



**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY**

**STANDING COMMITTEE ON PUBLIC ACCOUNTS**

(Reference: [Annual and financial reports 2010-2011](#))

**Members:**

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

**TRANSCRIPT OF EVIDENCE**

**CANBERRA**

**THURSDAY, 3 NOVEMBER 2011**

**Secretary to the committee:**  
**Dr 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 9 August 2011*

## **The committee met at 9.32 am.**

Appearances:

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

Chief Minister and Cabinet Directorate

Cappie-Wood, Mr Andrew, Head of Service and Director-General

Kefford, Mr Andrew, Acting Deputy Director-General; Commissioner for Public Administration

Brighton, Ms Meg, Acting Director, Continuous Improvement and Workers Compensation

Barbaro, Ms Fiona, Acting Director, Office of Industrial Relations

Centenera, Ms Liesl, Director, Public Sector Management Group

ACT Insurance Authority

Fletcher, Mr John, General Manager; Fund Manager, Default Insurance Fund

ACT Long Service Leave Authority

Collins, Mr Phil, Registrar,

**THE CHAIR:** Good morning everybody and welcome. I formally declare open this public hearing of the Standing Committee on Public Accounts, inquiry into 2010-11 annual reports. Today the committee is examining the 2010-11 annual report of the Chief Minister and Cabinet Directorate with regard to the Industrial Relations portfolio, along with the annexed annual reports of the Work Safety Council and the Default Insurance Fund, and will conclude with the 2010-11 annual report of the ACT Long Service Leave Authority.

On behalf of the committee I thank you, Chief Minister, for appearing today in relation to your responsibilities for industrial relations, and the relevant directorate and agency officials for appearing today. I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the blue privilege statement before you on the table. Can you please confirm that you have understood the privilege implications of the statement?

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

**THE CHAIR:** Thank you. Before we proceed to questions from the committee, Chief Minister, do you have an opening statement?

**Ms Gallagher:** Thank you. Considering the length of the hearing today, I am happy to proceed to questions. Just briefly, however, this is a small but busy part of the Chief Minister and Cabinet Directorate, and this previous 12 months has seen significant developments across this portfolio area. The major one would be the work involved in the harmonisation of the work, health and safety legislation but also some of the work that has been done around asbestos and asbestos management across the ACT. It is also the area where the enterprise negotiations have been managed. It is a small part of the service in that context, but it is performing some very important work.

Significant achievements have been made over this 12-month period.

**THE CHAIR:** Chief Minister, in the reports earlier this year that government agencies were amongst those who had to compensate the construction industry because of sham contracting, the figure reported was \$1.3 million in unpaid wages last financial year and another \$800,000 owing this year. Has the ACT government used contractors involved with sham contracts, and what agencies were involved in this unfortunate event?

**Ms Gallagher:** We have done a lot of work around sham contracting across the ACT. In fact we have been working with the CFMEU and our procurement area to look at ways to minimise sham contracting, but no agency will go in with a contract that knowingly has sham contracting arrangements. The nature of sham contracting means there is the potential to have subcontractors within that contract, and it is at that point that the sham contracting arrangements can take hold.

In terms of any projects that have caused concern, there was concern over the Gungahlin Drive extension bridge collapse. I am not sure that people can provide any more information around that, but there were allegations of sham contracting arrangements in place there. We have had other complaints about sham contracting arrangements, including on the hospital site, but when they have been investigated those arrangements have not proven to be sham contracting.

The decision we have taken is to have an audit process similar to what occurs in New South Wales, which operates between government contracts and construction projects. Essentially there is a quick checklist that can be followed; that is, they can produce information around who is on the site and what are the employment arrangements, for example, as a way of further putting pressure on these arrangements. But it is difficult because of the nature of the construction industry in particular. Do you want to add anything? Liesl Centenera is our sham contracting expert.

**Ms Centenera:** I can add to the answer already given that we have been working very closely with procurements, with Shared Services Procurement. They have now strengthened their tender processes to ensure that sham contracting does not occur. You may have seen notices in the paper about having auditors for a panel to oversee that process, which is well underway. I would have to take any questions about particulars of that process on notice because it is being run out of Shared Services Procurement.

**THE CHAIR:** Has this only, to your knowledge, happened in the construction industry? Are there any other industries where the ACT government has been unwittingly involved in sham contracting?

**Ms Centenera:** Not that we are aware of, and I am not sure that we would be. These complaints tend to go to the Fair Work Ombudsman and they are not widely shared because of privacy reasons. But we do not know of any.

**MR SMYTH:** Could you give us some detail on the audit process? When did it start? When can we expect it to be finished? How much will it cost? How many commissioners will there be?

**Ms Centenera:** The detail is with Shared Services Procurement because it is their process. I understand that it is a two-stage process. At the pre-contract stage they are required to provide a whole lot of information. Upon gaining the contract they are subject to a random audit process as well as a scheduled, I think, audit process. The papers around it are quite similar to a process that occurs in New South Wales, I think run by the MBA.

**MR SMYTH:** Will you take that on notice or should we ask—

**THE CHAIR:** We should probably ask Shared Services Procurement when we see them. Given that the government is tightening up because of abuses in the past, should you not be doing something to ensure that the private sector also has strong standards so that we do not have sham contracting in the ACT, not just sham contracting for the ACT government?

**Ms Gallagher:** Liesl can probably talk about the work that we have been doing with the commonwealth. In a way, the ACT has led the agenda to tighten up on sham contracting, based on a piece of work that was done a couple of years ago, I think by Robert Gotts, and we provided that information through the Workplace Relations Ministers Council at the time and got support for some further work to be done around this. So I think we have got a pretty good record of trying to run it nationally. It has been the ACT that has been arguing for that, and in a way our advocacy around that has really been highlighted by a number of stories in the paper about sham contracting in the ACT. It was the work that was done here to try to identify those sorts of sub-sub-sub-sub contract arrangements that led to the decision by workplace relations ministers to actually have a look at this more broadly.

**Ms Centenera:** Other initiatives are taking place at the commonwealth level but, as the Chief Minister has said, the ACT was quite vocal in wanting something done in these areas. I believe Mr Smyth mentioned in a previous estimates proceeding that the ATO was looking at a particular arrangement to do with declarations involving ABNs. That is also aimed at curbing sham contracting. The ABCC inquiries have occurred and there are some prosecutions and some work arising from that.

There has also been a fair amount of Fair Work Ombudsman action and that has been widely reported in the newspapers. At a local level of course we have our regulators, both from the Long Service Leave Authority and in WorkSafe, keeping an eye on suspect arrangements to do with sham contracting.

**MR HARGREAVES:** Is it true then that one of the difficulties that we have in curbing this sort of thing is that the activities are quite spread; it is not just one issue of being a sham contract; it is how you apply that sham relationship to long service leave, to taxation? You have got to pick off each one of those particular issues. So you have got a number of agencies responsible for that. Stitching it together must be a nightmare.

**Ms Gallagher:** Yes, it is. That is the complexity of sham contracting. It is also compounded by the fact that some who work in the construction industry, which is where the focus has been, actually seek out these arrangements, for one reason or

another—that is, both the worker and the employer—for mutually beneficial purposes. So there is another way of hiding, I guess, those arrangements if both parties are actually seeking that arrangement. It makes it incredibly complex.

**MR HARGREAVES:** I am interested in the workers compensation scheme, if I can go to a couple of questions there. I remember us having a conversation around the workers compensation scheme about a year ago, maybe even further back. I can refer colleagues to the pages. I have got the annual reports open and am referring to actual pages within them. I have taken a leaf out of Mr Smyth's book. He used to do these things. You can always learn from people like my friend Mr Smyth.

**MR SMYTH:** So you can teach old dogs new tricks.

**MR HARGREAVES:** You can teach old dogs new tricks.

**MR SMYTH:** That is great.

**MR HARGREAVES:** And I never, ever let you out of my sight, Mr Smyth. It is in the generalities on page 30. I do notice that last year we were talking about the range of enterprises, if you like, or industries or sectors and you had published on the website, I think, suggested workers compensation rates. It is quite a lengthy one. In fact if you print it off without a magnifying glass you are doing well. What I am interested in knowing is how much people are actually accessing that. How are you getting that message out into the community that there are rates that you should apply? If we get new people entering the workplace, new businesses opening up, they need to be corrected and helped. How do you do that? And what success have you had?

**Ms Brighton:** In May this year we published the actuaries' estimate of reasonable premium rates for the ACT.

**MR HARGREAVES:** I am sorry; what date was that?

**Ms Brighton:** It was in May this year.

**MR HARGREAVES:** Thank you.

**Ms Brighton:** This estimate of reasonable premium rates is by industry class. We published it on the CMCD website, as well as on WorkSafe ACT's website. We advised the Work Safety Council—so the unions and the employer associations—of its availability. We have also pushed that through the insurance companies and the brokerage houses to advise them that this information is available on the websites. Wherever possible we direct businesses and worker representatives to that site to give an indication of what our actuaries are thinking the rates are going to be for the 2011-12 policy year.

**MR HARGREAVES:** Have you had any reaction from people like the Business Council and the chamber of commerce and industry on those rates?

**Ms Brighton:** They are thrilled that for the first time ever the ACT has been able to

provide information at an industry level as to what the actuaries think the rates should be for those different industries. We have not yet received the data on the 2011-12 policy year to see how that might be reflected in the rates the insurers are actually writing for businesses but for the first time the territory has been able to equip businesses to be in a much better position to go in and negotiate with the insurers.

**MR HARGREAVES:** Does this give people a tool to go to an employer on behalf of an employee or a group of employees, without the threat of industrial action, and say, “You may not be aware of this, but this is the rate you should be paying”?

**Ms Brighton:** They are certainly the rates that the actuaries have recommended. The individual rates a particular business might get are very much dependent on their own historical experience of their own performance, but it is a really great starting place for business.

**MR HARGREAVES:** Yes. I am also aware—if I remember it correctly—that one of the reasons behind all of this was to more appropriately match premiums with the risk and bring the premiums down towards the risk. Is there any commentary on how that has happened over the last few years? Has it been successful or not?

**Ms Brighton:** What we have seen over the last number of years is a comprehensive and annual decrease in the premiums charged to ACT businesses. The premium peaked in about 2003-04 at 3.68 and in the 2009-10 year it was around 2.43 per cent. So we have seen quite a substantial drop over the years. We are further supporting that by publishing more and more information about the performance of the scheme, the data drivers in the scheme and the number of claims. All of those elements together are increasing the transparency around the costs but also equipping businesses in terms of their own buying power.

**MR HARGREAVES:** When you say that you are publishing that sort of information, whereabouts can the community find that?

**Ms Brighton:** It is available from WorkSafe ACT’s website, as well as CMCD’s website.

**MR HARGREAVES:** Right. Is that a particularly easy website to navigate for old dogs?

**Ms Brighton:** WorkSafe have upgraded their website, I think, within the last 18 months. They have a very good search functionality, if you are challenged.

**MR HARGREAVES:** Okay. So you have just got to find a young person to go and do it for you.

**MR SMYTH:** In your case, John, that would be true. Just on workers comp, I notice at the top of page 31 under “Future Directions” it says:

... continuing to make changes to the ACT workers’ compensation scheme where agreed by the Government.

Were there any suggestions to improve the scheme that were not agreed to by the government?

**Ms Gallagher:** The government had been developing some work around changes. We have been attacking these from three ways. There have been some changes that have been made to reduce red tape for the employers. They were put in place around 18 months ago, with significant savings to business. They were the more straightforward amendments.

Then there were some amendments looked at from the point of view of making the scheme cover more injuries and focus again on rehabilitation and return to work strategies and looking at rebalancing the scheme. We have had a number of discussions here about that. They are very similar to the changes that are being examined by a committee under compulsory third party arrangements. The government has decided to proceed with CTP—await the report from the committee on the CTP changes, which are very similar in terms of the rebalancing of the scheme in relation to workers comp, or the major change is anyway.

The next area is around tightening up and putting more pressure on insurers to be accountable and open about their premiums. There are three ways we are looking at this. Obviously I am working collaboratively with officers in the directorate on how to proceed with those changes. I would not say there is anything that we have not agreed, but there is work underway.

**MR SMYTH:** So everything the department has suggested you have agreed to?

**Ms Gallagher:** Advice has come from the directorate to government around potential changes. There are options within that. As to any further changes—that is, the changes that have not been adopted by the Assembly already—the government is considering them.

**MR SMYTH:** So the push for the current CTP bill and the proposed workers comp bill has been driven by the department; it was not requested by your office?

**Ms Gallagher:** It was not specifically requested that I wanted legislation to reduce access to common law and expand the range of injuries that are compensated, but in terms of our ongoing discussions with the department that I have regularly: how is the workers compensation scheme going? What do you notice about it? How does it align with other state jurisdictions and their performance? All of those questions and ongoing discussions have led to some suggestions around how we continue to reform the scheme.

**MR SMYTH:** So you have asked the department to give you some advice and options to improve the scheme and these are some of the options that the department came up with?

**Ms Gallagher:** I would have to go back and look at it. This has been going for many years, including before my second time as industrial relations minister. I would see it more as the directorate understanding that the government wants an efficient workers compensation scheme that meets the needs of workers, employers and the insurers,

and the department constantly advises government about how to achieve that.

I get quite a lot of complaints, just in the performance of my duties, from business around workers compensation. I get some complaints from workers who have gone through the system. It is an ongoing piece of work. It is not necessarily an instruction from one to another. It is more an ongoing scrutiny and discussion that we have around performance of workers comp and CTP. We can discuss CTP in another forum if you want but again it was advice from the department about the performance of the scheme and what changes may need to be made to ensure that we are putting downward pressure on premiums.

**MR SMYTH:** The proposed bill on workers comp will be tabled in the Assembly when?

**Ms Gallagher:** At this point in time we are waiting for the committee to report on CTP.

**MR SMYTH:** Before Christmas, after Christmas, before the election, after the election?

**Ms Gallagher:** I do not know when the committee is reporting on CTP. I thought it was next year.

**THE CHAIR:** Next year. We are waiting for the review in March.

**MR SMYTH:** So not before the committee report. Further on workers comp, how is the national harmonisation going? The agenda with regard to workplace safety is mentioned on pages 528 and 530. How is that going? Is the position taken by a jurisdiction such as Victoria, which would appear to be backing away from the national harmonisation—

**Ms Gallagher:** I do not think they are backing away, but they want it to commence in July as opposed to January. We have passed the legislation. I think New South Wales have passed it. I think there might be a couple of others. We can get that for you. A number have not passed their legislation yet. I think there is increasing concern around meeting the 1 January date—not from our point of view, but nationally. If it is a nationally harmonised scheme I think it would make sense to go nationally.

**MR SMYTH:** So all jurisdictions will proceed with the scheme at this stage. They have all supported it?

**Ms Gallagher:** At the last workplace relations ministers meeting I went to there was some concern from Victoria that really focused on the date of commencement. I do not think that has necessarily been resolved. I have had a letter from the federal minister about the commencement date. I am not of the view that those who have passed the law should start with it if others have not got their place in order. Everyone signed on to it. I think it really is about getting it tidied up. If it needs to start on 1 July then I do not think that is necessarily a big issue for us.

**Mr Cappie-Wood:** If I could just add to that: New South Wales are in the process of

looking at some amendments to the legislation they introduced on the harmonisation to be able to move it back from 1 January. So everyone is really trying to go in the same space of time.

**MR SMYTH:** If the other states choose to delay to 1 July, would we go ahead on our own on 1 January or would we delay?

**Ms Gallagher:** My own view is that it is a national scheme and we should start together. That has been the whole argument around harmonisation—making sure there is one law that operates across the country. I have not seen all of the feedback from all jurisdictions around Victoria’s proposal to delay.

**THE CHAIR:** Mrs Dunne?

**MRS DUNNE:** Is there anything that we would have to do? Would we have to legislate to change the commencement date or do anything else if we postponed?

**Mr Kefford:** The legislation the Assembly has passed has commenced on the notification process, so in terms of the legislation itself the ACT does not have to do anything. The reference Mr Cappie-Wood made to New South Wales was that in their legislation they actually legislated a 1 January commencement. I understand they are in the process of winding that back to commence on proclamation to allow flexibility, should that be where the ministerial council goes.

Clearly, there are still the processes of approving the national regulations and then having the harmonised regulations made in the jurisdictions, as well as the codes of practice. Certainly, there is still work to be done, in a consequential bill that we are preparing, to align the statute book with the legislation that the Assembly passed a few weeks ago.

**MRS DUNNE:** What is the timetable for the regs?

**Mr Kefford:** There is a draft available. At the moment it has gone to members of the ministerial council. That is being managed centrally through the jurisdictions. That is in the process of being developed.

**MRS DUNNE:** With the proclamation of regulations, will that happen in every jurisdiction or is it going to be one of these pieces of template legislation where a lead jurisdiction is going to have the honour of making the regulations and then everyone else falls into the back of it?

**Mr Kefford:** I would probably characterise it as a mix of those two. There is a national set that is then—

**MRS DUNNE:** That is even worse.

**Ms Gallagher:** A hybrid.

**Mr Kefford:** There is a consistent starting point but then the ACT will be making its own regulation.

**MRS DUNNE:** We will be making our own regulations, which will be disallowable here—

**Ms Gallagher:** Yes.

**Mr Kefford:** That is right.

**MRS DUNNE:** And not relying on disallowance somewhere else, or notification.

**Mr Kefford:** That is right. I think that part of the conversation we have had in our briefings with you is about managing the role of the jurisdictional parliaments in implementing a nationally harmonised scheme.

**Ms Barbaro:** The legislation is similar to the principal act in that the non-Criminal Code jurisdictions will look identical and the Criminal Code jurisdictions will look identical to those, with the exception of a few provisions relating to the Criminal Code. So we will all have separate legislation. Victoria, I think only last week, in expressing concerns about the commencement date, did recommit its commitment to harmonisation.

**THE CHAIR:** On a different subject, can you update the committee on what preparations you have made to ensure that the ACT can comply with the social and community sector equal pay case?

**Ms Gallagher:** Yes. The matter has currently been adjourned for a hearing in November. We are obviously a party to that case. We have done a fair bit of work in terms of auditing our community service sector. I understand that the commonwealth are looking to conciliation between the commonwealth and the unions representing the community sector workers, but the matter is basically adjourned for those discussions, with the potential for another hearing in November. We are watching it and being involved.

**THE CHAIR:** And from a budgetary point of view was it prepared?

**Ms Gallagher:** Yes. The original estimate about potential exposure was quite high, at—I think I saw a figure of—around \$20 million a year. The officer that did the sham contracting work actually led the work on auditing the community sector here and got a very good understanding of what occurs here. Through that work, Robert Gotts' work, it was very clear that the SACS award does not set the level of wages in the community sector here; that the market sets them and that a vast majority of those employed within the SACS award area are paid above award, as you would expect, because the award is very low. So we have wound back potential exposure. It is still in the millions but it is well under \$10 million a year.

**THE CHAIR:** That is good. On page 29 you mentioned the work being done to implement the review of asbestos management. What work has the ACT government done to create an ACT asbestos register which will document asbestos incidents and people who were exposed to asbestos to ensure that if people develop illnesses in the future, they actually can receive compensation?

**Ms Gallagher:** The government has been very active in this area. I think one of the areas where we are differing from harmonised occupational health and safety regulations is the area of regulating asbestos, because we have much higher standards than anywhere else. Other jurisdictions have said good luck to us; that we could maintain our own system but they were not looking to replicate our system across the country. This has been part of a significant piece of work led through CMCD but across agencies. I might hand over to Fiona to go through the specifics.

**Ms Barbaro:** Your question was more about registering for people who have been exposed?

**THE CHAIR:** Register, yes, because it is—

**MR SMYTH:** And sites.

**MRS DUNNE:** And sites.

**Ms Barbaro:** And sites. I understand that there is a mesothelioma register that is managed through a private organisation and there are also registers in Health, but there is not so much a government-run register of exposure. Within the ACT government, if any worker is exposed we do record that sort of information. From 1 January, even though the harmonised asbestos provisions did not go as far as we would have liked, they will have a couple of improvements that will be implemented around record keeping for employers when their workers are exposed to asbestos. There are requirements for employers to get workers to have baseline testing, and those sorts of records would need to be maintained for about 40 years. I think that is the legislative requirement.

In relation to a register of asbestos sites, I think that is something managed by the environment and protection unit in relation to contaminated sites. There has been some work in relation to the Mr Fluffy houses. They are certainly recorded and that information is maintained through several departments, including emergency services. When emergency services attend, say, a house fire at a Mr Fluffy house, they are alerted to that sort of information.

**THE CHAIR:** And have you looked at all at the government maintaining a register? You were talking about 40 years. I hope the government will be here in 40 years but you cannot be as confident about private industry.

**Ms Barbaro:** The 40-year requirement is for an employer to maintain their records. That is a requirement of the government as well as. Doctors have to keep their records as well.

**THE CHAIR:** What happens if the employer simply is not there in 40 years? That is where I am going.

**Ms Barbaro:** I guess in those cases they have a duty to maintain the records. They would hand them over to solicitors, as they would with other legal documents that they are required to maintain beyond the time frame that the business is operating in.

But the Asbestos Regulators Forum is looking at these kinds of issues and the merits of maintaining a register and having this information available.

**THE CHAIR:** Vicki, did you have a supplementary on this?

**MRS DUNNE:** I have one directly following on from it. I asked this question yesterday when Minister Corbell was here with the ORS. His answer was that it was not the government's intention to establish a register. When you look at the fact that this is sort of spread across private and government organisations and then inside the government there are a multitude of mini registers, why is not there, minister, a move towards some centralised maintenance of this information, especially considering that there are requirements to keep them for such long periods of time?

**Ms Gallagher:** Yes. And this is a piece of ongoing work. We have not got a register now, but we have got the Asbestos Regulators Forum that is going to be providing advice to government on all of the matters encompassed by the recent review. When that information comes, you make further decisions. This is something that we have looked at in terms of asbestos management, because it affects Health, it affects education, it affects ORS, it affects WorkSafe, it affects industrial relations from a legislative point of view and it affects government communications from an information point of view. So I think there are some strong arguments to look at how we coordinate our asbestos management across the government and that is what the regulators forum is being given the job of doing.

**MRS DUNNE:** I would like some clarification. Minister Corbell said yesterday it was not the government's intention to establish a register.

**Ms Gallagher:** At this stage that is absolutely correct.

**MRS DUNNE:** At this stage?

**Ms Gallagher:** But we have changed the way we regulate asbestos and manage asbestos, even in the last two or three years. In the past, asbestos has been focused on people who were exposed through their work, through mining asbestos, and then it shifted to those who were working in heavy asbestos industries. The focus now is on home renovators. That is where the potential for exposure is. It is constantly changing, how we manage asbestos, and as we continue to identify different pockets of the city that have asbestos either in them or buried underneath them I would expect that to continue to change. But we have the best asbestos monitoring and regulation standards in the country—so good that nobody else wants to implement them because they are so costly that they do not want to have the burden of the budgetary problems associated with them. They are the hard facts of it.

**THE CHAIR:** Mr Hargreaves.

**MR HARGREAVES:** Last time we met we talked about the Default Insurance Fund, page 136 of the report. I understand that we changed the funding model last year. I would like to hear from you, minister, how that change is going. I understand also there was an intention, or at least a target, that the fund be self-funding in about five years time. I would not mind an annual update on how we are going towards that five-

year target. How is it coming together, how is it working and how are you doing on that target?

**Mr Fletcher:** Certainly. That is correct. We implemented a new fund management model on 1 July last year. It involves a model that looks to put the fund into a position to be an accumulation fund within five years. The levy for last year was 1.7 per cent on gross written premium for licensed insurers and for self-insurers. We put together a protocol that was discussed with insurers so that they understood the process they needed to go through.

The process has worked well in the first year. We have just completed or are in the process of completing a review of the implementation of that process. The draft report that I have seen from our actuary is that the level of compliance is very high in terms of the obligations of insurers—things like they had to separately identify the levy on premium notices to their clients so that there was a clear message to those out there that that was the cost of not carrying workers comp insurance.

There were a few minor difficulties with calculations and the way some of the financial side of things was put together. We will address some of those. There were also some comments about the timing in particular. They had some concerns about the timing of when the levy is notified to them. There is a requirement for me as the fund manager to notify them of the new percentage applicable for the financial year. I think we had March in there and a lot of them indicated that they would like to know that a lot earlier so that they can get their systems in place for issuing their premium notices for the coming financial year.

In terms of how it has worked in dollar terms, like everything that actuaries do it is inevitably wrong, only because it is an estimation process. I think they pretty much got it right in the early modelling. About half of the 1.7 per cent is to do with meeting the costs of current claims. The other half is to do with trying to accumulate dollars in the fund. In the second year, I made a decision to stick with the 1.7 per cent, because we were sort of tracking on target, and to give the new arrangement a chance to settle down, not having had an opportunity to review it. It may be that at the end of next year we may need to look at that percentage again, but it is not likely to be a significant shift away from the 1.7 per cent I do not think.

**MR HARGREAVES:** Thanks for that. And I understand the difference between trying to estimate something out front, dealing with human beings in the middle, and trying to get an outcome at the end. I tried it in fact last Tuesday. It did not work then either. Mr Fletcher, can you please explain to us, essentially for the record a bit—I do know, but others may not and certainly people reading our annual reports would not—the relationship within the Default Insurance Fund with the uninsured employer fund and the collapsed insurer fund. We have got a number of funds here and the casual reader might get a little confused about that. Can you explain how it operates?

**MRS DUNNE:** Is there anyone out there casually reading this?

**THE CHAIR:** Yes.

**MR HARGREAVES:** I know that some people casually read these things before

going to bed.

**Mr Fletcher:** The purpose of the uninsured employer fund is to meet the cost of claims that arise when a worker has been injured and the employer has failed to hold an ACT workers compensation policy. The collapsed insurer fund is a fund that deals with insurers who have basically gone broke. The two that are current with the collapsed insurer fund are the National Employers Mutual Association and of course HIH Insurance. They are the two that are currently in play in the collapsed insurer fund. So that is basically the difference between the two funds.

**MR HARGREAVES:** And the relationship that they have with the DIF, the Default Insurance Fund?

**Mr Fletcher:** They both sit under that umbrella in the fund.

**MR HARGREAVES:** Yes, cool. That is what I wanted to hear. On page 138 you indicated that you have still got one open claim against the national employers mutual association, which went bust in 1999. Have you got any idea when that will be settled?

**Mr Fletcher:** I do not think that that claim will ever be resolved. It is the only claim that is outstanding. It is for a gentleman who is in his 60s. He is a construction worker and he had a head injury from a work-related motor vehicle accident in 1985. He is totally incapacitated for work. Over the years we have made several attempts to try and explore with him a settlement, and he has resisted those attempts—to the point where we set ourselves up to try and get a lawyer to make contact with him. He does not have a legal representative. We are just wasting money trying to pursue him. He is comfortable to receive a weekly benefit from us and a disability pension from Centrelink. I think that that will continue for the rest of his life.

**MR HARGREAVES:** We will not go into the details of that, but thank you for that. The HIH collapse, as spectacular as it was, was the genesis of an enormous amount of change in the way in which we do things. I notice that you have five open claims against the HIH still hanging about. Have you got any idea how long we are going to wear those? Are they receiving funds along the way, by the way, or are they just waiting for some kind of payout?

**Mr Fletcher:** A bit of both. I could quickly run through those five. Two of them are slowly proceeding through the litigation process. They are both claims that are represented by the same solicitor, and it has been very difficult to get in to progress the claims. One was settled in September and will be finalised shortly. One is for a gentleman who sustained an eye injury in the late 90s. He comes back to us every now and then and has periodic eye checks. Basically we pay to replace his glasses. That is about the only thing that the claim exists for. He continues to do that. The other one is a claim that was reopened, for a gentleman who sustained a knee injury. He had surgery to repair his knee several years ago. He has now come back to us with that knee joint having worn out. He needs to go and have further surgery. That injury is obviously related to his employment and is a workplace injury; he is entitled for the fund to meet the costs of that surgery.

**MR HARGREAVES:** Thank you for that.

**THE CHAIR:** Mr Smyth.

**MR SMYTH:** I notice that on pages 137 and 138 of volume 1 the aggregate balance for both the uninsured employer fund and the collapsed insurer fund is \$17.5 million, but if you go to volume 2, in your financials on page 192, the assets list the receivables as \$22.6 million. What is the reason for that difference?

**Mr Fletcher:** We will do this one at a time. For the uninsured employer fund the balance in the fund is 2.635 million and for the collapsed insurer the fund is 14.8.

**MR SMYTH:** So it comes to about 17.5.

**Mr Fletcher:** I think that is probably an error. It should read “cash and cash equivalents”. There is another amount, which is for investments of 9.4.

**MR SMYTH:** Could you provide us with a reconciliation of that, with them appropriately labelled?

**Mr Fletcher:** Sure; I can do that and refer to the notes in the statements.

**MR SMYTH:** There is about a \$9 million difference.

**Mr Fletcher:** Yes, it is. I think there is an additional 9.4 million in the collapsed insurer fund that is in the long-term investment fund with the portfolio trust fund that I have not included in that.

**MR SMYTH:** So you will take that on notice and give us a reconciliation?

**Mr Fletcher:** I can. I am happy to do that.

**MR SMYTH:** Thank you. On page 30 of volume 1, the first paragraph of the page says that one of the changes that the government wants to make is restoring the Default Insurance Fund to its intended purpose. Minister, what is its intended purpose?

**Ms Gallagher:** Sorry, I could not hear.

**MR SMYTH:** Page 30, volume 1.

**THE CHAIR:** The top paragraph.

**MR SMYTH:** It is the first paragraph, last line. It said in 2009 we made changes to the compensation scheme with the aim of restoring the Default Insurance Fund to its intended purpose. What is its intended purpose, and has that been achieved?

**Ms Brighton:** That is in reference to a range of changes that were made in 2009 regarding access to the Default Insurance Fund. When the fund was created there was an unintended consequence of the statute that meant that with entities that had avoided

their obligations at law the principals of those companies could access compensation through the Default Insurance Fund. So if I was principal of an entity and I elected not to take out insurance, I could still claim on the fund. The fund is intended to protect the interests of workers whose employers do not do the right thing. That was an amendment we made to the act in 2009 in order to restore the fund to that focus of in effect protecting the innocent, and in tandem with that were the changes to the funding arrangements that Mr Fletcher has already canvassed.

**MR SMYTH:** So a change has now been achieved and it is working properly?

**Ms Brighton:** As far as we understand it, yes.

**MR SMYTH:** The insurance fund advisory committee—were there changes to the committee structure?

**Ms Brighton:** Changes were made in 2009-10. Previously the committee was a larger committee of, I think, six individuals. In that time it was dropped back to a person with an understanding of the represented interests of the insurance industry and the employers, as well as the worker representatives. So we have three external members, and me as chair of that group.

**MR SMYTH:** Has that new arrangement worked?

**Ms Brighton:** The committee is operating effectively. We are canvassing the policy issues. We are regularly debating the fund and its operations. So, yes, it is working very well.

**MR SMYTH:** So there is no loss of experience or knowledge?

**Ms Brighton:** No.

**THE CHAIR:** Mrs Dunne.

**MRS DUNNE:** I have a couple of things I wanted to follow up on. Minister, in relation to the community sector wage case you said that the audit analysis had indicated that the territory was not as exposed as first thought and that the figure was less than \$10 million. Can you be more specific about what we expect our exposure would be to the wage case?

**Ms Gallagher:** It is hard to know without the case being finalised. Essentially we are basing those costs on the outcome of what occurred in Queensland to provide us with some indicative costings. But until the case is finalised it would be hard to provide you with any more specific information around that.

**MRS DUNNE:** On the basis of the rule of thumb that you are applying of what eventuated in Queensland, how much are we exposed by?

**Ms Gallagher:** I am happy to take that on notice. I just want to be careful with the figures. They are approximate. After the audit, it was less than half of what we originally had flagged in italics during budget cabinet as another potential risk. If

there is a more specific figure that we can provide, I am happy to provide it. But it is still significant.

**MRS DUNNE:** I understand that. I also appreciate the caveat that it is only an estimate until the whole thing is finalised.

**Ms Gallagher:** Yes.

**MRS DUNNE:** Was it Mr Gotts who did the audit?

**Ms Gallagher:** Yes.

**MRS DUNNE:** Is that available?

**Ms Gallagher:** I am not sure, but I am certainly happy to provide that. I cannot see any reason why we would not provide that information. It would have been attached to our submission to the case; I do not know whether it is up on the Fair Work Australia—

**Mr Cappie-Wood:** We just have to make sure that Fair Work Australia agree with that, because it was part of our case.

**Ms Gallagher:** Yes, that is right. It was attached to our submission. We will just check that. They quite often publish submissions, but I am not sure what stage they are up to.

**MRS DUNNE:** What I pick up from what has been said about it is that it says good things about the health of the community sector in the ACT in that they are able and actively paying above the awards?

**Ms Gallagher:** They are. The community sector will argue that because they are paying more it reduces their capacity to provide services. Even though, with the grants, we provide about 85 per cent of all funding to the community sector here, largely through CSD and ACT Health, I think there would still be a claim from the community sector about what the top up actually will be. So, even though we know they are paying above award, they will be saying that they have had to do that in order to retain people. I think the next step would be: what are the outputs that you are going to require for us; if those are going to be the same, you are going to have to fund us more. Even if the case is settled I think we are still going to have a process of negotiating with the community sector partners.

**MRS DUNNE:** Is it the case that this award will cover childcare workers generally or childcare workers in not-for-profit organisations?

**Ms Gallagher:** I do not believe it covers childcare workers. They have their own award.

**MRS DUNNE:** They are separate?

**Ms Gallagher:** Yes.

**MRS DUNNE:** Is it all childcare workers?

**Ms Gallagher:** It would not cover all childcare workers. There would be childcare workers, or workers that work in childcare, particularly maybe workers who work with children with disabilities in childcare that are attached to a regional provider, who may be covered by the SACS award.

**MRS DUNNE:** But, generally speaking, people who work in childcare, whether it is in the private market or in the community market, are not covered by this case?

**Ms Gallagher:** No. They are covered by their childcare award and by a different union through United Voice, whereas this case is with the ASU.

**THE CHAIR:** We might now move along.

**MR SMYTH:** While Mr Fletcher is here, could I go back to the uninsured employees fund for a moment? On page 137, under “Levies”, there a line that says:

The Fund will review implementation of the Funding Model in early 2011-12.

That would be about now. Have we implemented the review?

**Mr Fletcher:** No; that is the review that I have spoken about previously.

**MR SMYTH:** On the chart below it, the liabilities have gone up. The 2009-10 annual report said they were \$9.7 million. Now it is \$10.9 million. Why have those liabilities gone up?

**Mr Fletcher:** It is just on the basis of the actuarial assessment undertaken at the end of the year.

**MR SMYTH:** What factors contributed to that?

**Mr Fletcher:** There is a whole range of factors that may come into play there. All the actuarial assumptions are at note 4. They can be that discount rates can change or the term till settlement can change. Those are the types of things that the actuary takes into consideration when determining the claims liability.

**MR SMYTH:** On page 207 of volume 2, I see that the levies have actually gone down this year. You have got to actually search to get the comparison of what has been done. Perhaps, as a suggestion, that should be included on page 137. The levies last year were 3.5 and this year they are 2.2. If the liabilities are going up, why are you reducing the levies?

**Mr Fletcher:** It is not a case of reducing the levies. The levies are the levies in the financial statements, in the operating statement; they are an accrued number that is used to meet the expected costs of claims in the 2010-11 financial year.

**MR SMYTH:** So you are happy with that arrangement then?

**Mr Fletcher:** It would probably make it easier—and I have spoken to the people in my finance team, and it probably goes to the question Mr Hargreaves asked about the difference between the UEF and the CEF—if, moving forward, we might try and look to separate the two funds into two sets of financial statements. The difficulty is that, for example, in the collapsed insurer fund we are not levying anything at all. It makes it difficult to try and understand the statements, particularly when there are no long-term investments in the uninsured employer fund. It makes it difficult to understand. We made some progress this year in terms of the written text. I think for next year we need to try and put together a separate set of statements for each.

**MR SMYTH:** Okay.

**Ms Brighton:** Just to add to Mr Fletcher's point on that, the 2011 results show that there is a timing issue with that. Insurers do not generally reconcile their year-end policy period until around the October period. In terms of levies levied and levies received, there is a gap there while the insurers go through their annual reconciliations. That will be the other factor in that.

**THE CHAIR:** Thank you. We might just move to the Long Service Leave Authority, because otherwise we may not get to it. It is possible that we will go back to other areas later, depending on the level of questions for the Long Service Leave Authority.

My question is about the security industry, which I understand from looking at page 13 of the annual report is going to soon get portable long service leave. Do you have an idea of when that is going to happen? Page 13 says it is going to happen. When will it happen and what issues are there going to be in making it happen?

**Ms Gallagher:** We are currently discussing it with the stakeholders. We have a template now; the cleaning industry scheme is being used. We are looking to finalise some legislation and get that before the Assembly in the not too distant future, if we can. I have had a lot of positive feedback. I cannot recall being approached by the employers at this stage, but I am sure they will, but we are talking with them. It is the hope that we could get a scheme in place by 1 July next year, but that would involve us tabling the legislation very soon. I just need to make sure all the consultations that need to be done have been done.

**THE CHAIR:** I would imagine that most of the issues, apart from the employers' desire or otherwise, have been ironed out because it is going to be the same pretty much as all the other portable long service schemes?

**Ms Gallagher:** That is right. It is not necessarily tricky in terms of drafting or anything; it is more consultation. The employees are very strongly advocating for this because they do move around but stay in the same job, quite often in the same building, sitting in the same place but with different employers, and each time they lose under their long service leave arrangements. If all goes well—and there are employers out there that are also supportive of these changes—we would hope to have something before the Assembly very soon.

**THE CHAIR:** Have you given any thought to creating a more portable long service

leave scheme—that is, covering all workers in the ACT? These days the workforce is becoming more casual and more flexible. The day of a job for life has, for most people, gone.

**Ms Gallagher:** Yes. When you have that discussion it raises various views about the nature of the entitlement—that is, that long service leave is an entitlement that was given for long service to a particular employer. The argument behind the long service leave portable schemes is that it is long service leave within a particular industry because of the nature of the employment arrangements that are different; that is, you stay in childcare, but you might move around childcare, security industry, cleaning industry, construction industry and they are all the same. When you try and legislate more broadly across, say, the private sector, with some of those arguments that just having a job does not entitle you to long service leave, it becomes a more complex discussion.

I think there is reasonable agreement that staying within the industry and working probably stays true to the original intent of the entitlement of long service leave. The only other area, besides security, that would meet the same tests as security, childcare, cleaning and construction would probably be the retail sector. I am sure that will come in due course, representations around that. I think the SDA may have mentioned it to me once, but I have not had any serious representation.

**MR SMYTH:** So is the government intending to introduce portability of long service leave for the retail sector?

**Ms Gallagher:** Not at this stage.

**MR SMYTH:** You said that you expect it will come. When do you expect it to come?

**Ms Gallagher:** I cannot predict that. It is not on our agenda. It is not on our legislation program. We have agreed around arguments around security—

**MR SMYTH:** School closures and selling hospitals were not on your agenda either, minister.

**Ms Gallagher:** Thank you, Mr Smyth.

**MR HARGREAVES:** That is not helpful.

**MR SMYTH:** And it was not helpful.

**THE CHAIR:** Mr Hargreaves.

**MR HARGREAVES:** We were all getting along so well. It was just so full of love, this room, there for a while.

**MR SMYTH:** You did come back, didn't you?

**MR HARGREAVES:** Yes, I did come back, and I apologise for not bringing all the love with me that I took out with me. Chief Minister, as I understand it, one of the

planks of this change to portable long service leave was to guarantee access to long service leave entitlement by the community sector particularly, where some people get it but the guarantee was not there; but it is now here. I noticed on page 9 that you have had 9,129 active employees in the scheme. I thank you for the explanation of the deregistered employees because this actually goes to the very point we were talking about last time, about how many people are counted twice in the system, and this makes it very clear for me.

What I wanted to explore was where people travel from one industry to another industry because of the transient nature of the way they prefer to work as casuals. I think we quoted the example of somebody working in the cleaning industry one week but who will do some work in the retail industry, and they could be counted twice. I know you have got the Leave Track organisation; the IT system seems to be doing very well and we will talk about that in a minute too. Is there a way of tracking whether people are working in two industries?

**Mr Collins:** It is possible. If people are working in two or more industries they can be in two or more schemes. They would have a registration number in, say, the cleaning scheme and if they happen to work in another sector they would have a separate registration in that scheme as well. That is not double counting, because they are in two schemes. They would be on two employers' returns, and they would have a levy paid on their wages by two separate employers. So we would not count that as double counting.

**MR HARGREAVES:** Okay. I was thinking about it in a nature similar to people taking out different superannuation insurances, so they would be in two schemes, and it is a similar process.

**Mr Collins:** That is correct.

**MR HARGREAVES:** Okay, thank you. I also notice on the same page that \$3½ million has been brought into the scheme by way of contributions at a rate of 1.67. I also notice that in the construction scheme it is 1.25. I did not hear any rumblings about it going from one to 1.25, which I think is rather remarkable, on your way to 2½, I think. Some people might say out there in the community that that \$3½ million has actually been taken out of community sector budgets. I think we had this conversation last year, and I am pretty sure you explained to me why it was not so. Could you do that for me again, because I have short-term memory loss.

**MRS DUNNE:** We will see if the explanation changes and whether I am more convinced.

**MR HARGREAVES:** I am not interested in whether you are convinced, Mrs Dunne. I am concerned about what is right.

**Mr Collins:** My recall might be a bit of a worry too. As far as the authority is concerned, that money is the levy payable on the employees' wages. That money really should be put aside by the employers in any event, but because it is a portable scheme those employers pay that to the authority on a quarterly basis. Whether the argument is that that has been taken out of the industry or it should be set aside

anyway I think is a fairly moot point. The fact is that it is the employees' benefits and we collect that in accordance with the legislation and based on that levy rate.

**MR HARGREAVES:** So am I correct in assuming then that the amount of money we provided prior to this thing commencing included a provision for long service leave but that could not be guaranteed to be applied to that particular benefit scheme, whereas now the same money that we are paying out for these people can be guaranteed to be applied to that; is that right?

**Mr Collins:** Money can certainly be applied if they achieve the entitlement in accordance with the legislation. The levy rate is the same as the 1976 act, general long service leave. Again, if the person achieves an entitlement under the 1976 act with the one employer, obviously that money has to be paid by the employer. With the portable scheme, if the entitlement for that particular scheme is achieved across the industry, regardless of how many times the person moves, again that entitlement is paid but it is paid by the authority.

**MR HARGREAVES:** Okay. I noticed on page 10 you have got a nice chart—

**Ms Gallagher:** Any better?

**MR HARGREAVES:** Now we are right. You have given us two tables there, a table of claims lodged and benefit payments. You have got nothing from 2010 going backwards and then 2011. Is that just to indicate to us that that is the start of the scheme and we can look forward to those sorts of stats going forward into the years?

**Mr Collins:** That is right, yes. We thought that was probably the best way to do it.

**MR HARGREAVES:** It was not a sad reflection on how much the community sector had actually accepted its responsibility to pay for the long service leave?

**Mr Collins:** No, absolutely not. This is purely a scheme context.

**THE CHAIR:** Mr Smyth.

**MR SMYTH:** My last question.

**MR HARGREAVES:** Last question—

**THE CHAIR:** Quickly, because we have got to give Mr Smyth a go.

**MR HARGREAVES:** Yes, but there is something absolutely ripper in here, Leave Track. That is your IT system. In the annual report you say you are now leasing that to New South Wales.

**Mr Collins:** We are, yes.

**MR HARGREAVES:** So we are not only doing something better than New South Wales; they know it and they are paying for it. Is that right?

**Mr Collins:** That is one way of putting it. To be fair—

**MR HARGREAVES:** I like that way of putting it, Mr Collins.

**Mr Collins:** And I will take the credit for it. No, to be fair, New South Wales have just commenced a cleaning scheme from 1 July. They had a look around the country to see what would be the most appropriate system. They obviously have the system that they use for their construction scheme. They had a look at a number of systems. They liked Leave Track for its simplicity, I guess its comprehensiveness. It is well suited to a cleaning scheme, which is different from a construction scheme in a number of processes. So, yes, they decided that they would lease Leave Track, and we are very happy with that. We retain the intellectual property. Also any improvements that are made to Leave Track by New South Wales in terms of upscaling, because obviously their numbers are a great deal higher than ours, we have the use of any of those improvements as well. So it is a good deal for us and it is a good deal for them. I think it is a reflection that Leave Track has worked well and has been a pretty good project and is doing what is required of it.

**MR HARGREAVES:** So how much did you get for the thing and where does the money go?

**Mr Collins:** We are getting \$50,000 a year for three years, at least at this stage, and that money is going into the authority. The construction scheme paid for that system so that money would be retained within the construction scheme, and the other two schemes pay essentially a leasing fee to the construction scheme for its use throughout the year.

**MR HARGREAVES:** Will that money be perhaps applied to enhancements to the scheme as you go down the track?

**Mr Collins:** It could very well be, but it really is just part of the consolidated scheme revenue at the moment.

**MR HARGREAVES:** I just wanted to make sure that Treasury had not knocked it off.

**Mr Collins:** No.

**MR HARGREAVES:** Because they are like that.

**THE CHAIR:** Mr Smyth.

**MR SMYTH:** Thank you, Madam Chair. On page 4 what is the difference between an employee and a worker?

**Mr Collins:** Nothing really. It is just the terminology. An employee can be considered to be a contractor as well, and a working director, but the worker is, I guess, the more general term that is applied.

**MR SMYTH:** You use both.

**Mr Collins:** Yes, they are essentially interchangeable, unless you are referring to a very particular point.

**MR SMYTH:** On page 42 of the annual report, the second paragraph at the bottom, just to return to one of my favourite subjects, which I know you have been waiting for—

**Mr Collins:** I have.

**MR SMYTH:** I see the authority received a reimbursement from the Treasury Directorate for part of a termination payment. Is this the individual that we have discussed over several years?

**Mr Collins:** Yes, it is.

**MR SMYTH:** Why did you only receive part of the payment?

**Mr Collins:** Because it is only for that part of his termination payment that was accrued prior to that person joining the authority. While he was at the authority and accruing benefits that is the responsibility of the authority.

**MR SMYTH:** So is the authority out of pocket for this?

**Mr Collins:** No, we are not out of pocket.

**Ms Gallagher:** The authority won that.

**MR SMYTH:** Well done, the authority. So if you only received part of the termination payment, where did the rest of the termination payment go?

**Mr Collins:** No. We received reimbursement from the Treasury for that part of the person's service that was accrued prior to that person joining the authority and it is our responsibility to pay the entitlements for that period of time that he was with the authority.

**MR SMYTH:** So we will not need a footnote in next year's annual report?

**Mr Collins:** No, not unless there is someone else in that sort of situation that goes.

**MR SMYTH:** That is probably a good thing then. On page 43 I note that the audit fees have gone from \$45,000 to \$102,000. Is this because of the six-month factor?

**Mr Collins:** It is, yes. It is a new scheme as well. They audited the community sector scheme for the first time as well.

**MR SMYTH:** So that is the explanation for the actuarial fee, from \$16,000 to \$45,000; the audit fee, from \$45,000 to \$102,000. The fee for consults and contractors has done the same. Why is the—

**Mr Collins:** Do not forget that the 2010 there is only for six months as well.

**MR SMYTH:** So it is the transitional period?

**Mr Collins:** Yes, it is the Leave Track and the extra scheme.

**MR SMYTH:** The legal fee, and you have got a footnote at the bottom, goes down from \$73,000. It actually reverses the trend and declines. The note says that it was due to the implementation of the community sector scheme in 2010 and assistance with enforcement procedure hearings. Was there a heavy workload in 2010 that has not been repeated in 2011?

**Mr Collins:** In 2010 we took a number of employers to the ACAT under the provisions that were established for ACAT. We sought assistance from the Solicitor-General for that work, to essentially guide us through the procedure and the processes, and that was where that expense was.

**MR SMYTH:** In “other”, you have gone from \$36,000 to \$68,000. Is it time to sort out some of those and list them as separate items or is that again just the effect of the new scheme?

**Mr Collins:** That is just the effect of the six months to 12 months and, yes, the new scheme. They are certainly ballpark figures in terms of the six to 12.

**MR HARGREAVES:** In fact it is a little less than double, is it not?

**Mr Collins:** Yes.

**MR SMYTH:** Moving to page 48, all of your investments are listed as current. That normally means that they are less than 12 months old; they have got currency of less than 12 months. Is it appropriate to list them all in this way?

**Mr Collins:** The investments?

**MR SMYTH:** Yes.

**Mr Collins:** That was the interpretation required by the audit office. We just present them in accordance with how they classify it and how they want us to present it.

**MR SMYTH:** Is this the Auditor-General’s Office or the internal audit?

**Mr Collins:** Yes, the Auditor-General’s Office.

**MR SMYTH:** The question would be: why are things such as equities and properties not considered to be normal, current assets?

**Mr Collins:** I guess they are current in the sense that they are invested or that they represent an investment at a particular time, and certainly from the point of view of Vanguard Investments they can be liquidated at any time.

**MR SMYTH:** Mr Cappie-Wood, do you have an opinion there?

**Mr Cappie-Wood:** Only to the extent that the application of the Auditor-General's interpretation of the class of investment has been applied.

**THE CHAIR:** Mrs Dunne.

**MRS DUNNE:** I want to go back, if I could, minister, to an answer that you gave on 18 October in the rostered answers to questions in relation to the community sector long service leave scheme:

The authority has already paid out 26 entitlement benefit claims to workers in the sector, consisting mainly of refunds to employers for the portion of work or entitlements accrued since the commencement of the scheme and for which a levy has already been paid to the authority.

Does this mean that, in addition to making the long service leave contribution to the authority, employers have to pay out when long service leave comes due and then seek a reimbursement from the authority?

**Mr Collins:** If I can answer that question, yes, that is correct. What happens is that in these transitional claims—and they will go on for a long time; indeed, in a scheme which is 10 years old it is still happening—the person claims the entitlement under the 1976 act. The employer pays that claim and then seeks reimbursement from the authority for that portion of the claim that refers to “after the start of the scheme”. For example, with the community sector, if a person had done six years with the one employer before the start of the scheme and one year after the start of the scheme, the person makes the claim, the seven-year claim, and the employer pays six-sevenths, basically, and the authority pays one-seventh.

**MRS DUNNE:** Actually the employer pays seven-sevenths and then makes application to you to be reimbursed one-seventh.

**Mr Collins:** Yes, reimbursed the one-seventh; that is correct.

**MRS DUNNE:** And what is the turnaround time for those reimbursements?

**Mr Collins:** The turnaround time is 14 days maximum—maximum as long as we are satisfied, in accordance with the legislation, that the payment has been made correctly and is an accurate figure. So generally speaking we do a payment run every 14 days. If the claim submitted is verified, we will pay that within the 14 days.

**MRS DUNNE:** When will it be the case that you will pay long service leave directly to the worker?

**Mr Collins:** Once the scheme is five years old and the worker has been in the scheme for five years. The issue, though, is that if that worker is also entitled to a benefit under the 1976 act it is better for the worker to claim the entire service under the 1976 act and then we continue to pay that portion that is after the start of the scheme. So it is really not until all existing accrued credits are exhausted that the authority will pay

the entire amount, except obviously for people that happen to join at the start of the scheme or shortly thereafter, and then it is that five-year rule, the five-year entitlement.

**MRS DUNNE:** You raised the prospect that there would be some dispute between employers and the authority as to whether an entitlement was appropriate and whether it had been paid out at the right rate. Is there a mechanism for dealing with those disputes?

**Mr Collins:** Yes, we have a pro forma that when we get the claim we will do the calculations, check their calculations. If we have an issue with their calculation, generally we will ring them first and say, "Can we just clarify either the weekly wage or the length of service?" Then we try to clarify it there. If we still need to correspond further we will send them a printout basically of our calculations and say the person is being overpaid or underpaid. Generally they will respond to that. There has been very little conflict or anything like that. Normally it is a case of just calculating that weekly wage, particularly for casuals. So the system has worked particularly well, and Leave Track does give a comprehensive printout of the calculation.

**MRS DUNNE:** To finish this, how did we come about the process whereby the employer pays out the money and then seeks reimbursement? Is that the way that the scheme was set up in the first place?

**Mr Collins:** It is essentially the legislation. Because the person is making a claim under the 1976 act, the way the legislation is written, that is the process, if you like. They have to pay that and then, as I say, we reimburse the component for the duration of the scheme. It is in the legislation essentially.

**MRS DUNNE:** It does create cash flow problems for community sector organisations.

**Mr Collins:** It does, and I recognise that, but it is for that fairly short time. We will try to turn it around as quickly as possible and if there is a genuine hardship case we can do a payment as soon as it is finalised. I have talked to a number of community sector organisations, and I have made that point. In fact I will be talking to a couple more, the National Disability Service and the joint committee, the reference committee, and again I will make that point there as well.

**THE CHAIR:** Can I ask a question about the accounts. It possibly is something that is totally obvious and I would understand why; but why are you recording the 2010 as six months rather than 12 months?

**Mr Collins:** The issue was that in the past there was a separate legal entity for the Construction Long Service Leave Authority and the Cleaning Long Service Leave Authority. When the decision was made to integrate them the start date was 1 January 2010. Therefore we had to produce separate accounts for the individual authorities and a consolidated account for the new, integrated authority.

**THE CHAIR:** Are there any more—

**Mr Collins:** Sorry, in retrospect, if I had known that, I would have pressed for 1 July. You learn things all the time.

**THE CHAIR:** Are there any more Long Service Leave Authority questions?

**MRS DUNNE:** Yes, I do, if I could, Madam Chair.

**THE CHAIR:** Mrs Dunne.

**MRS DUNNE:** I was looking at the expense provisions and wondering what accounting treatment is used for people who have been in the long service leave scheme but have been inactive and become deregistered. What happens with the moneys?

**Mr Collins:** Sorry, that have been inactive and what?

**MRS DUNNE:** And are no longer a registered contributor to the scheme and never accrue a benefit. What happens to the moneys that an employer has paid if employees are not there long enough and they never accrue a benefit?

**Mr Collins:** The money stays within the scheme.

**MRS DUNNE:** And how is it treated?

**Mr Collins:** It is just treated as general revenue within the scheme. So it would either be in the investments or the cash advance basically, but essentially it just stays within the scheme.

**MRS DUNNE:** And what purpose is it put to?

**Mr Collins:** It is put to just the general purposes. It is included in the assets and again it just forms part of the offset of the provision for long service leave for other members of the scheme.

**MRS DUNNE:** Do we have any idea over time of the quantum of money that has been paid for people who fit that category, who will never get a benefit out of the scheme?

**Mr Collins:** We can give you the number of people that were deregistered without an entitlement. We could not give a dollar figure against that, because it—

**MRS DUNNE:** Why not?

**Mr Collins:** The levy is collected on the return and is not matched against an individual once the return has been processed. It would be extremely difficult to disaggregate the money in that way.

**MR HARGREAVES:** Is the money actually done as a percentage of wages, rather than by individuals? Is that right?

**Mr Collins:** It is a percentage of the individual's wage, yes.

**MR HARGREAVES:** But the individuals are named in that return?

**Mr Collins:** Sorry?

**MR HARGREAVES:** Are the individuals named in that return?

**Mr Collins:** The registration number of the employee is there, and the service is recorded against that. But there is no levy dollar figure recorded specifically against each employee and it is certainly not ongoing. You would need a very sophisticated system and I just could not imagine being able to do that very easily at all.

**MRS DUNNE:** You cannot actually quantify the amount of money in the scheme which has been accrued on behalf of unregistered members?

**Mr Collins:** Of deregistered members?

**MRS DUNNE:** Deregistered, sorry, yes.

**Mr Collins:** No, we could not, and I do not think any other scheme could either. We could have a look at it but I certainly do not think it would be possible.

**MRS DUNNE:** When you say that you do not think any other scheme could, do you mean any other portable scheme?

**Mr Collins:** Yes, that is right, any other portable scheme. Half of the other portable schemes around the country are based on a project levy in any event. So there is no matching in any event. So there is no matching of the money against an individual. It is all accumulated within the fund.

**MRS DUNNE:** But that is because they are construction industry schemes?

**Mr Collins:** That is right.

**THE CHAIR:** Thank you very much, everybody. The time has come to an end. I am fairly confident, however, there will be questions on notice from the committee.

**MRS DUNNE:** Yes, thanks.

**THE CHAIR:** I have got some. Just before we close, the answers to questions taken on notice and supplementary questions are due to the committee secretariat by Friday, 13 January 2012.

In relation to supplementary questions, the committee has agreed that written supplementary questions from members will need to be provided to the committee secretary within three working days following the public hearing on the Industrial Relations portfolio. Please, can you provide supplementary questions to the secretariat by close of business on Tuesday, 8 November 2011.

On behalf of the committee, I thank you, Chief Minister and the relevant officials, for attending today. When available, a transcript will be forwarded to witnesses to provide an opportunity to check the transcript and suggest any corrections. The committee will also send through supplementary questions following on from this hearing.

I now formally declare this hearing closed. Thank you.

**The committee adjourned at 11.01 am.**