



**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL  
TERRITORY**

**STANDING COMMITTEE ON PUBLIC ACCOUNTS**

(Reference: [Annual and financial reports 2009-2010](#))

**Members:**

**MS C LE COUTEUR (The Chair)  
MR B SMYTH (The Deputy Chair)  
MR J HARGREAVES**

**TRANSCRIPT OF EVIDENCE**

**CANBERRA**

**WEDNESDAY, 15 DECEMBER 2010**

**Secretary to the committee:  
Ms A Cullen (Ph: 6205 0142)**

**By authority of the Legislative Assembly for the Australian Capital Territory**

Submissions, answers to questions on notice and other documents, including requests for clarification of the transcript of evidence, relevant to this inquiry that have been authorised for publication by the committee may be obtained from the Legislative Assembly website.

## APPEARANCES

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## **Privilege statement**

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*Amended 21 January 2009*

**The committee met at 9.31 am.**

Appearances:

Gallagher, Ms Katy, Deputy Chief Minister, Treasurer, Minister for Health and  
Minister for Industrial Relations

Department of Treasury

Smithies, Ms Megan, Under Treasurer, Executive

Fletcher, Mr John, General Manager, Fund Manager—Default Insurance Fund  
(CMD) ACT Insurance Authority

Totalcare Industries

Lebish, Ms Sue, Director

ACTTAB

Kourpanidis, Mr Con, Chairman

Curtis, Mr Tony, Chief Executive

Snowden, Ms Kayelene, Executive Manager, Finance and Business Services

Rhodium Asset Solutions

Hays, Mr Tony, Chief Executive Officer

**THE ACTING CHAIR** (Mr Smyth): Good morning everyone and welcome. I formally declare open this public hearing of the Standing Committee on Public Accounts inquiry into the 2009-10 annual reports. On behalf of the committee, I would like to thank you, Treasurer, and your relevant departmental and agency officials for attending. I begin with an apology from the chair. The chair is unavoidably away today and has asked that I take over. We extend a welcome to Ms Hunter representing the Greens.

These proceedings will commence with an examination of ACTTAB, followed by Rhodium and then the ACT Insurance Authority. We will have a short morning tea break at about 10.45 for 15 minutes and then we will have Totalcare and the authority. I remind members of the protections and obligations afforded by parliamentary privilege. I draw your attention to the yellow card before you on the table and ask whether you understand the privilege accorded by the card.

**Ms Gallagher:** Yes; thank you, chair.

**THE ACTING CHAIR:** Treasurer, do you have a statement to make on behalf of ACTTAB?

**Ms Gallagher:** No, I do not. Are you acting chair or deputy chair, or chair?

**THE ACTING CHAIR:** I am deputy chair, acting as chair. I could be both. Which would you prefer?

**Ms Gallagher:** I will just call you chair. It is more respectful.

**THE ACTING CHAIR:** Con, is there an opening statement that you would like to make?

**Mr Kourpanidis:** Other than the fact that it has been an interesting and difficult year, the matters and the business of the year are in the report and we are happy to talk about any aspects of them that the committee would like to discuss.

**THE ACTING CHAIR:** If you want to start with the interesting and difficult year, perhaps we should go straight to the dividend. The dividend this year was very small. What are the reasons for that?

**Mr Kourpanidis:** We think it is a combination of a few things. There has been a natural downturn in the last 12 months in gaming and wagering. The position of the clubs, for example, in the ACT is not all that different from ours. They are facing similar challenges. Turnover is down for I think the same reasons that a lot of the clubs will be feeling it as well, but it has been compounded by the fact that the cost of doing business is very different this year than it was in previous years, with the payment of product fees to all jurisdictions where we use their vision to take bets on their product, as it is called. That is a fee that was not there some years ago and it ran to the tune in the last 12 months of almost \$2½ million. That in itself is the biggest single slug that has affected the bottom line.

**MR HARGREAVES:** What was that again, Con?

**Mr Kourpanidis:** About \$2½ million.

**MR HARGREAVES:** Yes, what was the—

**Mr Kourpanidis:** Product fee.

**MR HARGREAVES:** Right.

**Mr Kourpanidis:** It is what we pay, for example, to Victorian racing or New South Wales racing for showing the vision of their races, to take bets on their product. That is the biggest single killer.

**THE ACTING CHAIR:** Yes. I notice in the outyears on page 450 of budget paper 4 that you have predicted no dividend, in fact, and you gave the territory \$128,000. But I see in the outyears that will increase significantly back to the \$3 million mark. How do you expect that to be achieved?

**Mr Kourpanidis:** Would you like to answer that, Kayelene?

**Ms Snowden:** The reason that will be achieved is that the funding that was linked through the racing development fund was abolished from 1 July 2010 and we are forecasting now a profit position going forward. The racing development fund ranged between \$7 million and \$7.6 million over the last two years, each of those years, so that money basically now is coming back into ACTTAB.

**MR HARGREAVES:** How long will that take, Kayelene?

**Ms Snowden:** We are forecasting a profit in this year, 2011, so it will be returning a dividend to the government. That dividend has also been increased. Our percentage has been increased.

**MR HARGREAVES:** Are you predicting a growing profit or just a flat line?

**Ms Snowden:** A flat line at the moment.

**THE ACTING CHAIR:** The issue of the fees has been the subject of a court case. I notice in yesterday's *Financial Review* the announcement that the Federal Court has upheld the right of New South Wales racing organisers to charge corporate bookmakers a fee based on turnover. How does that affect the ACT now, Treasurer?

**Ms Gallagher:** It does not really, because we have introduced it. It endorses the approach we have taken, essentially. We did take a bit longer, I think. We were waiting to see the outcome of that case before we moved with product fees ourselves, but it did take a fair bit of time. We have responded in the meantime so, in a sense, it validates the approach that we have got in place now to support ACTTAB.

**THE ACTING CHAIR:** An official from one of the affected firms says—and I refer again to the *Financial Review* article—“We have 28 days in which to appeal to the High Court. We will be taking some form of further action.” What is the effect of a further High Court appeal on our position?

**Mr Kourpanidis:** On a day-to-day basis, none really. It is business as normal. It will just be good to know that there is certainty going forward when all this finally finishes in terms of what the playground that we will be playing on is going to look like. Although a victory was achieved by Racing New South Wales in the most recent case, you do have to sit and wait and see what happens with the appeal that is going to probably happen in the next month.

**THE ACTING CHAIR:** In your opening remarks you also mentioned the effect of the changes in gambling patterns. You mentioned the clubs, for instance. The ANU have released their prevalence report. Does ACTTAB have any particular reaction to what is contained in the report?

**Mr Curtis:** I suspect that in our case the only difference is the impact of VIP betting on the organisation. A significant proportion of our turnover is comprised of VIP betting and retention or retrieving one of those persons that might have left previously can make a significant difference. We could have a turnaround in a month.

However, in recent times we have noticed a correlation between the downturn in business within the club sector—we have a significant number of ACTTAB venues located in that sector—and the proportional downturn in turnover. There is obviously a correlation with visits to the clubs by members and the corresponding decline in turnover they have experienced.

**MS HUNTER:** How does that compare to stand-alone ACTTAB outlets? Are they also experiencing a downturn?

**Mr Curtis:** No. We have noticed, in most cases, a flat line in regard to turnover. There was a period probably going back three months when there was a definite decline, but in recent weeks it has come back up again. There does not seem to be any viable explanation and whether people are impacted by weather and talk about interest rates. Talking to some of the people in the club industry, there does not appear to have been a dramatic turnaround in, for example, gaming machine turnover. However, their bistros appear to be doing very well. People are still utilising those facilities for that reason, but we have not noticed a significant turnaround in our turnover in those particular venues.

**MS HUNTER:** Mr Curtis, what initiatives does ACTTAB have around identifying problem gamblers or providing them with support services or contributing to services?

**Mr Curtis:** All our staff are trained by Lifeline in the identification of problem gambling symptoms and dealing with those persons when they present. I have not got the numbers with me at the moment, but I suspect we have something like 24 exclusions at the moment. Sixteen of those are self-exclusions and eight are licensee exclusions. We have had eight instances where staff have identified issues that have been brought to notice which have resulted in us excluding those persons.

Our coordinator of problem gambling, who liaises with Lifeline in conducting that training, spends a significant amount of time talking to people that present—whether they self-present or are identified—and trying to steer them in the best possible direction to achieve an outcome that is in their and their family’s interests, albeit often enough that it is to the detriment of the organisation and our goal of maximising profits for the shareholders. We generally take the issue of problem gambling very seriously and spend a significant amount of time and investment in ensuring we address the problems as they present.

**Ms Gallagher:** You also provide support through Lifeline, I think, through the Clubcare program.

**Mr Curtis:** Yes. We have been part of the Clubcare program with a \$40,000 a year contribution to that. I do not know what the future of that is. I suspect that, as a result of the recent amendments to legislation, that will change. However, it is our goal, even though we are not part of that particular process, to continue to support Lifeline in whatever way we can.

**THE ACTING CHAIR:** How do you assess that that is \$40,000 well spent and how do you assess what effect it has on those with problems?

**Mr Curtis:** The figure was originally arrived at through negotiations with those that were interested in becoming part of the group that supported Lifeline. I do not think there was any rationale as to how the figure was arrived at. There was the number of exclusions that we have and the estimation of the time involved by our coordinator of responsible gambling and compliance—the time spent by her in addressing those problems and the additional training that our staff undertake. We pay Lifeline for that training in addition to the \$40,000. I do not know what the total amount is, but that is in addition.

I think it is a significant contribution, given that there are others in the community that pay nothing towards supporting problem gambling services. As somebody that is involved in the industry and as somebody that in the past has been involved in compliance, I think everybody should be involved in supporting that particular cause, including bookmakers and anybody else that is providing services.

**THE ACTING CHAIR:** Is it possible to determine how much ACTTAB spends on addressing problem gambling over and above the \$40,000?

**Mr Curtis:** In terms of staff involvement, I think conservatively it would probably be nearer \$150,000 a year.

**THE ACTING CHAIR:** All right. Do you want to take that on notice?

**Mr Curtis:** Certainly.

**THE ACTING CHAIR:** I notice that on page 44 it mentions that all staff directly involved in providing gambling services are required to attend a provision of responsible gambling services training session. Is that just a one-off when they join the organisation or are there refresher courses?

**Mr Curtis:** No, we have periodic refresher training. If, for example, a problem was detected with a staff member not complying with our procedures and protocols, they would be required to attend refresher training, which I am pleased to say does not happen that often.

**THE ACTING CHAIR:** The racing industry is under review. What role has ACTTAB played in that review?

**Mr Curtis:** The ICRC, as you are aware, are conducting an investigation into the racing industry. I think that review is all-encompassing, looking at structure as well as funding of the industry. We put a very brief submission to them, from the point of view of having our hat in the ring if we were required to be spoken to. With respect to the actual funding, I do not think that is something that ACTTAB has a particular view about, given that funding in the industry has been decoupled from the ACTTAB turnover. Since that inquiry commenced, I have had discussions with consultants engaged by the ICRC to assist them with the investigation and have hopefully made a productive contribution to that investigation.

**MS HUNTER:** I have a similar question about the inquiry. Do you know when it is planned to report?

**Mr Curtis:** I understand that the draft report will be presented on 20 December.

**MR HARGREAVES:** My curiosity has been aroused and I thought you might like to tell me how you did it. On page 47 of the annual report there is a remarkable achievement hidden away amongst the figures—lurking, almost. That is the net cost of services for 2009-10 over 2008-09. There is an almost 62 per cent reduction. That is either extremely fortuitous or brilliant management. I will go with the latter every

time. Can you boast a bit about that one?

**Ms Snowden:** That figure is not a reflection of our expenditure declining in terms of savings, although we did implement a major expenditure review in January this year based on the fact that we could see that our forecast turnover was not where it should be. So we did make some major changes to our fleet. We made some major changes across staffing. We took the view not to replace staff that had left. We entered into some arrangements with Actew around electricity. We did a major expenditure review because a lot of our costs are turnover driven, so we cannot control them. Where we have costs that we can control, we made some major adjustments to them.

**MR HARGREAVES:** I did notice that the change in staff was only seven people out of 100-and-something. You mention in the annual report that you have a negligible turnover rate. So that is not going to be the driver of this sort of stuff—unless, of course, the levels change. If you recruit an ASO2 and dump an SES officer, that always works.

**Ms Snowden:** With our staff, though, a lot of them have been there for between 25 and 35 years, so they had major long service leave payouts. You will find our long service leave is actually quite high because our staff have been there for a long time. So of those seven staff, four of them have been there for 30-plus years and then taken long service leave. So we had major long service leave payouts.

**MR HARGREAVES:** I have not looked at the ageing profile in here; I know it is here but I have not looked at it. Is that the sort of thing you are going to have to carry for a while yet? If you have not got any turnover rate, people are really thrilled to bits to go to work and they are going to stay there until they drop. I am assuming that this sort of thing, as you lose one or two a year, with the long service leave payout and—

**Mr Curtis:** I think it would be fair to say that once the chief executive goes—

**MR HARGREAVES:** They will all go.

**Mr Curtis:** we will be over that hurdle.

**MR HARGREAVES:** They will all go, and we will end up with no staff; that is right. But that is going to be a trend that we need to be aware of.

**Mr Curtis:** It is a particularly difficult issue for us to deal with in the technology field—maintaining currency and also corporate history and corporate knowledge. That is probably the last remaining bastion of long-term staff in that technology area.

**MR HARGREAVES:** Another of my curiosities—and I am sure the St Kilda supporter to my left will be interested in the response—is that in the community grants and the column where you give lots of money away, and I have forgotten which page it is on so I apologise for that—

**Ms Snowden:** Page 67.

**MR HARGREAVES:** Thank you very much. I notice that you give rugby union

\$120,000, rugby league \$75,000 and the AFL pocket money—\$20,000. Does that show a predilection against the best sport in the country?

**Mr Curtis:** No. I think—

**Mr Kourpanidis:** It is going to change significantly. In next year's report you will see a much more balanced set of numbers for all the codes as a result of the Greater Western Sydney creation and some work that we are doing with them.

**MR HARGREAVES:** I will be; you can bet your life on it. I hope that there will be a party in Canberra at ACTTAB's expense for Collingwood winning its second flag in a row.

**MS HUNTER:** I want to pick up on the expenditure review. You spoke about seven staff and those positions not being filled. Of course, that was balanced by long service leave payouts. How much do you estimate in your review that you have saved?

**Ms Snowden:** We probably estimate between \$600,000 and \$1 million.

**MS HUNTER:** Going to the ecologically sustainability table on page 71, I note that, for instance, with things like electricity use it seems to be going up rather than coming down. With your expenditure review, did you look at things such as energy, water and other utility costs?

**Ms Snowden:** We have. We are entering into an arrangement with CitySwitch which means that a consultant will come out and look at our electricity, our environmental uses, our building sustainability, whether it is two star or five star, and suggest improvements where we can save costs around our energy resources. We have a green policy across our organisation but we are looking at initiatives to make further changes and improve our carbon footprint.

**MS HUNTER:** And save some money.

**Ms Snowden:** Yes, save some money.

**Mr Curtis:** The difficulty is that our hours of operation and the fact that we operate night venues make savings difficult, but we are attempting to address that if possible through this initiative. So we are looking forward to the consultant's report.

**MS HUNTER:** I will follow that up at estimates.

**THE ACTING CHAIR:** On page 1 it talks about the organisation. There are a number of interesting statements. On page 1, the last line in the second paragraph talks about active competition with other forms of gambling. On page 3 under "Overview" it talks about increased competition from corporate bookmakers and the rapidly evolving national wagering market. Where is gaming going, what is ACTTAB's future and how is it affected by, certainly, technological changes?

**Mr Kourpanidis:** Where wagering is heading and driven by technology and new players, it is now not a matter of going down the road, walking into your TAB and

having a bet. Internet, telephone, and corporates offering exactly the same services through that technology, mean that we are competing in a very different space than where we were. That is the biggest challenge for the corporation and for the business. We feel we are in a far better position as a result, a few weeks ago, of the introduction of some new products that we were previously unable to offer. People were leaving the territory and leaking their dollars into other jurisdictions because they had something that we did not.

We think we will address that issue pretty well in the next 12 months and we will start seeing some clawback in revenue that was leaking out of the ACT. But that is the biggest challenge when we talk about the gambling world that we face, the wagering world that we face—technology-driven competition by competitors that were not there in the past and they are there now.

**Mr Curtis:** I think the difficulty is measuring the impact of the corporate bookmaker and advertising. Anybody that watches sporting events on television, free to air or otherwise, will see that the media is saturated with corporate bookmakers offering incentives and all sorts of promotions to entice people to wager with them, generally in the Northern Territory. There is no doubt that that has impacted on our business, to a small extent the retail market and at the higher end of the retail market, where people are looking for value and are sufficiently savvy to understand that they are getting a better deal by taking up these offers.

I do not know for how long that form of marketing is going to be sustainable for corporate bookmakers. ACTTAB certainly could not sustain that level of advertising, running a double ad in every break in a football match or a sporting event. I think that regulators will probably take some interest in those marketing initiatives and the offers of money back if you lose and—

**Mr Kourpanidis:** Free bets. Your first 20 bets guaranteed not to lose and bizarre offerings where we could not possibly entertain going down that path.

**Mr Curtis:** One of the most attractive products that they offer is best-of-tote odds. They say to the punter, “It doesn’t matter what the tote is offering you anywhere, we will better it, and we will put 10 per cent on top of that.” How they do it, I have no idea.

**MR HARGREAVES:** It is just predator pricing, isn’t it? It is just trying to squeeze smaller players out of the game and then—

**Mr Curtis:** I think there is an element of that but—

**MR HARGREAVES:** control the issue.

**Mr Curtis:** not having a retail—

**MR HARGREAVES:** That is loss leading; there is no doubt about it.

**Mr Curtis:** capacity, yes.

**Mr Kourpanidis:** The cost structures are very different. Corporate needs a room and a phone. It is a bit different from what we need to provide to be able to do business. It is very easy to offer a best-of-tote service when you do not have the on-costs that a traditional wagering operation does.

**MR HARGREAVES:** Is that shift away from parimutuel to fixed odds symptomatic of what you are telling us about?

**Mr Curtis:** Yes, but that applies to—

**MR HARGREAVES:** There are not big bucks in it; I noticed you have an increase in sports betting of 45.3 per cent on turnover.

**Mr Curtis:** Yes.

**MR HARGREAVES:** But that is over a figure of \$15.8 million, whereas the racing turnover is \$160 million, so there is a scale here.

**Mr Curtis:** Yes.

**MR HARGREAVES:** I seem to get the feeling that there is a trend going away from one into the other.

**Mr Kourpanidis:** If we were having this meeting 20 years from now, those figures would be the opposite.

**MR HARGREAVES:** The other way around, yes.

**THE ACTING CHAIR:** In your highlights on page 4, you note an increased internet betting turnover of 18 per cent. What do you expect that to do in the future?

**Mr Curtis:** I think it is going to decline. In fact, the trend in recent months has been a decline in internet betting. It is not VIPs; it is a general account betting downturn. I do not know what is driving that. It may be the impact of the corporate bookmakers and those people with sufficient savvy to have picked up on the offers and they are availing themselves of those offers and taking them up. But the trend at the moment, and I know it is a difficult thing to forecast in this volatile market, is that that appears to have flat-lined and is in decline.

**MS HUNTER:** Did you have any complaints about slowness of the system, particularly during peak periods—say, during the spring carnival?

**Mr Curtis:** No, it was interesting. I fully expected to be inundated with complaints, particularly on Melbourne Cup day when the system went down on a number of occasions. I think people have probably come to the view that there is no point in complaining because these things happen on Melbourne Cup day. We were not the only ones affected. Most TABs, when they get to that volume of traffic, have those sorts of problems. To my knowledge, we did not take any complaints at all.

**Mr Kourpanidis:** My view on the issue of complaints that are technology related is

that there have been so many instances of far more significant technology meltdowns—for example, the National Bank not that long ago—that the man in the street is more accepting than they might have been some years ago because it is something that is happening over and over again in all sorts of spheres of business and it is a matter of doing business. Technology goes down; sometimes it takes a while to get it fixed. We were very surprised on Melbourne Cup day that we did not field one call for the hour or hour and a half when the computer system had gone down for account holders.

**Mr Curtis:** There is no doubt that if the system had not gone down there would have been record numbers. We fell short but when you think that it was down for a total of five hours that day, that must have had some significant impact.

**MS HUNTER:** That is significant—five hours. What was going on with the system?

**Mr Curtis:** To a layman, that is very difficult to understand, and I am a layman. In simple terms, they have explained to me that the system reached a magic number and the number related to the number of bets the system had taken overall. Once it reached that number, something went askew and closed the system down. They call it a magic number fault.

**Mr Kourpanidis:** This is a system that was created many years ago. At that time when the programmer set it up, they probably thought that one, two, 30 zeros, or whatever the figure was, was something we would never, ever achieve and that should be the trigger point or the magic number point where something would go wrong. Over the years, no-one sat there and counted, “How many zeroes are we up to this year and how many zeroes of bets have we taken the following year?” It just coincidentally happened that on Melbourne Cup day, of all days, we got to whatever the zero number was that closed the system down.

**MS HUNTER:** And has that now been rectified?

**Mr Kourpanidis:** We have a new system now.

**Mr Curtis:** Yes. In the last two weeks we have rolled out the new Spectrum system to account customers and the internet will have a greater capacity next Melbourne Cup day. I do not expect the sorts of issues that we have had in the past.

**THE ACTING CHAIR:** The collapse was under the old system and the new system is now in place?

**Mr Curtis:** Yes.

**MS HUNTER:** Have you also replaced terminals?

**Mr Curtis:** No.

**MS HUNTER:** I understand you had quite old terminals in your outlets. Have they been replaced?

**Mr Kourpanidis:** The terminal program starts rolling out in the new year. By the first quarter of the new year, they should be in all of the outlets.

**Mr Curtis:** Yes. We have proposed to roll out self-serve terminals into the clubs, to assist them to some extent with reducing their staffing costs. There is an application before the Gambling and Racing Commission at the moment to have those approved. I suspect that is going to take some time as we work through the issues of note acceptors on those machines and addressing potential problem gambling issues that might arise. We do not expect that to happen very quickly. However, there will be a rollout in the retail facilities of terminals which are operated by staff.

**THE ACTING CHAIR:** On page 54 you have the structure of the organisation. Do you report through a department or do you report directly to the minister?

**Mr Curtis:** The ACTTAB board, which is appointed by the government, is accountable to the shareholders, the Chief Minister and the Deputy Chief Minister and Treasurer. As the Treasurer is our minister, being a territory-owned corporation, we have a relationship with Treasury. I do not say that we report to Treasury, but our—

**Ms Gallagher:** You work with Treasury. I think that is probably a fairer—

**Mr Curtis:** Yes. Our budget process is developed in consultation with officers of the Treasury.

**THE ACTING CHAIR:** On page 55, I note, Mr Chair, that you only had three members or three directors of the board. Has that problem been rectified?

**Mr Kourpanidis:** Yes, we now have four members on the board. We had operated for a number of years with five. Three became a little problematic in that you were always concerned, if someone were to be ill, that you would not have a quorum. But with the appointment of the fourth member, that is no longer an issue.

**THE ACTING CHAIR:** Section 12 of the act says there should be how many members on the board?

**Mr Kourpanidis:** I do not recall.

**Mr Curtis:** My understanding is three is a quorum.

**THE ACTING CHAIR:** So there are four now and you will take it up to five?

**Mr Kourpanidis:** Possibly. It is not necessarily that pressing an issue. I think in many years gone by there have been up to seven members, in the good old days. Whether it is four or five is neither here nor there, as far as I am concerned.

**MS HUNTER:** Who is the new director?

**Mr Kourpanidis:** The last appointment was Howard Powell, a former chair of the Racing Club in Canberra.

**Mr Curtis:** I think he is the current deputy chair of the Racing Club.

**THE ACTING CHAIR:** On pages 65 and 66, I noticed that you have been able to report on the remuneration both for the board and for the executive staff, and congratulate you on that clarity. Are there any further questions for ACTTAB?

**MS HUNTER:** When you spoke earlier about new products, were you talking about the flexi betting?

**Mr Curtis:** That is available now to account holders—flexi betting, first fours, duets.

**MS HUNTER:** That was on the horizon for some time, so it is now in place?

**Mr Curtis:** Yes. It is a bit difficult to gauge what effect that is going to have, but there was certainly anecdotal evidence that people were going across the border to engage in flexi betting because of the potential to cover far more options in, for example, trifecta betting than you would otherwise, having \$1 a ticket or 50c a ticket. You could have 10 per cent of the dividend that is declared or 15 per cent or 20 per cent. So that is what flexi betting is—relating to exotic bets.

**MS HUNTER:** So you are going to be keeping a bit of an eye on that to see if it is going to bring back customers that you think may have moved interstate?

**Mr Curtis:** Yes. There will be a significant increase in that particular area of wagering once we roll it out to the public proper through the retail facilities. That will happen over the next couple of months. It is a fairly long and arduous job to replace the existing hardware in each of these facilities—50-plus facilities. It will be progressively done.

**MS HUNTER:** And they are the terminals we were talking about?

**Mr Curtis:** They will be included, yes.

**Mr Kourpanidis:** The anecdotal evidence that we have gathered over the years shows that the most popular form of interaction by customers is this new form of flexi betting. It is what they really enjoy the most. As Tony said, it gives you an opportunity to increase your chances of getting a result, but for a far lower investment and for a defined investment.

If you only want to invest \$10 but you want to have 10 horses running for you, it would normally have cost you \$1,000 if you wanted to have 100 per cent of the dividend available to you, but if you only want to invest \$10 you can still get that result, but you will get whatever the fraction is of \$10 to the thousand. That is very popular in all jurisdictions that have it and we expect the same popularity will flow through to here as well.

**Mr Curtis:** I think anyone that has read the submissions to the ICRC inquiry from the industry—where the claims have been made that if ACTTAB had introduced these products years ago when the competitors did the industry would not have the problem it has now in terms of funding today—would know that it is probably drawing a long

bow.

I do not think the impact has been that significant. The issue, as far as ACTTAB and turnover are concerned, is that VIP betting and corporate bookmakers who once bet here have now, for whatever reason, returned to the Northern Territory or other jurisdictions as a result of changes to legislation and taxation incentives or whatever it is that might be on offer.

The bottom line is that retail turnover—the core retail business in the territory—has remained fairly stable and for a period of years has grown. But when you lose a \$15 million or a \$20 million a year customer or client, the impact of that is tremendous. It takes a lot of 50c bets to recover that sort of damage.

**Mr Kourpanidis:** To put the reduction in turnover from the previous year of approximately \$6 million into perspective, we lost two VIP customers to a competitor interstate. Each bet about \$6 million per annum individually. One was five and one was six. It only takes one of those people to come back to the fold and the decline from one year to the other is back to where it was again.

**THE ACTING CHAIR:** Just on the financials on page 12, I notice that page 450 of budget paper 4 says that income tax equivalents in the 2009-10 budget amounted to \$59,000. The actual outcome was a zero and in the 2010-11 year budget it was almost \$2 million. What is the reason for such a dramatic change?

**Ms Snowden:** In income tax equivalents?

**THE ACTING CHAIR:** Yes.

**Ms Snowden:** It is because our profit in 2010-11 will increase because we are not paying the RDF anymore.

**THE ACTING CHAIR:** So that is the RDF again?

**Ms Snowden:** Yes.

**THE ACTING CHAIR:** Right. That answers it.

**Ms Snowden:** It is the 7.6, approximately, coming back through our profit figures.

**THE ACTING CHAIR:** I notice that the \$59,000 in budget paper 4 is subtracted from the operating result, yet on your page 12 the expense of almost \$636,000 is added to the net loss to reduce the loss to \$1.5 million. Why is it subtracted in the budget papers and added in your document?

**Ms Snowden:** That is tax-effect accounting. You may notice that in our balance sheet, our financial position, we have a significant deferred tax asset. When our tax accountants prepare our tax work, the tax equivalent comes back through. At the moment, until we write down our tax deferred asset, you are going to see that positive amount coming through. It is basically an adjustment made as part of our refurbishment program. We had a lot of deferred tax asset benefit there. When we do

our budget, we do not go to our tax accountants and get them to adjust for that deferred tax asset benefit.

**THE ACTING CHAIR:** Thank you. As there are no further questions, I thank you very much.

We will now move on to Rhodium. Treasurer, thank you very much for attending with officials from Rhodium. Do you have an opening statement?

**Ms Gallagher:** No thanks, chair. We are very happy to just continue.

**THE ACTING CHAIR:** Thank you. To the officials, the privilege card is there in front of you. I assume you are aware of its contents. Do you have any questions?

**Ms Smithies:** No.

**THE ACTING CHAIR:** Treasurer, perhaps you could give us an update on where the wind-up of Rhodium is at.

**Ms Gallagher:** Do you want to do that, Megan?

**Ms Smithies:** Sure. During 2009-10 there was significant work on the wind-down. In July 2009 the government fleet was finally transferred to the SG Fleet and then the Actew fleet was novated across to Actew. The residual activity for 2009-10 was the removal of all of the major operating leases, so the heavy operating leases that were largely held by TAMS. They were moved to TAMS on 1 July 2010. Also during 2009-10 there was a contract entered into for the novation of the novated fleet business from Rhodium to Toyota Fleet Management. Pretty much all of the major lines of business for the company were largely gone by the end of 2009-10.

The actual transactions in relation to the novated fleet business occurred during July 2010 and will appear in the company's financial statements for 2010-11. As at this date pretty much all that remains with the company is one non-consenting novated lease. There were two at the beginning of this financial year and that number has now gone down to one. That one remaining lease will be finalised in January 2011.

There are 12 finalised lease debtors that are under legal action that are being wrapped up in the shell of the company right now. There are a few other miscellaneous outstanding invoices that are being pursued by the company and 11 other minor finalised debts that are being run by the company.

There was also the transfer of some residual business into the Treasury portfolio during 2010-11. Those related to 20 finalised lease debtors. Six residual guarantees are held with Westpac, which are largely side lift trucks that are run under Melbourne ports. There is a rice growers Mack truck that has been transferred to Treasury to manage out the lease on and there are three mineral crushing leases that have also been transferred to Treasury to manage out the lease on. There are also video replay screens that have been transferred to Treasury.

**MR HARGREAVES:** You said all of that with a straight face!

**Ms Smithies:** I know.

**Ms Gallagher:** We have had time to readjust.

**Ms Smithies:** We are kind of getting over it. What I would say is effectively the trading business of the company has been wound up. It was wound up largely by the end of 2009-10. Audit was a clear set of financials at the end of that period. The company continued with the finalisation of the wind-up in 2010-11. The old board, of which I was chair, stepped down at the AGM this year, which was about a month ago. We now have a new public service board which is just, I guess, a caretaker board which is taking care of the shell of the company and those purely residual lease and legal matters that are currently being run through the shell of the company. Those will be managed by the new board. It is pretty much done.

**Ms Gallagher:** It should be all finished by June next year.

**Ms Smithies:** Yes.

**THE ACTING CHAIR:** We have heard that at several estimates and annual reports hearings, Treasurer.

**Ms Smithies:** The company is now being de-TOCed.

**THE ACTING CHAIR:** De-TOCed?

**Mr Hays:** We were effectively de-TOCed on 12 December.

**MR HARGREAVES:** Did it hurt?

**Ms Smithies:** There was much celebration.

**MR HARGREAVES:** Did you have withdrawal symptoms?

**Ms Smithies:** The company will be deregistered, hopefully, at the end of the financial year, but the thing that is holding up the deregistration is that we need to finalise the outstanding legal issues that remain with the company. Just like with Totalcare, we cannot completely deregister the company until the residual legal issues are seen through.

**MS HUNTER:** So what are these legal issues?

**Ms Smithies:** Largely through the novated lease business with private customers, there have been issues where people have stopped paying their lease and we have been pursuing them as a company to get a return of the amounts owing to the company. Obviously, there are one or two significant outstanding—

**Mr Hays:** There are 10 main cases. They are former leaseholders. They have debts outstanding. Legal action is in train to try and get a judgement in the courts to recover those moneys and we are expecting that we will be able to achieve that before June

next year.

**MS HUNTER:** What is the total of those debts?

**Mr Hays:** It is about \$400,000 and that money has been fully provided for.

**THE ACTING CHAIR:** Ms Smithies, you mentioned a new board. Who is on the new board?

**Ms Smithies:** The new board's chair is Pat McAuliffe and the members are David Reid and Paul Ogden.

**Mr Hays:** And Tony Hays!

**Ms Smithies:** Tony Hays, the chief executive officer.

**THE ACTING CHAIR:** That Tony Hays turns up everywhere! Ms Smithies, you mentioned during your opening remarks that you now have the shell of a company. What does that mean?

**Ms Smithies:** The company no longer trades, essentially. There is no trading or operational activity that is being undertaken within the company. It is really to do with the wind-up of the legals and just the accounting for the very final novated lease business.

**THE ACTING CHAIR:** Treasurer, you said in response to a question on notice on 20 October: "There is a shelf company remaining to manage a number of leases." Is a shelf company the same as the shell of a company?

**Mr Hays:** Effectively, yes.

**Ms Gallagher:** It means the same.

**Mr Hays:** We cannot deregister Rhodium until we have done away with all the liabilities or there are no longer any outstanding legal actions. At the moment we have one lease remaining on our books which matures in January and then we have got the outstanding legal actions to recover money against the debtors. All going well, we will then apply to have the company deregistered before 30 June.

**MS HUNTER:** On page 5, in the overview, it talks about Rhodium recording an operating loss of \$5.3 million for 2009-10 compared with a budget loss of \$1.7 million. What has happened there? Why is it so much larger?

**Ms Smithies:** Originally, when the 2009-10 budget was put forward, we were hoping to wind up the company a lot earlier. Unfortunately, it was proving really difficult to get someone to take over particularly the novated lease business. So the company continued to operate for a full year, which was not envisaged at the beginning of the financial year. What is happening with the company during the wind-down phase is that you are not getting a revenue stream and you have still got the high fixed overheads of accommodation and staff, a debt recovery team and wind-down, you

have still got your costs without necessarily revenue coming in. In fact, quite a lot of the business was divested at the beginning of the financial year with the ACT government business and the ActewAGL float business as well.

**Ms Gallagher:** I think some of that also is bringing forward some costs.

**Ms Smithies:** That is right. That basically provides for pretty much all of the costs that we know of or that we can reasonably expect will occur in the wind-up of the company during 2010-11. I think it is worth noting at this stage that the company has also had a set of 2010-11 statements audited to provide an interim audit now that all of the other transactions have gone through, and they have been given a clean bill of health as well.

**MS HUNTER:** You mentioned earlier some sort of machinery vehicles on ports and mineral crushing machines. Where are these located and have they also been dealt with at this point?

**Ms Smithies:** They have been transferred to Treasury for Treasury to manage out the leases on them.

**THE ACTING CHAIR:** Is that the new budget process—just put them through the rock crusher?

**Ms Gallagher:** You will see Megan riding around in the crusher! Treasury are managing—

**Ms Smithies:** We will manage out the leases on them. These are leases on which largely there has been no default—the rock crusher is in WA, the side lift equipment is sitting in a Melbourne port. They are being looked after and they are being paid for on a regular basis by the people who are actually using them. So for us it is an issue of just managing out the end of those leases.

**MS HUNTER:** And those leases will end within this financial year or longer?

**Mr Hays:** No. Some of them will extend beyond this financial year. That was part of the reason that we arranged to have them assigned to Treasury because we did not want to keep the company going for any longer than it needed to.

**Ms Smithies:** We could have sought to actually pay the leases out. I think we as a company made some initial soundings but it is not financially worth while to stop the arrangements and they are largely being well maintained in terms of payments from the client.

**THE ACTING CHAIR:** What was the cost of the payout option?

**Ms Smithies:** I could not say, off the top of my head.

**Mr Hays:** We will take that on notice.

**THE ACTING CHAIR:** Could you also give us a written breakdown of the

\$5.344 million loss into each of its components?

**Mr Hays:** Yes.

**MS HUNTER:** With those leases, we are not losing money?

**Ms Smithies:** No, we are not losing money. The \$5.344 million will largely be in the financial statements, which just goes to the costs of operating the company for a year.

**Ms Gallagher:** Would you like that reconciled?

**THE ACTING CHAIR:** Could we have it broken down. Some of the large payments, of course, were to MAXimusSolutions.

**Ms Gallagher:** They operated the company for us, on our behalf.

**THE ACTING CHAIR:** What was the total payment to MAXimus in that year?

**Ms Gallagher:** In which year? 2009-10?

**THE ACTING CHAIR:** The year of the financial reports?

**Ms Gallagher:** It was \$2.8 million.

**THE ACTING CHAIR:** Does that include the payments on page 20 to Mr Moore, Mr Fleming and Mr Liddicoat?

**Ms Smithies:** Yes, it does.

**THE ACTING CHAIR:** What did we get for that \$2.8 million that, for instance, Treasury could not have done?

**Ms Smithies:** We got a CFO and a number of people to manage the company in the wind-down phase.

**Mr Hays:** MAXimus did a range of things. They maintained continuity of business during a period of high turnover. Over a period of about three years, they recovered over \$6 million in debt. They had to restore thousands of customer accounts dating back to Totalcare. They had to rectify problems with the IT system, which was well documented in the Auditor-General's report.

**THE ACTING CHAIR:** Why did they have to restore accounts? What does that mean?

**Mr Hays:** The way the systems were set up, the lease management system was not being interrogated by the financial management system. So you did not know what the balance was on a lot of the accounts. What was discovered was that, because no-one prior to MAXimus on board had been actively pursuing any debt recovery action, a lot of the leases did actually have debts.

**Ms Smithies:** It is also worth recognising the fact that over the last three years, on top of winding down the business, or firstly trying to do a trade sale of the business and secondly trying to sell the different parts of the business order book, we still had, as a company, a commitment to a significant leaseholder base. We had 1,000 or 2,000 individual leases that we needed to run, to maintain the cars, the fuel arrangements, the monthly payments, the debt payments et cetera. So there was a significant amount of effort that actually went into maintaining those customer services that the company was running.

**THE ACTING CHAIR:** So what is the difference between the amount on page 20 that was paid to MAXimus, the \$1 million for staff, and the \$2.8 million for the tender?

**Ms Gallagher:** There were more staff, for a start. They are the three executives. Depending on what year you look at, in 2008-09 there were up to 12 MAXimus staff. In 2009-10, there were seven. So there were other staff costs in addition to those that are outlined in the report.

**Ms Smithies:** Again, that was largely done as the company was winding down. It was difficult to get, and probably unwise to get, full-time staff or permanent staff. They needed to be contracted through some type of employment arrangement. So the MAXimus contract was used to staff the company. Obviously, a company that is in wind-down is a difficult company to staff, given the unsureness of long-term security or job prospects et cetera.

**THE ACTING CHAIR:** How many extra staff did we get for that additional \$1.8 million?

**Ms Smithies:** During the course of that year there were 12 MAXimus staff.

**MR HARGREAVES:** Were there any permanent public service officers there? What is happening to them?

**Ms Gallagher:** There were some permanent staff there. Obviously, when you look back through the history, from 2007 onwards you see that permanent staff in Rhodium were declining. People understood it was going to be wound up; there was no future with Rhodium so individual staff made those decisions. I think to the largest extent possible, those who had a right to return, or where we felt there was an obligation to return, were given that support for alternative employment. In fact, I am not sure whether anyone had a right to return, did they?

**Mr Hays:** There were about nine staff who had a right of return. Some of those moved on and some of them have actually gone back within government, working for different agencies.

**THE ACTING CHAIR:** The contract for MAXimus was let in 2006?

**Ms Smithies:** The original one, yes.

**THE ACTING CHAIR:** How was that determined? Was that an open tender?

**Mr Hays:** Initially, Ken Moore was brought on short term, for a few weeks, after the sudden resignation of the former chief executive officer. In about October 2006, Rhodium ran a select tender for a management team to manage Rhodium in the lead-up to the expected sale of the business. I think the contract was awarded to Rhodium in January and the initial period was for six months.

**Ms Smithies:** Awarded to MAXimus.

**Mr Hays:** Did I say Rhodium? MAXimus.

**THE ACTING CHAIR:** There was no need to go back and retender for that contract?

**Mr Hays:** The contract did provide for it to be extended. During the sale negotiations, they were deferred on about eight occasions and on each occasion there was an expectation that the sale would proceed. Therefore I believe it was the view of the Rhodium board that there really was not much point going out with another tender if they were only going to be there for a few months longer. Of course, the longer the sale negotiations proceeded, the more difficult it became to bring in a new mob because MAXimus had become familiar with a lot of the peculiarities relating to Rhodium. So they developed a corporate memory and it was felt that, to bring in a new management team, you would need a transition period and there would be those sorts of changeover costs involved.

**Ms Smithies:** The issue was looked at carefully by the new board—the new board came in in 2008—in relation to how best to manage the company out. The MAXimus contract was considered and there was negotiation with MAXimus. Of course, Mr Ken Moore was not in the room at any point when the board actually discussed these issues and we took legal advice on the issue as well. As Tony said, the MAXimus contractors were performing well and they provided continuity at a time in the business when it was difficult to necessarily expect to find someone with the same knowledge and understanding of the business to step in and get up to speed quickly. So it was the view of the board that it was an acceptable extension.

**MS HUNTER:** I want to ask about a couple of other contracts. One was about the legal advice to Williams Love & Nicol. In this case why didn't we use the Government Solicitor's office rather than contracting out? Is there a reason for that?

**Ms Smithies:** The company has used the GSO for a lot of, particularly, its corporate legal work. The company had a longstanding relationship with Williams Love & Nicol in relation to debt management of individual lessee payments. Again, it is people who have taken on a lease and fallen behind in payments and they basically have fallen into debt. How do we deal with the individual clients that the company had? Again, in discussion with GSO, we had a conversation about who was best placed (1) to provide continuity and (2) to provide that degree of this almost being commercial debt recovery action, which is something that GSO does not normally do as part of the main bulk of its business. So the decision was made, again in consultation with GSO, to keep that sort of work with Williams Love & Nicol and to get GSO to do our corporate governance work.

**MS HUNTER:** The other one was around Paradigm IT. That was \$107,000 and it was in addition to InTACT services around payroll. What were we paying Paradigm IT Solutions for?

**Ms Smithies:** That was largely in relation to managing the leasing systems and the network system that the company was running on.

**MS HUNTER:** Again, that could not have been provided by InTACT?

**Mr Hays:** I think the licence is with Paradigm rather than InTACT, so there is an issue there.

**THE ACTING CHAIR:** On page 15 you have your fraud prevention section. It basically says that you have a policy and that this is what the policy does. But I note there was a court case reported on Friday, 30 October 2009 involving \$187,000. Is it not the practice to report on significant fraud in the annual report? Why is there no mention of the number of incidents and outcome and resolution of those incidents?

**Ms Smithies:** That particular fraud was from three years ago and it has been reported in previous years. I think the report of that in the press was simply the winding up of the court matter. We would have to check the year; it seems that it was three years ago. But there have not been any cases of fraud during 2009-10.

**THE ACTING CHAIR:** As Rhodium is hopefully wound up in this financial year, what happens to all its records and documents? Are they governed by the Territory Records Act or are they governed by some other piece of legislation?

**Ms Smithies:** The records of the company have been transferred to the Department of Treasury and Treasury have gone through those records in accordance with the archiving act, the Territory Records Act, and archived the relevant documents. We have put in place an archives strategy for the company's records.

**THE ACTING CHAIR:** You are happy that the actual physical downsizing is proceeding as it should?

**Ms Smithies:** Yes.

**THE ACTING CHAIR:** The opposition was approached by a constituent who was near a Rhodium premises where material had been thrown into an open hopper. She managed to recover a very expensive electronic stapler that works quite well, apparently a Remington Pro 1800 hairdryer and numerous documents which included things like parking tickets and a number of pieces of unopened mail. Is it the operating procedure of Rhodium not to open their mail, Treasurer?

**Ms Gallagher:** If you are happy to share that with us, Mr Smyth—

**THE ACTING CHAIR:** Well, they are your letters.

**Ms Gallagher:** we would be very happy to have a look at it. I am sure there is a

reasonable explanation.

**THE ACTING CHAIR:** What reasonable explanation could there be for not opening your mail?

**Ms Gallagher:** I have not seen it. All I can see from here is a white envelope. We need to have a look at what you have got.

**THE ACTING CHAIR:** Other things like car logs—

**Ms Gallagher:** When was this?

**THE ACTING CHAIR:** In recent weeks, a lady brought this in to the opposition.

**Ms Gallagher:** So it is so serious that you have sat on it for weeks and have not forwarded it on? That is how concerned you are?

**THE ACTING CHAIR:** No, I am just curious as to—you obviously did not want it, Treasurer. You threw it out. There are also accounts—

**Ms Gallagher:** No, Mr Smyth. I did not throw it out. But what you are saying is you have got this serious concern—

**THE ACTING CHAIR:** Well, you are representing Rhodium.

**Ms Gallagher:** on information that has been handed to the opposition in recent weeks—weeks, whenever that was—and you are now dumping it on us and asking us to answer questions. I think that is unreasonable.

**THE ACTING CHAIR:** No, I am just particularly asking questions.

**Ms Gallagher:** If you were genuinely concerned, I would imagine this material would have been provided to my office as soon as you received it so that we could respond.

**THE ACTING CHAIR:** Is it appropriate, for instance, to just throw out mailing statements and accounts?

**Ms Gallagher:** Mr Smyth, as I said, you have had this information for weeks. You have been sitting on it for the purposes of what appears to be a political stunt.

**THE ACTING CHAIR:** No, I am just asking questions at the relevant annual reports hearing, Treasurer.

**Ms Gallagher:** I need time to have a look at the material that you have been sitting on for weeks and respond. If there is anything that should not have been thrown out then we will have to deal with that.

**THE ACTING CHAIR:** There are also petty cash statements from some years ago. Obviously, someone has been cleaning out. It also includes things like, apparently, baby showers that were paid for out of petty cash and morning teas that were paid for

out of petty cash. Is that acceptable?

**Ms Gallagher:** Mr Smyth, I am not going to be able to answer any of the questions until I have had time to check the documents, see what they are and take some advice about where they have come from and what information you have got there.

**THE ACTING CHAIR:** Some of the other documents thrown out actually included the board minutes which I think this committee tried to get some time before and were unable in the main to get. But the board minutes, I would have thought, would be something you would keep quite securely. Why are they in a hopper outside a building?

**Ms Smithies:** I suspect you will find that all of the board minutes have been archived appropriately and that is probably a copy or a draft et cetera. I know I have certainly got a copy of all of my board minutes appropriately archived.

**MR HARGREAVES:** We have got to the point now where it is impossible—

**Ms Gallagher:** If someone has disposed of material that should not have been disposed of, we will deal with that, Mr Smyth. There is nothing I can do to prevent what has occurred, but I can respond appropriately.

**THE ACTING CHAIR:** You said that procedures were in place to make sure all these things were archived appropriately—

**Ms Gallagher:** Yes, and they are.

**THE ACTING CHAIR:** but your copies appear to be in hoppers outside commercial offices. The minutes make interesting reading. I think they are from May 2005. Some of the members expressed concerns that the company appeared to be undercapitalised. Indeed, one member expressed concern with the budget included in the business plan. Other members explained that they had not approved the forecast but that the budget had not been signed off as yet and they were awaiting advice from Treasury. Given there were concerns inside the board at the time about the state of the budget, and we now see we have a \$5 million loss this year, minister, would you concede that the government's setting up, running and control of Rhodium have not been to the benefit of the people of the ACT?

**Ms Gallagher:** Again, I would like to have a look at the documents that you are reading from. I think the history of Totalcare has been a sad and sorry one for the people of the ACT. I think you need to accept your responsibility in the establishment and mismanagement of Totalcare.

**THE ACTING CHAIR:** This is Rhodium, not Totalcare.

**MR HARGREAVES:** Hang on; one at a time.

**Ms Gallagher:** Rhodium grew out of Totalcare. We have, as a government, responded to the issues that Rhodium faced. We determined, as shareholders, the Chief Minister and I, that Rhodium should be sold. That was not able to be achieved.

We wound down the company and we are delivering \$2 million worth of savings to the budget every year from the decisions we took. I think if we could go back and foresee what has occurred, particularly over the last four years, if we had the powers of seeing into the future, perhaps governments would have taken different decisions. With the global financial crisis coming at the point where we had a potential purchaser of that business, that fell through because of conditions outside our control. I think we have acted responsibly and dealt with the situation appropriately.

**THE ACTING CHAIR:** You might take this on notice. Could the committee have a breakdown of the procedures that will lead to the physical winding up of the company, the safety of its records and assets?

**Ms Gallagher:** You want a response on what we are doing?

**THE ACTING CHAIR:** Yes. Ms Hunter, I think you have a question?

**MS HUNTER:** You may have covered this. It is about the Treasurer's advance. I think at the end of the day it was \$1.9 million. It was around the restructure fund. I am trying to get an understanding of what that was used for. It is on page 6.

**Ms Smithies:** Largely it was to do with the payment to Westpac, which was around \$1.2 million. Fees were required under the Westpac agreement, which was a longstanding agreement. Then the rest of the payments were around the residual operating costs for the company in wind-down mode.

**THE ACTING CHAIR:** There being no further questions, we will take a break. After the break we will have the Insurance Authority and Totalcare.

**Meeting adjourned from 10.46 to 11.03 am.**

**THE ACTING CHAIR:** Thank you, minister, for appearing with your officials to look at the annual report of the Insurance Authority. In case some officers were not here when we did the yellow card trick, is everybody aware of the privilege statement that is contained therein?

**Ms Gallagher:** Yes. Before we start, I have a couple of questions to deal with from the appearance by Rhodium. I have requested a copy of the documents. That is a matter for the committee. I do not know that is necessarily the case. They are not committee documents. They are documents that were provided to the opposition. I would welcome the committee's view on whether there is any constraint on providing that information to me so that I can follow it up.

My office have also inquired of your office, Mr Smyth, to find out whether we can have a copy of the documents. We were told you were unaware of the documents until recently and that the Leader of the Opposition has had the documents. I would be interested in your views on how long the leader has had those documents and why he did not think it was important to provide those documents to me so that I could follow it up.

The other issue that I have taken advice on in the break is around how materials were

dealt with in terms of the exit from Mitchell. I understand that Ken Moore coordinated the oversight of the removal of equipment and information from Mitchell in accordance with all the correct procedures. We can certainly provide you with that information on notice, as we have undertaken.

All equipment that could be donated was donated, as I understand it, to East Timor. We will provide you with more information around that as well. I would like confirmed, if you are able, where this information was located and on what date it was found, as that would assist us with our inquiries to establish what has gone on here.

**THE ACTING CHAIR:** I thank you for your question. It is most unusual for a minister to be asking the chair questions. The committee members who are here will have a discussion and will get back to you.

**MR HARGREAVES:** Before we get off that subject, it seems to me that, in the context of a discussion that the committee will have later, unless an item has been tabled in the committee or has been addressed to that committee, it is not, as the minister has indicated, the property of the committee. At the moment I have not seen any of the material, other than a casual glance to my left. As far as I am concerned, what we have here at the moment is some material in the formal possession of god-knows-who but it was last seen in the possession of Mr Smyth.

I do not believe that we are talking about property which is that of the committee. It is quite reasonable to address the transfer of that material from the person who has custody of it. As we know, all materials that have to go to a committee have to be received and authorised for publication or transmission. We have not had this material.

**Ms Gallagher:** Does the committee have the material now?

**THE ACTING CHAIR:** Thank you, Mr Hargreaves, you are not here to speak on behalf of the committee. You and I will have a discussion at the end of this hearing. We will move on to the Insurance Authority. Treasurer, have you any comments to make about the Insurance Authority's annual report?

**Ms Gallagher:** I am happy to go to questions.

**THE ACTING CHAIR:** On page 2, one of the highlights is a decline in the operating result because of a higher than expected claims expense. What was this due to?

**Mr Fletcher:** The ordinary claims expense increase is a result of changes in the assumptions made by our actuary to determine our liability. In particular, it results from a reduction in the discount rate that is used on claims to calculate our liability. The effect of that is to increase the ordinary claims expense.

**THE ACTING CHAIR:** It goes on to say that there was a decline due to a reduced discount rate on claims. Which one is true, or is this the same thing?

**Mr Fletcher:** The discount rate applies.

**THE ACTING CHAIR:** On page 2, in one paragraph you say that this was due

primarily to higher than expected ordinary claims expense. The next paragraph says that this was due to a reduced discount rate on claims.

**Mr Fletcher:** On page 2, it refers to the ordinary claims discounts. They are higher than the expected ordinary claims expense.

**THE ACTING CHAIR:** Are they not inconsistent?

**Mr Fletcher:** It is an increase of about \$10 million, I think. If you look at our operating statement on page 13, the outcome is \$57,488. It is an increase on the 2009 number and on our budget.

**THE ACTING CHAIR:** What was the effect of the reduced discount rate?

**Mr Fletcher:** It is a bit like the interest rate. It tries to anticipate what the future costs of claims will be. When that rate drops, it means basically you need to put more money aside to meet the costs of those claims in the future. That rate went from, I think, about 5.7 to 5.2. That has the effect of increasing our claims expense, along with some other economic factors such as inflation and greater risk margins due to some delays in making those future payments.

**THE ACTING CHAIR:** The first paragraph on page 3 says:

... the portfolio is extremely volatile given the heavy bias towards liability risks.

What does that mean?

**Mr Fletcher:** Liability risks are really public liability risks and medical malpractice claims. Those types of claims, particularly the med-mal, are long-tail classes of insurance. The high-value claims in those classes are particularly volatile. For example, with medical malpractice claims, particularly with catastrophic events or bad births, a claim might come onto ACTIA's books and we might reserve \$5 million. It takes a number of years for those claims to develop and they can sometimes increase in one reserving process by \$3 million to \$5 million. It makes our portfolio, which is relatively small when you compare it to other jurisdictions, a volatile portfolio of claims to try to manage.

**Ms Smithies:** You can see it very much with the bushfire claim as well. The 2003 events completely swamped any other activity that went through the accounts. Originally it was 150 or 190. It is back down again. One event, which was singularly large for the territory, can have a significant impact on what is happening in the financial statements for the year. For the last two years the performance of the portfolio within our property and public liability is that pretty much we have not had any major storm event. There were some events in 2005 as well which pushed our operating result and our expenses claim up as well.

You will have a few good years and perhaps a very bad year. That is the nature of insurance and reinsurance, in a way. It is to provide financial capacity to smooth you over for when you do have those events.

**THE ACTING CHAIR:** It goes on to talk about reinsurance in the second paragraph. It says:

It is almost certain that the cost of reinsurance premiums will increase in the coming years as the insurance market hardens ...

Given that expectation, why would the premiums drop in 2009-10?

**Mr Fletcher:** That is really a forecast of, I suppose, the reinsurance cycle. It is only one component of what makes up our premium. Part of the premium is about what the actuary sees as risks for our self-insured retention. Another component is for the reinsurance costs. In terms of the long-term cycle in terms of the reinsurance market, it is cyclic. At the moment we are, I think, at the bottom of that cycle. We certainly are hoping to see our reinsurance for the 2011-12 year with the expectation that it is still a buyers' market when we thought we were about to reach the bottom of that market.

Certainly on liability, we saw some increases in our primary layer, which is obviously the layer we are most at risk on with regard to liability to claim. As a result of the bushfire claim and, I suppose, a number of similar events in Australia, that has changed reinsurers' view of what bushfire risk, in particular, looks like in Australia.

**THE ACTING CHAIR:** Is there an opportunity to get the authority to affect the decision by not having reduced the premium so much in 2009-10?

**Mr Fletcher:** What the current year premium does is look at the current insurance. The premiums were reduced because the actuary has looked at the property and med-mal and liability classes, in particular at what they call the small claims in those pools. They revalued those. The small claims basically impact on ACTIA's self-insurance intention. That resulted in a reduction in the ACTIA component of those premiums; hence the reduction in premiums for agencies in that year.

**MR HARGREAVES:** Yes, thank you. On page 39 you talk about the undiscounted expected future claim payments from the bushfires. The 2009 one was 199,396 and the 2010 one was 99,247. There are some wildly fluctuating figures in all of these outstanding claims columns. I am interested to know, as to that 99,000 that remains, is that just a remainder of your anticipated liability for the 2003 bushfires?

**Mr Fletcher:** To answer your question, I think the better table to look at is actually on page 43.

**MR HARGREAVES:** All right. Talk me through it.

**Mr Fletcher:** You see at the top of that page it is a bushfire claims development table, which is a summary of all classes of bushfire-related claims. It is for the 2003 year. You can see the classes of insurance are standing timber, property, public liability and professional indemnity. If you go down to the bottom of the public liability column, the outstanding claim there is 69,466. That is the liability component of that claim. There are still some funds in some of the other categories that make the total for the bushfire, the number that is on the right there, 82,159.

Those are basically development years and you can see the fluctuation. It came on one year later at 15½, then went to 46, then 193 and then back down to 96. Those numbers change, basically as the territory's understanding of its exposure has developed. The 193 that is there is probably what, at that point in time, we were advised by our reinsurers and our lawyers would be what they call a maximum possible loss. They look at all of the issues associated with liability and quantum and they put that number on it.

What has happened over time, as we have been through a settlement conference and now in April this year when the court case commenced, is that our reinsurers have adjusted their view of what the liability is that may rest with the territory. Some of that has changed because we have settled with basically all of the parties who were against the territory, other than a group of plaintiffs called the Stacks plaintiffs, a group of 100 who banded together with Stacks, the law firm, and are putting a case against the territory in the court at the moment.

**MR HARGREAVES:** How many outstanding claimants are there?

**Mr Fletcher:** There are only the 104, I think, that are the Stacks group. We have settled with all of the other parties who were involved, which were NRMA, Suncorp, QBE and a group—the Tener family—who were separately represented. The only plaintiffs left in the case against the territory are the Stacks.

**MR HARGREAVES:** How long do you expect that litigation to go on? It is a guesstimate on your part. I am not going to nail you to the fence if you get it wrong.

**Mr Fletcher:** I had a discussion yesterday with some lawyers at the GSO about how the claim might play out. I think that most people would anticipate, whatever the result is, that there is likely to be an appeal process. That might take two or three years.

**MR HARGREAVES:** As I understand it, you have got 104 people banded together under Stacks's umbrella taking the territory on. As to your guesstimate of the amount of this settlement, where does this 86 grand come into it then?

**Mr Fletcher:** The 82, with a total—

**MR HARGREAVES:** The 82. You have got 70 grand—

**Mr Fletcher:** It is an actuarial assessment of what the costs will be, along with what our legal advice is, about the quantum on the claim. I suppose to summarise where we are at, we think we have got a really good case. Obviously a lot of other parties who at one stage were against us have decided to withdraw from the proceeding. We are left with one and we have been trying to talk to them about concluding the matter. They are representing the best interests of their clients.

**MR HARGREAVES:** Just on the outstanding claims, on page 41, at the bottom, you have got a figure there of 260 million, give or take a bit. On the following page, page 42, you talk about the actual gross central estimate of 211 million. Is that part of that 260 or something different?

**Mr Fletcher:** I think it is an attempt to try and reconcile the movement in that claim's liability. I would have to—

**MR HARGREAVES:** That series of dot points seems to try to reconcile, as you say, but the 19 million is part of that when you look at the netting of it all off, I would imagine. I am just curious. I know there is a reason for it but I do not know what it is. There is 260 million on page 41 and then a figure of 211 on page 42. Perhaps you would like to think about that and come back to us. Otherwise we will be here for a week.

**MS HUNTER:** Throughout the report there are several mentions of the increased cost of claims. Could you give us some more detail on why that has come about and whether this is actually within the ordinary margin of error for insurance estimates?

**Mr Fletcher:** As to the ordinary cost of claims increase, I suppose you like to look at that in terms of the easiest way to make an assessment—that is, individual claim files. We see over time that courts are making decisions that involve larger sums for plaintiffs and that is basically driving the cost of claims up. While not all of our claims will go to court and we might settle, in a settlement process we obviously have to trade off, on a commercial basis, what we think the outcome will be in the court compared to what we can settle with the plaintiff. On advice from our legal advisers, who have as good a view of what is going on in the courts as anybody, we are continually faced with what seems to be payouts by the courts to plaintiffs that are increasing.

**MS HUNTER:** Is it a lot of small claims or are there a couple of significant incidents or claims in there?

**Mr Fletcher:** Certainly our actuaries are suggesting that some of the smaller claims are less frequent and less costly, and that is reflected in their modelling in terms of our liability and how they develop our premium model. Certainly at the more expensive end of liability in med-mal claims, what plaintiff lawyers think they should get in the court and obviously what we realistically think their claim is worth in quantum can be absolutely poles apart. The difficulty is the risk you then go to the courtroom with. That is why you have to sort of trade off, as well as all the additional legal costs associated with preparing a case to go to court.

**MS HUNTER:** Talking about that risk, I note that the poor risk management by agencies is identified in this report as a key risk. You have had a program of working with agencies to address this. Can you give us a bit more of an understanding of the work that has been undertaken with agencies this year?

**Mr Fletcher:** Sure. As to the types of things that we do with agencies, I might have a team of claims managers and a team of risk managers. They basically work together with agency insurance and risk managers to try and support them in promoting good risk management within agencies. That comes through our claims people trying to provide good information to agencies so that they can understand what their claims profile looks like, and hopefully point to some hot spots where they might need to pay particular attention in terms of their risk management practices.

We have provided a lot of agencies with IT support in terms of a database for them to try and manage their incidents, which is a big issue for us. We do our best to try and encourage agencies to report details of every incident that is a risk incident and might then come towards us as a potential claim. I suppose being an insurance manager or a risk manager in an agency can be a bit of a lonely place. So we try and support them in terms of giving them what they need to communicate with their management and their executive about an agency's risk management profile.

We also run general training—risk management 101 sort of stuff and project management. We also try and target or run specialised training for some agencies. I suppose the example I always come back to is our work with ACTION. I think they run two driver induction training programs every month. My risk people go along there and talk to the bus drivers about risk management and what they can do to try and manage better what they do on a day-to-day basis.

We have also been to some training courses with their operational staff who attend accidents or incidents with ACTION buses on how they can try and manage those situations. We will basically go and talk to any group of five or six people who might have a particular interest in a particular area. We did events management type work with the mountain bike world championships a couple of years ago at Stromlo and then some further events that people in TAMS look after: triathlons, marathons—all sorts of things.

**MS HUNTER:** Have you evaluated this work you have done to see whether it is lowering that risk?

**Mr Fletcher:** It is very difficult to measure the impact. I look at it in terms of risk management being a tool that people in an organisation can use to try to solve business problems and achieve objectives. You start with the most senior group of executives when they are looking at strategic risk. Whatever their objective might be strategically—to deliver services or make a profit, whatever it is—they need to examine their organisation in terms of those strategic risks. It goes all the way down to a bus driver who is driving along in his bus and is trying to do his best to deliver a service without being involved in any type of incident that could have been avoided.

**MRS DUNNE:** Can you tell the committee, wearing either of your hats—manager of ACTIA or the nominal defendant—has your office had any involvement in the formulation of proposed changes to the third party or workers comp legislation?

**Mr Fletcher:** My colleague Tom McDonald had the lead on that. I suppose I had a little watching brief on what was going on in that space. In my role as the nominal defendant and manager of the default insurance fund and workers comp fund, all I will say is that, from what I have read, the changes that are proposed seem to make sense. They seem to put some boundaries around what the claims process might be for people involved in those issues.

Both pieces of legislation transfer the focus back to rehabilitation of people and return to work, particularly on the workers comp side of things. It applies similarly in terms of the CTP claims. The elements that obviously make sense to me are the 15 per cent

level of impairment and that move back to a focus more on rehabilitation.

**MRS DUNNE:** From the proposed legislation, do you have an understanding of the actual mechanisms that would move people into the rehabilitation phase rather than into the claimant phase? Do you know what the mechanisms in the legislation are that do that?

**Mr Fletcher:** I really cannot answer that question. It is something that—

**Ms Gallagher:** I can. It is about dealing with people through the statutory scheme as opposed to the common law scheme. The idea around the cap is to push through more people whom we believe can be dealt with adequately outside the common law process, through engaging the employer—the commonwealth; it depends what legislation we are talking about—in rehabilitation and a focus on return to health rather than seeking to—

**MRS DUNNE:** Can you point to the actual provisions in either piece of proposed legislation that do that?

**Ms Gallagher:** Sure. I do not have the bill in front of me but I can. If someone has got it, we can discuss it. The statutory scheme operates under the insurers, rather than people engaging lawyers.

**MRS DUNNE:** I cannot find in the legislation the part that makes it happen.

**Ms Gallagher:** I can provide that information.

**MRS DUNNE:** That would be very helpful. On the subject, have you, Mr Fletcher, done any analysis of how a reduction in non-economic loss awards for the nominal defendant will affect your job?

**Mr Fletcher:** No, I have not.

**MRS DUNNE:** You have not done any analysis of the nominal defendant or—

**Mr Fletcher:** No, I have not made an analysis of either of those funds in relation to that legislation.

**MRS DUNNE:** Are you proposing to do that?

**Mr Fletcher:** I know that my claims management staff have, on a regular basis, in anticipation perhaps of that legislation being introduced, been involved in a training and education process about the impact of those changes. I have not made any assessment of the cost impact of the legislation. As the nominal insurer and running the DIF, we have a small number of claims. It would not be very difficult to do that. My expectation would be that the cost would reduce.

**Ms Gallagher:** I should add that consultation on the exposure drafts finished on 30 November. I have had discussions with Treasury since then about possible amendments. Treasury is dealing with different agencies around that. Probably we

need to finalise the position on the bills.

**MRS DUNNE:** I was not proposing to ask that Mr Fletcher go away and do that analysis. I was just interested to see whether any analysis had been done. I take your point that it is unnecessary work.

**MS HUNTER:** When was it intended to bring that on?

**Ms Gallagher:** I wanted to introduce the bills in December. We got some very strong representations on both bills from the plaintiff lawyers and the unions. I think we got one submission from the insurance industry. There were 12 submissions. One was in support of the changes, and 11 were not. Unsurprisingly, their issues were the same, around access to common law, essentially, under both schemes.

**MRS DUNNE:** The human rights commissioner had some interesting observations.

**Ms Gallagher:** Yes. All of those submissions are on the website, I believe. We have got some work to do in terms of possible amendments to address the concerns of stakeholders. I am not sure that we will be able to address all of them satisfactorily. The threshold is the threshold. That seems to be the biggest issue. It is not what the threshold is. It is the fact that there should not be a threshold, from those who are opposed to the changes. We will look to introduce them in the new year, particularly with CTP where there are some real opportunities to look at competition in the CTP market.

I have met with some insurers around their preparedness to consider entering this scheme. To them, it is very much around how the framework of the scheme operates, what the scheme is like. They watch this jurisdiction very carefully around, particularly, the issue of common law actions for what people see as relatively minor and straightforward claims. It relates to competition and the regulatory impact statement that was done. I am happy to provide that if it is not on the website. I am not sure whether it is.

This indicates that it is difficult to predict exactly what the impact on premiums will be. It does give a figure of potentially between an eight per cent and a 16 per cent reduction in premium rates for motorists. That potentially is quite a significant drop for people who go to renew their rego. There are 250,000 drivers. That is something we are interested in pursuing, obviously.

**MRS DUNNE:** When you proposed these changes did you in any way respond to representations from insurance companies?

**Ms Gallagher:** No. I had not had any representations from insurance companies that these changes occur. Insurers do sit on various bodies such as the Work Safety Council and bodies like that. Particularly in relation to workers compensation, this has been an issue that has been talked about for eight years or longer. It certainly was not in response to any approach from insurers to make these changes. I do not think it is surprising that insurers are supportive of the changes. It has really been monitoring the working of the scheme in relation particularly to workers comp and the fact that there is no pretending that, in relation to workers comp, 17 per cent of the scheme

funds go into rehabilitation costs.

What is workers compensation? Is it a lump sum scheme for damages or is it about returning people to work? In relation to CTP, is it about returning people to health? To be honest—and I know my union colleagues do not agree with me on this—some of that has been lost in the last few years, what workers compensation and compulsory third-party insurance is all about. The legislative changes seek to readdress that balance and provide a balance. I think there are a lot more discussions to come.

**THE ACTING CHAIR:** Just to finish up on the nominal insurer, I notice on page 73 that 57 per cent of claims for damages result from uninsured vehicles and 43 per cent are for unidentified vehicles. In the fifth dot point on the first part under “The Organisation” it says:

Collect recoveries from uninsured drivers at fault to the sum paid out by the Nominal Defendant ...

How successful are we in recovering those funds?

**Mr Fletcher:** I think when the funds are available we are very successful. Unfortunately, I think our experience has taught us that often those uninsured vehicles are driven by people who—the reason their vehicle is uninsured is because they do not have sufficient funds to meet the cost, or they have no regard for the law. So when we deal with a case and then look at how we can pursue them for costs, they do not have any assets.

**THE ACTING CHAIR:** How much was it last year and what did we recover?

**Mr Fletcher:** It was about 100,000 that I think we managed to recover last year.

**THE ACTING CHAIR:** Out of a potential—

**Mr Fletcher:** It is a minuscule amount; it is a tiny amount.

**THE ACTING CHAIR:** Can we find out? Could you take on notice how much we actually recovered and what the potential was last year? What is the trend over uninsured vehicles over the last five or 10 years? Does the authority monitor that?

**Mr Fletcher:** No, I do not know the answer to that.

**Ms Gallagher:** We could find out though.

**THE ACTING CHAIR:** All right. Could you take that on notice?

**Ms Gallagher:** Yes.

**THE ACTING CHAIR:** Thank you, Treasurer. I notice that in the 2008-09 annual report the nominal defendant got a qualified audit report from the Auditor-General. What have you learnt from that qualification and what have you done to ensure that it does not happen again?

**Mr Fletcher:** The qualification related to what was a \$13.2 million opening balance. When the nominal defendant function was transferred to the authority on 1 January 2009, there was a transition agreement put in place where the authority took over liabilities from the NRMA, who were managing at that time. I think the issue with the Auditor-General's qualification was that they could not work their way back through that \$13.2 million opening balance.

What we did after they qualified our statements was to have a chat with them about how we clear away that qualification. The original transfer amount was agreed after NRMA's actuaries made an assessment of the outstanding on the fund. That was then reviewed by Finity Consulting actuaries, who were appointed by ACTIA, and the transferring amount of 13.2 was made—so after the qualification. We had, I think, probably more information than we had when that transfer occurred because we had all the files and some experience of managing the fund for a short period of time.

We then engaged KPMG to basically do a file-by-file review of each claim file. They came back and confirmed with us that they thought that the 13.2 was a reasonable sum and that there was no material difference between their assessment of the files and the assessment made by NRMA, confirmed by Affinity Consulting the first time. We gave that report to the Auditor-General who then engaged Cumpston Sarjeant, Consulting Actuaries. They then did their own review of the KPMG Actuaries report. After that peer review they found that the opening balance was reasonable and the Auditor-General removed the qualification from the report.

**THE ACTING CHAIR:** Thank you. Minister, you said you thought the RIS was on the website. Is it possible for you to provide the committee with a copy of the RIS?

**Ms Gallagher:** It is cabinet-in-confidence. I will take some further advice on it.

**THE ACTING CHAIR:** So it is not on the website?

**Ms Gallagher:** It is quite useful information.

**MRS DUNNE:** I had not recalled seeing it on the website.

**THE ACTING CHAIR:** A last question from Mrs Dunne and then we will get on to Totalcare.

**MRS DUNNE:** On page 74 there are two tables, Mr Fletcher. I was just wondering if you could explain them to me a little. I think I have got them. There are things like the previous frequency and the adopted frequency in figure 1 which I do not quite get. I am just wondering if you can quickly talk us through those two figures.

**Mr Fletcher:** Sure. I will do my best.

**MRS DUNNE:** I do not know whether I have a question as yet.

**Ms Gallagher:** I did have to look at these tables a few times.

**Mr Fletcher:** Let us start with the easy part. Obviously there is the number of ACT vehicle registrations in green across the top up to just under 150,000. The previous frequency is about the actuaries' assessment of the number of claims that will happen in an insurance year. So you will see that the red line finishes up in 2009. The adopted frequency is the frequency of claims that they have used to calculate what they think will be the outcome in the 2010 insurance year. So what will happen next year is they add another column and the adopted frequency becomes the previous frequency and it travels on through time.

**MRS DUNNE:** So the red line is what actually happens retrospectively?

**Mr Fletcher:** Yes.

**MRS DUNNE:** And the black line is what you expect to happen?

**Mr Fletcher:** Yes.

**MRS DUNNE:** Can you explain to me the divergence between the red line and the black line between 2007 and last year?

**Mr Fletcher:** It is difficult to explain; I think that is the answer to that. It is an actuarial model. For example, the total number of claims that the actuaries have tagged to the 2009-10 year is about 45 claims.

**MRS DUNNE:** The red line is what actually happened in those years—

**Mr Fletcher:** The models—

**MRS DUNNE:** and for a long period of time the actuary was in step with actuality and somehow it has fallen out.

**Mr Fletcher:** Yes. I would have to go and ask them.

**MRS DUNNE:** No, that is probably enough for me. The other one is the other figure—the cost per policy and the previous cost per policy. Is that the same thing? Is that what actuaries anticipate, which is the black line, and the actuality is the red line?

**Mr Fletcher:** 0.19 claims per 1,000; that is right. That is per 1,000 registrations.

**MRS DUNNE:** And in the second, the average claim size and cost per policy, that is the same thing—the red line is actuality and the black line is what actuaries think will happen?

**Mr Fletcher:** That is right.

**MRS DUNNE:** And that is a bit more all over the place. What we are actually seeing there in trend terms is an increase in the cost per claim.

**Mr Fletcher:** That is correct.

**MRS DUNNE:** Even though the actual average claim size peaked in about 2006.

**Mr Fletcher:** I do not know what was extraordinary about 2006. I cannot comment on that. I will have to take that on notice.

**MRS DUNNE:** That does not actually marry with your view about—admittedly, this is a small subset of your portfolio—decisions driving up the amount paid out in individual claims. At least here we are actually seeing a decline in trend terms since 2006.

**Mr Fletcher:** Yes, but given there is such a small pool of claims, there may be one or two claims in those particular insurance years that were catastrophic; therefore they have a big impact on that gross average claim.

**MRS DUNNE:** Could you do some analysis for the committee on that on notice?

**Mr Fletcher:** Yes. I can look at those perhaps from 2006 onwards. Is that what you require?

**MRS DUNNE:** Yes. That would be great. Thank you.

**Mr Fletcher:** Okay.

**THE ACTING CHAIR:** Thank you, members. Thank you, Mr Fletcher.

We will now go to Totalcare. Ms Lebish, I assume you have read the privilege card and understand its implication. Minister, do you have any statements to make about Totalcare?

**Ms Gallagher:** In the interests of time, chair, I am very happy just to go to questions.

**THE ACTING CHAIR:** That is kind. Minister, in your statement last week you informed the Assembly that Totalcare was advised by its external auditors that it would not be able to be voluntarily wound up while there were any outstanding liabilities. Does that condition also apply to Rhodium?

**Ms Gallagher:** Yes.

**THE ACTING CHAIR:** So both will be treated in the same manner. Again in the statement in the Assembly last week you said that the wind-up of Totalcare was becoming more complex with, as you said, a combination of superannuation, tax and legal complications. Why has it taken so long to discover this combination of superannuation, tax and legal complications, given this wind-up has now been going for—how many years?

**Ms Lebish:** Totalcare, unfortunately—I have the pleasure of saying—unless the earth falls apart, will be wound up this financial year. What the time frame is in working out superannuation is that it is not until you lift up a rock that you know exactly what is underneath it.

With regard to superannuation and legal liabilities, what has happened is that some people have rolled their superannuation from the AGEEST fund where it was put originally instead of the PSS into an external fund, another fund, which they have the right to do. Unfortunately, once they do, we cannot legally get it back, which means that these people will be double-dipping.

We legally have to put the funds into the PSS as part of the superannuation entitlement but they already have received those funds into their AGEEST account and rolled them over. We legally cannot get them back. They are the problems we are having on the legal side of things. In the same way, when we put funding into PSS, they have rolled their funding into PSS from AGEEST. Once it rolls out of PSS, the account is closed and we cannot reinstate them into PSS, which is a problem that we are having.

At the end of the last financial year we did not have all the calculations done for the 2,000-odd people that were outstanding. The auditor said that, until we had a figure that we could take and rely upon, we had to leave the company open. We are in the throes of the last 15 calculations, which means we have all the calculations done. We can transfer the liability to the ACT Treasury. It will continue with the ACT Treasury. That process will continue there.

**Ms Gallagher:** There are 1,963 matters that have now been resolved. All have been individually managed. There are 231 financial settlements involving an outlay of \$5.9 million in relation to superannuation. The issues that Sue goes to are around some of the people who have been very difficult to contact as well. That has been another issue. I think there are a few.

**Ms Lebish:** Even after the publicity that we did recently, we still cannot contact at least 50 to 100 people.

**MS HUNTER:** I want to ask about that publicity. Where did you advertise? How did you advertise?

**Ms Lebish:** We advertised in every major newspaper, in all the local coast papers where a lot of the retirees would be living and in the local papers around Canberra.

**MS HUNTER:** Have you thought about other methods of trying to locate people?

**Ms Lebish:** We have tried everything. We have got an exemption from the electoral roll and we have gone through the ACT electoral roll. We are not able to go through the federal electoral roll because we do not have that ability with them. We have gone through the White Pages. We have rung up people. We have written to people. The letters have come back “they’re not here”.

Some people may not want to be contacted. There is a bad taste in a lot of people’s mouths about Totalcare. They see a letter from Totalcare or from a government department and open it. We have had people refuse to sign a deed of settlement. When they are going to get money out of it, they are refusing to sign it. In those cases, we have gone to our external lawyers and written to them saying, “We are going to do what we have to do. When you retire, you will get your funds.”

**THE ACTING CHAIR:** In your answer you said that you had the calculations down to the last 15.

**Ms Lebish:** No, the calculations as at the end of last financial year.

**THE ACTING CHAIR:** The annual report says that at the end of the last financial year the individual process was nearing completion.

**Ms Lebish:** Nearing completion, not had been finished.

**THE ACTING CHAIR:** How many were outstanding at the end of the last financial year?

**Ms Lebish:** At the end of the last financial year there were about 150. The process is that we literally have to reinstate people and their fortnightly pays so that we can calculate the superannuation. Once that is done, we send it to ComSuper. They reinstate them into their system as such. We send off their calculations to the external actuary, Russell Employee Benefits. They check that as an audit process. If the figures are different, we investigate further. If they are not, we go ahead and use the ComSuper system.

**Ms Gallagher:** It has been incredibly difficult. That is the short answer. It depends on casual employment. Every individual's loss of super entitlement has been different. Even though it sounds like there are only 150 left, within that 150 you could not predict, necessarily, what their entitlement should have been, what should have been paid. I think there has been an extraordinary effort put in to make sure that the mistakes that were made at Totalcare have been fixed and that we have pursued every option to ensure that employees are getting their correct entitlement. It has been an incredibly difficult process.

**THE ACTING CHAIR:** What happens if you cannot get somebody to sign or you cannot contact somebody? At what point are you able to close down Totalcare?

**Ms Lebish:** At the point where there is legally an outstanding liability for that person under the Superannuation Act, we transfer it to the ACT Treasury. Treasury will continue looking for those people or once someone puts their hand up and says, "I was part of Totalcare," we can look at it then and work it out. The liabilities will be transferred to ACT Treasury.

**MR HARGREAVES:** The wind-up will happen once the transfers to Treasury have occurred?

**Ms Gallagher:** Yes, of the people that we do not know.

**THE ACTING CHAIR:** You expect to do that when?

**Ms Lebish:** As you know, putting something into the government is not easy. Taking something out of the government is not easy.

**THE ACTING CHAIR:** Dealing with government is not easy.

**Ms Lebish:** We have those deeds within the government as well that we have to start doing. We are hoping it will be April or May that all those transfers will be done.

**THE ACTING CHAIR:** As there are no more questions for today—there may be some more on notice—minister and officials, thank you very much for your attendance.

**Committee adjourned at 11.58 am.**