister said publicly in relation to these research cuts—that they would be redirected inside the portfolio?

**Mr English:** I think we'd need a more specific time and place reference than that, Senator.

**Senator PRATT:** I can't remember the time and place, but I'm pretty sure I heard it—

**CHAIR:** I really don't think you can expect the officers to comment—

**Senator PRATT:** on ABC radio myself, but I can see if I can find a copy of that.

**CHAIR:** If you can't recall, Senator Pratt, I don't think you can expect the officers to comment.

**Senator PRATT:** No, no, I can't expect that you will. If I can find the reference, I will, but it's pretty galling when ministers make references like that. Can I go back to the endeavour mobility grants? Is that appropriate now?

**Mr Learmonth:** We're just trying to find the person.

**Senator PRATT:** That's fine. Senator Cash, are you in a position to check with the minister's office what was said about these research cuts and the way in which they would be redirected to universities?

**Senator Cash:** I think the relevant minister is in the House of Representatives. As such, I can certainly take it on notice but I don't believe I'm going to be able to provide you with an answer this afternoon, given I don't believe they're here.

**Senator PRATT:** Okay.

**Senator Cash:** But I will take it on notice for you, of course.

**Senator PRATT:** Thank you.

**Mr Learmonth:** I've got the media release from the minister at the time and there's no mention of redirection.

**Senator PRATT:** No, I know that. This is in relation to his other public statements about it. Have you found the officers yet?

**Mr Learmonth:** They're on their way, I'm sorry.

**Senator PRATT:** No, that's fine. I can move on to plenty of other questions.

**CHAIR:** Sorry, are they in the building?

**Mr Learmonth:** I believe so.

**Senator PRATT:** That's all right. There's no need for them to rush. We can get to those at the end, if you like. In question on notice SQ19-000139, we asked for advice about reviews. Based on that answer, there have been 59 reviews, inquiries, discussion papers in vocational and higher education, and research since the 2013 election?

**Mr Learmonth:** Yes, I've got it.

**Senator PRATT:** Fifty-nine?

**Mr Learmonth:** Yes, I count the same—29, four and 26. Yes.

**Senator PRATT:** That's a pretty big number. How are you going, tracking all the outcomes? Surely there'd have to be findings in there that contradict each other that require further work? I've looked at many of those reports, and they're not always all that coherent in terms of how they hinge together.

**CHAIR:** Very talented officers!

**Mr Learmonth:** They're also not reviews—

**Senator PRATT:** Why so many?

**Mr Learmonth:** not all reviews.

**Dr Bruniges:** No, they're not.

**Mr Learmonth:** You've included inquiries and discussion papers. Some of them are just presentation, background, contextual and other material. But they're not all reviews which have recommendations.

**Senator PRATT:** But why so many? We had a bit of a discussion about this last time, Mr Learmonth—what the government's overall vision and agenda is for higher education in this nation.

**Mr Learmonth:** I think part of the difficulty is to characterise this as reviews. Actually, roughly half the number are reviews. The others are really in the nature of supporting material to those reviews. It's been contextual studies, discussion papers and so on that have gone to support those particular reviews. The reviews cover the broad area of tertiary, of higher ed, as well as skills, and I think it's probably not unusual.

**Senator PRATT:** So what's the government trying to achieve in that overall package of inquiries?

**Mr English:** Some of these are quite specific and focused. For example, quite high up the list is the Independent Review of Freedom of Speech in Australian Higher Education Providers. That work was undertaken by a former Chief Justice of the High Court, with legal expertise, gravitas and experience that we simply couldn't bring to the question with internal resources, even though the former Chief Justice was supported by internal resources in the conduct of that work. So it's hard to say that that's a fundamental framing piece about the sector. That is actually a more specific point-in-time question—that sort of requirement. A number of them support the Higher Education Standards Panel in their work in trying to examine a range of particular issues either commissioned by the minister or commissioned by themselves in their regulatory role under the legislation to ensure the quality of the sector in particular areas. The whole sector is worth \$17 billion in the higher education space, with 40-plus universities and 170 providers to a million-plus students at hundreds of locations around Australia. There are any number of questions.

**Mr Learmonth:** Vocational education.

**Mr English:** And that's before you start talking about vocational education, as Mr Learmonth points out.

**Senator PRATT:** I know, but I can't see any overriding architecture to what you're doing in terms of the government's vision for, as you highlight, a very important sector.

**Mr English:** I disagree. At the core of our system is a commitment that's been retained across a number of governments now to providing a modern, well resourced and accessible higher education system that is free at the point of entry for Australian students and is based on merit. I think that is a pretty fundamental and coherent logic of the way we go about funding university—with universities as the example. But within that there are always a number of questions and policy areas where we can examine, do better, talk to stakeholders and work together on various solutions. As I say, with some of them we get external expertise and with some of them we get external leaders, depending on the question of the day. But none of them have fundamentally questioned the proposition that higher education should be, as I say, well resourced, world-class, efficient and free at point of access for Australian students. That, I think, is the overwhelming philosophy of our policy settings.

**Senator PRATT:** The cost of these reviews, discussion papers and inquiries comes to about \$6.7 million—is that about right?

**Mr Learmonth:** We haven't added it up.

**Mr English:** It's possible.

**Senator PRATT:** Well, I have, so am I right?

**Dr Bruniges:** We'd have to check that addition to actually confirm that, but there are also some that were funded from internal resources within the department, so they won't necessarily have a quantification on like those that would have been on tender.

**Senator PRATT:** I know, but I just said at least \$6.7 million. So, given that there would be others—

**Mr English:** We don't contest your mathematics, Senator.

**Senator PRATT:** Okay. Maybe you might take that on notice, then.

**Dr Bruniges:** We are happy to.

**Senator PRATT:** How much of these reviews into higher education, papers et cetera are yet to be finalised?

**Mr English:** I would need to take that on notice. There are a number of processes that are still underway, such as the work on a regional education strategy by Denis Napthine commissioned by the minister. The report by Mr French on freedom of speech has been received by the minister and is being considered. So there are, across a range of these activities, some areas where we're still working.

**Senator PRATT:** How do these reviews relate to each other? Frankly, I can't see any architecture that says, 'In order to get to this point, we've got to review that and that first'? In what has been done by this government I cannot see any overarching framework for where they want to take higher education. As you say, world-class, accessible—they should be the fundamentals, but surely we're capable of more than that in terms of what we want universities to deliver to students and communities. What's the vision?

**CHAIR:** Senator Pratt, I'm happy for you to make your statement but this is clearly going into the territory of asking for opinions from the officials.

**Senator PRATT:** I'm just trying to see if there's more there that I haven't caught onto.

**Mr Learmonth:** I think what you see as you look across those—again, half of those are not actual reviews; they're supporting pieces—are some clear themes. There's a very substantial body of work that goes to improving the effectiveness, efficiency and operation of the research sector, whether it be research training, research