



**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY**

**STANDING COMMITTEE ON PUBLIC ACCOUNTS**

(Reference: [Annual and financial reports 2017-2018](#))

**Members:**

**MRS V DUNNE (Chair)**  
**MS T CHEYNE (Deputy Chair)**  
**MS B CODY**  
**MS N LAWDER**

**TRANSCRIPT OF EVIDENCE**

**CANBERRA**

**MONDAY, 12 NOVEMBER 2018**

**Secretary to the committee:**  
**Dr B Lloyd (Ph: 620 50137)**

**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 20 May 2013*

**The committee met at 9.01 am.**

Appearances:

Barr, Mr Andrew, Chief Minister, Treasurer, Minister for Social Inclusion and Equality, Minister for Tourism and Special Events and Minister for Trade, Industry and Investment

Chief Minister, Treasury and Economic Development Directorate

Leigh, Ms Kathy, Head of Service and Director-General

Nicol, Mr David, Under Treasurer

Miners, Mr Stephen, Deputy Under Treasurer, Economic, Budget and Industrial Relations

Salisbury, Mr Kim, Executive Director, Revenue Management, Economic, Budget and Industrial Relations

Whybrow, Mr Mark, Executive Director, Finance and Budget, Economic, Budget and Industrial Relations

Vroombout, Ms Sue, Executive Director, Economic and Financial Group, Economic, Budget and Industrial Relations

McAuliffe, Mr Patrick, Director, Asset Liability Management, Economic and Financial Group, Economic, Budget and Industrial Relations

Holmes, Ms Lisa, Director, Financial Framework Management and Insurance, Economic and Financial Group, Economic, Budget and Industrial Relations

Fletcher, Mr John, General Manager, ACT Insurance Authority, Default Insurance Fund Manager and Nominal Defendant, Commercial Services and Infrastructure

Whitten, Ms Meredith, Deputy Director-General, Workforce Capability and Governance

McPhee, Mr Ian, Public Sector Standards Commissioner

Icon Water Ltd

Hezkial, Mr Ray, Chief Executive Officer

Sachse, Mr Sam, Chief Financial Officer

Breaden, Ms Jane, General Manager, Business Services

Independent Competition and Regulatory Commission

Dimasi, Mr Joe, Senior Commissioner

Weier, Dr Annette, Chief Executive Officer

**THE CHAIR:** Good morning and welcome to this hearing of the inquiry by the Standing Committee on Public Accounts into annual reports for 2017-18. Please note that these hearings will be recorded and transcribed. I ask witnesses when they first speak to indicate that they have read and understood the pink privilege statement. Where witnesses are asked to take questions on notice, they should explicitly say, "I will take that question on notice." Good morning, Treasurer. Do you wish to make an opening statement?

**Mr Barr:** That is now a relic of the past, madam chair.

**THE CHAIR:** It is now a relic of the past, is it? Okay, I was not here.

**Mr Barr:** I wish we had submitted you a lengthy—

**THE CHAIR:** I was not here last week.

**Mr Barr:** I submit the annual report as an opening statement.

**THE CHAIR:** You submit the annual report as an opening statement?

**Mr Barr:** As a lengthy statement, yes.

**THE CHAIR:** I was reminded this morning, Chief Minister, that in response to a motion in the Assembly a couple of weeks ago, you were going to make some statements in relation to commercial rates.

**Mr Barr:** Yes. I was asked not to do that verbally but to provide that in writing.

**THE CHAIR:** Yes.

**Mr Barr:** Yes, I am getting a nod; I believe I have written a letter to you and attached—

**THE CHAIR:** Have we seen the letter?

**Mr Barr:** It will probably arrive today.

**THE CHAIR:** Okay. It is not available for us to ask questions on? We will have to ask questions on notice.

**Mr Barr:** Yes. I said I would provide it during the annual report hearings.

**THE CHAIR:** I somehow expected that that would come now. Not to worry. Could I begin in relation to revenue management, which is where we are scheduled to begin, and on the issue of commercial rates? We have seen a big increase in the value of commercial properties over the last few years. There have been issues raised by constituents, particularly about the reassessment of rating in areas like Braddon and Phillip. I know that during the budget estimates there were questions asked about the rating process in Braddon. There was also some discussion of that during the PAC inquiry into residential rates. What modelling has the government done over the last two years regarding the impact of commercial rate rises on businesses and business viability?

**Mr Barr:** There was an undertaking, in response to the debate on this topic in the Assembly late last month, to provide that modelling, which is on its way.

**THE CHAIR:** That modelling is on its way?

**Mr Barr:** Yes. Certainly, that work is on its way to the committee, including quite a number of pages of analysis of recent trends in that context.

**THE CHAIR:** It would be good to have them, yes.

**Mr Barr:** The revenue commissioner can provide some further information on the work of the Revenue Office as it pertains to those particular semi-industrial areas that you have referred to; then, sitting behind the verbal commentary today, will be that further level of detail.

**THE CHAIR:** Could somebody could tell the public accounts committee where that correspondence is, because it has not arrived with the secretary.

**Mr Barr:** I have signed a letter to you. It will have gone to my DLO, I presume, to then provide to the committee. It will be somewhere between my office and the committee office today.

**THE CHAIR:** If somebody is listening—

**Mr Barr:** It should arrive in the committee office—

**THE CHAIR:** it would be very nice if the committee could see that correspondence.

**MR COE:** Chief Minister, when did you sign it?

**Mr Barr:** I signed it over the weekend.

**THE CHAIR:** On the understanding that we will see some documentary evidence of the modelling, you said that Mr Salisbury will be able to give us a bit of a run-down on that modelling now?

**Mr Salisbury:** I might defer to Sue to talk about the modelling that was done that sits behind that. In terms of commercial valuations, over the last five years there has been no across-the-board increase in valuations for commercial properties in the territory. There has been insufficient sales evidence to indicate that, as a general proposition, commercial property values have increased across the board. So there has been no blanket increase in commercial properties over the last five years.

However, we have identified in four precincts that particular commercial valuations have either got out of alignment with market values, various values within the precinct or in that precinct compared to other similar precincts around the place. Those four precincts include Braddon, which we have discussed before. Obviously, Braddon has gone through quite a bit of renewal and redevelopment from a commercial precinct to more of a residential, retail and entertainment precinct.

As a consequence, values have increased in that precinct and there have been a number of changes to the leases in the precinct. As a consequence, for the 2017-18 rating period, we did a property-by-property analysis of the Braddon precinct, from Northbourne Avenue right across. We looked at every property, compared that with sales that had happened in that precinct, and we made a number of adjustments to properties in that precinct that were picked up in last year's unimproved values.

Similarly, in the Phillip precinct, and particularly the precinct around Melrose Drive,

where there are lots of car yards, there have been lots of sales of property for car yards. As a consequence, we did a property-by-property analysis of that particular small precinct there. We found that the per-square-metre valuation was out of alignment with what was happening in terms of the market—what was being paid for it. So we made a series of adjustments to a number of properties in that Phillip precinct.

Similarly, in the area of Civic, what we refer to as the inner city, the city and Turner commercial precinct, we did a review of a number of properties there. Again, we compared that with what had happened—

**THE CHAIR:** Just for clarity, Mr Salisbury, when you say “city and Turner”, is that McKay Street—

**Mr Salisbury:** Yes, that general area.

**THE CHAIR:** McKay Gardens, that sort of area?

**Mr Salisbury:** Yes.

**THE CHAIR:** Up to Haig Park or where?

**Mr Salisbury:** Just below Haig Park, that precinct there. Again, we identified that, as I have said, the market values were not reflective of the unimproved values, so we made a series of adjustments there. We also looked at the Fyshwick precinct and noticed that a number of properties there were undervalued compared to the market evidence surrounding them, and we made some adjustments in that precinct as well.

That is generally where we have done it. As I said there was not an across-the-board uplift, but where there was sales evidence that suggested a particular pocket of properties was out of alignment, either internally, compared to other properties in that precinct, or more broadly with other areas in the territory, we made a series of adjustments to those values.

**THE CHAIR:** Sorry, could I go back? You said in relation to Braddon that in 2017-18 you did a property-by-property evaluation and assessment. Is that not what is required every year? Doesn't the Rates Act say that the valuation office should look at the lease?

**Mr Salisbury:** What it says is that it requires an annual land valuation for all rateable properties in the ACT. Generally, what we do is group types of properties and precincts together and we will look at whether there needs to be a general increase. I guess that what I indicated was that, when you looked at it across the territory, there did not need to be a general increase. But when we looked at particular pockets then each individual commercial property had to be considered.

**THE CHAIR:** Can I go back? What is your understanding of section 6 of the Rates Act?

**Mr Salisbury:** I believe it requires an annual land valuation for all rateable property in the ACT.

**THE CHAIR:** My understanding is that in doing that it requires considering the lease.

**Mr Salisbury:** We have a database of properties. We would consider that that database needs to be updated from time to time, so we keep that current. But we would have a starting value and we would consider whether there has been a change in the lease and whether that value needed to be changed. We would also look at either the per square metre value or the per unit value of the property.

**THE CHAIR:** But doesn't section 6 of the Rates Act require the valuation office to consider each lease every time it does an assessment?

**Mr Salisbury:** And I think we do, because that is part of our database.

**THE CHAIR:** How is it that by your own assessment—I will get back to this—you said that in relation to Braddon the square metre value was out of alignment with the market? You said in relation to Turner that the market value was not aligned with the approved value—sorry, that was in relation to Fyshwick. If you are looking at the lease every year, and looking at what is happening in that precinct every year, how is it that you managed to get the unimproved value out of alignment so much that then we have people who are facing substantial step-ups in their unimproved value, which affects their rating in the first instance? In some instances, some people have had that rate applied retrospectively over a number of years.

**Mr Salisbury:** Typically across the territory there are 100 leases that are varied every year. So in a particular area we would not expect that there would be a lot of lease changes. We pick those up on a case-by-case basis. But when we look to do a forensic revaluation, we will go back to the source documents, look at every particular lease and examine it in some detail to ensure that we have the most up-to-date information.

**THE CHAIR:** Why did you do a property-by-property evaluation across Braddon in 2017-18? Is that the first time that you have done that? Braddon has been under substantial pressure for revitalisation and lease changes for five, eight, 10 years. Why was that the first time you have done that?

**Mr Salisbury:** A number of the property sales would have been off-market and that is—

**THE CHAIR:** Sorry, what do you mean by off-market?

**Mr Salisbury:** They are not public; it is not public information how much a property has sold for. We need to have a bank of information that gives us how much the market—

**THE CHAIR:** Sorry, how do you not know? How does the Revenue Office not know the value at which a property changes hands?

**Mr Salisbury:** I think we should know for conveyancing purposes.

**THE CHAIR:** I am sorry, I just do not understand, Mr Salisbury, how you could say



that a lot of this stuff was off-market and that the Revenue Office did not know?

**Mr Salisbury:** Well, it is an accumulation of information. A one-off property sale would not change the values across a whole precinct.

**THE CHAIR:** We are not having one-off property sales in Braddon. The other thing that affects it is that you have lots of leaseholders who have paid a change-of-use charge to up the development rights on those properties. So we are not talking about one thing. What prompted you to do, as you described it, a property-by-property evaluation across the Braddon precinct in the last financial year if there were not a range of changes?

**Mr Salisbury:** I believe there were a range of changes and that is why—

**THE CHAIR:** Okay. Why did you wait until 2017-18 to do that property-by-property evaluation?

**Mr Salisbury:** I think that is when we had sufficient evidence to suggest that the values, the unimproved values of Braddon, were significantly out of alignment with what the market values were.

**THE CHAIR:** But back in, I think, September 2016 there was one property in respect of which you went back, reassessed their valuations and upped them quite significantly, and then went back and did a back assessment and charged the leaseholders back rates.

**Mr Salisbury:** Yes.

**THE CHAIR:** There were other properties at that time that you were aware of that had had change-of-lease charges. The issue of change-of-lease charge had not been addressed. That was 2016. Why did you not do it in 2016?

**Mr Salisbury:** I think we started work on that back in 2016; it took quite some time to work through that. So it was throughout the period of 2016. Then they became the values for 1 January 2017.

**THE CHAIR:** Sorry, then what was the process that you did in 2017-18?

**Mr Salisbury:** For 1 January 2017, 75 properties in Braddon were revalued for the—

**THE CHAIR:** But that would have been 2016-17.

**Mr Salisbury:** rating period 2017-18.

**THE CHAIR:** Sorry, you said in the opening statement that you did a property-by-property re-evaluation in 2017-18. Now you are saying that you reassessed 75 properties in 2016-17 and set their new UCV on 1 January 2017. Can you clarify for the committee what actually happened?

**Mr Salisbury:** Sure. During the period 2016, we reviewed 75 properties in Braddon.

**THE CHAIR:** In the 2016 calendar year?

**Mr Salisbury:** Yes.

**THE CHAIR:** Right.

**Mr Salisbury:** On 1 January 2017, those property values were increased. Then for the rating period 2017-18, they were the values that were used.

**THE CHAIR:** When did you do the property-by-property reassessment?

**Mr Salisbury:** Over the period of 2016.

**THE CHAIR:** But that is not what you said at the beginning. I am sorry, you said—

**Mr Salisbury:** I am sorry; we can correct the record but—

**THE CHAIR:** Right. So you actually did the property-by-property re-evaluation in calendar year 2016.

**Mr Salisbury:** Yes.

**THE CHAIR:** So for 2016-17 you set a value on 1 January 2017—

**Mr Salisbury:** Yes.

**THE CHAIR:** for 75 properties?

**Mr Salisbury:** Yes.

**THE CHAIR:** How many properties are there in Braddon?

**Mr Salisbury:** Well, 75 covered the properties that we reviewed and changed the values of, which covers generally the precinct that surrounds Northbourne Avenue, Girrahween Street, Torrens Street and Cooyong Street.

**THE CHAIR:** Did you or did you not do a property-by-property re-evaluation for rating purposes or did you do a sample?

**Mr Salisbury:** No, we did every property but some properties did not need to be adjusted.

**THE CHAIR:** Okay; so you adjusted—you looked at all the properties—

**Mr Salisbury:** In that, yes.

**THE CHAIR:** but adjusted 75.

**Mr Salisbury:** Yes.

**MS CHEYNE:** What share is that 75 of?

**Mr Salisbury:** Of total properties in Braddon, I could not tell you that information.

**THE CHAIR:** Can you take that on notice, please?

**Mr Salisbury:** Certainly, yes.

**THE CHAIR:** As a result of those property changes, did values change on properties other than those 75 or was that change in value amortised across Braddon?

**Mr Salisbury:** No, there were 75 individual properties where the unimproved values were increased.

**THE CHAIR:** Were those 75 properties issued with retrospective rate bills?

**Mr Salisbury:** No, they would have been prospective for the 2017-18 year.

**THE CHAIR:** So why was the rating on one property in 2016 made retrospective for five years?

**Mr Salisbury:** That was how the law applied to that particular property.

**THE CHAIR:** Does the law apply differently to that particular property than it does to the other 75 properties in Braddon?

**Mr Salisbury:** Yes. All those other 75 properties were not as a result of a lease variation charge. That one property was as a consequence—

**THE CHAIR:** There was only one property in Braddon that had its rates increased as a result of a lease variation charge?

**Mr Salisbury:** There is one property that we are referring to. There were multiple properties that had—

**THE CHAIR:** Were there other properties that had retrospective rates applied because someone did not notice that they had changed their lease purpose clause?

**Mr Salisbury:** I would imagine there were, because we do that as a matter of course. Every lease variation, to some extent, is retrospective because we are advised of that after the event. So then we have to go back and calculate the appropriate average unimproved value for the period from when the lease variation took place.

**THE CHAIR:** Could you, on notice, please, Mr Salisbury, tell the committee how many properties there are in Braddon that had retrospective rates assessments and for what period the retrospective rates assessment was? When did you discover that they had a change-of-lease charge? How far did you retrospectively go back? Can you also tell the committee, in relation to the 75 properties that you talked about, whether any of those had a change-of-lease charge so—

**Mr Salisbury:** I do not know whether they had a change-of-lease charge.

**THE CHAIR:** Can you come back to the committee with whether any of those 75 had a change-of-lease charge and, if so, when?

**Mr Salisbury:** Yes, sure.

**THE CHAIR:** And, if so, whether or not they were subjected to retrospective rating increases.

**Mr Salisbury:** Yes.

**MR COE:** Madam chair, your original question actually was not answered as well. That was: "Have you done any modelling? What modelling have you done?"

**MS CHEYNE:** It was answered; it is in the letter.

**THE CHAIR:** It is in the letter?

**MS CHEYNE:** It is in the letter that is coming.

**Mr Barr:** It is with the committee secretary, I have been advised.

**MR COE:** I understand the letter is coming but—

**MS LAWDER:** We do not have that information.

**MS CHEYNE:** The answer is yes.

**MR COE:** I am asking: what modelling have you done? Can you please give us a rundown?

**Mr Barr:** Yes. The treasury has undertaken an analysis of the impact of commercial rate increases and the impact of policy change. The detail of that is outlined in the letter. It is with the committee secretary. Obviously it will be of great benefit for everyone to pore over it now.

**Ms Vroombout:** I can give a summary.

**Mr Barr:** Thank you.

**THE CHAIR:** The committee secretary tells me that it has arrived and he has asked someone to print it off.

**Mr Barr:** Terrific. Very good.

**Ms Vroombout:** I am happy to give a summary of what that modelling shows. For the period 2012-18 it shows that the average increase in general rates for commercial properties was 81 per cent. That is in line with the expected average increases under

tax reform. Seventy per cent of commercial properties experienced rates increases lower than that average of 81 per cent. And 307 commercial properties, less than six per cent of commercial properties, have experienced rates increases over 100 per cent over that period 2012-18.

Of those properties, 343 were located in Braddon, the city, Fyshwick, Gungahlin and Phillip. Those rates increases, the ones that were greater than 100 per cent, were as a result of either lease variations or property revaluations, or a combination of both. That is for the period 2012-18. We also did some analysis over the period 2015-18. That shows that the average rates increase for commercial properties has been 21 per cent. Again, that is in line with the increases expected as a result of tax reform. Ninety per cent of properties experienced rates increases lower than that average of 21 per cent over the period 2015-18.

Seventy commercial properties, one per cent of all commercial properties, have experienced rates increases greater than 100 per cent over that period 2015-18. Forty-six of those properties are located in Braddon or Phillip. Again, those increases over 100 per cent for that one per cent of properties are a result of either lease variations or property revaluations. That is a broad summary of the analysis that we have done in relation to commercial rates increases over that period.

**THE CHAIR:** That is analysis; that is not modelling. The original question was about the modelling of the impact. That is analysis of the impact; that is not modelling of what might happen in the future.

**Mr Barr:** Yes, because the modelling is in the forward tax reform package. Commercial rates go up on average by a fixed amount that has been outlined in the first five years; there is a report on that that is publicly available. And then the second five years set another course for that process. We made some changes in the second five-year period, most particularly the abolition of commercial stamp duty on all properties below \$1.5 million in value. That eliminated about 70 per cent of all commercial property transactions in the territory from attracting any stamp duty at all. We set a course of an increase in commercial rates over that five-year period. That is clear and was published. This is now an analysis to ensure that what we said we would do and what has in fact occurred are in alignment.

**THE CHAIR:** But my original question was: what modelling has been conducted in the last two years in relation to the impact of commercial rate rises on businesses?

**Mr Barr:** In a dollar sense?

**THE CHAIR:** Not just a dollar sense. Has there been an impact of commercial rate rises on the operation of business in the ACT?

**Mr Barr:** The data that is available to us would demonstrate that there are more businesses operating in the territory than there were previously. Those businesses pay less in other taxes to the territory, including payroll tax and insurance taxes that do not apply. Insurance taxes are abolished completely; with payroll taxes, the threshold is \$2 million in terms of the payroll of businesses, so the overwhelming majority of businesses that operate in the territory pay no payroll tax to the territory as well.

I can give you a comprehensive list of every available indicator that is there for us, collected by us and by the Australian Bureau of Statistics, which can give the detail of every single charge that is imposed by the territory government. That is outlined clearly. I can give you a series of case studies for businesses with certain payrolls, certain property values and certain insurance products and give you a comparator of where particular businesses would stand. I cannot, obviously, release the detail of individual taxpayers, but we can give case studies, if that is of use, for generic businesses.

**THE CHAIR:** Yes, that would be useful.

**Mr Barr:** Okay. I am happy to take that on notice and provide that to the committee.

**THE CHAIR:** Thank you.

**MS LAWDER:** Mr Salisbury, I think you said that in the past five years there has been no real increase in the commercial rates because there were not enough sales, except for four precincts, and I think you said Braddon, Phillip, Civic and Fyshwick. How many commercial precincts are there?

**Mr Salisbury:** I do not have the number off the top of my head, but obviously there is a Mitchell precinct, there is Fyshwick, there is Phillip—

**MS LAWDER:** Other than the four you have already mentioned.

**Mr Salisbury:** There is Hume as well. That would be a commercial precinct.

**MS LAWDER:** Do you count the town centres as commercial precincts?

**Mr Salisbury:** Some town centres do have a commercial element to them, like Phillip. Phillip has a commercial, a retail and a residential sort of precinct.

**THE CHAIR:** We are only talking about the commercial, so that is the light industrial area in Belconnen, Phillip, Mitchell, Hume and presumably Tuggeranong.

**MS LAWDER:** You said there were not enough sales. What is enough? What is significant? One per cent? Five per cent?

**Mr Salisbury:** I guess it is relative to the number of properties in that precinct.

**MS LAWDER:** That is what a percentage is.

**THE CHAIR:** That is why we asked for the percentage.

**Mr Salisbury:** In particular, for Phillip there were seven sales in that group of—

**MS LAWDER:** I am asking what is significant. What percentage is significant? I am not asking about the number. I thought you said that there were not enough sales to give you that data. Is it a number or a percentage?

**Mr Salisbury:** It is enough sales to suggest that we have sufficient evidence to justify an increase in the unimproved values. For a small precinct, that would be quite different from a larger precinct. The general point that I was trying to make was that, in terms of commercial sales across the territory, we have not picked up that within the different market segments there is enough to justify a blanket increase across all commercial properties. What we did recognise was that particular pockets of precincts moved quite a bit. There was a whole lot of buying and selling of properties that suggested to us that, depending on the value for which those properties were transacting, where we were applying a per square metre value, that was not appropriate, from what was being demonstrated by the market.

**THE CHAIR:** I think Ms Lawder is asking how you quantify that pocket of buying and selling. You said there was a whole lot of buying and selling. What is the threshold that makes you think that you should be looking at this?

**MS LAWDER:** There were seven out of a thousand in one area. Is that significant? I think you used the word “significance” at some point. And to follow on, are you saying, then, that there has been no increase, for example, in commercial rates in Hume in the past five years?

**Mr Salisbury:** As far as I am aware, we have not across the board increased commercial values as part of the annual rating process in Hume.

**MS LAWDER:** You have not?

**Mr Salisbury:** We have not. Where there have been lease variations in Hume, that would have increased.

**Mr Barr:** Yes. Can we just clarify: your question was about an increase in commercial rates?

**MS LAWDER:** Yes.

**Mr Barr:** Do you mean commercial value or commercial rates?

**MS LAWDER:** Rates.

**Mr Salisbury:** Okay, yes.

**Mr Barr:** Rates. Yes, commercial rates have gone up. They have gone up every year in the history of the territory, as have residential rates. They are indexed each year. But this conversation previously has been about valuations. I just wanted to clarify that you are talking about rates.

**MS LAWDER:** I did ask about rates specifically.

**Mr Barr:** Yes, rates have gone up every year since the territory was founded.

**MS LAWDER:** Are you able to provide the average percentage increase in

commercial rates over the past financial year?

**Mr Barr:** For?

**MS LAWDER:** Across the board?

**Mr Barr:** Across the board? Six per cent, isn't it?

**Ms Vroombout:** Six per cent, yes.

**Mr Barr:** Six per cent. That is what has been outlined; that is the policy setting. But as I am sure you are aware, Ms Lawder, the total amount collected is then allocated amongst all of the commercial properties, based on their relative property values. So with the information that Ms Vroombout read earlier, there are a very small number of properties that have had an increase, a significant increase, but most have been below the average. That is the nature of averages, of course.

**THE CHAIR:** What has CPI or WPI been in the same period?

**Mr Barr:** It has been between about 2½ and three per cent.

**THE CHAIR:** So that is double. The commercial rate has doubled.

**Mr Barr:** That is right. The tax reform process—which, again, I am sure you are aware of, madam chair—has a CPI/WPI component and then there is a tax reform component on top of that. And as we phase out stamp duty, we replace the lost revenue with rates. That happens in the commercial sector, as it does in the residential. As I indicated earlier, we moved to abolish all stamp duty on commercial properties below 1.5 million. That is 70 per cent of all commercial property transactions. Small and medium-sized enterprises pay no stamp duty. It is saving businesses in that area in the order of \$70,000 on a commercial property transaction.

**THE CHAIR:** It does if the operator is the lessee. If the operator is subleasing from a lessee, it is not necessarily the case.

**Mr Barr:** Yes, but then the owner of the property pays the rates as well.

**THE CHAIR:** If the owner of the property pays the rates and passes it on to its lessees—

**Mr Barr:** Yes—just as the owner of the property would pay stamp duty and pass that on. Fundamentally, this is the same issue as it has been for the last seven years. We have two choices as to how we collect the revenue. We either do it through an annual payment—a broad-based land tax, which is the fairest and most efficient form of taxation available to our level of government, or we collect it through a big, lumpy, economically distorting stamp duty. They are the choices, unless we make a decision to collect less revenue. If you want to argue the case for smaller government, that is fine. It would be intellectually consistent with the philosophy of the conservative parties to want to run a smaller government. That is fine. Argue that. But when it comes to the form of collection of tax, surely we could all agree that we would go for



the most efficient form of tax. It is perfectly legitimate to argue that we should collect less or more tax depending on whether you view government as a value-add in society. But you guys generally do not. Your starting point is smaller government.

**THE CHAIR:** At the moment, Chief Minister, this is not a political debate about small government or large government. This is an annual reports hearing about your performance. I am not going to engage in the debate about whether we should have small government or large government. I am actually here to ask questions about the way you raise revenue.

**Mr Barr:** You have asked how we collect tax, and I have made the observation that we are using—

**THE CHAIR:** No, I did not ask you about how you collect tax; I asked you what CPI and WPI were for the period, and you have answered that question.

**MS CHEYNE:** You might have to take this on notice, based on previous responses, Mr Salisbury, but I think it would be helpful for context to know, for the precincts that we have been focusing on, how many commercial properties there are in each precinct. Could we get the share, in Braddon and in all of those precincts that we have been talking about, that have had a valuation adjustment? Then, for broader context, could I at least get a sense of how many commercial properties there are in the ACT in total and then how many across all of the ACT have had valuation adjustments?

**Ms Vroombout:** I can answer the first part of that last question. There are 6,146 commercial properties in the ACT. That is in 2018.

**MS CHEYNE:** That is one fewer question on notice for you.

**Mr Salisbury:** Out of that total that Sue gave, 311 properties were revalued under these programs.

**MS CHEYNE:** Across all of the ACT?

**Mr Salisbury:** Yes.

**MS CHEYNE:** My maths is bad. What percentage is that?

**Ms Vroombout:** Five per cent of all commercial properties.

**MR COE:** A revised per square metre amount was determined for Phillip, I think you said earlier. Is that correct?

**Mr Salisbury:** Yes.

**MR COE:** And you mentioned that that was sparked by properties on Melrose Drive in particular. Did that revised per square metre apply just on Melrose Drive or did it apply throughout Phillip?

**Mr Salisbury:** It did not apply throughout Phillip; it particularly applied to the area

that is bordered by Hindmarsh, Athllon, and Melrose drives. That higher figure—

**THE CHAIR:** So all the Phillip industrial area.

**MR COE:** That is right.

**Mr Salisbury:** includes a range of figures. Some will be at the lower end of that range and some will be at the higher end of the range, depending on the peculiarities of that site.

**MR COE:** Given that we are talking about unimproved land value, what would determine the variation in the per square metre allocation?

**Mr Salisbury:** It would depend on what the lease allows you to do. It would also depend on the zoning of that area, and particularly the location: whether it is on an open street front or tucked away in a side street. They are the sorts of factors that would determine an appropriate per square metreage.

**THE CHAIR:** Has the zoning changed across Phillip generally?

**Mr Salisbury:** I am not a planner, but it has not changed to the extent that Braddon has changed, where you have a significant change in usage.

**MR COE:** Are you, for instance, treating any vehicle or motor-related industry as being of the one type?

**Mr Salisbury:** I think it comes down to the individual property. Again, it would be determined by what the lease allows you to do and the aspect of that particular block.

**MR COE:** So how do you actually make that determination? If somebody gets a revaluation for their property in Phillip, how can the taxpayer, the owner of the property, have some transparency about how this somewhat magical number is determined?

**Mr Salisbury:** In the first instance, if they were not happy with the calculation of that, they would lodge an objection.

**THE CHAIR:** How would they find out whether they had a fair shake? How do they interrogate the system to find out what was done so that they can say, “That’s fair enough” or “No, that’s wrong”? Or do they just have to say, “I don’t like this number, so therefore I’m going to appeal it”?

**Mr Salisbury:** The objection is the most open and transparent process that we have. They would receive a full valuation of the property and so there would be a justification for how the value was determined. It would give all the comparable evidence of properties around that site that determined that per square metre rate. That would be the most open—

**MR COE:** So you can provide a per square metre rate for property owners, then?

**Mr Salisbury:** We would ordinarily do that as part of the objection process.

**MR COE:** What if somebody just writes to you and says, “I’m not going to object until I have the information before me. Can you please provide me with the workings-out for the valuation of my property”?

**Mr Salisbury:** We would engage in a conversation with the taxpayer and we would provide whatever information we could to help inform them about why the calculation is that amount. We do that fairly regularly with taxpayers.

**MR COE:** How much did they change the per square metre amount, following your review?

**Mr Salisbury:** Quite substantially for some Braddon properties.

**MR COE:** Phillip, I am talking about.

**Mr Salisbury:** Sorry, in Phillip, the data that I have in front of me suggests that, for the 108 properties that we reviewed, their initial valuations were around \$100 million and that increased to \$179 million—an uplift on those properties of 79 per cent, \$730,000 per property.

**MR COE:** \$730,000?

**Mr Salisbury:** Increase, on average, per property.

**MR COE:** Someone could have had a property worth \$1 million and then following this it was worth \$1.79 million, on average?

**Mr Salisbury:** Quite possibly, yes.

**MR COE:** That is extraordinary. With regard to the commercial rates, you have got the different thresholds. It was 2.97 last year; it moved to 3.08. The top threshold went from 4.99 to 5.16. That is not six per cent. Those thresholds have changed by less than that. What other assumptions are built into the revenue forecast in order to get to six per cent, because you are not doing it alone based on those thresholds?

**Mr Barr:** As in overall across the entire take?

**MR COE:** Yes.

**Mr Nicol:** The method we use is essentially the database of values across all commercial properties—the most recent, up-to-date values for all commercial properties—and we essentially work backwards from the revenue target of six per cent to work out a set of factors and thresholds that would generate that amount of revenue.

**MR COE:** Therefore you must assume that there are some valuation increases—

**Mr Nicol:** We use the latest data from valuations.

**MR COE:** But what assumptions, if everything is remaining equal, do you make to get to six per cent? You cannot if you only tinker with the thresholds. If everything else is remaining equal, if there is no forecasting for valuations, how do you get to six per cent using that model?

**Mr Nicol:** Because we use the latest valuations, which come in on 1 January each year. We have the data on the averaging of values over three years.

**MR COE:** The only variable there, then, is actually just the impact of the three-year averaging because you are assuming that the actual, underlying valuation remains the same, are you not?

**Mr Nicol:** It does for the next year because it is set.

**MR COE:** Because it is set on 1 January?

**Mr Nicol:** On 1 January, yes. Do you want to add anything extra?

**Ms Vroombout:** I guess the only other observation I would make is that the fixed charge is also another component and it did increase in the most recent budget. It is the rating factors, including the fixed charge.

**MR COE:** What about the following year, the first of the outyears? There are no additional valuation figures for that.

**Mr Nicol:** That is right. The next year we do the same process. We change the rating factors and the thresholds, including the fixed threshold, to attain the revenue target based on the next year's updated information on values for all properties.

**MR COE:** I understand the next year. But I am talking about two years out from the budget.

**Mr Barr:** How do we know what revenue figure to put in?

**MR COE:** What underlying assumptions do you have there?

**Mr Barr:** That is the six per cent increase. There is a bit of a cognitive issue here. We have discussed this multiple times over the years. We determine almost to the exact dollar how much we wish to collect, and that is a fixed amount and that is the target. Then they go away and allocate that amount of money amongst all the commercial rate-paying properties. As the city grows, there are more properties. The total revenue target is shared amongst a greater number of taxpaying properties. The amount in the outyears is set by that annual increase, yes.

**MR COE:** I understand that. That means that, when you are going back and doing revaluations, that must all be windfall?

**Mr Barr:** No.

**Mr Salisbury:** No, because the value becomes the 1 January value going forward.

**Mr Barr:** And there is a rolling three-year average.

**THE CHAIR:** Going back to the people who paid five years in back rates, that was all windfall. In September 2016, when they were assessed as having not paid enough rates for the previous five years and ended up with a bill in excess of \$600,000, that was not factored into the outyears in 2016; that was windfall?

**Mr Salisbury:** That is correct.

**Mr Barr:** Other than we then have the capacity to adjust year on year.

**THE CHAIR:** Are they getting an adjustment year on year or did they pay \$600,000 that was windfall?

**Mr Barr:** The total amount can be set across the forwards.

**THE CHAIR:** I do not think so.

**Mr Nicol:** Certainly from a point forward, it is incorporated into the base. Back taxes, if we had assessed it at the time to be included in the base, yes. The rest of the base would have been slightly lower as a result.

**THE CHAIR:** Do not get me started on why you did not assess it at the time, Mr Nicol, because that is actually the problem. You did not assess it at the time when the lessees changed the lease and then you came back five years later and said, “Thank you; that will be another \$600,000.” No business, big or small, can operate on that sort of basis when you get an unexpected tax bill of that magnitude.

**Mr Nicol:** Sorry, I am not sure—

**THE CHAIR:** The point is that you waited five years and then billed people. Why did you not know at the time, or within six months of the time when a lease was varied, and make that assessment then so that you had an ongoing assessment?

**Mr Nicol:** I think that was a failure in our systems on that occasion.

**THE CHAIR:** One, two or three particular leaseholders had been singled out for five or six years back taxes when, by everyone’s admission, the values had changed in Braddon quite significantly. Why did one, two or three people get singled out for back taxes but then everybody else was treated this way: “Here is the starting date of 1 January 2017 and we will assess you going forward”?

**Mr Nicol:** My understanding in those cases was that they related to a lease change, a change of lease which changed the value because of the lease change. The other changes going forward relate to changes in the underlying value because of evidence of sales in the area.

**THE CHAIR:** All the evidence of sales relates to Braddon now being a much more

interesting place, the values have increased, and none of those 75 properties that were increased had changed their lease purpose clause?

**Mr Nicol:** We have taken that on notice and we will go back and have a look.

**THE CHAIR:** I am conscious of the time. We are supposed to be covering revenue management, financial management and economic management, but we seem to have concentrated somewhat on revenue management. Are there any other issues relating to the issue of commercial rates?

I actually have one other question which relates to commercial rates, and it does relate to Braddon in particular. It is my understanding—and I would like to be corrected if I am wrong; I always like to be corrected if I am wrong—that in Braddon, which I will use as an example where you have mixed use developments, retail, commercial and then residential above, the rating for the whole building is at the commercial rate. Is that correct?

**Mr Salisbury:** That is correct to the extent that the residential component is not unit title. If the residential component is unit title then residential rates will apply to that part of the property.

**THE CHAIR:** Could you just expand on that, Mr Salisbury? That is one of the things that I was thinking about. Take a block in Braddon or somewhere where you have got shops on the ground floor or you might have offices and restaurants and then you have got residential above it. How would you avoid paying commercial rates on the residential properties in that block?

**Mr Salisbury:** The unit plan that is approved at the time that the development application is approved would set out the number of units in the development and some of those would be flagged as residential and some would be commercial.

**THE CHAIR:** Do you need a separate unit plan for the different sorts of properties?

**Mr Salisbury:** You certainly do for residential if residential rates apply, if you want residential rates to apply to the residential component of it.

**THE CHAIR:** But if you have got a five or six-storey building and the top four or five storeys are residential, you have got to have a separate unit plan. If you did not have a separate unit plan for those residential buildings, those residences would be paying rates at a commercial rate?

**Mr Salisbury:** Correct.

**THE CHAIR:** This might be a question on notice. How many properties of that sort, mixed used developments, would have a separate unit plan for the residences, and how many residential occupants would be paying commercial rates for their residential occupancy?

**Mr Salisbury:** I can certainly take it on notice, but the majority of them would have a residential unit plan attached to it.

**THE CHAIR:** The majority would?

**Mr Barr:** Yes. You would think that—

**THE CHAIR:** I would think so if there was a way around it, but it has been put to me that that is not always the case. Great. Thank you.

**MS CHEYNE:** Financial management, pages 91 and 92, on reviews. I note in this past financial year two reviews were completed—one of care and protection and out of home care services and another of ACT libraries. Some reviews are scheduled for next year on sustainable repairs and maintenance and property services across the ACT.

I am mostly interested in the review of ACT libraries. Given that it is under financial management, I assume it is about their finances, rather than anything related to the Assembly's libraries inquiry. Can you tell me more about it and what was the outcome? And when is the expected start for the reviews for this financial year?

**Mr Whybrow:** The library review happened in 2017-18. It was a review of the base operating cost of the library. In the 2018-19 budget the outcome of that review was the provision of an additional \$3.192 million. I will give you a reference—page 27, budget paper 3. That was a new initiative and provided approximately \$800,000 per year going forward.

**MS CHEYNE:** Why?

**Mr Whybrow:** It was a review of the total operating costs of libraries. It demonstrated that their costs were higher than the funding provided over that year. That was being managed through Transport Canberra and City Services, through the redirection of other resources to the libraries.

**MS CHEYNE:** And that was not sustainable?

**Mr Whybrow:** It was an ongoing base funding issue, which was the basis of this expenditure review—to consider whether there was a base funding issue. That was provided to government and government then made a decision to fund higher levels ongoing.

**MS CHEYNE:** Who initiated the review? Did TCCS come knocking, saying, “Hey, this is draining our budget; can we have a review, please?”

**Mr Barr:** It certainly would be fair to observe that directorates are always keen to highlight areas where they believe they could more efficiently run services or expand services or where there are concerns about whether base funding has kept pace with growth in service provision or growth in demand.

A lot of territory funding programs are very much demand driven. We have to make assessments on anticipated levels of demand for particular services. A lot of those assessments are made on the basis of population and demographic data and

assumptions. As I think we discussed with a different committee previously, information on the ACT's population has been challenging in terms of ABS projections in between the five-yearly census periods. There are a number of areas where assumptions around demand are linked to assessments of population. There are countless examples of those.

Our GST revenue has started to catch up, as a result of the new population data with some of the demand in those areas. Last year's budget was an opportunity, whilst returning to surplus, to augment service provision in a number of areas. Where expenditure reviews might traditionally in the past have led to reductions in funding, this was an example of where an expenditure review identified a need for additional funding, and additional funding was provided in the budget.

**MS CHEYNE:** Chief Minister, am I drawing too long a bow to think that for the reviews that are happening in this financial year relating to sustainable repairs and maintenance in property services there might be similar thinking, in that someone has come knocking, saying—

**Mr Barr:** I would not want to pre-empt the outcome of reviews, but we are certainly aware of emerging challenges in relation to the territory's asset base and its infrastructure as it ages. These are issues that will increase over time. Certainly it has been the cabinet's view that money invested now in pre-emptive maintenance and improvements in the quality of our territory asset base will save money in the long term.

**MS CHEYNE:** What assets are we talking about?

**Mr Barr:** We are talking about a range of public infrastructure—everything from buildings, plant and equipment to public realm infrastructure. We need to have a good assessment of future needs. I believe it will be highly likely that investment now will save the territory money in the longer term. This, of course, needs to be tested and hence we are going through this process.

**Mr Nicol:** On the repairs and maintenance review, we are very interested in whether our frameworks are right to ensure that the right resources are going to the right repairs and maintenance at the right time. That is a very important part of the review. On the property services review, a major part of the trigger for that review was the change in the portfolio. We had disposed of a couple of major rental properties, including Macarthur House, which has changed the financial flows of the property group. We want to make sure that is sustainable in the future and look at what arrangements should be put in place to make sure that it is.

**MS CHEYNE:** When we are talking about public realm, are we diving down as specific and small as things like public realm furniture, seats and things like that, in terms of maintaining assets?

**Mr Nicol:** I do not think we will go to that level of detail, but it might be used as a case study if there is a link between the type of capital that is purchased and its lifetime operating cost—that is, whether we are buying the wrong type of capital up front, which leads to higher costs down the track. That sort of question will come up



in the review.

**MS CHEYNE:** I assume these reviews are not public once they are completed?

**Mr Nicol:** Generally they go to cabinet for consideration.

**THE CHAIR:** Before I call the next question, for the information of members, Dr Lloyd has just circulated the letter from the Chief Minister. For clarity, it is automatically published because it is by order of the Assembly, which is why non-committee members have a copy of it.

**MS LAWDER:** When did this modelling take place? Was it in response to the Assembly's motion or had it already taken place?

**Ms Vroombout:** The specific information in front of you was in response to the motion, but we have been doing analysis over the course of tax reform.

**THE CHAIR:** So it was derived from existing information?

**Ms Vroombout:** Correct.

**Mr Barr:** It was a specific request in the motion that we responded to.

**MS LAWDER:** I want to ask about land revenue and why it has fallen by \$178 million over the past financial year.

**Mr Barr:** Timing with settlements. You will see in the quarterly September statement that I will table in the Assembly in the coming sitting week that that revenue has arrived in the first quarter of this current fiscal year.

**MS LAWDER:** Is that expected? Does that happen every year?

**Mr Nicol:** It is usually case by case. In this instance we expected a settlement on the last day of last financial year. The settlement was delayed by the purchaser. I think the last day was a Friday and they delayed it until the Monday, which happened to be the first day of this financial year. So in a sense it was a weekend's delay, but it moved a substantial settlement across financial years.

**MS LAWDER:** So is next year's going to be \$178 million over your estimate?

**Mr Nicol:** Our estimates in the budget are what we currently expect.

**THE CHAIR:** So where has the \$178 million gone?

**Mr Nicol:** Sorry, Ms Lawder; I thought you were talking about a potential delay from the end of this year to the following year. This will appear in this year's budget, this year's receipts.

**THE CHAIR:** So if everything goes according to plan—

**MS LAWDER:** You will be \$178 million over?

**Mr Nicol:** That is my understanding, yes.

**MS LAWDER:** At this point in this financial year how are your revenue targets going?

**Mr Nicol:** I think we are very close to budget in terms of taxation revenue.

**Mr Miners:** At this stage we are tracking broadly online with target against all the various revenue heads. We are expecting to come in very close to target over the year. That noted, our collections are still relatively early in the year. Some lines, such as conveyance duty, are very volatile and depend on a number of large sales. We estimate a number of very large transactions going through, so it will depend on how they turn out. There is still considerable risk around those. Other revenue heads such as rates, for example, are very stable and so we are always very close on those estimates.

**MS LAWDER:** Would you not at least be \$178 million over your target at present?

**Mr Nicol:** We are talking about taxation value there. I would have to take on notice land sales revenues from the SLA because it is not under my direct line of sight. But the last I heard was we were tracking on target with the difference of the \$178 million coming in in the first quarter.

**THE CHAIR:** So when you say that we are taking into account that \$178 million—

**Mr Nicol:** That is on top of it being on target.

**Mr Barr:** To put some perspective on the comments of Mr Miners, duties at the beginning of this decade—2010-11—were \$426 million. In 2017-18 they were \$258 million. Obviously tax reform has played a significant part in duties falling from \$426 million to \$258 million. They have varied over this decade: \$320 million in 2011-12; \$310 million in 2012-13; \$291 million in 2013-14; \$273 million in 2014-15; with some large commercial property transactions they increased to \$331 million in 2015-16; \$350 million in 2016-17; and a drop to \$258 million in the 2017-18 fiscal year.

What you see there is that last year's duties take of \$258 million was the lowest across the decade. And since tax reform began, even though there has been more transaction, more residential properties, more commercial properties, we have seen that duties have fallen. The estimate for 2018-19 is \$275 million. If it hits that estimate, that would make it the third lowest over the course of this decade.

The interesting thing is that in 2010-11, before tax reform, there was \$426 million in duty revenue and in 2017-18 it had dropped to \$258 million. It is volatile—one large commercial property transaction can impact on that. For example, in the 2016 calendar year half of Westfield in Woden was sold and there was significant commercial stamp duty at that time. But outside of that you see a trend downwards in duty of collection, as I say, from \$426 million in 2010-11 down to \$258 million in the

last fiscal year, 2017-18.

**MS CODY:** Chief Minister, I want to have a quick chat with you about federal financial relations and how they impact on our ACT economy. There are obviously a whole bunch of negotiations around funding agreements on education and health. There are funding debates on early childhood and homelessness services. Can you tell us a bit about the role the ACT takes in these negotiations with the commonwealth and how you are trying to get the best deal for the ACT and residents of the ACT?

**Mr Barr:** I think you could say that overall there has been a shift in approach in many commonwealth-state-territory financial agreements away from population-based funding allocations to more needs-based funding allocations. That has been a process over a number of years. The cumulative impact of that has been to see the ACT move to be second only to WA in being the least reliant on commonwealth funding as a share of our total revenue take. The other way to look at that is that we are increasingly becoming more responsible for raising our own revenue.

The trend has been positive if you view vertical fiscal imbalance within the federation as a problem. By that I mean situations where the commonwealth does the bulk of the revenue raising but state and territory governments undertake the bulk of expenditure and service delivery. We are at entirely the other end of the spectrum from, say, Tasmania and the Northern Territory, for whom the share of commonwealth funding within their overall state or territory budget is significantly higher than for the ACT.

This trend over time necessitates the territory taking greater responsibility for its own revenue raising and for its own service delivery. Again, there will be a variety of views on whether that is a good or a bad thing. Economists tend to view situations where jurisdictions that have a greater alignment between their own revenue raising capacity and their own expenditures as—I think the Pegasus analysis of the territory budget in recent times refers to some context of a hard barrier in terms of future expenditure. When the jurisdiction has to raise the extra revenue itself in order to meet its future expenditure needs, that is going to put into sharper focus the future expenditure profiles, as opposed to someone elsewhere raising tax for you. This would commonly be a complaint from federal ministers.

As it relates to federal financial relations, it would be fair to observe that the other factor that is changing, clearly, is the GST: the commitments that have been made to Western Australia and then the subsequent commitments that have been made around no state or territory being worse off in order to meet those commitments to Western Australia. That was an important outcome for the territory. We joined with the other states and territories to argue very forcefully for the commonwealth to make that particular concession, which they did. They did not do that initially. We certainly had a robust discussion at Treasurer Frydenberg's first meeting as Treasurer; he walked in with a hospital pass from the Prime Minister in relation to resolving the GST issue.

That factor is combined with a degree of certainty as it relates to, for example, housing and homelessness funding that has now moved away from being a one or two-year rollover, kick the can down the road issue. I will credit the Prime Minister, when he was Treasurer, for being committed to wanting to lock in a longer term housing and homelessness funding agreement. That was something we supported, and

we are pleased to see that.

We are less supportive of the cuts to health and education funding that were put in place in the 2014 Hockey-Abbott budget. The funding that was cut there has never fully been replaced, and it would appear that it will only fully be replaced if there is a change of government at the next federal election. What will be important for the ACT in that context is the commonwealth meeting a greater share of health funding. It is 45 per cent under the current agreement; federal Labor have indicated that they would lift their share to 50 per cent. That would mean more commonwealth funding into our health system, which would be welcome.

Equally, I think we are getting closer to an outcome in terms of education. But there is still funding that was in the forward estimates of the previous commonwealth government that this current iteration—whether it is Abbott, Turnbull or Morrison or treasurers Hockey, Morrison or Frydenberg—it would appear, will not honour unless they have a last-minute conversion in the months before the federal election. Should there be bipartisanship on that question as we get closer to a federal polling day sometime in the first half of next year, that would obviously only be of benefit to hospitals and schools within the ACT.

That is a summary of where we are at now. We think we need to continue to plan for that trend of commonwealth funding being more needs based than population based. I think that trend is going to continue. Therefore, the territory will have to take greater responsibility for its own revenue raising over time. I would hope, for example, that in areas like the national disability insurance scheme there would be a degree of bipartisanship towards needing to meet obligations under that scheme. Clearly the commonwealth had a proposal for an increase in the Medicare levy to meet some of those needs. There was some concern a few weeks ago that money that had been reserved for the NDIS was being raided for drought relief. That concern may have abated in recent time, but that is one to keep an eye on.

There will continue to be areas where both levels of government are very heavily invested in new and expanded service delivery, where we both have a responsibility to ensure high quality service delivery for people in need. Housing and homelessness are one such area that I think we have made some progress on. With the NDIS, there is still some work to do. With health, there is a commonwealth share issue, as I have mentioned, that hopefully will be resolved positively next year, either through a last-minute bipartisan agreement or by the election of a Labor government. And with education I hope that we will get closer to an outcome in the coming months.

They would be the major areas. There are, of course, a series of other national partnerships and opportunities. Infrastructure is one area. Clearly there are some programs that were put in place in the last commonwealth budget. A great frustration, a continued frustration, for the territory, particularly for Canberra, within the Australian Capital Territory, is that we tend to be excluded from regional programs because we are deemed to be a city, even though sometimes larger cities are included as regional areas. And in other instances we are not deemed to be a major capital city and hence we miss out on city-type funding. This occurs in a number of portfolio areas. It is very frustrating.

A common question I have to ask at COAG, for whichever new program the commonwealth announces, is whether the criteria have been deliberately set up to exclude Canberra from receiving funding. Sadly, there are too many examples where this is the case, where we are structured out of regional programs and structured out of city programs, leaving us in a position where we are apparently neither a region nor a city. That, I have to say, is one of the most frustrating elements of dealing with the current government. There are many other frustrating elements, not least of which is that there are new ministers in certain portfolios seemingly every few months or that ministers are not ministers anymore but are assistant ministers. That makes it very hard to get any particular outcomes in certain areas.

Nevertheless, in the dying days of this parliament, we will continue to put our issues on the table. I am hopeful that 2019 will be a more positive year in terms of tangible outcomes between the commonwealth and the territory, given that they obviously have a special responsibility in relation to the national capital, they are a significant landholder in our city and they are a significant employer in our city. They have a significant role to play, through our city, in the nation's life. This, I hope, will be a feature of territory-commonwealth relations in 2019 and beyond.

**MS LE COUTEUR:** I would like to talk some more about an issue that I have talked about before: rate deferrals. I continue to hear from people who find this process impossible to go through. Can you tell me a bit about how it is managed within the Revenue Office?

**Mr Salisbury:** I am interested to pursue that a little more with you, and maybe we could take that conversation offline. We want that to be a very seamless sort of process, and clearly it does not appear that we—

**MS LE COUTEUR:** I can tell you of a number of people who have contacted the Revenue Office, or they believe that is what they have done, and they have been basically told there are not deferrals.

**Mr Salisbury:** They have been told?

**MS LE COUTEUR:** That there are no deferrals. I have told them about deferrals, and then they have come back to me. I have said, "Look; have faith. I did not make it up." That is what they are thinking basically.

**Mr Barr:** I would never accuse you of making it up, Ms Le Couteur.

**MS LE COUTEUR:** No, but I feel that is what they are thinking. I have told them there is an ACT government thing which will help them. They ring the Revenue Office and they do not get anywhere.

**Mr Salisbury:** That suggests to me that we need to do some more work with our staff. I have some figures on deferrals, and deferrals have gone up quite substantially from when we last spoke.

**MS LE COUTEUR:** Good.

**Mr Barr:** Your referrals may have led to more deferrals, Ms Le Couteur.

**Mr Salisbury:** Clearly we are not doing something well there. I am happy to take a list of the people that you have spoken with, and we can get in contact with them and sort that out. We do want that to be an easy and seamless process.

**MS LE COUTEUR:** As well as better education for your staff, one of the obvious things to do is put it on the rates notice. Most people would not even think to make the first step to inquire in any way. The person I have most recently had a problem with has sought not an age deferral but a hardship deferral. They said they spent two whole days trying to talk to the Revenue Office and got no information about it. How are hardship deferrals managed?

**Mr Salisbury:** We need to get a range of information from people, but we try to view these things sympathetically, certainly. Again, I am very happy to take the details of that person and look into why the outcome was the outcome and why it was an unsatisfactory interaction.

**MS LE COUTEUR:** You do not have any specific criteria for hardship? It is discretionary?

**Mr Salisbury:** There are. There certainly are. I am not sure that they are published, but there are definitely internal guidelines. Maybe we need to do some work in that space as well.

**MS LE COUTEUR:** They do not appear to be published. I do not guarantee that they are not published, but I have not found them. Let us put it that way.

**Mr Salisbury:** My recollection is they are not, but we do have a number of criteria that we will evaluate a hardship application against. We do want to make this a good process, and I am disappointed that it is not. We need to do some more work in that space.

**MS LE COUTEUR:** The couple of instances of people who are looking for hardship consideration that I am aware of are people who are not yet 65 but are fairly close to 60. They are people who have no reasonable expectation that their economic circumstances are going to improve any time soon, people living on Newstart until they can hope for the age pension. It is not going to get better.

**MS LAWDER:** Can you tell us how many people have applied for concessions, deferment or assistance with their rates or land tax in the last financial year, and how that compares to previous years?

**Mr Salisbury:** Yes, I have certainly got those numbers. It is a matter of finding them.

**MS LAWDER:** You can take it on notice, if that is easier.

**Mr Salisbury:** It is written on one of the sheets. In terms of deferred rates, in August last year, for hardship, we had 32, and as of November this year we have 50. In terms of the pensioner deferred rates, we had 148 in August last year, and now we have 180,

in November this year. In terms of people over 65, we had two last year and we now have 41. So those numbers are increasing.

**THE CHAIR:** Why would you not publish the criteria for hardship and deferrals?

**Mr Salisbury:** That is a good question, and we will have a look at that in the office.

**THE CHAIR:** Could you take on notice the suggestion that it might be published?

**Mr Salisbury:** Certainly.

**THE CHAIR:** It would probably help people to navigate the system—

**Mr Salisbury:** Yes, sure.

**THE CHAIR:** if they knew whether or not they had a snowflake's chance of actually being eligible.

**MR COE:** With regard to residential rates, and commercial rates as well, under the model where you determine the total amount that you are going to receive from the overall estate, how does that account for a possible downturn in either the commercial or residential sector?

**Mr Nicol:** It is much less volatile than sales, stamp duty on sales.

**MR COE:** This is not about tax reform. What happens if, for instance, there is actually a hit of five per cent on average across properties in Canberra, yet you have determined that you are going to receive a six per cent increase regardless? Even if property values do go down and even if the valuation office does adjust everything, doesn't that therefore mean you are just going to hike the ratings factors to get to the same outcome regardless?

**Mr Nicol:** In the following year, if the government of the day sets a revenue target of X, we will set the ratings factors based on the most recent valuations for properties across the territory to get that revenue target.

**MR COE:** If the commercial sector, for instance, was to take a hit of 10 or 20 per cent, how would the valuation office factor that into valuations, and how would the ratings factors be affected?

**Mr Nicol:** I will let Mr Salisbury talk about how the valuation office might do its job in that regard. If, however, values came down, the ratings factors would be adjusted to ensure the desired revenue target.

**THE CHAIR:** So the rating values would go up?

**Mr Nicol:** Essentially, that is correct, yes. Similarly, if property values went up, for the revenue target the ratings factors would come down. That is how the system works.

**Mr Salisbury:** In terms of that hypothetical, we would determine whether that

reduction in values is across the board, and, if it was, we would make across the board, blanket adjustments. If it was in particular precincts then we would similarly do a property-by-property analysis and make those adjustments to those particular properties that were affected. It really depends on what happens in the market in terms of baselining the values.

**Mr Nicol:** The primary purpose of the values for individual properties is to set relativities in rates across properties. It is not to set the aggregate rates revenue, which is done separately, as we have described.

**MR COE:** However, if valuations were to take a hit of, for instance, half the number of commercial precincts or half the number of properties, that would mean the other half would get the full impact of the reduction of that half; is that not correct?

**Mr Nicol:** If some properties go up or down relative to the others, yes, for the rates revenue, the target would be redistributed amongst the properties based on the values.

**MR COE:** Therefore—

**Mr Nicol:** The exact impact of that would depend on the scenario that you are painting. You would have to do some fairly detailed analysis to arrive at an exact outcome, but, yes, that is the principle.

**MR COE:** Has the government done any modelling of the impact of a downturn in commercial or residential property values?

**Mr Nicol:** Not to my knowledge, no. In a sense, for the rates, it is a relatively straightforward calculation to determine how that would be redistributed.

**Mr Barr:** The question would be: what sort of modelling? The modelling would not impact on the total revenue collection; it could only impact on the distribution internally within the properties. That is, at one level, a relatively straightforward exercise in that if, in the example that you have cited, half the properties had less value then they would pay less, and the other half would pay more. But the total amount of revenue collected would remain the same.

To the extent that you would even need a modelling exercise to be undertaken, that is a relatively straightforward proposition. You could, at one level, model infinite possibilities across the 6,150 or thereabouts different commercial properties. If one went up significantly and 6,149 went down, you could model that. You could then model every iteration between the two. It would not tell you anything beyond the—

**MR COE:** But that is what scenario planning is, and that is why you have contingency planning.

**Mr Barr:** But contingency for what? The amount of revenue remains the same, so—

**MR COE:** That is right, but the impact on the territory would be significant. If, for instance, 80 or 90 per cent of properties did take a hit and you tried to redistribute the total hit amongst 10 or 20 per cent of ratepayers, that would blow them up.



**Mr Barr:** Yes, and we would, in that circumstance—which even you would have to suggest is highly unusual and highly unlikely, in the magnitude that you are talking about—

**MR COE:** No, not necessarily. If there is a downturn in the property market and, for instance, apartments or standalone homes in most suburbs take a five or 10 per cent hit, which is not impossible, yet there are one or two suburbs that buck the trend, for some reason or another, they are potentially going to get a big increase, are they not?

**Mr Barr:** Sure, and, as part of the annual budget process and the setting of the rating factors for the coming year, treasury would advise of such an anomaly, should it occur, and the government would need to make a decision in relation to that particular circumstance. The system allows for, every year, the making of that determination. As we have identified in hearings at budget estimates, and indeed in annual reports hearings throughout this decade, and as has been the case since this rating system has been in place for the territory, you are able to make annual adjustments. If you were to get a set of data that reflected the circumstances that you have indicated then the government could make a response in the forthcoming budget year.

**MR COE:** Is there any revenue risk associated with single dwellings, units or commercial properties?

**Mr Barr:** Only risk that the government would accept through the annual budget process, because of the way the system works. We set a revenue target and then distribute it among—

**MR COE:** Yes, but for the next three years you have got some estimates about what revenue you are likely to bring in. Are you very comfortable or very confident you will be able to achieve that without having a disproportionate or harsh impact on households?

**Mr Barr:** Certainly we are comfortable with the forward estimates projections. Should circumstances change radically then we would have the opportunity, through each annual budget process, to adjust that. The opportunity to adjust that would sit in the space between the WPI annual increase and the tax reform component. In an example where there was a significant economic shock, which would extend beyond the ACT—it would be national in that context—then the government would reserve the right to respond to that significant economic shock. To quote Mr Keynes, “When the facts change, sir, I change my mind. What do you do?” If the facts change so significantly then, yes, of course we have the capacity through the budget each year to do that—and we could do that in a number of ways.

**MR COE:** That is why I am asking about risk. I am asking about what forecasting and what—

**Mr Barr:** Sure. We retain that capacity. We could collect less revenue. That would be one way to absorb the shock. We could adjust the rate of tax reform in a particular year to respond to an economic shock. The government has a significant amount of flexibility, should a catastrophic economic event occur. We could, of course, also

allow the natural stabilisers within the budget to come into effect. We could run a deficit if we believed, as we have done in the past—

**MR COE:** I am talking about revenue risk here; I am not talking about the bottom line.

**Mr Barr:** Sure, but we could accept less revenue in a particular year because we felt that—

**MR COE:** I am just asking about the top line. What analysis or forecasting has treasury done with regard to the outlook for the property sector in the ACT?

**Mr Nicol:** We keep a fairly close eye on the property sector. We take market soundings from participants in the sector; we look at the pipeline of future development processes in the private sector; we look at turnover; we look at prices; we look at confidence indicators. Obviously key determinants are factors such as population growth, interest rates, general economic outlook et cetera. We keep all of those under close observation and make an assessment about where we think the risks are to the economy in general and to the property sector in particular. That is essentially the process we go through. We monitor the statistics on an ongoing basis as they are released by various market players.

**Mr Barr:** And of course the government has the midyear budget update, for example. We have twice annual public indications of both those key economic forecasts and projections, as well as our own internal decision-making process.

**MR COE:** That is the process, but what is the outlook according to treasury?

**Mr Nicol:** As indicated in the most recent budget, we think the outlook remains positive, supported by pretty strong population growth and very good economic conditions more broadly in the territory—very positive conditions in the territory—and broader positive conditions in the Australian economy. Interest rates we think will continue to remain accommodative of investment in property. We are certainly seeing demand for our land sales to support future releases of land for new housing. I foresee this continuing into the medium term at the very least. There are risks, of course. There always are. Risks, I would suggest, are potentially on the international stage, with flow-on effects to the national economy and hence the ACT economy. But at the moment I view the outlook as positive.

**MR COE:** And what about within the property sector? Are there any sub-sectors that are cause for concern?

**Mr Nicol:** There is, at times, talk about whether we have an oversupply of apartments in the territory. I think that is a better situation to be in than an undersupply in terms of its effect on housing affordability and the like.

**MR COE:** Do we have an undersupply of standalone houses, then?

**Mr Nicol:** I do not think so, but personally I would like to be supplying more to the market. We are not the only supplier. I would prefer to have more properties on the

market. That is a way to keep the lid on housing affordability. The government, for its part, is pushing quite strongly on greenfields land release, so I think there is enough in the pipeline to supply demand. Again, there are always risks: development risks, risks of higher population growth than we expect et cetera. But, by and large, I think it is a positive situation. When you have population growth above average, at 1.5 and higher, you have to race a bit to keep up with supply. You have to make sure supply continues on the market to meet the demand that is coming through.

**MR COE:** With regard to apartments in particular, on the light rail corridor have there been revaluations on Flemington Road?

**Mr Nicol:** I will have to defer to Mr Salisbury. We might take it on notice.

**Mr Salisbury:** Yes, it is best to take that one on notice.

**MR COE:** Have there been any or not?

**Mr Salisbury:** I do not know. We will take it on notice.

**MR COE:** Is there a program of revaluing the light rail corridor? This is your whole uplift; this is part of the whole business case for light rail.

**Mr Salisbury:** I will take the question on notice.

**MR COE:** Have you got it scheduled?

**Mr Salisbury:** In the document that was circulated to the committee there are a number of areas flagged for potential—

**MR COE:** That is right. I do not see the light rail corridor being part of that mix. Are you expecting that? Do you think people who have an apartment on Flemington Road have seen an uplift or will see an uplift on the back of light rail?

**Mr Salisbury:** That is not something I am going to speculate on.

**Mr Nicol:** We can see what has happened to the values in the corridor and get back to the committee. I do not have it off the top of my head.

**MR COE:** That would be good. Thank you.

**THE CHAIR:** I would like to move on to questions about the superannuation provision account.

I want to touch on the overview comments relating to the superannuation provision account. Thank you for coming with a name tag, Mr McAuliffe; top marks! It says in the third paragraph:

The Superannuation Provision Account will continue to be in a net liability position until the defined benefit liability is fully funded by investment assets.

It goes on to show in the table that there was about a 30 per cent lower than expected performance for net cost of services. Can you talk me through what the prospects are for the defined benefits scheme becoming fully funded by assets? How do we address the issues relating to the net cost of services? Also, do you know about the pink privilege statement?

**Mr McAuliffe:** Yes, I do.

**THE CHAIR:** Thanks.

**Mr Barr:** He has been coming here longer than I have.

**THE CHAIR:** He has been coming here longer than me, too.

**Mr McAuliffe:** Mrs Dunne, could I ask where exactly you are referring to?

**THE CHAIR:** The overview on page 3, volume 2.2 of the annual report. This is in relation to the discussion and analysis of the superannuation provision account. For the financial year end of 30 June, the overview talks about the long-run performance. It says that over the long-run performance the investment return is above target. But clearly the target does not reach the full capacity to cover the liability. I would like to talk about that. When might we get to a point where we will be investing enough to cover the liability?

**Mr McAuliffe:** Obviously, the two parts of that are the investment return objective we have got and the impact of the liability, which is driven largely by the discount rates in the financial market. On the investment asset side, the portfolio is actually doing what it is set up to do. We have the long-term investment return objective at 4.75 per cent plus CPI. Over the long term, about 22 years since we have been measuring this—

**THE CHAIR:** It says 5.3, which is—

**Mr McAuliffe:** We are 5.3 plus CPI; so that is on track. Going forward, again the long-term funding plan outcome is subject to those investment returns. They are going to continue to be volatile. We saw those periods through the GFC, when we had negative returns. But over that long term it has—

**THE CHAIR:** I suppose the question I am asking is this: if the long-term aim is 4.7 plus CPI, when do the two points meet? If we invest 4.7 plus CPI, will there be a point when the investments will fund the superannuation liability?

**Mr McAuliffe:** The current objective is to have the liabilities fully covered by June 2030.

**THE CHAIR:** June 2030?

**Mr McAuliffe:** That is the current objective.

**THE CHAIR:** None of us will be here.

**Mr McAuliffe:** It works in the long term.

**Mr Barr:** There are a few who are young enough, I suspect. You and I will not be. I think we can say that confidently, madam chair.

**Mr Nicol:** We will be paying super out until 2050 and beyond from this—

**THE CHAIR:** Way, way, way beyond 2050; the tail is very long.

**Mr McAuliffe:** That is exactly right. I started off talking about the investment return. We think that is on track. What is causing the funding ratio problem we have is actually on the liability side. That is being driven by the low interest rate environment that we are in. The discount rate values that liability at a point in time. In the annual financial statements, we have to use a spot rate as at 30 June.

For this year just gone, the 30 June just gone, it was 3.11 per cent. The previous year it was 3.51 per cent, whereas in the budget we are assuming a discount rate of five per cent. So the lower that interest rate, it increases that liability valuation. What we are hoping, or what the funding plan is looking at, is that if by 30 June 2030 the discount rate is around about five per cent and we are achieving our investment return we expect to have that liability covered by 2030.

**THE CHAIR:** Sorry, this is going to sound like a stupid question, but you will set me straight, Mr McAuliffe. If the interest rate is lower than you anticipate, does it not mean that the liability is lower than you anticipate?

**Mr McAuliffe:** No, what happens is that, when we look at what our future benefit expectations are, the liabilities we have to pay out, the actuary calculates a projected cash flow. What we have to do when we value those liabilities at a point in time is discount those cash flows back to today's values. So the lower your discount rate, interest rate, the smaller amount of discounting that is going on.

**THE CHAIR:** Right; okay.

**Mr McAuliffe:** A number of years ago, interest rates were a lot higher but our liability valuation was staying low. That is a big driver in the valuation. What we keep a closer eye on is the actual cash flow estimates that are sitting behind the liability. They do not change by the discount rates so much.

The short answer is that the target date is 2030. Our modelling is anticipating that we will be around about fully funded by 2030 if we can get the investment return that we are after, based on the discount rate being at around about five per cent and the current cash flow assumptions remaining reasonably stable.

**THE CHAIR:** In that process, you have people leaving the defined benefits scheme when they retire and stuff like that. Where is the big hit in the defined benefits scheme? Is it before 2030 or beyond 2030?

**Mr McAuliffe:** The liability is going to keep growing beyond 2030.

**THE CHAIR:** Yes, I understand that. But where is the big lumpy bit? Where is it that most people are going to start drawing down on their retirement benefits?

**Mr Miners:** The budget papers publish an estimate of when the superannuation payments are projected to peak. It is page 300 of budget paper 3, 2018-19. Basically, the super payments made to the commonwealth to extinguish the liability increase over time to a peak of \$665,000,000 in 2042-43.

**THE CHAIR:** Sorry, what was that page number again, Mr Miners?

**Mr Miners:** That is page 300.

**THE CHAIR:** Page 300 of BP3. Thank you. So if I go there, I can get the answer to that question?

**Mr Miners:** Complete with a nice picture.

**THE CHAIR:** With a nice chart; fabulous! But not a Venn diagram?

**Mr Barr:** We can probably try to provide one.

**THE CHAIR:** No. Ms Cheyne.

**MS CHEYNE:** I think my questions are for the office of the nominal defendant.

**THE CHAIR:** Do we have any other questions on the superannuation provision account?

**Mr Barr:** It does not look like it. Thank you, Pat.

**THE CHAIR:** I have a few, but they are process-related. I will put them on notice.

**Mr Barr:** Terrific, thank you. Welcome, Mr Fletcher.

**MS CHEYNE:** We are making sure that everyone gets a turn.

**Mr Barr:** Yes.

**MS CHEYNE:** In terms of debt recovery, the annual report states that, in relation to recovery prospects, in the majority of matters it is often difficult to identify or find the driver or the vehicle owner and, when located, generally they do not have the capacity to repay any or all the cost incurred. I am on page 359, for my colleagues, if they are keen. Do we have a figure available of how many debts have or have not been recovered in the last financial year?

**Mr Fletcher:** I am responsible for the nominal defendant fund and I acknowledge the privilege statement. The recovery of debts is a difficult issue. I do not have an exact figure in relation to what those debts might be. We currently have 48 recovery-only files. The difficulty with recoveries in this area is that many of the individuals

involved do not have any assets, and obviously a process to invest funds in trying to recover from them is a pretty pointless process.

**MS CHEYNE:** It ends up being a further cost, with no prospects of getting anything back?

**Mr Fletcher:** Yes, just another cost to the fund.

**MS CHEYNE:** You said you do not have figures. Do you not have figures in front of you or do not have figures generally?

**Mr Fletcher:** I do not have the exact figures in terms of what that outstanding debt profile might be on those 48 recovery files. It is certainly somewhere in the financial statements, as a debt, but the expectation in terms of our financial profile is very low.

**MS CHEYNE:** It is not like we have got high expectations and then we do not get it anyway?

**Mr Fletcher:** No.

**MS CHEYNE:** And we are saying, “That stuffs our budget”?

**Mr Fletcher:** No.

**THE CHAIR:** How many claims would have had to be processed by the nominal defendant? How many uninsured—

**Mr Fletcher:** There are—

**THE CHAIR:** How many uninsured people?

**Mr Fletcher:** There were 53 new claims in the 2017-18 financial year and there are 146 open claims. They are a mixture of claims associated with unidentified vehicles and uninsured vehicles. And a number—

**THE CHAIR:** Sorry, what was that last figure? 146?

**Mr Fletcher:** Yes. At the top of page 359 the paragraph describes what that claim profile looks like. I will read it, if you like:

Of the 146 open claims, unidentified vehicles account for 36%, unregistered and uninsured vehicles for 59% and 5% are related to unregistered vehicle permits.

**MS CHEYNE:** Are these claims year on year increasing, decreasing or staying the same?

**Mr Fletcher:** You can see the claim frequency diagram there on page 359.

**MS CHEYNE:** At the bottom, yes.

**Mr Fletcher:** That comes out of the actuary's calculations. The number of claims is very, very small. You can see there are 0.16 claims, less than one claim per thousand vehicles that are registered. In terms of what that looks like over the years, the adopted frequency used by our actuary is there in the adopted frequency. It is very low. You can see that basically since 2016 it has ranged between 0.16 and just over 0.18. The fund is actually a very, very small percentage of CTP claims in the ACT—a very important percentage for those people who are injured in a vehicle that does not have insurance but a small component.

**THE CHAIR:** What was the total payout last financial year?

**Mr Fletcher:** In terms of the claims expense?

**THE CHAIR:** Yes.

**Mr Fletcher:** You see in the operating statement on page 225 that the claims expense is \$5.803 million.

**MS LAWDER:** I have a question for the CTP regulator. I want to ask: are children with injuries treated the same as adults with injuries under the current CTP scheme?

**Ms Holmes:** Yes. The legislation in relation to the existing scheme does not make any distinction between children and adults.

**MS LAWDER:** There is no greater weight or significance placed on it if it is a child involved in a longer term impact?

**Ms Holmes:** Our existing scheme is a common-law scheme. The actual CTP legislation itself talks a lot about how to make a claim, the functions of the regulator, licensing, that type of stuff. But the bulk when it comes to a common-law claim is actually in relation to a different piece of legislation which is the Civil Law (Wrongs) Act.

**MS LAWDER:** If a child is injured and a parent or carer has to take a lot time off work to care for that child, how is that accommodated in the current scheme?

**Ms Holmes:** There are different types of heads of damage which people are able to access under common law. They have access to funding in relation to what they need for caring.

**MS LAWDER:** Do you know how that may differ under the proposed new scheme?

**Ms Holmes:** What is proposed is that gratuitous care is not paid for.

**THE CHAIR:** What does gratuitous care mean?

**Ms Holmes:** Gratuitous care means care which is provided by a family member. The reason is that we want family members to be family members and for people who actually require care to get care from people who are properly qualified. It is not that there is no care under what is proposed; there is no gratuitous care. People have



access to paid care for what they need.

**THE CHAIR:** What you are saying is that the new scheme aims to displace—and I do not mean this pejoratively—family members as carers and substitute providers of care, professionals?

**Ms Holmes:** The people who actually require care are getting care from people who are properly qualified to provide that care.

**MS LAWDER:** My question remains. If a child is in an accident, a parent is likely to take quite a bit of time off work—if not while caring for the child then during a hospital stay or convalescence, which may go past the amount of leave a parent is able to access. Are you saying that a parent, as a blanket rule, will not be able to claim for that time off work under the new scheme?

**Ms Holmes:** Under the scheme which was proposed and selected by the citizens jury, they had four options which they selected from. That was consistent with the objectives that they set in October, which was when the first lot of sittings were held. Of the four models that they could choose from—and there were different levels of care provided through those models—the model that they chose has no gratuitous care paid for.

**MS LAWDER:** It was part of four options, did you say?

**Ms Holmes:** Yes.

**MS LAWDER:** Did that include information about how children interact with the current scheme and how they should be treated?

**Ms Holmes:** The citizens jury process went over six days—six full days—where they learned about the scheme as it currently exists, as well as what was proposed, and also did countless hours outside the jury process. There were certainly robust conversations in relation to care.

**MS LAWDER:** Were they given information about how children are treated under the current scheme?

**Ms Holmes:** They were certainly given information about the existing scheme, yes.

**MS LAWDER:** Specific to children?

**Ms Holmes:** As I said, there was no distinction between children and adults under the existing scheme.

**MS LAWDER:** Under the proposed new scheme, will children need to meet a different WPI threshold?

**Ms Holmes:** It is the same WPI threshold.

**MS LAWDER:** Irrespective of the proposed new scheme, which is at some point in

the future, have you been looking at any proposed improvements in CTP cover or compensation, especially relating to children? Have you looked at any other changes as part of your ongoing work, irrespective of the new scheme?

**Ms Holmes:** Are you talking about the existing scheme?

**MS LAWDER:** Yes.

**Ms Holmes:** No.

**MS LAWDER:** Do you get much contact from individuals who are part of the scheme who raise concerns about the way children are covered or may be covered under a proposed new scheme? Have you received any contact from members of the public about that?

**Ms Holmes:** Specifically to do with what is proposed?

**MS LAWDER:** Currently, and with regard to the new scheme.

**Ms Holmes:** The CTP regulator periodically will get queries from people in relation to either how the scheme works or a specific claim that they have. If it is to do with a claim in particular that is on foot and they are querying a process, we will go to the insurer, who is the one who is dealing with that claim, to make sure they are following the processes as per the legislation.

**MS LAWDER:** And in regard to the proposed new scheme?

**Ms Holmes:** The CTP regulator is specifically in relation to the regulation of the existing scheme.

**MS LAWDER:** Has anyone written to you about the proposed new scheme?

**MS CODY:** I note that there is an inquiry—

**THE CHAIR:** There is an inquiry, and we have to be careful not to encroach on that inquiry. But I do not think we are at this stage.

**MS CODY:** We are talking about the new scheme, which is what the inquiry is looking into.

**THE CHAIR:** Yes, I understand that. But Ms Lawder is looking for a comparison between what happens now, which is clearly within the remit of the annual report, and what might happen.

**MS CODY:** I am not sure it is in the remit of the annual report. The annual report—

**THE CHAIR:** To ask about how things currently—

**MS CODY:** It is also after 11 o'clock, so—

**THE CHAIR:** To ask how things currently work is clearly within the remit of the annual report.

**Mr Barr:** It is fine, that question.

**THE CHAIR:** Thank you for that adjudication, Chief Minister. Ms Lawder's question was: how do you anticipate that the regulator will work under the new scheme in relation to complaints?

**Ms Holmes:** Under the new scheme the regulator—there is a name change—becomes the MAI commissioner. The commissioner has extended powers, or it is proposed that they would have extended powers, versus what the CTP regulator currently has. Those additional powers in particular allow the commissioner to do more monitoring of the scheme and how it is being run, and more monitoring of the insurers.

**THE CHAIR:** Are there any more questions on the CTP regulator?

**MS CODY:** I am not asking any, as I sit on the JACS committee and I feel there would be a conflict.

**THE CHAIR:** Okay. Are there any other questions that people might have in relation to the territory banking account or the office of the nominal defendant? If not, we will adjourn for 15 minutes.

**Hearing suspended from 11.05 to 11.20 am.**

**THE CHAIR:** The committee will consider Icon Water. I noted that the annual report said that the remuneration committee did not meet in the report period but has met since then. Why did the remuneration committee not meet during the reporting period? And what caused it to meet on 29 August?

**Mr Hezkial:** Unfortunately, I do not have that detail to hand.

**THE CHAIR:** I should remind witnesses to acknowledge that they understand the privilege statement.

**Mr Hezkial:** I acknowledge the privilege statement.

**THE CHAIR:** Okay. My question was: why did the remuneration committee not meet in 2017-18? Does it have a regular recourse to meeting? If so, why did it not meet in 2017-18? And what caused it to meet on 29 August?

**Mr Hezkial:** Thank you for that question. I might refer that question to Jane Breden.

**Ms Breden:** I acknowledge the privilege statement. It was purely a matter of timing; the committee met just before the start of the financial year and just after the end of the financial year. Normally the committee would meet at least once a year. The remuneration committee is made up of our entire board, so the full board simply sits as another entity of the remuneration committee.

**THE CHAIR:** It normally meets once a year?

**Ms Breaden:** At least, yes.

**THE CHAIR:** It has met once in the calendar year but outside the reporting period?

**Ms Breaden:** That is correct. Our board planning year is by calendar year. It just so happened that in that financial year it was just either side of the financial year.

**THE CHAIR:** What is the remit of the remuneration committee?

**Ms Breaden:** The remuneration committee sets the remuneration for the managing director. Also, it reviews the remuneration arrangements, the process for setting remuneration for executives.

**THE CHAIR:** You said it sets the remuneration for the managing director, but it—

**Ms Breaden:** It reviews the process that is used to set remuneration for executives. Actually, conducting that process and setting remuneration is a matter for the managing director.

**THE CHAIR:** How does the managing director go about that?

**Ms Breaden:** In the past we have used an external specialist expert in the utilities industry who has been working in the industry for a number of years and assesses or benchmarks salaries against the rest of the industry for the nature of the roles that we have.

**THE CHAIR:** Does that mean that the managing director sets the remuneration for the executives?

**Ms Breaden:** Yes, using a documented process that is reviewed and agreed by the board.

**THE CHAIR:** So the only decision that the board makes is to agree to the remuneration of the chief executive, the managing director?

**Ms Breaden:** Yes.

**THE CHAIR:** And to agree a process?

**Ms Breaden:** Yes.

**THE CHAIR:** And that is all it does?

**Ms Breaden:** It also reviews the performance of the managing director as part of the process for setting the managing director's salary remuneration.

**THE CHAIR:** So pretty much a standard remuneration committee?

**Ms Breden:** Yes.

**THE CHAIR:** Thank you very much.

**MS CHEYNE:** I have a different line of questioning. I note from the annual report that there have been significant efforts to improve female participation in non-traditional roles. I am particularly focusing on what you have got on page 23. It says “implemented an initiative”. What was that initiative? Can you explain that to me, please?

**Mr Hezkial:** Our gender split at the moment is about 24 per cent female as a total composition of the workforce. We are well represented in some parts of the business, but we are trying to improve representation in non-traditional areas. That would include areas such as engineering and trade-based roles.

We have a number of initiatives afoot. We have a very detailed diversity strategy which includes a number of initiatives, including looking at the way we have structured our work to make sure that we can offer flexible work arrangements. We are also engaging with external industries; we are turning up to career expos. And we are doing all we can to try to change the way we promote ourselves out in the community to be able to attract those candidates.

We have had some degree of success so far. It is very difficult to attract candidates in those non-traditional roles, but we have had some recent success with some recent appointments in the space. A mechanical fitter has joined us. A female plumber has joined us. We are making slow inroads. Effectively, we are trying to create our own pipeline as well. We recently instituted a graduate program and an apprenticeship program to try to improve that pipeline into the business.

**MS CHEYNE:** Does the graduate or the apprenticeship program have a focus on women?

**Mr Hezkial:** Yes, it does. We try to get equal representation between men and women. We have done relatively well. That cohort of recent graduate intakes will run for two years, and we will refresh that as we go.

**MS CHEYNE:** By “relatively well”, did you get 50 per cent representation of each?

**Mr Hezkial:** I do not think it is quite 50 per cent. Jane, do you know?

**Ms Breden:** If I remember correctly, I believe we took in four graduates, and three were women. I think we actually got three out of four.

**MS CHEYNE:** And of the apprentices?

**Ms Breden:** I do not have that detail on hand.

**Mr Hezkial:** I do not have that detail to hand, I am sorry.

**MS CHEYNE:** Would it be more sensible to have a target of greater than 50 per cent

to try to make a bigger difference overall to the numbers?

**Mr Hezkial:** We can set those targets, certainly, but I think the issue for us is that structurally, within the industry, those candidates are very difficult to find. We are really focusing our energy on trying to make sure that we have programs in place that can find those people, either through TAFE career days or through university career days. Having those apprenticeship programs in place allows us to generate that pipeline ourselves. Those candidates are few and far between. We have had some positive progress.

**MS CHEYNE:** In the annual report you mention that you have partnered with external organisations to increase and diversify those candidate pools. Who are those external organisations?

**Mr Hezkial:** Typically we will work with education institutions. We have been talking to universities and we have been talking to TAFEs. We represent ourselves at any career expos that are happening. We have also created a bit of new material on our website to try to promote that we are a gender equity based employer. We are basically trying to do everything we can. There are two fronts, I guess. One is to promote and the other is to actually create our own pipeline within the business.

**MS CHEYNE:** And I assume also trying to keep people. Retention is pretty important.

**Mr Hezkial:** Absolutely. Retention is very important for us. We are still in the very early stages—

**MS CHEYNE:** What are you doing? You mentioned flexible work arrangements. Is that it?

**Mr Hezkial:** Flexible work arrangements are a proposition that attracts candidates. We understand that to keep candidates we need to focus on our culture, and that is something that we continue to work on. I think those work arrangements are also very important from the perspective of providing a flexible environment so that people can basically have that work-life balance as well. And it is about making it a bit more attractive.

**MS CHEYNE:** Are you able to give me some detail about what a flexible working arrangement is? I have an idea in my mind, based on other workplaces.

**Ms Breden:** Flexible working arrangements can take a number of forms. They can be part time, with what people typically know as part-time arrangements. It can also be entering into early start, early finish arrangements, or late start, late finish arrangements, for example. That can be on a permanent basis. It may be that an individual makes an agreement with their supervisor that they will continuously start early or finish early on certain days. It can be on an ad hoc basis. I have a number of staff in my group, for example, both parents and non-parents, who choose to leave early. For example, some parents choose to leave early one day a week, to be able to pick their kids up from school, and make up for that time by either starting early or working late on other days.

**MS CHEYNE:** Do you know how many people are engaging with these flexible work arrangements?

**Ms Breden:** No, I do not have that detail on hand.

**MS CHEYNE:** It sounds as though there has been a real focus on increasing those arrangements.

**Ms Breden:** There has been.

**MS CHEYNE:** Anecdotally, has there been not just a focus but an actual increase?

**Ms Breden:** I can speak for my group of the business, and, yes, there has been an increase. Recently the executive received a presentation from an external organisation that specialises in promoting and enabling flexible working arrangements, and we were talking about what strategies we might use within the business to even increase the take-up of flexible working arrangements.

**MS CHEYNE:** I see there is also InspireCo, a networking opportunity. What is that?

**Ms Breden:** That is something that we do alongside ActewAGL; it is both organisations working together. It was intended to meet once or twice a year. It is an opportunity for both males and females to come together and hear a presentation from an inspiring speaker that encourages us to focus on diversity and inclusion and also to inspire people to perform well in work and in life.

**MS CHEYNE:** It says it is a networking opportunity for female employees. So it is not?

**Ms Breden:** That is how it started. I think that in the initial meeting females were invited. Both organisations got some feedback that males felt that it was something that they wanted to be invited to as well. So for the second session we invited men who were supervisors of females. In the most recent session, which was only a couple of weeks ago, employees in general were invited to come and hear the speaker.

**MS CHEYNE:** What is the cost of hosting InspireCo?

**Ms Breden:** I do not have that information on hand.

**MS CHEYNE:** Are you able to take that on notice?

**Ms Breden:** Yes, I can.

**MS CODY:** You said you have linked with a few external providers to help support encouraging women into non-traditional trades. Have you worked with the government on their women in trades grants and the women in trades forums they have been holding?

**Mr Hezkial:** I do not have that information at hand. I do not believe so, but that

sounds like an opportunity we should be exploring.

**MS CODY:** A very good opportunity, I imagine. Have you been linking with the government's STEM work to encourage women into science, technology, engineering and mathematics fields?

**Ms Breden:** In some areas we are talking to universities, and when we go to careers fairs there is some STEM relationship there. As to directly working with the government, I am not sure.

**MS CODY:** Is that something you might look to do?

**Ms Breden:** Absolutely, given the experience and qualifications we need to operate our business.

**MS CODY:** You mentioned in your responses to Ms Cheyne's questions about the graduates and the trainees that they are only on two-year contracts; is that correct?

**Mr Hezkial:** It is a two-year rolling program.

**MS CODY:** So it has got a two-year contract?

**Mr Hezkial:** I believe it is a contract, but it has a fixed term for two years.

**MS CODY:** So what happens when that two years is up?

**Mr Hezkial:** We have only just commenced the first round. Basically what happens at the end of that period is that if there are job opportunities within the business those candidates are welcome to apply. Of course, that would be a head start for them, but there is no guarantee of employment at the end of that period.

**MS CODY:** What sorts of roles are the graduates and trainees undertaking?

**Mr Hezkial:** For the graduates it is effectively a professional rotation. We make sure that they are able to experience as much of the business as possible through varied disciplines. We have engineers who at any one time could be based in our operational areas, our engineering section or our finance areas. Effectively, those rotations are managed in such a way that we make sure there is equal distribution of time and to cater for any graduate's particular interests, if we can.

**MS CODY:** You said you have just started. Is this the first calendar year that it has been in?

**Mr Hezkial:** Yes it is.

**MS CODY:** And you chose to use contracts rather than employment outright?

**Mr Hezkial:** I believe that is the arrangement, yes.

**MS LAWDER:** I have a question about your ICT upgrade program mentioned on



page 57 of the annual report. Can you tell me more about it? Is this an off-the-shelf system or a custom-built system?

**Mr Hezkial:** We have a number of digital projects afoot, most of which relate to renewing core systems or legacy systems that have reached the end of their useful life. The predominant project afoot at the moment is the replacement of our works and asset management system. That is the primary system we use to manage our work, how we distribute that work into the field, and is also the central repository for all our asset-related information, whether it be condition monitoring or service histories. That is effectively the largest proportion of our digital project program.

We also have a related project which is the upgrading of our geospatial systems. Those are effectively our mapping system, so all our pipelines and the graphical representation of all our assets. The ultimate plan is to have both those systems integrated and working together as one. That enables us to have visibility over where our workforce is at any one point in time; improve the mobility of our workforce; and also have more information accessible to people within our business who are making decisions. The geospatial project is also important because we are aiming to create what we call a connected model: having a physical model that is connected and allows us to run hydraulic models and various scenarios that then inform our preventative maintenance programs.

**MS LAWDER:** Were they custom-built IT systems, both your assessment management and your geospatial systems or are they a product you have bought and are customising?

**Mr Hezkial:** The second one; it is basically one product we have bought. We have a very deliberate strategy of making sure we buy products off the market. Our digital strategy shies away from any customisation, so we are effectively using off-the-shelf products and doing minimal configuration where required.

**MS LAWDER:** Are these included under your shared services agreement, your business transformation project?

**Mr Hezkial:** No.

**MS LAWDER:** Separate contracts?

**Mr Hezkial:** They are separate contracts. Effectively, we are talking about operational technology as distinct from ICT.

**MS LAWDER:** Are they two separate contracts—one for asset management and one for geospatial?

**Mr Hezkial:** Correct.

**MS LAWDER:** And are there others as well? You have four dot points in that section.

**Mr Hezkial:** A lot of work is going on with retiring old legacy systems. That is about ensuring that we have better data integrity and improving our databases so that we

have a central, single source of truth. We are also gradually moving our infrastructure off the premises, so we are moving in to the cloud. There are smaller initiatives associated with the ICT program, but by far and away the biggest ones are the works and asset management system and the geospatial system.

**MS LAWDER:** Will these systems be available on handheld or mobile devices for people in the field?

**Mr Hezkial:** That is absolutely our intention. As it stands today, most of our workforce is mobile enabled and they all have iPads. The vast majority have iPads and mobile phones. We would like to move to having all the information that is typically accessible in the office from a works perspective available to crews and staff out on the field so that they can make the best decisions they can.

**MS LAWDER:** What is the time frame for the completion of those projects?

**Mr Hezkial:** We anticipate that by the end of May next calendar year we should have those systems up and running and integrated.

**MS LAWDER:** If it goes beyond that, is there a cost to the business or is that included already in the contracts?

**Mr Hezkial:** There would be definitely be a cost impost on the business if it goes beyond May. This project is time-boxed to the extent that we are using a methodology of project delivery that prioritises scope. In the event that we have to make a trade-off between additional costs and forgone scope, we will forgo scope. We have prioritised those elements of the system that would be deprioritised, should we come to that point.

**MS CODY:** I have a couple of questions. I want to start with a broader matter. It is about drought and how the drought is affecting our water supplies and the operation of Icon. Could you work me through what are some of the decision-makers and the decision triggers if the drought gets worse?

**Mr Hezkial:** As we stand, our water security position is very strong. That is effectively off the back of the investment we made in the water security major projects period. We have effectively, with that work, increased our total storage capacity in the order of 35 per cent. So we have moved from a total storage capacity of 205 gigalitres to 278 gigalitres. As to what we do to model water security to make sure we are in a strong position, I might refer that question, for a bit more detail, to our general manager, business services.

**Ms Breaden:** As Mr Hezkial indicated, our current dam storage levels are at 65 per cent, and we do expect that there will be further falls as we move through the summer. I would like to reiterate that water restrictions remain very unlikely in the short term. What we do have in place are the permanent water conservation measures that were put in place in 2010, at the end of the millennium drought. Those conservation measures have just altered, as we move into spring, summer and autumn. There are heightened restrictions on how people can water their gardens. For example, in winter you can water your garden with a sprinkler at any point in time. In spring, summer, and autumn it is between 9 pm and 6 am. So we have those permanent water

conservation measures in place. Some of the others—

**MS CODY:** Are the public aware of those?

**Ms Breaden:** We think there is some work to do to increase awareness, because when they were put in place in 2010 they were probably well aware then, and we have not had drought conditions like we have had recently.

**THE CHAIR:** You have also had an influx of population.

**Ms Breaden:** That is correct. As we move into summer, we are intending to work with the ACT government to remind the community of the importance of wise water use and of the presence of those water restrictions.

Some of the other decisions that you asked about were about where we draw our water from—from the different dams. If you look at the individual statistics, you will see some dams are fuller than others. It is important that we keep the dams fairly balanced, for a number of reasons. One has to do with the cost of drawing water from the different dams. There are different costs associated with that. It also has to do with the environment. We would not want to draw down water on one particular dam and leave it and its surrounding environment particularly dry. We make decisions constantly about where each individual dam is at and what is the best place to draw water from, taking into account both the current conditions and forecasts into the coming years.

**MS CODY:** You talked about some of the decisions made on which dams to draw down from. Does that include the infrastructure that is related to those dams? Does that come into the decision-making?

**Mr Hezkial:** Yes, it does. Typically, and very crudely, what we try to do is balance our water reserves so that we minimise any potential for loss of water out of the system. When we make decisions about switching from, say, the Cotter catchment through to the Googong catchment, we take into consideration how much available storage is in that dam and try to maximise that value. As far as the infrastructure goes, that is also a factor because it is directly related to our operating costs. By way of example, if we were to extract water out of the Cotter catchment, there is a higher unit cost water supply from the Cotter Dam itself.

**THE CHAIR:** From the Cotter Dam, not from the other dams.

**Mr Hezkial:** Yes, than from the other dams. We will typically make those trade-offs as we go.

**MS CODY:** On page 2—again there are a few different page 2s—right at the back, in the financial statements, you talk about assets and replaceables, and those sorts of things. How many of your assets are fully depreciated and how many are your replaceables?

**Mr Hezkial:** Firstly, I apologise for the multiple page numbers.

**THE CHAIR:** Yes. Can we fix that next year?

**Mr Hezkial:** We will.

**THE CHAIR:** It is a bit of a pain.

**Mr Hezkial:** I might refer that question to our CFO, Sam Sachse.

**Mr Sachse:** Sorry, I am just trying to find the actual page number.

**MS CODY:** I know; it is very difficult. It is “ActewAGL joint venture summary financial report” for the year ending, and it is—

**THE CHAIR:** It is the last half-a-dozen pages.

**MS CODY:** It is the last half-a-dozen pages, and it is page 2 in that little—

**Mr Sachse:** Just to clarify the question, are you talking about Icon Water’s assets or ActewAGL’s assets?

**MS CODY:** Icon Water’s.

**Mr Sachse:** Okay, because that page that you referred to is actually ActewAGL’s assets.

**MS CODY:** It says “joint”, though.

**Mr Sachse:** Yes, that is the joint venture between ActewAGL Retail and ActewAGL Distribution.

**MS CODY:** Okay. I am referring to Icon Water’s.

**Mr Sachse:** Yes. Can you clarify the question?

**MS CODY:** How many of your assets are depreciated and how many are your replaceables?

**Mr Sachse:** In terms of the value of the assets described in the balance sheet, we measure them at fair value. That is basically what the future cash value of those assets is worth. We look at the pricing model and the profit that we make from those assets, and we fair-value that every year. In terms of replacement cost, the replacement cost is significantly higher than what is actually disclosed in the balance sheet. We are talking—and I do not know the exact numbers—about something like \$5 billion to \$7 billion worth of replacement costs to replace those assets today.

**MS CODY:** What about the depreciation? You do not necessarily fully depreciate because you have them at a fair value, rather than a—

**Mr Sachse:** While we do fair-value them, they are depreciated over time. With some of our assets, the useful life ranges from 20 years to, say, 150 years for the Cotter

Dam and they would all be at different useful lives through their period. On average, I would say that, given most of our assets were built in the 60s and 70s, they will be 50 per cent within their useful life.

**THE CHAIR:** Before I go to Mr Coe, can I ask a question about infrastructure? I think it is the same question I asked last year. Has the Murrumbidgee to Googong pipeline transported any water, apart from when it is turned on to see that the pumps still work?

**Ms Breden:** Yes, we did operate the Murrumbidgee to Googong pipeline for a number of weeks about two or three months ago. We had to stop pumping because there was not sufficient water in the Murrumbidgee for us to continue safely. We also need to allow for environmental flows. At the moment the pipeline is in suspension mode.

**THE CHAIR:** I think somebody used the term at this time last year that it had never been fired up in anger.

**Ms Breden:** That was the first time it had been in operating mode and operated, yes.

**THE CHAIR:** How much water did it transfer?

**Ms Breden:** I do not have that detail on me.

**THE CHAIR:** Could you take that on notice, please?

**Ms Breden:** Yes, I can.

**THE CHAIR:** That is the only time, and you said it is now in suspension mode. What does that mean?

**Ms Breden:** It is probably what you might call the lower cost mode. When we know we are not going to require it for a period of time, we will put it into suspension mode. We still operate it for about two days every three months, to make sure that we keep turning over the equipment. When we desire to operate it, we bring it back into stand-by mode. Overall, to get it from suspension mode to operating mode would take about six months.

**THE CHAIR:** Just to clarify, it is in suspension mode but it still works a couple of days a quarter?

**Ms Breden:** A couple of days a month. We need to turn over the equipment to keep the pumps pumping and—

**THE CHAIR:** To keep the pumps pumping?

**Ms Breden:** Yes.

**THE CHAIR:** What is needed for that six-month period of transformation if we decide that we need to pump water?

**Ms Breden:** It is a longer process of making sure that the entire pipeline works together. In that suspension mode we would make sure that individual pumps work on their own. What we need to do to make sure it is ready to go into full operating mode is to then test the full pipeline.

**THE CHAIR:** Refresh my memory: what did it cost?

**Mr Sachse:** \$141 million.

**THE CHAIR:** Okay; my memory was bad.

**MR COE:** If you are able to do testing for two days every three months, what is the difference between suspended mode and stand-by mode?

**Mr Hezkial:** I think what we are talking about here is orders of magnitude of maintenance. You have a much higher intensive maintenance regime associated with running the pipeline outside suspension mode. What we are really trying to here is, with a view to minimising our operating costs, make sure that the pipeline is in a state of readiness but make sure that we are not overservicing it.

**MR COE:** What is the operating cost associated with stand-by mode?

**Mr Hezkial:** I do not have that level of detail at hand.

**MR COE:** If you could take that on notice, and also the operating cost associated with suspended mode, that would be good.

**Mr Hezkial:** Sure.

**MR COE:** Why did you run it for a couple of weeks?

**Mr Hezkial:** With any sort of mechanical componentry, it is important to keep it in a serviceable state. When you have a typical pipeline like that, you have pumps with many parts. You need to make sure the bearings are greased and you need to make sure the pumps are turned over so that, in the eventuality that you do need to use it, it is in a state of readiness. If we were to not service it, you would find that our time to get up to speed in running the pipeline would be much greater. So what we try to do is minimise that envelope.

**MR COE:** Prior to doing that two-week test, was it in stand-by mode or suspended mode?

**Ms Breden:** It was in stand-by mode.

**MR COE:** If you were going to go into suspended mode, what was the purpose of doing that two-week test?

**Mr Hezkial:** It is basically just about levels of maintenance. It is all about making sure that, based on the climatic conditions, based on our forecast, our state of

readiness is such that the time frame to get up to speed is reduced. That is the difference.

**MR COE:** So the motivator for doing this test was for mechanical purposes, rather than to actually extract water out of the Murrumbidgee?

**Mr Hezkial:** We ran it to extract water out of the Murrumbidgee, but we—

**MR COE:** But the motivator was to test the equipment?

**Mr Hezkial:** It suits both purposes.

**MR COE:** I understand that it does suit both purposes, but if you are just going to shut it down and you are pretty much switching it off as soon as you have done it, it is obviously not something that you are planning on doing again any time soon.

**Mr Hezkial:** The benefit of running that sort of scheme means that we know that next time that pipeline needs to be run, it is ready to go.

**THE CHAIR:** But you said it takes six months to get it up and ready to go.

**Mr Hezkial:** It does not take six months to get up and ready; it depends on the degree of maintenance we have applied and how long it is since the last maintenance activity.

**THE CHAIR:** You may like to clarify. Ms Breaden said that if it is in suspension mode it takes six months to get it going. You have put it in suspension mode, so you are not planning in the next six months to pump water out of the Murrumbidgee?

**Mr Hezkial:** Correct, based on our current situation. Sorry, I misunderstood.

**THE CHAIR:** But you pumped it for two weeks. What was the purpose? Was it to extract water from the Murrumbidgee and deliver it to Googong or was it just to see that the system still worked?

**Mr Hezkial:** It was to extract water out of the Murrumbidgee, but it was also an opportunity to make sure that it was serviceable.

**THE CHAIR:** But you cannot tell me how much water you extracted?

**Ms Breaden:** Not offhand, but I believe we were pumping 110 megalitres a day. I could get those numbers to you.

**MR COE:** What was the need for that? How low was Googong?

**Ms Breaden:** I would have to look back in the graphs to see how low Googong was at that point in time.

**MR COE:** It seems a bit odd, if Googong was in such a state that you needed—through a very expensive way to get 110 megalitres of water—to pump from the Murrumbidgee, that you did it over two weeks to get 1½ gigalitres or something like

that and then you said, “We’re done. We don’t need it anymore.”

**Ms Breden:** The reason we stopped pumping was that there was not sufficient water in the Murrumbidgee River to allow us to continue pumping safely for the environment.

**MR COE:** Surely that was not a shock to you. It would have been at a very similar level two weeks earlier, would not it?

**Mr Hezkial:** Water levels fluctuate.

**MR COE:** You must be very worried about the level of water in Googong Dam, then?

**Mr Hezkial:** No, we have—

**MR COE:** It was enough to warrant getting water out of the Murrumbidgee.

**Mr Hezkial:** We have a source water strategy that is a multi-criteria decision-making framework. We will typically look at all our storage levels across both catchments. We will look at our forecast demand and make decisions based on those climatic conditions. One of the variables is the level of water in the river. We will make the best decisions for our storage levels and our customers, based on the set of circumstances we have in front of us. We have a multi-criteria framework to do that.

**MR COE:** They are electric pumps?

**Mr Hezkial:** Yes.

**MR COE:** Can you please take on notice the cost of operating for two weeks, and particularly the electricity cost associated with operating?

**Mr Hezkial:** Sure.

**MR COE:** With regard to my main question, once again the liabilities are increasing, especially the interest-bearing liabilities. Chief Minister, is this a different policy? It seems that you are borrowing to pay the ACT government dividend.

**Mr Barr:** No, it is not.

**MR COE:** The interest is capitalising. At the same time, you are paying out a dividend. I cannot imagine any other business in the world doing that.

**Mr Sachse:** Icon Water’s gearing ratio is 53 per cent. It has come down significantly since previous years, when it peaked at around 60 per cent. A few years ago the Icon Water board discussed dividend policy with the shareholders, and the shareholders agreed on a revised dividend policy. It has reduced the dividend payout ratio from 100 per cent to about 80 per cent. The Icon Water board is comfortable with the dividend policy at the moment and believes that Icon Water’s gearing is sustainable.



**MR COE:** What is the dividend policy?

**Mr Sachse:** The dividend policy for the payout ratio is that about 80 per cent of the profit is getting paid out as a dividend.

**MR COE:** But the accounting policy is that the shareholders maintain a dividend policy of 100 per cent distribution of net profit after tax, less gifted assets. Gifted assets is roughly 20 per cent of net profit.

**Mr Sachse:** Correct. Gifted assets revenue is between \$15 million and \$20 million per year.

**MR COE:** That obviously addresses the issue of the liability that comes with assets. They are gifted after capital works by the government or offsite works. But that still does not address the underlying issue of the interest capitalising.

**Mr Sachse:** The key point is that you need to look at the balance sheet as a whole. Our assets are growing faster than our liabilities, and that is why our gearing ratio is a lot more comfortable than it was in previous years.

**MR COE:** Yes, but we are talking about cash here. I am talking about interest-bearing liabilities. To compare like with like, you would have to talk about cash and cash equivalence, and cash and cash equivalence have gone backwards as well. It is all very well to have other assets, but if you cannot do anything with those assets and they are not drawing an income, not bringing in revenue, and your interest is capitalising, I do not see what the rosy picture is.

**Mr Sachse:** Is that a question?

**MR COE:** Yes. How can it be a rosy picture that, at a time when you are not doing significant capital works, your cash borrowings are increasing everywhere?

**Mr Sachse:** Yes, and so—

**MR COE:** I understand that cash borrowings increasing when you are doing capital works, but you are not doing capital works.

**Mr Sachse:** We are doing capital works and you can see that our property, plant and equipment has increased from \$2.2 billion to almost \$2.5 billion.

**MR COE:** Are they revaluations or is that new capital works?

**Mr Sachse:** Some of that is revaluations and that is because that is where our cash flow valuation is. As I was describing before, we do fair-value our assets every year, based on what those cash projections look like.

**MR COE:** But if that is revaluations, that is hardly capital works.

**Mr Hezkial:** Just for clarification, in 2017-18 we spent \$102 million on capital works.

**MR COE:** But then you go and look at your interest-bearing liabilities and they are going up by more than that.

**Mr Hezkial:** Just clarifying your point on the fact that we have actually done capital works.

**MR COE:** I do not doubt that you have done some capital works, but we are not talking about building a dam.

**Mr Sachse:** There are two lines of borrowings as well. There are the current borrowings as well as the non-current borrowings, and I am not sure whether you have reflected the current borrowings in your statement. Current borrowings actually went down, from \$393 million to \$26 million.

**MR COE:** Yes, but they were shifted into long-term rates or something, were they not?

**Mr Sachse:** Correct. We did refinance those short-term borrowings into long-term borrowings, but I guess the overall message still is that our gearing ratio has come down.

**MR COE:** I realise this is probably going to happen in this financial year, but what is the accounting treatment for the value of the Murrumbidgee to Googong pipeline and associated pumps and what is the liability that is also attached to that with regard to getting it online so that the value can be realised?

**Mr Sachse:** As we said before, the value spent on the M2G was \$141 million. We do have general borrowings. We do not actually assign borrowings directly to specific assets; they are general borrowings across our whole portfolio of assets.

**MR COE:** But I want to know how the switch from stand-by mode to suspension mode affects the value of the asset but also the liability that is now attached to it in order to realise the value of that asset.

**Mr Sachse:** Just to clarify that, I think the M2G is in stand-by mode. We have developed a suspension mode, but there is no intention to move to suspension mode at the moment.

**THE CHAIR:** Sorry; that is not what Ms Breaden said.

**MR COE:** We just heard that it was in suspension mode.

**Mr Sachse:** Sure. Jane, do you want to clarify that?

**THE CHAIR:** Yes, I think we had better clarify that.

**Ms Breaden:** I think we will clarify that. Take that on notice.

**Mr Hezkial:** We will take that one on notice.

**THE CHAIR:** Sorry, the level of uncertainty and contradiction in the answers that we are getting is a little alarming. Ms Breden, you said that after the two weeks pumping it had gone into suspension mode.

**Ms Breden:** I believe—

**Mr Sachse:** Really it went from operational mode back to stand-by mode. The water levels at the moment are not sufficiently high enough to actually move it to suspension mode.

**THE CHAIR:** Yes, we understand that.

**Mr Hezkial:** I think we will take that one on notice to provide some clarity.

**THE CHAIR:** In that case we have now got three modes. We have talked operational, suspension and stand-by. Can we have a definition of what they are?

**Ms Breden:** Yes. We were asked a question about that previously and were requested to publish information on our internet answering that. That information is there at the moment, complete with some diagrams which try to articulate how we use the three different modes.

**THE CHAIR:** That is on your website?

**Ms Breden:** That is on our internet, yes.

**THE CHAIR:** It will be easy to provide that to the committee?

**Ms Breden:** Yes.

**MR COE:** My question still stands. What is the accounting treatment for the asset and the associated expense or liability of shifting from stand-by to suspension mode?

**Mr Sachse:** There will not be any change in the value of that asset by moving between modes, and that is on the basis that this is a long-life asset. The asset is there for a hundred years. We probably will need to draw on that asset over time, and if it ever goes into suspension mode we will move it out of suspension mode back into stand-by mode, back into operational mode. There is no impact on the value of that asset.

**MR COE:** But in suspension mode is the asset's life a hundred years—

**Mr Sachse:** Correct. It will probably extend the life of that asset because it will not be deteriorating due to use.

**THE CHAIR:** But it can also deteriorate due to lack of use?

**Mr Sachse:** And that is where we need that proper maintenance regime to make sure that the assets are not deteriorating.

**THE CHAIR:** I am mindful of the time, but before we conclude can I ask a question about the managing director's position. Mr Knox announced his resignation some time ago, at the end of September, but it appears that Icon Water will not begin its search for a new CEO until February next year. Why is that? Is that the case and, if so, why?

**Mr Hezkial:** As we stand, I am the acting chief executive officer. I have been advised that I will be in that capacity through to June. I understand that the recruitment process will begin early in the next calendar year.

**THE CHAIR:** Who makes the decision to start the recruitment process?

**Mr Hezkial:** That is a decision for the chair of Icon Water, the chair of our board.

**THE CHAIR:** Do we have any idea why the board and the board chair have decided not to start the process until some five months after the position has been vacated?

**Mr Hezkial:** I would just be speculating if I commented on that.

**THE CHAIR:** Could we take it on notice?

**Mr Barr:** We will seek some advice from the board chair.

**THE CHAIR:** Thank you. Are there any other questions for Icon, noting that it is past the allotted time? Thank you very much. We are moving onto workforce capacity and governance and the *State of the service report*.

**MS CHEYNE:** Ms Leigh, we talked in estimates about the new activity-based work fit-outs or activity-based work in general. I note there was a survey of staff satisfaction a year ago and that while the majority were supportive of the change 31 per cent would prefer not to continue working in an activity-based environment. I am sceptical of activity-based working environments. Do we know why those staff members were uncomfortable with the transition, and has work been done with those staff members to make them more comfortable?

**Ms Leigh:** We have a working group that has ongoing work in relation to activity-based work. We have three areas of focus and one of those is on culture and how employees will work in that new environment. So we have had ongoing work in relation to ensuring that we are prepared as a service and our employees are prepared, including understanding the diversity of needs across our very diverse service and how that will transition to activity-based work. We already have a number of work areas in activity-based work. Overall, that has been a very positive experience. It is also helpful for other staff to see on the ground what it will look like and how it will operate. But we have ongoing work in this area to be ready particularly for the significant transition with our two new buildings.

**MS CHEYNE:** How are we bringing staff along on the journey? Are some of the people currently in activity-based work doing little videos about how life is not so bad and sharing those with new people? Tell me about the journey.

**Ms Whitten:** The activity-based work environment has been rolled out to about 800 staff across the service.

**MS CHEYNE:** What percentage is that?

**Ms Whitten:** Not a lot: 800 of 22,000. Since that survey we have constructed some purpose-built fit-outs in TransACT House in Dickson and also in Canberra Avenue in Fyshwick. As Ms Leigh mentioned, we have a governance arrangement which involves a central group called the workforce transformation group. That comprises representatives from each directorate who will be moving into the new Civic and Dickson office buildings. Part of that journey is about working with staff, managers and leaders about what activity-based work looks like.

We have three working groups that support the workforce transformation group, one of which is called workplace culture ready. That group has developed some materials, including guides for people to have the conversation with their teams about what activity-based work looks like. We have also established a portal where all that information is contained and there are a couple of videos on that portal as well. I think sometimes it is about having the experience and working in that way. Our team currently works in an activity-based work environment and it works really well. Sometimes it can get a bit noisy, but we have places where if people would like to do quiet work they can move into a quiet work environment as well. It is really about understanding the principles that entail people working in that particular way.

We still have a bit of journey between now and February 2020 for the Dickson office and October 2020, when the Civic office block will be ready, so we have time to work through with individual directorates what it means working in activity-based work. There is also an area in Callam Offices where people can experience activity-based work in a particular way. That is probably a good way to actually explore what that looks like and what that means.

**MS CHEYNE:** So I am picturing largely open plan.

**Ms Whitten:** Yes.

**MS CHEYNE:** Does anybody have an office with closed doors they can shut?

**Ms Whitten:** At the moment the executives who are working in activity-based work in Nara do not have offices. In the Civic and Dickson office blocks offices will be made available for directors-general and deputy directors-general.

**Ms Cheyne:** That is it?

**Ms Whitten:** Yes. If they choose not to have an office then those spaces will be turned into meeting rooms.

**MS CHEYNE:** While I very much appreciate the open plan environment and being able to move around, I wonder about impact on culture and being able to have private conversations. I imagine that if you need to have a private conversation there is space available and you go there. But having worked in activity-based work before I know

that one of the cultural issues or things that results in anxiety is a manager saying, "Come on, let's go for a chat," and having to walk and people saying, "I don't know what we're talking about." Being able to have someone approach you and go straight into the office and have a quick discussion is sometimes a less obvious way to have a sensitive discussion.

**Ms Whitten:** Part of activity-based work is that there is a higher proportion of meeting rooms available for people to have formal meetings, where they have been formally established and invites have been issued, or smaller meeting rooms for those private conversations. As part of the technology that supports what we do, we use Jabber technology. If somebody wanted to have a private conversation they could text the colleague and say, "Look, would it be okay if we caught up?" Then you could plan how you would have that meeting.

**MS CHEYNE:** And you are encouraging the use of that technology?

**Ms Whitten:** Yes. We use it all the time.

**MS CHEYNE:** You and Ms Leigh use it?

**Ms Whitten:** Yes.

**MS CHEYNE:** In terms of directors-general and deputy directors-general who can opt to have an office, has that process already occurred? Have people already nominated whether they want an office or not?

**Ms Leigh:** In terms of the new office buildings it is a little early to be locking people down because we are still one to two years away. Of course people move all the time and I encourage mobility in the service. We have established the principles. We have established the general areas where different directorates will have their home base. We have taken that approach, rather than locking individuals in. We are making the assumption that these rooms will be available. As Ms Whitten said, the rooms are easily convertible between offices and meeting rooms, so it is just a matter of the furniture being slightly reorganised. Over time I am sure individual rooms will switch backwards and forwards between being offices and meeting rooms.

**MS CHEYNE:** Will you have an office, Ms Leigh?

**Ms Leigh:** Yes, I will.

**MS LAWDER:** I want to ask about your community engagement practices and the reports published after you talk with people and publish reports. It says you publish reports on what you heard within a month of an engagement closing for public comments.

**Mr Barr:** Wrong area, sorry, Ms Lawder. We had that hearing last week on engagement.

**MS LAWDER:** I missed that.

**Mr Barr:** Sorry.

**MS LAWDER:** Do I get another chance?

**Mr Barr:** By all means put that question on notice and we will answer it with the others.

**MS LAWDER:** What is the total cost of the culture-ready working group across all directorates, or is it absorbed into your current costs?

**Ms Whitten:** The culture-ready working group comprises staff across ACT directorates. Essentially those resources are those people's time. I do not have a cost estimate that I could give you at this stage.

**MS LAWDER:** Are there any indicators it is measured against and, if so, where would they be reported?

**Ms Whitten:** At this time we do not have specific indicators. We have already talked about the survey of staff that was conducted last year, and I would expect that during the 2019 we would conduct some additional surveys of staff. That would give us an indication of whether people are culture ready. And, as we get closer to moving into the new buildings, the same again and afterwards.

**MS LAWDER:** Does everyone get the same survey or are they specific to directorates?

**Ms Whitten:** The culture survey we undertook last year—I was not in this role at that time, but this is what I think it would have been—was a survey of those staff currently occupying activity-based work environments. It would have been directed to those individuals.

**MS LAWDER:** Who has carriage of it overall? Is that you?

**Ms Whitten:** Yes.

**MS LAWDER:** Is the intent to have further surveys? Is that establishing a baseline?

**Ms Whitten:** Yes, that was establishing a baseline back in 2017.

**MS LAWDER:** What came out of the survey you did last year and what have you done with those results so far?

**Ms Whitten:** I think about 69 per cent were satisfied with the quality of their new office environment; 18 per cent were neither satisfied nor dissatisfied; and 13 per cent were unsatisfied, which was the question Ms Cheyne put to me earlier.

**THE CHAIR:** What do you mean by “unsatisfied”?

**Ms Whitten:** They were not satisfied with their new ABW work environment.

**THE CHAIR:** I think there is a distinction between unsatisfied—you have not had enough—and dissatisfied—you really do not like it. So I am trying to work out what you mean.

**Mr Barr:** That is a fair point, madam chair.

**Ms Whitten:** I cannot give you the detail.

**THE CHAIR:** Okay. Could we just clarify whether people are unsatisfied and they actually want more or whether they did not like it?

**Mr Barr:** Yes.

**THE CHAIR:** Thanks.

**Ms Whitten:** Further to that, 63 per cent would respond positively if asked about ABW—so 63 per cent of everyone who was surveyed—and 20 per cent were neutral and 17 per cent would respond negatively about ABW.

**THE CHAIR:** I think that probably means they were dissatisfied.

**Ms Whitten:** Yes, okay; that might answer that question. In relation to the next question, if given a choice, 69 per cent would continue to work in the ABW environment whilst 31 per cent would return to their previous environment. That was about 12 months old.

**MS LAWDER:** Before you went to the activity-based workplaces, did you have that same sort of information about people's working arrangements?

**Ms Whitten:** I would think that the answer to that question would be no, we would not have had any baseline data on that either.

**MS CODY:** I have a couple of questions relating to page 31 of the *State of the service report*. You talk about inclusive Canberra, information sharing and family violence. I would like to start with inclusive Canberra. What is being done to make Canberra the friendliest LGBTIQ city in Australia?

**Mr Barr:** There are a broad range of programs to permeate beyond what we do internally as an employer.

**MS CODY:** From an employer's perspective, are we trying to ensure that people that are coming to Canberra because we are LGBTIQ+ friendly are able to be employed in an LGBTIQ+ friendly environment?

**Mr Barr:** Yes. The ACTPS itself is now a member of pride in diversity, which is an employer program for a number of individual government departments at a federal level, rather than the whole of the Australian government, and some individual departments, I understand, at a state and territory level, together with a range of corporations that you might describe as medium or large scale. Organisations with employees in the hundreds or thousands are part of that program. We also undertake a



range of internal activities at a directorate level to support diversity within ACTPS staff. Perhaps Ms Leigh would like to talk further about that.

**Ms Leigh:** We conducted a survey last year to make sure, again, that we had that baseline information so that we understood the perspectives of our staff: how welcomed our LGBTIQ employees felt and awareness generally amongst our staff. We will use that as a baseline for further surveys into the future so that we can measure our standing as a service as being a welcoming service for all members of our community.

Across the service we have also taken other measures. Every directorate has diversity champions. We also have our respect, equity and diversity framework. Again, every directorate has both SES executive sponsors and contact officers that people can go to through their directorate. People have a range of people they can go to. People can always go to their supervisor. They can always go to more senior people. But if they feel that they want to go to someone other than their supervisor but not necessarily senior, there are a range of people across their directorate. We have specific training for all of our staff and also specific training on being a contact officer so that people are well prepared to support staff when they come to them for assistance.

**MS CODY:** Does that include people that may be transitioning?

**Mr Barr:** Yes.

**Ms Leigh:** Yes.

**Mr Barr:** That would be the area that we could all acknowledge perhaps presents the greatest challenge at the moment within the broader public debate. Gender issues, more than sexuality issues, are emerging in the context of national debate. There is no doubt that there is an education component to what is necessary both within the broader community and also in the context of the ACT public sector.

We work with advocacy organisations like A Gender Agenda to support the production of resources and assistance to people in transition and also those in their workplace. This also has an element of focus as it relates to service delivery. There are many practical examples across government service delivery where moving beyond a gender binary will be important in the context of allowing and recognising a greater level of diversity than might have been the case in the last century.

These are questions that often attract a significant amount of media interest. We have seen this in recent weeks in the context of debates in Tasmania about gender on birth certificates. We see it in the comments of the current Prime Minister in relation to education programs in schools. It is an area, clearly, that will be of great interest and, I acknowledge, is for some people incredibly challenging.

Some people have very clear and defined views about gender stereotyping, role models and the like within traditional gender roles. That will be a feature of public discourse and community life for some time into the future, I imagine. Over time, though, I suspect that the fears and concerns that are often put into the public arena by those who may have other agendas can be overcome and that ultimately the world will

be a better place for people who do not identify by 20th century traditional gender norms.

That will change in time. It has not happened as quickly as it has for the L and the G components of LGBTIQ communities. This, I think, is perhaps the next important step in terms of social inclusion. One need only look at some high profile examples of things individuals within our community have experienced in recent times to understand just what a challenging and confronting issue this is for individuals—and can be in workplaces and in the community.

I think it is laudable for the ACT public service to show leadership in this regard. It is clearly something that we want to continue to encourage: that our public service delivery is inclusive and reflects the truly diverse community that we are. People who do not identify with the traditional gender binary have been part of our community for centuries. In the past they have received appalling treatment from government and from the community. It is time that we moved beyond that now.

The efforts that we have in place through the ACT public service and in the broader community will make a difference. It will take time—I am aware of that—but the thing I would say and observe from my own experience is that sometimes you can be pleasantly surprised at how quickly community attitudes can change if you are in a minority group. It does not happen without advocacy. It does not happen without people who are not in your minority group supporting you. This, I think, is a wonderful opportunity here in the ACT for us to show leadership in that regard. That is what we intend to do.

**MS CODY:** Excellent. You also talk about information sharing and family, in particular family violence situations. Are we making sure that the information sharing that we are doing across the public service is not putting anyone at risk, including possibly those within our LGBTIQ+ communities but also those who are survivors of domestic violence?

**Ms Leigh:** Yes, certainly. The reference on the page that you identify actually refers to a very particular project that was identified by our graduates. Outside of that, there is considerable work happening across the service on appropriate information sharing. As you say, the absolutely essential thing is to get the framework right so that we are ensuring we are protecting the privacy of all of our citizens. I think that is the key to being able to effectively use data to provide better services: we have to be able to ensure that privacy. Without that, we would lose the confidence of the community in the important work that we can undoubtedly do through better use of the data that we already hold.

**MS CODY:** In relation to the program that is specifically referred to there, can you give me an extremely brief snapshot of what that one was about?

**Ms Leigh:** We brought our graduates together and, as part of their development, we identified some cross-government projects that they could do work on. That is one of those projects. As you say, how we protect the data is a key part of that issue.

**THE CHAIR:** I want to go to the Public Sector Standards Commissioner's annual

report. I would hate Mr McPhee to be here and not be asked a question. Mr McPhee, I would like to start with the distinction between other complaints and public interest disclosures in your report. You have basically three areas of work. You have misconduct processes, other complaints and public interest disclosures. For the benefit of the committee, could you outline the distinction between, say, other complaints and public interest disclosures?

**Mr McPhee:** Even the Public Interest Disclosure Act does not require an individual to nominate something as a public interest disclosure, but it may be treated that way by the recipient. The thing with public interest disclosures is that they are very serious in substantial cases of offences, maladministration, and so on. But we receive other complaints which are not quite as serious but still may need attention and need consideration—that is, it may not reach the threshold of being serious enough to be a public interest disclosure but still be a matter worthy of potential correction. These other complaints fall into that category. We also deal with misconduct under the enterprise agreement and the executive management act. They are the three categories.

**THE CHAIR:** I move on to the threshold for what makes something a public interest disclosure. Are there guidelines—

**Mr McPhee:** Yes.

**THE CHAIR:** that help someone make a decision about whether something is actually a PID?

**Mr McPhee:** There are guidelines. They are helpful and—

**THE CHAIR:** Are they published?

**Mr McPhee:** They are available, yes, on the website.

**THE CHAIR:** Great.

**Mr McPhee:** In fact, I have started a review of the existing guidelines to see whether we may be able to enhance them, because if you look at the statistics, many of the outcomes are matters which are not formally PIDs. They do not meet the key threshold.

**THE CHAIR:** That is where I was getting to.

**Mr McPhee:** Exactly. I think there is an issue about getting greater clarity for everyone, both the general public but also those within the service, of what the threshold is and what to do in other circumstances where that threshold may not be reached.

**THE CHAIR:** I notice that in this report you have said that 11 of the 12 public interest disclosures were not considered. So somebody thought it was a public interest disclosure, but when it got to you it was not thought to be a public interest disclosure. That is a pretty significant mismatch, don't you think?

**Mr McPhee:** And that is exactly what has interested me to have a review of the existing guidelines, to see whether we can be clearer about that.

**THE CHAIR:** Of the 11 that were not considered PIDs, what sorts of things ruled them out, in general terms? I am sure the 11 were quite diverse, but I am trying to get my head around the sorts of things that would rule something out as a public interest disclosure.

**Mr McPhee:** Yes. The legislation is quite clear about the thresholds. It is serious cases of malfeasance, maladministration, offences against the law—quite serious cases—that under review and investigation have not been proven. Nevertheless, there can still be some issues and, importantly, issues for managers here to learn from.

One of the things, Mrs Dunne, I am also seeking to do in the work is to draw out the lessons and the experience of the cases we receive so that we can provide a feedback loop to managers and to staff members as to how to avoid some of these PIDs occurring or misconduct cases occurring, because what strikes me is that the statistics show only part of the story, if you like.

What is not disclosed is the high resource cost, the high emotional cost, that some of these particular cases incur. So what I would like to do going forward is to put more emphasis on preventative approaches. To do that, it is important that we and directors extract the lessons and feed them back into the system, particularly in management training courses and through other opportunities, so that we can head off issues early. That is one of the critical messages from the work that I have seen to date. It is that early intervention by management can assist considerably in this area. The longer a case goes on, the more concerning it is all round, basically, and the harder it is to find a win-win solution for the parties involved.

**THE CHAIR:** In 11 of the 12 that were not considered disclosable conduct, what sort of feedback and assistance was given to people who made these disclosures?

**Mr McPhee:** That would be a matter for the directorates that are dealing with the public interest disclosure.

**THE CHAIR:** Could you clarify this: who deals with the public interest disclosure?

**Mr McPhee:** In the first place it is the directorate that receives it. There are some exceptions. For instance, in some cases the directorate that receives it may not be the most appropriate directorate to deal with the consideration of the matter, in which case it may, under the legislation, refer it to a party it considers most appropriate.

**THE CHAIR:** What would be an example of that?

**Mr McPhee:** If a constituent misunderstood the most appropriate directorate to deal with it. In some cases, if there is a potential conflict, it can be referred to me. If there is potential conflict at the senior levels, it may be best to be referred to me. The legislation deals with a very considerable range of circumstances, but in the main it is the directorate. The directorate has a responsibility to inform me that it has received a matter and to consider whether an investigation is required and so on. At various steps

along the way, my office is expected to be informed of progress.

**THE CHAIR:** What you are saying, Mr McPhee, is that people do not make public interest disclosures directly to you.

**Mr McPhee:** They may, but more often than not they make them to the responsible directorate.

**THE CHAIR:** They may; but if they do, would you refer it back to the directorate?

**Mr McPhee:** I may; it depends on the circumstances—whether there is a potential sort of conflict or whether it is better that my office undertake the investigation.

**THE CHAIR:** What sort of supervisory oversight or role do you have to ensure that public interest disclosures are dealt with in a timely fashion?

**Mr McPhee:** That is a contemporary issue, as you know. I do have an oversight role. I do keep in touch with the relevant directorates. They keep in touch with my office. It is an issue, again, that is on my radar about the timeliness of the processes. I have had one meeting with the senior executive responsible for some of these matters in some of the directorates already. We are going to try to work more closely together to see what we can do to streamline the processes, because timeliness is a critical issue. A point I touched on earlier is that the longer these matters go, the more unfortunate the outcomes can be.

**THE CHAIR:** Yes. As you would be aware, what happens is that if they are not dealt with in a timely fashion, people get frustrated. There is a level of anxiety. Then it ends up on my desk, on another member's desk or on the desk of a journalist. People are acting within their rights. When it ends up on my desk, Mr McPhee, I do not have a guidebook. All it says is that members can receive PIDs, and that is it. There is no guide for a member who receives a PID. I have checked. I have checked with the Clerk. There is very little guidance. It puts members in a very difficult position. I would submit that members should not be put in that position because it should be dealt with more expeditiously.

Also, I suppose I am asking because people make what they think are public interest disclosures. They are in a mind space where they see that it is a sufficient grievance to make a public interest disclosure. What happens, and what do you see from your position, to assist and counsel those people who have just been told, “No, you are wrong; it is not significantly important”?

**Mr McPhee:** The legislation expects that they will be kept informed at least every three months on the progress of the matter. I think one of the matters I have tried to draw out in the reference in the *State of the service report* is that capturing the messages and passing them back to directors-general and to other key entities is to convey the important messages where they can assist the process.

For instance, apart from including this reference in the *State of the service report*, I wrote to each of the directors-general about their specific statistics on misconduct and PIDs. I drew out some of the key messages for everyone. I am aware that a

number of the directors-general at least have circulated that note to their senior executive in trying to improve the process. I think I can say that no-one wants any more of these matters than is required. We all want to improve the timeliness. The other thing that has been raised with me by directorates is the importance of my own processes, where we undertake investigations centrally, to try to streamline those as well. I am looking at that and seeing what can be done to streamline the processes.

**MS CODY:** Is there training for public service staff or members of the public? Training might be a bit of a stretch for members of the public, but is there training that members of the public and public servants, possibly even MLAs, can do on PIDs?

**Mr McPhee:** There are two things. Each directorate generally has a key contact person who members of the public can contact to discuss matters. But also my senior people are available to attend training courses, to convey our experience and to respond to any particular issues that we notice. We have a fairly limited number of staff. But I am really keen to see what we can do to leverage what we have, to get better outcomes for the ACT public service and also the broader constituency as well.

**THE CHAIR:** Thank you. We have to draw a line there because we are running out of time. I thank the officials who came to talk about the *State of the service report*. We will move on to the ICRC.

**Mr Barr:** We are ready, madam chair.

**THE CHAIR:** Thank you. Mr Dimasi, could I start with the \$14.63 megawatt hour increase in wholesale power prices that has been announced? What does this mean for retail power prices?

**Mr Dimasi:** That was the 14 per cent? Is that what you are talking about?

**THE CHAIR:** I thought it was a \$14.63 a megawatt hour increase in—

**Mr Dimasi:** No, what we announced at the end of the financial year was a 14.29 per cent increase in retail prices.

**THE CHAIR:** I will leave it there because my brief tells me something different. I will go back and get my staff to check it. What are the projected prices over the next four years? Where do you see retail prices will be going over the next four years?

**Mr Dimasi:** A very good question. If I had the exact answer to that, I could make lots of money.

**THE CHAIR:** You would be soaking your feet in buckets of champagne in the South of France; okay.

**Mr Dimasi:** Absolutely. Let me not avoid the question though. We have seen a very significant spike in prices over the past couple of years. They resulted predominantly because of the increase in wholesale prices in 2017. We saw wholesale prices jump by around 112 per cent at that time.

Because we regulate retail prices here in the ACT, our approach is to keep a close eye on all components. Of course, we cannot wish those price increases away—the wholesale price increases—so we smooth them with a 23-month rolling average. In other words we do not allow them to increase by quite so much, but it just takes a longer time for them to flow out of the system. That is why we had an almost 19 per cent price increase one year and the 14.29 per cent increase in the next.

Looking forward, what do we think will happen? In answer to that question, there are a number of things that we look at. We look at the wholesale prices, the futures markets, and what they are telling us; and we look at the network costs. They are the two biggest components. We look at the green costs, and there is a whole range of other fees, margins and things that we look at, and some of those that we can control. We cannot control the wholesale price and we cannot control network charges, because they are set by the AER.

One of the things that I do is to get my staff to prepare for me an outlook pretty regularly about where things are heading and what things might look like. What we are seeing in the wholesale market is that it has tended to stabilise, since the big increase; at a higher level, unfortunately, and that is a fact of life. But we are not seeing a continual increase. The AER has made its decision on network charges here for the ACT and that does not look like it is going to cause a big increase in prices. It looks like that should all keep fairly stable.

We are seeing, because of the uptake of solar panels, some of the small green schemes growing fairly rapidly and putting a bit of pressure on costs across the market. Here in the ACT we have a slightly different scheme, which is working quite well at the moment, I have to say. When we look at all of those things together, I would expect that we are not going to see the sorts of price increases that we have seen in the past two years.

In fact, unless we have a dramatic price spike in wholesale prices this summer, I would expect any price increases next year to be relatively moderate at this point. I have to make the point that these are qualified remarks and are subject to what does happen in the wholesale market and what might happen to some of those other costs that are involved. Certainly, I would not be expecting the sorts of dramatic increases that we have seen over the past two years.

**THE CHAIR:** Are you saying, Mr Dimasi, that the market has already factored in things like the decommissioning of large plants and the like?

**Mr Dimasi:** The market has settled down. How much it has factored it in is a good question. I guess we will see, as we get closer to Liddell shutting down or someone else shutting down, what sorts of reactions there are. Clearly, the futures markets, looking out over the next couple of years, seem to show a bit more stability than we saw with the big spike when all of this was a bit new and a bit unknown.

**MS CHEYNE:** The annual report states, and it was also announced, that the commissioner would be monitoring the container deposit scheme's impact on beverage prices and competition in the ACT beverage industry. I note that you sought submissions from stakeholders on the proposed approach and that a draft report is

expected to be released. I want to get a sense, if you can give it, of what has happened so far in terms of the feedback you have received.

I noted in the paper on the weekend that there was a letter from a constituent of mine in Hawker saying that apparently there are people at the supermarket saying that, just as a matter of protest, one person was throwing cans in the non-recycling bin. I appreciate that is a matter for another hearing but, if that is the response of one person, I am wondering if we are receiving anything in terms of the competition space.

**Mr Dimasi:** I will get Dr Weier to answer this but, just as a general comment first, our role is to have a look at the price impact from the introduction of the scheme—we are looking at prices before and after the scheme—just to make sure that there is not—

**MS CHEYNE:** I would say that protest is not saying much about the price, it is about the process.

**Mr Dimasi:** It is about the scheme itself. The question about the scheme is a policy question and we are not looking at that. We are also looking to make sure whether competition between the suppliers is in any way affected as a result of the scheme. That is where we are at. I know that we have received some of those comments that have more to do with the scheme itself rather than our role within the scheme. But in terms of the process of where we are at and what we are doing, I will get Ms Weier to give you a quick rundown.

**Dr Weier:** We have put out an issues paper and called for submissions. We received seven submissions to the issues paper. We also have a feedback form on our website to allow members of the general public and other people who do not want to put in a formal submission to provide us with their views in a more informal and easier way for them. We have been going out and talking to retailers, beverage suppliers and other people who are interested. In terms of the feedback form, we have not had a lot of submissions from people. A lot of it is about the design of the scheme.

The next step in our process is to put out our progress report, which is also our draft report, in February next year as requested by the terms of reference and then following that we are required to put the final report to the minister by the end of July next year. We plan to have a public forum in the meantime as well, between the draft and the final, to get further views and we will also be seeking formal submissions to the draft report.

**MS CHEYNE:** How have you been publicising that people can submit feedback via the website?

**Dr Weier:** We put out the issues paper. We also have on the home page of our website a link to what we are doing on the container deposit scheme.

**MS CHEYNE:** People have to be going to your website in the first place. It probably is not like front of mind for people, I am sorry to say.

**Dr Weier:** Most of the publicity about the scheme has been done through Transport



Canberra and City Services and they have a link to our website there.

**MS CHEYNE:** This public forum that you will hold is a great idea. How are you going to manage expectations about the forum and the terms of reference, given that it is quite easy for people to think more about the policy of this scheme rather than the impact on competition?

**Dr Weier:** I know Transport Canberra and City Services have their own consultation process and I think they are trying to direct people's comments about the design of the scheme through that process. Before we do our public forum we will put our draft report out, which will talk about the sorts of things that we are hoping people will submit to us on. We will direct other comments that are out of our scope to those other consultation processes.

**MS CHEYNE:** You also mentioned that you have been going out to talk to different retailers and manufacturers. Is that right?

**Dr Weier:** Yes.

**MS CHEYNE:** How are you deciding whom to go out and chat to?

**Dr Weier:** We are casting the net fairly broadly. We are going to talk to them for two reasons. One is to get the data that we need on price changes, and the other is to talk to them about their experiences with the scheme. We recognise that a lot of them have not previously been involved in these sorts of processes that we have held. We want to make it easier for them by going out and talking to them so that they do not have to put in a formal submission if they do not want to.

**MS CHEYNE:** I am aware that with some of the beverage containers, some of the cans that have the pull-off ring, the whole top of the can comes off and that some of those are exempt for a little while whilst schemes both here and in New South Wales are getting up and running. Are you making a particular point of going out to talk to those retailers and manufacturers as well, given that they seem to be the people who might be affected in a weird way by the scheme?

**Dr Weier:** We have not specifically targeted those people but because we have cast our net so broadly we have spoken to them and they have raised that issue with us.

**MS CHEYNE:** Including people like BentSpoke, who is a key manufacturer here?

**Dr Weier:** Yes. We have been very keen to talk to all the local ACT beverage manufacturers.

**MS LAWDER:** Coming to water and sewerage, on page 7 of your annual report it says in June 2018 that you approved under the code an update to the precinct map. What does the precinct map do and how does it relate to price?

**Mr Dimasi:** The code that we approved basically changes the way that the charges are set for expansions within the existing map. These are for developments that are going to put, if you like, additional demand on the infrastructure. It is not for new

suburbs or new areas. You need to have a map.

There are a number of things that we did. We looked at the alternative approaches to setting the actual charge, which we did when we finalised the code. We looked at whether it was going to be across the whole Canberra area or whether it was going to be a number of—I think at one stage it was 12 different areas—areas with different charges. The map had to be agreed, because you need to have a map to make sure that when it kicks off everyone is clear. That is the precinct map. And we finalised our approval of that. I am not sure if you have got any additional comments on that, Annette.

**Dr Weier:** Each year we will check if there need to be any updates. We made an update recently, in June I think it was.

**MS LAWDER:** Do you know the forward projections for water prices in the ACT?

**Mr Dimasi:** Yes. We should know because we made the decision.

**Dr Weier:** Yes.

**Mr Dimasi:** The decision was that prices would fall this year and then over the next four years will increase by around two per cent, around CPI only, for the average user. Depending on the usage, it could be a bit less or a bit more. These are average numbers. We have a structure of prices which is largely intact compared to what it has been, with a few tweaks, but generally falling and fairly stable prices. In real terms, I think prices will not be going up, given that it is only going up by CPI.

**MS LAWDER:** Will there be a price adjustment to water prices in the next 12 or 18 months?

**Mr Dimasi:** Yes, every year there will be a price adjustment. As I said, we expect those price adjustments to be very moderate.

**THE CHAIR:** Does anyone have a pressing question? No. Thank you very much for your attendance here this morning. Thank you to the ICRC.

**Mr Barr:** We are back with me for half an hour on lifetime care.

**THE CHAIR:** Lifetime care and support at 2 pm. The committee will resume at 2 o'clock.

**Mr Dimasi:** Thank you.

**THE CHAIR:** Thank you.

**Hearing suspended from 1.03 to 2.02 pm.**

**THE CHAIR:** Good afternoon. The committee will now consider the Lifetime Care and Support Fund. I understand that there was an independent actuarial review to advise on the required fund contribution. Could someone tell the committee what the

outcome of that review was and whether it influenced the decision to increase the fund contribution levy.

**Ms Holmes:** We have actuarial work done every year by the scheme actuary in order to decide what levy amount to set for the fund. For 2017-18 for motor vehicles, the 12-month policy was set at \$35, which is the same amount as was set in 2016-17.

**THE CHAIR:** Are you saying that the scheme actuary does this work every year and that is the only work that was done? There was not a review of—

**Ms Vroombout:** The scheme actuary is an independent actuary, so—

**THE CHAIR:** Who is the scheme actuary?

**Ms Holmes:** It is Finity Consulting, which is one of the largest actuarial firms that deals with personal injury.

**THE CHAIR:** So that is the work that was done and it is routine every year?

**Ms Holmes:** Yes. It is a requirement of the legislation.

**THE CHAIR:** Does it do anything else, other than review the fund requirements? Does it look at the operation of the scheme?

**Ms Holmes:** No, that particular piece of work that is required by the legislation is purely in relation to the required amount to fully fund the scheme.

**MS CHEYNE:** The annual report states that there were two motor accident injury applicants and one work injury applicant accepted as interim participants in the scheme. In total, how many applications were received in the last financial year?

**Ms Holmes:** There was one new application. Of the three you just mentioned, some were actually received prior to 1 July, one of them just before that. We worked our way through that, and he was accepted early in the financial year of 2017-18.

**MS CHEYNE:** So in 2017-18 there was just one new application received?

**Ms Holmes:** Yes.

**MS CHEYNE:** How does that compare to applications received in previous financial years—pretty steady?

**Ms Holmes:** The numbers vary, which is what you would expect. These are catastrophic injuries. You would not expect a large number of catastrophic injuries for a city our size. So they can vary substantially. In the very first year, I think, there were five applications; some years we have had zero.

**MS CHEYNE:** Does it depend on the work that we are doing as a city?

**Ms Holmes:** Why they are low numbers, or why it fluctuates?

**MS CHEYNE:** Why one year you might get zero and one year you might get five.

**Ms Holmes:** As I said, these are catastrophic injuries, be it either—

**MS CHEYNE:** So it is so unusual that it cannot really—

**Ms Holmes:** You do not have a lot of catastrophic. You might have a number of car accidents but they might not meet the criteria for catastrophic injury.

**MS CHEYNE:** I presume you cannot have details of these applicants that are part of the scheme, like the background of what happened in those situations.

**Ms Holmes:** We need to be careful, for privacy reasons, in terms of what we can say. Because they are such low numbers it becomes easier to identify which particular case we might be talking about. But I can talk generally about the types of injuries.

**MS CHEYNE:** Yes, could you? Be careful and feel free to stop yourself.

**Ms Holmes:** I will just talk generally about the types of participants we have. Of the eight we had in the scheme at 30 June—we have already had two new ones this year, so we are now up to 10—six are males and four are females. Six of them are traumatic brain injuries and two are spinal injuries. Those types of numbers are generally consistent with what you would see with catastrophic injuries around Australia. As to the roles they had in their accidents, two were motorbike riders, three were pedestrians, one was a passenger in a vehicle, one was a driver and one was a cyclist. We have a lower age range than what you would see with most other catastrophic injuries around Australia. In terms of age when the person was injured, two were less than 10 years of age, two in the 11 to 20 age group, one in the 21 to 30, two in the 41 to 50 and one in the 51 to 60. So five of our eight are below 30. That is quite a young age cohort.

**MS CHEYNE:** In terms of the care and support we offer, does that—I am trying to be sensitive—because it is much younger than you would normally expect for a cohort and it is lifetime care and support, put pressure on the budget?

**Ms Holmes:** When we look at the levy we need to set to fully fund the scheme, there are three key factors. One is the number of new participants we are anticipating. Another is to do with the severity of the injury. They are all catastrophic but you can still get a substantial range of care needs for catastrophic. For example, if you are talking about a quadriplegic, some of them need 24/7 care. Others do not need as much care. It really depends on whether it is a spinal or a brain injury and on the extent of the brain injury. The third thing that impacts the cost is to do with the age of the participant. From a funding perspective, if you have a child, over the lifetime of provision of care it will add up to more than if you have someone who was 50 when they entered the scheme.

**MS CHEYNE:** How long does it take you between an application and an acceptance or rejection? What is the normal time it takes? I suspect it varies. Is there an average time?

**Ms Holmes:** Once we get an application which has all the relevant details, including the medical certificates we need in relation to the extent of the injury, then usually it is about a month at the most for us to do what we need for the assessment.

**MS CHEYNE:** Do you do some sort of work with applicants to ensure that they get you the material you need, or with the applicant's representative?

**Ms Holmes:** We partner with the New South Wales Lifetime Care and Support Authority. They have over 1,000 people, I think, now in their scheme. From the perspective of being able to tap into an organisation which specialises in this and has the people on the ground, we use them as our front-line people. They are the ones who do the provision of services as well. As soon as we get an application through, which often comes from the hospital, particularly if it is one of the specialised New South Wales hospitals that these types of injuries are often sent to, or an early notification, New South Wales will immediately put a coordinator on. That coordinator will then go to the hospital and speak to—often it is the family in these situations. They will help with filling in the application form, talking about what the scheme delivers and making sure that all the medical information required by the legislation is there when it comes through in the application. The coordinator then continues being the coordinator for that individual once they are accepted into the scheme.

**MS CHEYNE:** How many coordinators do you have on staff?

**Ms Holmes:** I could not tell you how many New South Wales has.

**THE CHAIR:** So they are mainly New South Wales people?

**Ms Holmes:** Yes, they are New South Wales.

**THE CHAIR:** Exclusively? New South Wales does all the front-end stuff for us?

**Ms Holmes:** Yes they do.

**MS CHEYNE:** How many applicants have we ever rejected?

**Ms Holmes:** There was one application which the commissioner rejected, not on medical grounds but on whether it was in fact a motor vehicle accident. The legislation allows for a dispute to be lodged, which is what happened. That process was worked through and that person has now been accepted into the scheme, based on the decision of the panel. So the answer is zero?

**MS CHEYNE:** So every applicant has been accepted.

**Ms Holmes:** Yes.

**THE CHAIR:** On the take-up, I am presuming that the difference between the actual expenditure on participants' treatment and care expenses of \$3.8 million in 2017 and \$13.6 million in 2018 is a reflection of the increase. How many people do we have in—

**Ms Holmes:** In 2015-16 those numbers reflected one new participant. I am sorry; I have got my years wrong: in 2016-17 there was one new participant. In 2017-18 there were two new participants reflected through the numbers. With lifetime care you reflect the estimate of the full lifetime cost of that participant when they enter the scheme. It is a case of the numbers, so it was one versus two. Also, particularly in one of—

**THE CHAIR:** That \$3.8 million in 2017 reflected the estimated lifetime care costs of one participant? I am referring to page 187 of volume 2.2.

**Ms Holmes:** The \$3.886 million reflected one new participant as well as movements to do with the existing participants. It is an estimate which happens at 30 June each year for all participants. You can actually get some participants who improve more than you would expect or need more than you would have thought perhaps in the prior year; so you will get movements as well.

**THE CHAIR:** How many people in total are there in the scheme now?

**Ms Holmes:** At 30 June 2018 there were eight and we have now accepted an additional two so far this financial year.

**THE CHAIR:** I am trying to work out what is the \$10 million increase; because we have taken two people into the scheme?

**Ms Holmes:** Yes. As I said the age can have a substantial impact. In this particular case it was to do with the severity of one of the injuries, one of the people who was accepted. It was almost as bad as it can get.

**MS CODY:** With the NDIS coming on board, how do you work together with the NDIS? The NDIS goes up to 65 years of age and after 65 there is a whole other issue that we have to look at, which is a federal issue, and I do not want to talk about that. But from the perspective of lifetime care and support here in Canberra, how do you interact with the NDIS?

**Ms Holmes:** The NDIS and the NIIS, the national injury insurance scheme, which is the lifetime care, are actually companion schemes. If you are in the lifetime care, you can put an application in to the NDIS. You could be accepted into the NDIS, but your package might actually be zero because you are in the lifetime care.

**Mr Nicol:** One of the conditions of the NDIS was that each jurisdiction in Australia would set up an insurance scheme for motor vehicle accidents. That is essentially to cover that risk in a cause of disability. Each jurisdiction set up a scheme that is essentially fully funded through registration costs, to cover the costs of those injuries. As Ms Holmes said, the service is mainly provided through the NDIA, if that is what the participants wish to have happen.

**MS LAWDER:** I want to ask about the lifetime care and support schemes investment strategy. Can you elaborate? Is it solely in line with the government's investment strategy or do you determine your own?

**Ms Holmes:** Because the amount of levy which we aim to collect each year reflects the lifetime cost of the people entering into it in that year, there is only a small portion that you are actually paying out in costs in each individual year. Part of the levy calculation is the anticipation of what interest and returns you then get on the amount that you can invest. That is all factored into that actuarial work. The investment strategy is aiming for a 2.5 to 3.5 return—

**THE CHAIR:** Plus CPI?

**Ms Holmes:** Plus CPI. It is invested in two unit trusts. That particular arrangement is in the process of being changed next month to bring it in line with the whole-of-government investment strategy.

**Mr Nicol:** Our whole-of-government investment strategy, which includes the responsible investment policy, which we have talked about here previously, essentially covers the superannuation provision account. In the past four or five years a number of other funds have been created for various reasons, such as the lifetime care and support fund. We have an insurance fund as well, a pre-standing fund. We are doing some work which we are advising government on at the moment to restructure our investment funding arrangements to have a single overarching strategy over the top and each fund will essentially plug in to that strategy, picking the various types of investments needed to reach their particular goals.

As Ms Holmes said, the strategy for the lifetime care and support fund is a little bit more conservative than it is for the superannuation provision account, given its purpose and need to access funding on a regular basis, so it needs to have some liquidity. But that will be able to plug into our master strategy, such that applications of responsible investment principles and investment strategies is one consistent approach rather than setting up a separate policy and maintaining a separate policy for all the funds.

**THE CHAIR:** That makes perfect sense. I have a couple of questions to follow up. Why does the lifetime support and care fund have such a conservative investment strategy compared to the others?

**Mr Nicol:** There are two reasons. One is that we are still in the start-up phase of the fund, so we are essentially establishing it. The amounts involved in the fund are very small, so we have deliberately taken a low risk strategy to ensure that the fund is not put at risk. The other difference between, say, the lifetime care and support fund and the superannuation provision account is that the lifetime care and support fund needs access to liquidity to pay out the costs of caring for people over time. The superannuation provision account will not need to be accessed until a time in the future, so we do not need to have accessible cash ready to access. The more liquidity you want in a fund, generally the lower returns you are going to get because—

**THE CHAIR:** Yes, that makes sense.

**Mr Nicol:** you are going to move to products like cash and term deposits et cetera.

**THE CHAIR:** Who, if anyone, provides financial advice to the investment funds; investment advice?

**Mr Nicol:** Mr McAuliffe could perhaps answer this better than I can. We have an investment advisory board. That board gives us advice on strategies; generally portfolio strategies. Underlying that board we have an investment adviser and they give us advice on various products to purchase. That is then considered by the board, considered by me, and the Treasurer agrees to a strategy for the investment approach at a high level in terms of investments in various portfolios such as equities, international equities et cetera. All of that advice comes to me, essentially, and I make decisions about aggregate investments at a portfolio level. The way we have structured the fund is that I do not give investment advice on particular companies to invest in. We will index that or pick a particular active manager whose responsibility it is to make individual investments within that portfolio strategy.

**THE CHAIR:** Who is on the investment advisory board and who is the investment adviser?

**Mr Nicol:** Our investment adviser is Willis Towers Watson.

**Ms Vroombout:** They are who we contract with to provide investment advisory services. Carol Austin is the chair of the investment advisory board.

**Mr Nicol:** And Carol is on the future fund board of guardians.

**Ms Vroombout:** And I will take on notice the other member. There are two members of the investment advisory board.

**THE CHAIR:** And the financial adviser is contracted for what sort of period?

**Ms Vroombout:** Again I have to take that on notice, but I think it is five years. It is a multi-year contract.

**Mr Nicol:** I would have gone with five as well, but we will confirm that.

**THE CHAIR:** Investment advisers work on a longer term strategy than five years.

**Mr Nicol:** We will take on notice the processes. I think we have only recently re-engaged Willis Towers Watson after a competitive process, but I will confirm that and give it to you on notice.

**MS LAWDER:** Are they paid out of the return on the investment?

**Mr Nicol:** Under the legislation the costs of our investment strategy can be met from the superannuation provision account.

**THE CHAIR:** But what about lifetime care and support?

**Ms Holmes:** Our arrangements have been done through Pat McAuliffe's area. We have not paid any costs specifically against the fund. With any advice we have



received through Pat's area the costs have been however Pat manages his costs.

**Mr Nicol:** Which is from the superannuation provision account.

**THE CHAIR:** So it all comes out of the superannuation provision account?

**Mr Nicol:** Yes.

**THE CHAIR:** Will that continue if you are going to lock other funds into that structure? It seems not to be a very good idea to have the superannuation fund pay for the financial advice for the lifetime care and support scheme.

**Mr Nicol:** The costs are relatively modest in terms of comparison to the overall funds employed. There is a question of splitting up that and coming to a costing attribution and the benefits of that versus the attribution of costs. I have not recently thought about that question so I will talk to Mr McAuliffe and see what the appropriate arrangement might be for the future.

**THE CHAIR:** What is the time frame for putting the other schemes under the one head of—

**Mr Nicol:** We are doing that progressively, but I expect it to occur by early in the new calendar year. I should add that there are funds that will not be taken into that scheme. The principal example I can think of is the Public Trustee because it is not government money. So we are keeping them separate and under their own arrangements. But we are going through each of the other funds the government has under its control.

**THE CHAIR:** Could you provide on notice to the committee the funds that will be incorporated into that strategy?

**Mr Nicol:** Yes, we can certainly do that.

**MS LAWDER:** Did you say you were hoping for a 2½ to 3½ half per cent return or you are getting a 2½ to 3½ per cent return?

**Ms Holmes:** That is the long-term average being targeted with the investment plan.

**MS LAWDER:** So what did you get last year? Was it within that range?

**Ms Holmes:** I will need to take that on notice.

**MS CODY:** In regards to lifetime care and support for people in the fund, is it for the full lifetime?

**Ms Holmes:** Yes.

**MS CODY:** It does not end at 65?

**Ms Holmes:** No.

**MS CODY:** How does that interact with the aged-care system?

**Ms Holmes:** Anything someone needs in relation to their treatment and care as a result of their injury from an accident is covered by and provided through the lifetime care and support fund.

**MS CODY:** If they need to go into an aged-care facility, for example, that is covered through the lifetime care and support fund?

**Ms Holmes:** Treatment and care are covered. Issues to do with accommodation are not treatment and care.

**MS CODY:** So that would be borne by the person?

**Ms Holmes:** It depends on the personal circumstances of the individual in terms of accommodation. We have some participants in this scheme who have gone into public housing and the scheme has coordinated with CSD in relation to the housing requirements those people needed. But we are actually not providing the accommodation.

**THE CHAIR:** You made the distinction, Ms Holmes, that treatment and care expenses are what this fund is about. So by what means does someone pay for their accommodation.

**Ms Holmes:** Accommodation is down to what other supports might be available if someone needs a support through other systems, but it is not this scheme.

**THE CHAIR:** So what you are saying is that somebody on lifetime care and support would also need to have recourse to the social security system to provide for their income as opposed to their carer treatment.

**Ms Holmes:** Yes. The scheme purely covers treatment and care; it does not cover accommodation costs and it does not cover income.

**THE CHAIR:** Therefore, if they eventually needed aged-care residential accommodation that would be provided through a mechanism.

**Ms Holmes:** Yes.

**THE CHAIR:** Thank you for your assistance; you are done for the day, Chief Minister.

Appearances:

Office of the Commonwealth Ombudsman

Manthorpe, Mr Michael, ACT Ombudsman

Hinchcliffe, Ms Jaala, Deputy Ombudsman

Pfitzner, Mr Paul, Senior Assistant Ombudsman, Program Delivery Branch

**THE CHAIR:** I welcome officials from the Ombudsman's office. The new freedom of information legislation is in place and operating; it is reported on at some length in the annual report. Can you give an overview of how the new act has rolled out in the ACT? Before you speak, could you please acknowledge the privilege statement.

**Mr Manthorpe:** Thanks for the opportunity to speak with you. On FOI, I think I would summarise the rollout as being essentially successful. The scheme is in place. The agencies are, I think, by and large, trying to meet the requirements of the scheme, and we are seeing that quite closely. We are engaged with all the agencies that operate under the scheme regularly, and are continuing to work with them to ensure that they know what they are required to do under the act and that they are familiar with the time frames and the various requirements and tests that they have to meet. So, by and large, I think they are taking it seriously; they are working their way through it.

There have been some instances where agencies have struggled to meet the time frames of the scheme that have come our way, either where they have had to disclose to the Assembly—there is a reporting mechanism for that—or where they have come to us seeking extra time. We have a limit to how much extra time we can provide, so sometimes that is exhausted. On other occasions there have been instances where under our review process—anyone can come to us, including members of the Assembly, if they want to seek a review of an FOI decision—we have ourselves struggled to live within the time frames that are available under the act. So there are some time frame challenges. That just goes to the time it can take to work through a complex matter and give everyone natural justice and so forth.

Having said all that, one of the intents of the legislation is to have a pro-disclosure culture and to get people dealing with requests for documents for review and so forth expeditiously. I think, by and large, people are doing that.

**THE CHAIR:** In the time that you have had to deal with this, would there be any suggestions you would make for improvement?

**Mr Manthorpe:** I think mainly in that area of timing. For example, one of the provisions is that if an individual is unhappy that they were not able to get the documents they wanted from an agency, they can come to us and seek a review of that decision. We have 30 days in which to conduct that review. If it is a complex matter—if it is a matter that has copious documents and there is a contest between the individual and the agency that has been going on for some time about what documents they can get—then (a) it might take us a bit of time to work through it all and form our own views as to whether the documents should or should not have been released, or which documents should or should not have been released, or which redactions should or should not have been put in place; and (b) when we reach a preliminary

view on that, we write back to both sides and say, “Applicant and agency, this is where we are landing on this matter. Do you have further and better arguments to put to us?” Just the mechanics of that can take some time.

We try to do it in a way that is very collegiate with the individuals. We try to get, if you will, to a fairly informal resolution. On a number of occasions we have been able to do that quite quickly and within the time frames of the statute, but on other occasions it simply takes a bit longer.

**THE CHAIR:** The table on page 26 of the annual report shows a breakdown of the applications for the Ombudsman’s review of FOI applications. It shows that Chief Minister, Treasury and Economic Development Directorate received the highest number of requests. Do you have any information as to why that would be the case? Is it just the size of the agency or are there any other factors in play there?

**Mr Manthorpe:** I might invite Mr Pfitzner to comment on that.

**Mr Pfitzner:** It is partly the nature of the work for which the directorate is responsible. A number of whole-of-government applications under the FOI Act are made to the directorate. A lot of requests for matters relating to cabinet or other broader issues come through that directorate. So it is probably indicative of the fact that they have the bulk of the access applications in the first place, and then they turn into applications for review to us.

**THE CHAIR:** I also notice that Health only covers 12 per cent. I will have to lift my game personally to increase the number of health FOI requests.

**Mr Manthorpe:** We will take that as a comment.

**Ms Hinchcliffe:** I would also note with those figures in figure 8 that it is only a very small number of requests for review that we have had. That relates to the 17 applications for review.

**THE CHAIR:** Okay.

**Ms Hinchcliffe:** I think also it is useful to note that this is the first year of the scheme. It will be interesting to see if there are any trends that develop over the coming year. I just sound a note of caution about taking too much out of the percentages at this stage, because they are very small numbers.

**THE CHAIR:** A point well made, Ms Hinchcliffe.

**MS CHEYNE:** I note that the report mentions several reasons as to why complaints might not be investigated—54 of 71, Housing ACT; 38 of 50, Corrective Services—I can go on but that is detailed in the report. Is there a breakdown of the reasons why these complaints were not investigated? Is it related to the fact that you record every contact with the office as a complaint and are they necessarily complaints?

**Mr Manthorpe:** If we have listed a number of complaints, they are complaints. We get more contacts than there are complaints.

**MS CHEYNE:** At the top of the second column of page 7 it says that any public contact with the office is recorded as a complaint.

**Mr Manthorpe:** Yes, okay.

**MS CHEYNE:** Is it?

**Mr Manthorpe:** I stand by the report. I know for a fact that in our Commonwealth Ombudsman annual report we talk about contacts and a subset of contacts is complaints. The overwhelming number of contacts we get are complaints, there is no doubt about that so I am sure that that is accurate in terms of how it has been drafted. If it turns out there is a mistake I will most certainly come back to you and fix it.

**THE CHAIR:** It is possible that contacts might be in the first instance not necessarily complaints but seeking guidance about where to take complaints.

**Mr Manthorpe:** That is absolutely right. We get some people ringing us up wanting to know where to go or what to do with something, but then the question is how we count them and classify them. Overwhelmingly, though, people contact an ombudsman's office because they want to complain. So whether it is 100 per cent or some slightly smaller number, it would not be much different.

I do not think the differentiation between what is a contact and what is a complaint will provide a large share of the explanation as to why we do not investigate everything. That is more often to do with the matter not falling within our jurisdiction. Some parts of ACT administration fall within our jurisdiction and there are other parts that do not. You cannot expect everyone in the public to have an encyclopaedic view of these things and so sometimes we get calls that are about things where we simply have to refer them to somewhere else.

**THE CHAIR:** What do you not cover?

**Mr Manthorpe:** We do not have jurisdiction for matters about a minister. We cannot investigate judges, registrars, magistrates or coroners except to the extent that we perform a role as principal officer to the judicial council. We do not deal with matters relating to the Commissioner for Sustainability and the Environment or matters dealt with by the Human Rights Commission in the exercise of the commission's deliberative functions. We do not deal with matters relating to the Auditor-General nor employment matters in relation to public servants. We are more in the space of administration than employment matters. And because there are commissioners in the Human Rights Commission to deal with these matters we do not deal with disability services, health services, services for children or young people or services for older people.

A whole series of topics is carved out of our jurisdiction at law. There would be a set of contacts where we say to someone, "Look, we understand you have a complaint and this is where you should direct it."

**MS CHEYNE:** I have not had the pleasure of ringing the Ombudsman's office yet. Is

there a first past the post triaging system of—ring, ring—“I want to talk to Mr Manthorpe,” but then it says, “If you want to deal with any of these they are not for you so press 2 and we will tell you how to contact those people”?

**Mr Manthorpe:** I am not sure whether a colleague could describe how it works in more detail than I, but, basically, yes, there is. In my commonwealth jurisdiction I have a series of different hats—I am the Private Health Insurance Ombudsman, the Commonwealth Ombudsman, the Defence Force Ombudsman, the Immigration Ombudsman, the Postal Industry Ombudsman, the Overseas Students Ombudsman and the ACT Ombudsman—and we step people through all of those choices. Quite how the sub-choices and so forth work I am not sure off the top of my head, but they are there.

**Ms Hinchcliffe:** We get lots of phone calls but we also get lots of complaints that come through to us through our website, so online complaints. We set up the website to try to help people get to the place they need to go to if it is not us in the first instance. Something constantly on our minds is how we make sure that people are going to the right place. If you are at the point where you are complaining to an oversight agency and to then just be referred off to somewhere else—

**MS CHEYNE:** You would be pretty annoyed.

**Ms Hinchcliffe:** Exactly. We are conscious of how we can do that better, how we can keep on thinking in that space to make sure that people are getting to the right place. As a general proposition we like people to complain to the agency where their complaint resides first. So if their complaint is about something that happened at ACT Housing, they should complain to ACT Housing in the first instance to enable the agency to be able to deal with the issue.

As an Ombudsman we have powers to make recommendations and we can investigate, but we do not stand in the shoes of the decision-maker so we cannot remake the decision. So, in the first instance, for early resolution, in a way we like people to try the complaint mechanism at the relevant agency.

We are also aware that that might not be a particularly joyous experience for people at some point, so we also think about the vulnerabilities someone might have that might mean we can also send the matter over to the agency and let them know that we are interested in the results or that we are asking them to give it a higher priority because we are sending the complaint to them for people who are particularly vulnerable.

**MS CHEYNE:** Do the majority of your complaints come through phone calls or the other contact you mentioned?

**Ms Hinchcliffe:** I do not know that we have a breakdown in the ACT with us.

**Mr Manthorpe:** No, we do not. We can take that on notice.

**MS CHEYNE:** You can just tell me what you think it is. I do not want you to take it on notice; I do not care that much.

**Mr Manthorpe:** We are seeing over time a gradual reduction in the phone call proportion and a gradual increase in the online proportion. We want to encourage that for people who can do it. I do not think we will ever get rid of a phone line, but we want to encourage people to fill in the form and tell us what their complaint is online because it is more efficient for everybody.

**MS CHEYNE:** The ACT Ombudsman’s social media presence is the Commonwealth Ombudsman’s social media presence, is that right?

**Mr Manthorpe:** Yes, that is right. We certainly have separate ACT activity. We do a certain amount of social media engagement and a lot of community engagement in the ACT. We have been trying to sort of lift our presence.

**MS CHEYNE:** I think I saw you at SpringOUT.

**Mr Manthorpe:** Yes, that is right. So we are seeking to make our existence and the service we provide known to people particularly through community activities and various disadvantaged groups as well.

**MS CHEYNE:** I note that on the Commonwealth Ombudsman’s Facebook page there is an instant pop-up to message the page—great, very proactive engagement. It also says, “Don’t make a complaint. This is not how we receive complaints”. I appreciate there is crossover between your other roles, but are you still receiving complaints through Facebook Messenger even though you say, “Please don’t do that”?

**Mr Manthorpe:** I am not sure. If someone sent us something via Messenger I am sure our communications team would spot it.

**MS LAWDER:** I notice on page 26 of your annual report that you have a pie chart about the number of complaints. It is figure 8. Chief Minister, Treasury and Economic Development Directorate followed by the Community Services Directorate have the most number of complaints. Have you any idea why that is the case?

**THE CHAIR:** Is that the Ombudsman review?

**Mr Manthorpe:** Yes, I think that is the one we—

**THE CHAIR:** That is the one I just talked about.

**MS LAWDER:** Is that the Ombudsman review?

**THE CHAIR:** Yes.

**Mr Manthorpe:** Yes, that is the one we were just talking about. Ms Hinchcliffe rightly pointed out that it was a pie chart that is showing percentages of quite a small number.

**MS LAWDER:** Mrs Dunne loves a good pie chart and a Venn diagram.

**THE CHAIR:** Yes.

**MS LAWDER:** When you informally resolve requests, does it contribute to your statistics to inform your future work?

**Mr Manthorpe:** Yes.

**MS LAWDER:** How does that work?

**Mr Manthorpe:** Perhaps the best way to talk about what we do in this space is contained in appendix 1, pages 33 and 34. This is about complaints. This is not about FOI; this is about complaints stats. It sets out by directorate, and then by agency within each directorate, what the complaints are, how many were investigated, how many were not and the sorts of different actions that have been taken to achieve some sort of remedy for somebody. Sometimes the remedy might be an apology; sometimes the remedy might be a change in decision. Quite often the remedy is really just a better explanation for someone.

We often find that the agency basically got the decision right, but they might not have communicated it effectively, they may have sent the communication to the wrong address or something of that ilk. All of that sort of data informs where we put our efforts. Increasingly, we are wanting to analyse the data and ensure that, where there are significant number of complaints about a particular thing, we are following that up at a more systemic level with the agency concerned.

**MS LAWDER:** Who decides if it is resolved? Does the complainant have to agree that it is resolved? Are there some cases where it is just not possible?

**Mr Manthorpe:** Yes, at the end of the day we have to make a judgement. We decide whether to close the case. We do give complainants where sometimes the resolution will not satisfy them for reasons such as the agency might have done a thing that was completely in accordance with the law and the policy, but the complainant does not like the policy. We cannot change the policy irrespective of what we think about it. That is just not our role in life; that is the Assembly's and the government's.

Sometimes we can do our best to explain what happened, explore what happened or check what happened, but the person is just still plain unhappy. There are occasions when we say to them, "We are closing your complaint." We still give people an opportunity to come back to us and say, "If there is some other evidence or some other issue you want us to look at, we can do that."

**MS LAWDER:** Would that be reopening a closed one or do they have to make a new complaint?

**Ms Hinchcliffe:** There is a review step we give people—

**Mr Manthorpe:** That is right.

**Ms Hinchcliffe:** We will let them know what our decision is or whether the matter is being finalised. Then there is a step that allows them to come back and ask for a review of that decision.



**Mr Manthorpe:** That is right.

**Ms Hinchcliffe:** So the complaint remains. They do not need to come and give us a new complaint. It is an internal review step.

**MS CODY:** I have a couple of questions. I start with the reportable conduct scheme. Obviously, there are going to be some changes to the reportable conduct scheme with some of the changes announced in the annual report. How are you helping people and organisations understand what they have to do under this reportable conduct scheme?

**Mr Manthorpe:** We have done quite a lot in that space. The first tranche of the scheme came into effect 1 July last year. That was covering the education directorate, childcare facilities et cetera; a variety of employers. We put in a lot of work leading up to that during the year that is the subject of this annual report: work into awareness raising, education, and various other activities to connect with all the relevant employers to make sure they knew what their obligations were.

As the scheme has broadened to capture the churches from 1 July this year, we have re-doubled our efforts in that regard and we are seeking to engage with the churches in a similar way. That is the gist of what we are doing: education, awareness raising, production of guidelines and materials that are on our website, and so forth. Do you want to add anything to that, Mr Pfitzner?

**Mr Pfitzner:** I add just two things. We offer information sessions to organisations. But we have also put on training courses. We engage a consultant to deliver workplace investigation training. I think approximately 330 people went through across organisations, including the religious sector. We also engaged another consultant specifically to help us consult and raise awareness within the religious sector.

Obviously, there is a significant variance in the capacity of organisations. It ranges from very small—two or three people churches—to very well-established, organised religious groups. We have been trying to look at the different options that we have and how we can inform people of their obligations under the scheme.

**MS CODY:** With the introduction of the reportable conduct scheme last year, you have had 12 months to look at how that has gone. Have you learnt a lot? Was there some feedback that you can learn from moving into this next tranche of education and awareness building?

**Mr Manthorpe:** Yes, I think we have learnt a lot. I think the agencies that are dealing with the scheme are learning as well. Agencies have had to put in place different procedures, internal policies and guidance, and all that sort of stuff, training for their staff and so on. We can get out to a certain number of people but I think it would be fair to say that there are thousands of people who are covered by the scheme in one way or another.

Large numbers of people need to be familiarised with and alerted to the scheme. Schoolteachers, for example, need to know about it. Childcare workers need to know

about it and so on and so forth. I think that we have learnt that it takes a fair bit of work and a fairly concerted effort to get the awareness raised to the appropriate level out amongst the community of people who are covered by the scheme, not least, of course, because they all have a job to do. They are not merely required to abide by the requirements of a scheme like this. That is one issue.

The second issue is that I think it has been really clear to us that information sharing is really important. That is not just the initial reporting but the way in which investigations are done and so on. There needs to be appropriate information sharing with entities that might have an interest in a given matter. That is an important theme and it is consistent, I suppose, with the findings of the royal commission that gave rise to this in the first place. They are a couple of things. Yes, I think they are probably the high points. Do you want to add anything?

**Mr Pfitzner:** Only to build on that. You may have seen that we recently released a public statement about an investigation we had undertaken. That was primarily to illustrate a couple of issues that we had seen. Of course, that was in relation to the Education Directorate about which the investigation occurred. But it was released as a public statement because we felt that that would be of interest to other organisations.

Again, we have seen similar issues, as Mr Manthorpe said, for example, how it relates to information sharing and what people have used. People have used workplace relations or industrial relations mechanisms. That can happen but there is an interplay between that and reportable conduct. We thought that there was some value in sharing that more broadly and it led to our publishing that statement.

**MS CODY:** I note that you also have a diagram on page 12 that looks at notifications received by sector. I will give you a moment to find the page. I guess it is hard to look at variances from before the reportable conduct scheme to after, but—

**THE CHAIR:** They probably do not have that information.

**MS CODY:** No, but the point I was going to get to was this: with the complaints that are made—and people will feel that everything is going to be terrible and difficult for a person making a complaint, and I completely understand that—are some of the mechanisms put in place because of the reportable conduct scheme making it a bit easier in the long run?

**Mr Manthorpe:** I think it is making it easier. In fact what we are getting in the reportable conduct scheme is not so much complaints as reports of allegations. An entity covered by the scheme is required at law to tell us if they or a member of their staff has perceived a staff member doing something inappropriate to a child. It does provide a pathway, which was not there before, to alert relevant authorities to that fact and ensure that it is appropriately investigated. It is intended to shine a light on behaviour or activity that was probably there all along in different ways, and, hopefully, through that means, and through appropriate investigation and appropriate monitoring and tracking of all of that, to get to a place where children are safer.

**MS CODY:** Which obviously is the main aim.

**Mr Manthorpe:** Absolutely; it certainly is.

**Ms Hinchcliffe:** Part of our oversight role here is to ensure that agencies that are covered by the scheme have those policies and processes in place to ensure that there is a path for reports to be made. That is another element in the safety system for children, to make sure that there is a reporting path within the organisation and a way that investigations can occur in the organisation that we then oversight.

**MS CODY:** I guess that means that if children felt the need to report abuse that may be happening to them, there is an avenue for them to do that, maybe not through the reportable conduct scheme but—

**Mr Manthorpe:** First of all, theoretically, if a child contacted us with an allegation of harm, we would certainly act on that.

**MS CODY:** I guess that is the point I am making—

**Mr Manthorpe:** That is absolutely—

**MS CODY:** Is that still a path that you can undertake on their behalf?

**Mr Manthorpe:** We would certainly ensure that if a child came to us directly with a serious claim, we would take that seriously and look to work out, depending on what the circumstances were, what the right pathway was to get that adequately looked at. Similarly, if a child alerts a—

**MS CODY:** A staff member.

**Mr Manthorpe:** A schoolteacher or someone to an issue, our expectation is that that would be reported to us, yes.

**MS CODY:** I was making sure that there was an avenue whereby, if you received a complaint by a child, you were able to do something with that complaint.

**Mr Manthorpe:** Yes, we would.

**THE CHAIR:** On the reportable conduct scheme, you have a chart on page 5 that talks about the 500-plus entities that were in the scheme in the last financial year, and they will have been added to. Has the office had the opportunity to, in a sense, individually audit those organisations to see that they have the appropriate procedures? Is that your job? You have been through those 500-plus entities?

**Mr Manthorpe:** Yes.

**THE CHAIR:** You have?

**Mr Manthorpe:** Not directly, no. Do you want to go to this survey?

**Mr Pfitzner:** Yes. We have started with a self-assessment tool. We sent a survey out to all of those agencies identified there and we received responses from about

60 per cent of those, some of those from individual organisations and some, for example, on behalf of the Education Directorate, on behalf of government schools. We have worked through the survey results that we have seen. That is again an opportunity for us to determine whether we might want to be more proactive in a particular sector.

**THE CHAIR:** You said you got a 60-odd per cent response rate. Of the 30-odd per cent that you did not get, have you followed those up?

**Mr Pfitzner:** Part of our follow-up as well is to check on what policies and procedures are in place and make contact with those organisations.

**THE CHAIR:** The survey was, in a sense, a way of them getting in contact with you because if they have not done that then you have to follow them up. Does that mean, effectively, that the 500-plus agencies have had some contact with the Ombudsman's office, or that you have had some oversight of those 500-plus agencies?

**Mr Manthorpe:** I am not sure whether we have had contact with every single agency. What I can say is that all the agencies are covered by the scheme and they are therefore required to report. When we were first putting the reportable conduct arrangements in place with directorates in the ACT government, we postulated that in a given year, given the population of the ACT compared to New South Wales and Victoria, where their schemes are already in place, we might get something in the order of 120 reports in a year.

**THE CHAIR:** And you got 147.

**Mr Manthorpe:** And we got 143. So it was a little higher than expected, but not massively. I do not read anything terribly alarming into that; as a matter of fact I read into that that agencies were aware of the existence of the scheme. With every single one of those 143, we looked to ensure that the way in which the agency then follows up the allegation is appropriate. That is our way of seeing, at a granular level, what they are doing, on top of which we invited them to engage with us on this self-assessment process. Over time I envisage that we will get out to all of them in some way, shape or form.

**THE CHAIR:** You talked about the survey and the 64 per cent or whatever who responded. Of the 143 complaints, have they come from across the board, from people who did not respond to the survey, from organisations that did not respond to the survey?

**Mr Manthorpe:** I do not think we have done a cross-tabulation.

**THE CHAIR:** I am trying to dig into whether you are engaged with the engaged, and whether there are some disengaged organisations that you have not—

**Mr Manthorpe:** That is right. That is a very good question. Our principal engagement so far has been to get out, raise awareness, run training, run information, get materials out there and that sort of thing, deal with the allegations that have come to us in the appropriate way, and so forth. We will need to do more over time,

particularly as the data starts to have more meaning. If there are material entities that simply are not generating any reports, we will want to engage with the less engaged, if I can put it that way.

**THE CHAIR:** Yes, because you do not know what that means.

**Mr Manthorpe:** That is right. You do not know what you do not know. We will be wanting to identify the relatively disengaged and try to understand what is going on there.

**MR COE:** I have a final follow-up on this issue. I note that with regard to the statement about an investigation in the Education Directorate, recommendation 7 was that the directorate should provide training regarding the prevention, identification, reporting of, and response to allegations of reportable conduct. If an ACT government agency that has been intimately across the formulation of this policy is having difficulty in passing on the practicalities of this policy, how does a non-government organisation go, especially one that is disengaged, as Mrs Dunne said?

**Mr Manthorpe:** I guess it would depend on the agency. We are mindful that some of the church groups, in particular, are quite small. Their governance arrangements—what is the word I am looking for?—might not be at a very sophisticated level and so forth. We can imagine that we are going to need to keep reaching out to those entities, keep providing information, materials, procedural guidance, call it what you will, to help them help themselves. In the end they are covered by the law, and our goal is to ensure that reports of conduct that may harm children by any of those entities that are covered by the scheme are reported to us.

**MR COE:** I am sorry if I am repeating a question that has already been asked: is there a definitive list?

**Mr Manthorpe:** Of?

**MR COE:** Of entities?

**Mr Manthorpe:** Of entities that are covered by the scheme? We certainly would know all of the large ones. Do we have a definitive list of all of the church and church-like organisations?

**Mr Pfitzner:** I would like to take that on notice.

**MR COE:** Yes, because I am thinking about that threshold. At what point does an informal church gathering or an informal religious group step in?

**Mr Manthorpe:** Yes, and there is also a question about at what point is something being done within the church versus someone who might be in the church but is doing something privately. There are going to be grey areas that we are going to need to turn our minds to with the relevant agencies and the relevant entities in the time ahead.

**MS LAWDER:** You talked about reaching out. You sent a survey. You are trying to get your information out. As I understand it, and on page 5 it says, you have a

responsibility to monitor organisations for compliance with this requirement. What are you doing or when are you going to actually go out to those specific organisations that you have not heard from to ensure that they do have those policies in place?

**Mr Manthorpe:** We have already sought to engage with everyone that we know of to be covered by the scheme, one way or another.

**MS LAWDER:** But you said you only got 60 per cent or something back from your survey.

**Mr Manthorpe:** Sixty per cent had filled in a self-assessment form. That was the first year's group. We have already gone out to all of them, and we have certainly been actively engaging with all of the significant known church bodies that have been covered by the scheme since 1 July, and we will keep at it. To the extent that we have not picked up people as yet, we will be focusing on that in the months ahead.

**MS LAWDER:** Of the 500 organisations in that chart, from how many have you not had a response of some sort back about whether they have those procedures in place?

**Mr Manthorpe:** We got something like a 60 per cent response rate, so a couple of hundred did not respond to that. But it does not definitively mean that they are not doing what they should be doing under the scheme. It highlights that, as the scheme matures, we are going to have to get out there and keep at it.

**THE CHAIR:** I am mindful of the time. Thank you very much for your attendance here today. Could we clear the room so that the committee can have a brief private meeting. Thank you very much.

**Hearing suspended from 3.09 to 3.20 pm.**

Appearances:

Stephen-Smith, Ms Rachel, Minister for Aboriginal and Torres Strait Islander Affairs, Minister for Disability, Minister for Children, Youth and Families, Minister for Employment and Workplace Safety, Minister for Government Services and Procurement, Minister for Urban Renewal

Chief Minister, Treasury and Economic Development Directorate

Tanton, Mr Graham, Executive Director, Shared Services, Commercial Services and Infrastructure

Davis, Mr Gary, Executive Director, Shared Services ICT, Commercial Services and Infrastructure

Fletcher, Mr John, General Manager, ACT Insurance Authority, Commercial Services and Infrastructure

**THE CHAIR:** We will move to Shared Services and the Insurance Authority. Then we will move to the Auditor-General and the Speaker. Minister and officials, thank you for your attendance here today. Can you give me an outline of your ministerial responsibilities? You are new to the job; you are reporting to us on something that you did not have anything to do with.

**Ms Stephen-Smith:** Yes.

**THE CHAIR:** So long as we all understand this, could you give us an outline about what is covered by this part of the portfolio?

**Ms Stephen-Smith:** We talked about procurement the other day with Procurement ACT, but the whole portfolio is the procurement part, which is primarily goods and services procurement and procurement policy, and then the government services part, which is really Shared Services and the ACT Insurance Authority.

**THE CHAIR:** Part of the reason I asked is that every year we have done this since the election there has been this odd issue of where Shared Services sit. I thought that we had definitively resolved a number of times that Shared Services fitted with the economics committee and not with the public accounts committee.

**Ms Stephen-Smith:** You still have Shared Services.

**THE CHAIR:** We still have Shared Services.

**Ms Stephen-Smith:** With the pleasure of the important work about the efficiency and effectiveness of government.

**THE CHAIR:** It is important work; let us be frank. I want to ask about the Insurance Authority first and foremost. It follows on a bit from a discussion that we had with Mr Nicol previously about the investment strategy that underpins these things. I was wondering whether Mr Fletcher could talk to us about the operation of the Insurance Authority, the money it has invested, how it addresses insurance and reinsurance issues for the territory, and what bits pay premiums. Do agencies pay premiums to the

Insurance Authority? How do you get your money and how do you manage the insurance-type risk of the territory?

**Mr Fletcher:** I acknowledge the privilege statement. The authority operates under its own piece of legislation, the Insurance Authority Act, and it is basically the territory's risk manager and insurer. We are set up as an authority to act as a captive insurer, which is a mechanism used by most government jurisdictions, and a lot of private sector organisations as well who have fairly substantial budgets. It operates on the principle that the territory's budget is fairly substantial, we have substantial financial resources at our disposal, and we can self-insure a considerable component of risk that is faced by the territory. Where that risk is more substantial, we can go and put in place reinsurance policies to basically hire capital from the private market to meet catastrophic losses in particular. And we collect premiums from all government agencies and entities to meet our running costs. We are not an appropriated organisation; we are a fee-earning organisation.

In terms of the cover that we provide, it is very broad form. It is almost unlimited, because we are backed by the territory's budget. We put in place indemnity agreements with each of the government agencies to basically manage their insurable risk. The key policy cover that we provide is just general liability or public liability, medical negligence and property material damage cover. Directors and officers cover is probably the other leg of insurance cover that we provide.

In terms of the way that risk transfer process works, our liability policy has a limit that is \$100 million. We self-insure the first \$5 million on each and every claim. Our assessment of our financial capacity is that we will meet the cost of the first \$5 million of any single liability claim. Any cost beyond that gets passed to our reinsurer.

**THE CHAIR:** You are blanket reinsured for anything over \$5 million? Is that correct?

**Mr Fletcher:** In liability. It depends on which class it is. In the other classes, for example in medical negligence, it is an aggregate policy; it has a \$20 million aggregate. What aggregate basically means is that in any one 12-month period you add all of the claims together and if it breaches that retention, that \$20 million retention, you go and get the funds from the reinsurer; otherwise you retain that cost within your own organisation.

Property cover is different again. It has a \$7½ million aggregate on a \$1 billion limit. We self-insure the first \$7½ million in the aggregate; once we get beyond that cost, we go to a body in the property space, a panel of reinsurers, who meet those costs. It is called catastrophe cover. The best example, obviously, is the 2003 bushfire claim. On a liability front, at that point it was a \$5 million aggregate policy on the liability side of things. We went through that ceiling really quickly on the liability side of things but also on the property damage side of things and material damage side of things. We want to transfer that risk to the private sector.

**THE CHAIR:** Just as an example, is this building, the Assembly, covered by the Insurance Authority?



**Mr Fletcher:** Yes.

**THE CHAIR:** If it burnt to the ground overnight—there would be people praying for that to happen; I did not say I was—it is obviously worth more than \$7 million.

**Mr Fletcher:** Yes. It would meet replacement costs.

**THE CHAIR:** So the \$7 million would be the excess if you had made no other claims?

**Mr Fletcher:** We would meet the first \$7½ million. After that the cost would be borne by the reinsurer.

**THE CHAIR:** But that is cumulative.

**Mr Fletcher:** Yes.

**THE CHAIR:** If two office buildings burnt to the ground, that would just keep going?

**Mr Fletcher:** Keep going, yes. In the property space, like the 2003 bushfire, the other claims that we had made in prior years were about storm damage claims. In a number of different financial years in the past there have been some storm events in Canberra that have resulted in us breaching that aggregate, not by a lot but by enough to put us in a position to make a recovery from the reinsurance market.

**THE CHAIR:** How often would we be making recovery from the reinsurance market across the different classifications?

**Mr Fletcher:** We have certainly made recoveries in property in the past. We have made recoveries against our liability policy, the key one being the 2003 bushfires. With our medical negligence program, we have made one recovery in prior years against that policy but we managed to avoid that aggregate cost, which is a good thing. We have certainly been under risk in the medical negligence space from fairly substantial claims given that claims for medical negligence that are particularly related to birthing claims—

**THE CHAIR:** Catastrophic births have a very long lead time.

**Mr Fletcher:** Yes. They can be fairly significant, in the \$10 million plus sort of range. We have settled those claims in the past, but it has not put us in a position where that aggregate has been breached, other than on one occasion.

**THE CHAIR:** You set premiums. As you said, Mr Fletcher, it is not appropriated. How do you go about setting premiums, and how is that overseen? Presumably there is some actuarial oversight of that?

**Mr Fletcher:** Yes. It is an actuarial process. Our actuary, PricewaterhouseCoopers, is engaged by us to do two things: look at our 30 June liability profile; and help us

determine premiums for the financial year. Basically it is claims based and risk based, but mostly claims history based. What they do each year is basically take a profile of our entire claims history and model that to determine an appropriate allocation of cost to each agency. They do that on a central basis to start with against each of those classes of insurance. Then they look at the number and cost of claims in each category made by each agency and allocate the premium accordingly.

**THE CHAIR:** So there is a risk premium?

**Mr Fletcher:** Yes.

**THE CHAIR:** For health, education or something?

**Mr Fletcher:** Yes, absolutely.

**THE CHAIR:** Not just because of size but because of the sorts of activities?

**Mr Fletcher:** Yes. As a captive, we are a bit different from a reinsurer who has a profile that is really broad. An insurance company will have thousands of retail policies out there in lots of jurisdictions with lots of different areas; they can spread that risk really widely, whereas ours is very focused.

Basically our medical negligence program insures ACT Health plus the ambulance service plus a few other allied type service providers that are scattered amongst other agencies. Basically ACT Health wear the majority of that medical negligence premium.

**MS CODY:** Your actual operating result for 2018 was \$32.3 million higher than the budgeted surplus of \$2½ million. Can you give me, in a snapshot, why? What happened there?

**Mr Fletcher:** That occurs because of adjustment in our liabilities. Once again we had a good result in terms of our outstanding claims liability. And that results from changes to actuarial assumptions used by Pricewaterhouse at the end of the financial year. That adjusts our liabilities and then that has to be written back for the operating statement that results in that \$32 million differential.

**THE CHAIR:** It is not a cash surplus, it is a paper surplus essentially?

**Mr Fletcher:** Yes.

**MS LAWDER:** I want to ask about the waiting time for processing payments. The target was 10; it took on average 11. I note the table at the back talks about delay in exercising delegations because of the number of claims. Let me just find my page. How many claims are we talking about in a year?

**Mr Fletcher:** We have about 540 claims on foot at the moment across a number of different classes. The majority of those claims are sitting in the medical negligence and liability space.

**MS LAWDER:** How many people are able to exercise the financial authority delegation authorisation?

**Mr Fletcher:** We only have a small team. There are only 19 of us at total head count; 17 at the moment. We have a delegations instrument that tries to do two things. One has a component about authorising claim settlements and a component that is about payments, including payments of settlements. Sometimes we have to juggle around the office a little when people are absent.

The number that you are talking about in the performance indicator is about payment of agencies in terms of reimbursement of their claim. It is a pretty ambitious target. But just this year when we added up all the numbers and produced a KPI, it was a bit over. And some of that was because we try to target that number and, unfortunately, in some circumstances, we had some delays in making those payments because of staff absence and some secondments that were going on within the authority.

Generally, people within agencies are comfortable with our reimbursement process. We do it electronically. They receive almost immediate payment.

**MS LAWDER:** Is the trend in the number of claims increasing? I am thinking of what you do to help you meet your target next year. If the number of claims to be processed is increasing, do you need more resources or more people with the delegation?

**Mr Fletcher:** No, I do not think so. I think that we have the right structure in place at the moment. We are about to make some improvements in our administrative arrangements by implementation of an assurance management system that basically has at its core a claims management system which will help us streamline the way in which we administer claims. It will have work flows and tasking capabilities that our current system does not have, as well as an ability to monitor the allocation of claim files to claims officers so that we can understand people's workloads and what they are capable of.

It also amalgamates the management approach to the three different funds that the authority manages. We manage the ACTIA portfolio of claims but also the default insurance fund and the Nominal Defendant fund. They are, at the moment, in three different access database systems. The project that we have got underway at the moment brings those all together in one system. Our claims officers will deal with basically one ICT platform to manage their claims activity.

**MS CODY:** I am moving on from some of what you were talking about with your medical negligence claims to the home birthing trials. They have been going on now for a little while. I know that it was a bit interesting getting that side of things insured. How are we travelling now with reinsuring and those sorts of things?

**Mr Fletcher:** I think the trial is going well. The heart of the reporting process is that we get an email from the women's and children's hospital every time there is a home birth—celebrate another one, which is good, without any complications. It is going well. Obviously I only see the insurance component of it. I am sure the people in ACT Health would be able to provide you with a whole lot more information but—

**MS CODY:** I am actually talking from an insurance perspective.

**Mr Fletcher:** From an insurance point of view? Yes, our two lead reinsurers in that program—down at the bottom of the program—obviously are going to take the first hit of any difficulty that we have in that space. They were comfortable to take the risk on. We gave them a profile of what the program was going to look like when it commenced.

They have some experience in home birthing because they are insurers in the UK market and the US market. Particularly in the UK they see a lot of data about home birth out of the national health system. It was really a matter of us working with ACT Health to come up with a profile of what it looked like.

I think the challenge had always been that people in the health system would want a home birthing program but we did not know exactly what the parameters of that were. Once we all got over the fact that it was going to be a problem, we gave an undertaking to them if they could define it we would take it to the market.

The two lead insurers in the UK are reasonably comfortable with the program. When we present to them our program on an annual basis, they ask about it but they are not overly concerned about it—and neither am I—in terms of those 20 births being included in the overall program. We understand the risk profile. It is reasonably easy, from a whole fund point of view, to meet those costs. If it was separated out, you could never insure it, because all you need is one claim and basically you blow your dough, so to speak.

Yes, it is going well. I think that ACT Health are comfortable with it. We will wait and see what happens with it. We are nearly into year two. I understand it is a three-year trial and they need to revisit that program soon. We will see.

**MS CODY:** What other things are you insuring on? You have mentioned buildings and Health. What other things do you insure, and do you—

**Mr Fletcher:** We have some smaller covers that include travel, volunteers, fidelity cover, which is theft and fraud, standing timber. I cannot think of any others. That is probably the full list. Liability is fairly broad. It is any sort of common law claim. It is a fairly broad sort of form. We have a very pro claim approach.

We do not decline claims very often unless agencies are being completely unrealistic about what they expect. They pay us a reasonable amount of premium and our job is to try to make a claim fit within what we think is broadly the cover that we provide and provide them with support in terms of that loss and valuing that loss and giving them the funds to get back on with whatever their service delivery is.

**MR COE:** Was the authority involved with the splitting of the Health Directorate?

**Mr Fletcher:** No. We were not specifically consulted. But we have had contact with people who work in the governance, insurance and risk space in both organisations already to try to assist them to implement the split structure. I have plans for meetings

with people in both halves of that organisation. I know that Shaun has had some meetings with different people in that structure.

**MR COE:** Given the lofty expectations and ambitions for this split, do you expect that the premiums will come down or payouts will come down?

**Mr Fletcher:** The authority's job is to try to influence behaviour. Our intention and our position always is to try to help agencies manage risk better. As with our experience with the people at the women's and children's hospital on the risk associated with the home birth program, we are ready to assist people in ACT Health in the same way, whether it is about governance and general corporate risk management or in the clinical risk space. We have access to people in reinsurance organisations overseas who have a lot of experience in the health space, in particular. They have visited Canberra in the past and met with people in ACT Health and with us to share experiences about their broader international experience in the medical negligence space. We hope to do the same thing in the future.

**MR COE:** The authority does not have a role with regard to staffing issues, though, does it?

**Mr Fletcher:** In ACT Health, no, we do not. We provide them with claims data on a regular basis. Twice a year we provide them with what is called a director-general risk profile report, a dashboard report about their claims and some fine detail about individual claims. Our information is always available to them, although they have their own clinical risk systems that they rely on that are far more detailed on the clinical risk side of things than the information we record. Our information is at a much higher level but has much more detail in terms of the litigation process.

**MR COE:** Has the authority provided any advice to Health about the risks associated with the hours of operation of operating theatres?

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

**THE CHAIR:** We will move on to Shared Services. Thanks, Mr Fletcher.

**MS CHEYNE:** I have questions about two different rollouts: one that I think has been rolled out and one that is coming. The one that is coming is the Windows 10 upgrade. I think in estimates we were told that it is due to be rolled out by June 2019 and that some people have already started testing it. I am happy to put my hand up if you need testers here. Is the program still on track? Are we still expecting it in June 2019: to give Mrs Dunne an opportunity to plan for herself?

**Mr Davis:** The project will probably go to a bit longer than June 2019. However, before I make that sound completely negative, we have already upgraded to Office 2013 as part of the package. I think nearly everybody has that. I think there are about 40 devices across the ACT that do not. That is the top layer of the cake.

The middle layer of the cake, Windows 10, is a bit more challenging. We have done about 800 devices across government, with about 500 applications. It is going through each directorate at the moment. Obviously we are here not to disrupt the business.

When you are changing the middle layer of the cake, trying to not damage the top layer and to keep people running is not that straightforward. It has proved a bit challenging. We are doing a lot with schools at the moment, for example. They have a lot of devices. The teachers et cetera are using wi-fi to upgrade them. At the moment we have had a lot more of a heavy touch, which means work of a more manual nature: people being physically there, a lot more floor working.

I still have my fingers crossed and am touching wood that, over time, some of the issues will continue to be ironed out. We all certainly wish it were more mechanical than it is, but we have had a number of issues as we have gone along. But we are at 800 devices and counting as we really ramp into it. Next year is the time frame.

**MS CHEYNE:** What do you mean by “challenging”?

**Mr Davis:** To be really honest, when you put it on a device, sometimes it does not work how you want it to work, even though you thought it might.

**MS CHEYNE:** So that is when you have to go in and manually—

**Mr Davis:** Exactly.

**Mr Tanton:** The other thing is the applications that are on the systems. There are packages in each of the different organisations that we need to go and test to make sure that the applications they are using actually support the new Microsoft software. We have to make sure that, as Gary says, we do not put the new platform in place and all of a sudden a bit of software that is on the system stops working for the operational side of things. So we have to test all of those systems we are upgrading to, or what has been identified by the users as what they need, to make sure that it is actually compatible with the new system. One would think that this would happen very easily and quickly, but we have a broad range of services and applications running on computers that the developers, when they were first purchased, have not upgraded to work in the new operating environment. It is an ongoing process. That is where the complexity really is with regard to this.

**MS CHEYNE:** It is on 800 devices?

**Mr Davis:** At the moment; and counting, yes.

**MS CHEYNE:** How many devices are there?

**Mr Davis:** 13,500.

**MS CHEYNE:** That is fewer than I thought, given that we have 22,000 people in the service.

**Mr Davis:** Yes, but not everybody has a device. The breadth of users—bus drivers share those sorts of things.

**MS CHEYNE:** Sure. It is still fewer than I thought.

**Mr Tanton:** What you find is that once you have got over the initial testing on some of those devices you can roll it out a lot more quickly. So it is really about making sure that we are comfortable, so the start is more—

**MS CHEYNE:** So all these people are dealing with the pain so that other people do not have to later.

**Mr Tanton:** That is correct.

**Mr Davis:** I note the term you used, being a trial user. We do need those trial early-adopter type users but we need them to have a modicum of patience at the same time, because when you are an early adopter sometimes things do not work as they should. So there is that, but we work through it. For example, last week at Hedley Beare down in Stirling, out of 125 devices I think only one or two did not work, whereas only a few months ago we were getting more like a 60 to 70 per cent hit rate overnight and a lot of head-scratching about why it was not going out as planned and—

**MS CHEYNE:** Have you had to adjust your resourcing for that?

**Mr Davis:** We have but only internally. It has not impacted on the budget.

**MS CHEYNE:** The accounts payable invoice automation system rollout—

**Mr Tanton:** Invoice automation was rolled out on 1 September last year. It has been an ongoing process. To date we have processed over 151,000 invoices through that system. We have currently got roughly 95 per cent of all invoices being processed and paid in the 28-day timeframe. It started quite slowly in the pick-up, while vendors and directorates got used to our processes and the like. But we are seeing the total number of invoices being processed through that system up to over the 70 per cent mark now as agencies and vendors become more comfortable with it. Some invoices that come in, such as reimbursements for individuals and the like, do not get processed through the system because they are not vendors, they do not have ABN numbers and they are not invoices as such; they are reimbursements. They still get processed separately.

As a whole for small business, and I think for businesses in general, we have gone from about 85 per cent of invoices being paid on time up to 95 per cent. Again, we will be doing a post-implementation review. We will go back and make sure the benefits of that initial program of work are being realised. But at this point in time it looks fairly optimistic. The change in management to begin with, like all these things, takes a bit of time to bed in, but we are fairly positive on how the outcomes are coming to fruition.

**MS CHEYNE:** How many Adobe Pro licences do we have versus users?

**Mr Davis:** Adobe Pro is one of those areas we have recently done a whole-of-government agreement on. That is the end user agreement. I cannot tell you exactly how many users we have versus a licence. I will have to take that as a question on notice. I can only tell you that we now have an agreement over three years for the whole of government. During the piece of work we did for that, we did a lot of

rationalisation with each directorate around their usage. I will have to come back to you with the specifics of how many numbers we have rolled out across government.

**MS CHEYNE:** That would be great, thank you.

**MS LAWDER:** I want to ask about cyber security and ICT safety. Some public servants have been fired for looking at inappropriate material and cyber experts have questioned our cyber security system. What are you doing to reduce the risks associated with directorate and government-wide ICT security?

**Mr Davis:** I am very familiar with the case you raised, Ms Lawder. I do not get involved in investigations and that is because of the way security works; executives maintain that degree of arm's length. The ACT government have a single internet facing gateway as ACTGOV—Education have their own and CIT have their own—so we go through that channel. We have the appropriate proxy servers and filtering software as it can stand today. We all appreciate this is a moment in time and who knows what a hacker or some sort of interesting criminal organisation is going to develop tonight? In the main we are able to pick up what happens through those environments.

As I have said before at these committees, it is hard to block intent. With the particular question at hand we were able to identify that the person was doing it. Management identified they thought they had a managerial issue with this person perhaps using the internet inappropriately—which is exactly how you would like it; IT is not there as a draconian control—and we then worked with that manager to say, “Well, yes, this person has been accessing these sites.” This person was actively seeking inappropriate material even though, if I recall from the media, he was aware that he should not have been doing that. So I would put that into the managerial responsibility area.

We have technical controls that identify managers if something is known as an inappropriate site and they should not be going to it. This particular person as I understand it was looking at sites that were not necessarily illegal but more around, if I recall correctly, body builders and things like that. It may be a judgement issue, but if he was using work time to look at sites that is where the managerial aspect comes in.

We do not provide reports to every level of manager as to how long their staff spend on the internet. Given it is 2018 we use management controls around that, but we do have it. If something comes through to us that is illegal access, there is a fair chance I might not be notified immediately because it could be an AFP matter and that would be between the directorate and the AFP. So we do have it; these people are caught, if that is the correct language. We have the software in place to catch them where we can find them.

**MS LAWDER:** An article in the *Canberra Times* on 24 September said our current cyber security system was weak. Can you comment on cyber security more generally rather than inappropriate images?

**Mr Davis:** I recall the individual and I appreciate his personal philosophical view against that. I believe the individual was trying to say that we were not able to



remotely capture an image on a particular person's PC to see what he had been doing. This person had not been given all the facts of how we run our network and our cyber network and, given that it is an external person, nor would he be.

We are able to capture the image and then say, "Well, these are the sites this person's actually been capturing." We could not capture remote images at that time because it was off. He was obviously aware of that, which makes it a little bit tricky for us because it is not magic and we need the machine to be on. But we could tell them what sites the person had been to because it does not just happen from their PC; it happens through the gateway. So he had some gaps in his knowledge around how we do these things.

**MS LAWDER:** Are you saying our current system is completely tickety-boo?

**Mr Davis:** Completely tickety-boo? I think I have said it here before and I will say it again, we are very diligent in this space. We could always find ways to improve, and we do that. I was recently meeting with the ACT Electoral Commissioner who is working closely with home affairs around electoral compromises for our democratic processes to make sure our cyber security is in line across the commonwealth. We do these things; we take action and we get audited very regularly in this space. We take every action and we report very regularly on what we do in the cyber security space.

**Mr Tanton:** Compared to the commonwealth, where you have multiple systems in each of the different departments, we have got basically the one ACTGOV. Health have got a system and then we have the Education system, but I would prefer to be in our environment where we have one gateway coming in for broader access rather than being in the commonwealth situation where a lot of very small agencies are running their own systems and gateways. I think we are fairly comfortable with where we are at at the moment.

**MS CODY:** I do not often drive up Northbourne Avenue because I live down the other side of Canberra. However, I have been lately and notice that there is no Macarthur House anymore. How did we go with moving all the data from Macarthur House?

**Mr Davis:** We had what we called within Shared Services a Macarthur House decommissioning program. Of course, it was in line with the government asset sales, which is something a bit broader than what I can speak to as to how that comes together. We had a deadline of January this year to vacate Macarthur House to enable the selling of the building.

Macarthur House was the ACT government's secondary data centre. There are two data centres; one at that time was a Canberra-based commercial provider, Canberra Data Centres, and the secondary one was sitting in Macarthur House. Historically that is just how it was. The opportunity for us meant we could move that secondary data set into something equivalent to our primary one and give that redundancy and that robustness.

The project funded through the resale of the building was to move our equipment and all our systems out of Macarthur House. It took eight to 10 months to do that. We did

that on time. In no way did we impact the building being sold. I think the mantra I used to my own folks—Graham would support this I am sure—is, “I don’t really want to go up to the Chief Minister and say he can’t sell the building because IT couldn’t get their stuff out.” I know it is a very simplistic way to put it, but I deal with my own technical folks and we had to get the message home.

We were able to do that with minimal disruption. I can recall one phone call at 2 o’clock in the morning where something had gone not quite as planned, which in my game, to be fair, is about as good as it could get. The systems that were housed in that data centre included the traffic lights, for example, just to drive it home here. People worked through nights, weekends, et cetera to make sure that we won the no-one noticed award, and I say that in the most positive way to our IT folks. No-one is going to thank me for their email working, but they will let me know when it does not.

That was the mantra we used and that was the approach we took with Macarthur House. We got everything out. We had to relocate some eight tonnes of equipment. We did a lot of rationalisation of course, but we did it within budget, too. I will defer to my CFO but I think there was a couple hundred grand of capital that we did not require. It is a very rare event for IT projects to come in on time and within budget, and I do not think anyone really noticed that we did it.

**MS CODY:** You have moved the data centre now to a situation like the other one?

**Mr Davis:** Exactly. We were able to extend. We had a contract with the Canberra Data Centres. They have two centres in Canberra: one is in Fyshwick and the other one is in Hume. Because we had a contract already we were able to leverage off that and we used their two facilities. I cannot give you a percentage, but a significant number of federal agencies use these two facilities. Mr Boorer is a proud Canberran and we use him as a local provider, but they are world-class facilities.

**MS CODY:** That is excellent. I have children applying for jobs through the ACT government jobs website, and you mentioned there is redesign happening with that. How is that going?

**Mr Tanton:** The website has been redesigned with the user experience in mind. They probably would have noticed a difference about two months ago with the redesign. It is more of a simplistic view and easier to navigate around. We will keep evaluating the user experience and the feedback from that website as we go forward. It has been rolled out. Initial feedback has been positive, but it is something we will keep monitoring as we go forward.

**MS CODY:** And it is working across whole-of-government jobs for recruitment?

**Mr Tanton:** That is correct.

**MS CODY:** You have not had any back-end issues?

**Mr Tanton:** No, it is not keeping me up at night. I am sure I would be one of the first to be advised if there were problems. My sons were looking at it the other day and

commenting on it. They are finishing the HSC and wondering what they are going to do.

**MS CODY:** Mine are too.

**Mr Tanton:** Absolutely.

**Ms Stephen-Smith:** Chair, I put on record my thanks to Gary and his team that our emails are working, as are the traffic lights.

**THE CHAIR:** Thank you, minister and officials.

**Short suspension.**

Appearances:

ACT Audit Office

Sharma, Mr Ajay, Acting Auditor-General

Stanton, Mr Brett, Director, Performance Audits

San Miguel, Ms Rosario, Acting Principal, Professional Services

Larnach, Mr Tim, Acting Director, Financial Audits

**THE CHAIR:** We welcome the Acting Auditor-General and his staff to this session of the Standing Committee on Public Accounts inquiry into the annual reports for 2017-18. I will start the questioning. This relates to performance audits rather than to financial audits. Have you made any changes to your basic processes for conducting performance audits over the past 12 months?

**Mr Sharma:** The short answer is no, but as part of our processing, in terms of quality assurance, we have a look at our methodology. Our methodology is called PAMPR, performance audit methods and practices. As part of our quality assurance process and really as part of auditing standards, we have a look at this methodology. Sometimes there are changes that are made which are more of an administrative nature in terms of the documentation that is required, in terms of the files, in terms of the declarations of conflicts of interests and the procedures for those.

More recently, we have been looking at our security requirements for contractors. We would have a look at the assessment of contractors in terms of them meeting the security clearance requirements under the government security legislation.

**THE CHAIR:** Moving on from that, I noticed that in your accountability indicators there is an indicator “Poor response to audit.” You reported that one auditee had responded negatively to the statement, “The audit will help our organisation to improve administration and audited activity.” How common is a negative response to that question?

**Mr Sharma:** From time to time we will have some complex audits where there was extended consultation with the agencies. Sometimes there will be frank and hard discussions with the agencies on some matters where we would have differences of opinion. I refer to Mr Brett Stanton, Director, Performance Audits, to provide some further information on that.

**Mr Stanton:** In support of what Ajay said, from time to time over the past few years we have received a poor or even, as I recall, a very poor response. They are in the definite minority.

**THE CHAIR:** How do you respond to those? When you get a response like that, do you go back and look at that audit to see whether there is something that you could have done, or are they just disgruntled?

**Mr Stanton:** Yes, absolutely. We go through all of those feedback forms. As I recall, I think we got about 25 for 2017-18. We will go through those feedback forms. We will look more particularly at the comments to see whether there is anything that we

can learn from those comments. That will feed into our annual or regular consideration about processes and methodology that Ajay referred to earlier.

**THE CHAIR:** Noting that one respondent rated their overall audit experience as poor, who do you send those feedback forms to? Is it everyone who is involved in the audit? Is it the agency or what is it?

**Mr Stanton:** That is correct, all agencies that have been in the audit process.

**THE CHAIR:** To agencies, not individuals?

**Mr Stanton:** That is correct.

**Mr Sharma:** What happens is that we send it to the director-general of the entity or to the head of the entity. Normally the entity, through its processes, then goes through and consults with the people who were actually involved with the audit. Sometimes, there is a distinction being made, mainly in terms of the audit process versus the outcome. The one that has been referred to in our annual report is more about the outcome. I guess that the agency was seeking a different outcome from the audit as opposed to what our audit objective was. Where there is concern about the audit process, we certainly pay a lot of attention to it.

We have debriefings with the wider team to have a look at whether there is anything that we need to improve on our side. Most of the time we try to meet with the agency, particularly on the financial side where we do the same audit from year to year, to see how those things can be improved.

**THE CHAIR:** In the work that you do in sort of following the dollar, where you are actually dealing with organisations outside the government, do you survey those organisations as well?

**Mr Stanton:** Yes. Can I clarify my earlier answer? We have done one follow the dollar audit a few years ago in relation to Calvary Public Hospital financial management reporting. The Calvary private hospital would have received a form in that instance. But, again, it is sent to the head, to the director-general or to the chief executive of the agency involved.

**THE CHAIR:** In more recent audits where there have been outside entities—I think the public accounts committee has two or three of them in front of them where there are outside agencies—do those organisations, the real estate agents, valuers et cetera, get surveyed as well?

**Mr Stanton:** No, they do not.

**MS LAWDER:** So was the negative reply that you got in relation to the sale of lot 20 section 34 in Dickson?

**Mr Stanton:** No, it was not.

**MS LAWDER:** But I think Ajay said there was usually, or sometimes, a direct

correlation between the result of the audit and it not being what the agency wanted. Is that the position?

**Mr Sharma:** Yes, and sometimes the agencies may not have a clear understanding in terms of our criteria, objectives and how we are going to conclude against those. In this case, in terms of the recommendations and the conclusion that we made, I think the agency was looking for more in the recommendations towards a changing of the processes and things like that, whereas our conclusion would have been just on the criteria itself. For example, I think it was in relation to the performance indicator audit. I think the expectation was that we were going to change—recommend better practice—

**THE CHAIR:** You were going to write their performance indicators for them.

**Mr Sharma:** in terms of performance indicators, whereas in what we concluded, we did not actually look at all the better practice. Our job was not to prepare a guide as such as part of this audit process but to say that there were improvements to be made in terms of the appropriateness and reasonableness of the measures and how they were generally couched in terms of activities and outcomes.

**Mr Stanton:** I would like to add that we take all feedback seriously and we will give it appropriate consideration. It could be easy to dismiss a piece of feedback because of the nature of the audit or the outcome of the audit, but we will not do that. We will give it its appropriate consideration. We will consider it in light of the other feedback that we have also received to see whether there is anything systemic there that we may be able to consider.

**THE CHAIR:** Going back to the Dickson land swap audit, whom did you send the performance questionnaire to, considering that that was an organisation that ceased to exist?

**Mr Stanton:** I am struggling to recall at the moment but I believe it would have been the SLA. In fact—

**THE CHAIR:** If it was not the SLA, can you get back to us?

**Mr Stanton:** As I recall, I will say that it was the Director-General of EPSDD, the City Renewal Authority and the Suburban Land Agency. But if that is incorrect I will correct the record.

**MS LAWDER:** Back to my other question: if it was not in relation to the Dickson land swap, can you tell us which agency it was that you got that negative feedback from?

**Mr Stanton:** We certainly do not report that in the annual report. We have not done that. It is not our practice to divulge that information. We certainly have not done that to date. I would be reluctant to do that because that may also impinge upon or otherwise affect agencies' willingness to provide fulsome feedback.

**MS CHEYNE:** And we might draw correlations that are not necessarily—

**Mr Sharma:** We have provided some further information on pages 117 and 118 as part of our statement of performance. We have provided information in terms of satisfaction with performance audits. We have given some examples of the types of comments agencies have made. There is a fair representation of the positive and negative comments that we received and areas for improvement.

**MS CHEYNE:** You recorded a small surplus this year of \$44,000. What contributed to that?

**Mr Sharma:** I will refer that to our Acting CFO, Tim Larnach.

**Mr Larnach:** The small operating surplus; I will find the relevant part here. Actually, I should say that we have made a deficit of \$338,000 for the 2017-18 period compared to a budgeted surplus of \$44,000. The main reason for that is lower expenses relating to employees; mostly due to employees. I suppose that we are not filling the positions of those who have left the office. It takes a little bit of time to replace the staff who have recently left the office; so we had some slight savings there.

**THE CHAIR:** But the deficit would have been brought about by the fact that you self-funded a performance audit?

**Mr Larnach:** That is correct. In addition to that, we completed the additional performance audit that was done during the period. We were appropriated for seven performance audits; we completed a total of eight for the 2017-18 period. Part of the reason for that deficit was also due to additional costs associated with completing that audit.

**MS CHEYNE:** I am sorry if I misspoke. It was estimating for a surplus of \$44,000 this year. The next paragraph deals with that. I was reading two different things at once.

**Mr Larnach:** No, that is okay.

**MS CHEYNE:** Would that be due to delayed staffing announcements?

**Mr Larnach:** Part of the reason was for that. This is the comparison, the actual compared to the budget. We have incurred a deficit, predominantly due to—just to correct what I said earlier—the additional work performed for the additional performance audit undertaken during that period as well as some cost savings from employees expenses relating to—

**MS CHEYNE:** Because you did more work last year?

**Mr Larnach:** That is correct, yes; we did.

**MS CHEYNE:** Maybe slightly less work this year and then for the other reason. Okay, I understand that. Sorry, I confused everybody.

**MS LAWDER:** Have you made any changes or modifications to your investigation

processes over the past 12 months or in the financial year that you are reporting on?

**Mr Stanton:** We seek clarification. As far as the investigation processes go, what specifically would you be referring to?

**MS LAWDER:** The way that you carry out your audits, especially your performance audits. Do you run to a methodology or how do you carry them out?

**Mr Stanton:** Yes, absolutely. We have had a performance audit methodology. I will talk about performance audit and my colleagues may talk about financial audit, as necessary. On performance audit, we certainly do have a tried and true methodology that we have applied for a number of years. It is called PAMPR, performance audit methods and practices. PAMPR has been around in various iterations for longer than I have been at the Audit Office, and it is reviewed and updated as necessary every year.

As I recall, I think we went through what I would describe as a fairly large-scale review in about 2014. But ever since then we have revised it and updated it in response to changes to standards requirements, feedback from agencies, auditees, our own initiative on what we think we can do differently and better and also what we may glean or obtain from other audit offices or practices.

**MS LAWDER:** Could you give me one or two examples of the changes you might have made in the past year, for example, or from the start of last year?

**Mr Stanton:** Yes. Earlier this year there was a revised ASAE3500, for example. That is the standard for assurance engagements. We have an exercise of going through our methodology and methods and giving consideration to what we need to do differently in relation to that.

The key component of the new standard is different, a revised focus on materiality considerations, for example. You probably will not see much change in the outcome of the audit process. The performance audit report will continue to look like it does, with a minor modification, and the audit process will, in general, continue to be as it was. But this new consideration around materiality or a changed consideration around materiality will impact on the way that we manage, consider our approach to engagement with the agencies, for example.

The second consideration, a requirement out of the standards, is a clear consideration of internal controls within an agency in relation to the subject matter of the performance audit.

**MS LAWDER:** Would those same changes be similar across the different states and territories? Do you have a similar approach or—

**Mr Stanton:** It is incumbent on every audit office or other provider that is subject to ASAE3500 to take the principles and the requirements of the standard and turn that and apply that into their own methods and practices.

**THE CHAIR:** There is no off-the-shelf method?



**Mr Stanton:** No, and each jurisdiction would need to meld the standard and its requirements with its legislative requirement, for example. Our PAMPR references both the Audit Act and legislative requirements in the ACT as well as the standard. Similarly, New South Wales and Victoria would certainly need to do the same as well.

**MS LAWDER:** Who decides that? Is it the Auditor-General or is it an executive meeting?

**Mr Stanton:** The standards are set by the auditing standards board.

**Mr Sharma:** The auditing standards board would determine the changes.

**MS LAWDER:** How do you decide how to incorporate it into your work rather than the standard itself?

**Mr Sharma:** What we would do is: we would get a consultant to have a look at—and in this case we used a consultant that is broadly aware of the changes and also aware of what is happening in other jurisdictions—our current practice and they would have a discussion with what we call the management group of the performance audit which comprises the director and the senior managers. They would talk about the practical applications of it and also the level of guidance that is needed to be provided to the auditors so that they can implement it. It is done through that process, and then there is a review, and a recommendation will be made to the Auditor-General for approval of the methodology.

**Mr Stanton:** We will also engage, through our linkages with other audit offices through the ACAG network, how other audit offices may be grappling with or dealing with a particular issue.

**MS CODY:** I have, hopefully, a couple of quick questions. In regard to your audit review team I note that there was one external member who finished their term in October 2017 and then there appears to be one internal member who finished in June 2018. Have those members been replaced or are they being replaced? Where is that up to?

**Mr Sharma:** I will defer to Ms Rosario San Miguel.

**Ms San Miguel:** Yes, those members have been replaced. Also, just to clarify, in the second line there is Deborah Jackson. She has been listed as independent chair but there is already a chair. It was an error, just to clarify. She should be listed as an independent member. Yes, those members have been replaced. The audit review committee is made up of four members—one independent chair, one independent member and two internal members—and that is how the composition of the ARC has been up to November. There will be some changes after November 2018, but what we have listed here were all current members to 30 June 2018.

**MS CODY:** Except for the one that expired in October 2017?

**Ms San Miguel:** That is right. Exactly.

**Mr Sharma:** That is correct.

**Ms San Miguel:** That is correct.

**THE CHAIR:** But that person was replaced by another person?

**Mr Sharma:** Yes, but because it falls in the financial year, which is 2017-18, we have listed the member.

**MS CODY:** Who replaced them?

**Ms San Miguel:** Mrs Clea Lewis finished in October 2017. She was an independent member. She was replaced by Mrs Deborah Jackson, who started in November 2017, also an independent member.

**MR COE:** Can you advise the process for how you assess whether to take on a new performance audit or not, especially one that is not on the forward schedule?

**Mr Stanton:** We have our performance audit program planning principles. I will start with the PA program. Every year we go through a process of planning for the performance audit program and in doing so we have set criteria. As I recall, I think there are six criteria that we will run those potential performance audits through. That relates to, for example, materiality considerations, risk, the governance and whether there have been any previous reviews, evaluations et cetera et cetera. There are six criteria there. And then we will develop a performance audit program.

In relation to new requests or information that comes through—we may get a very detailed and considered request in relation to a performance audit—we will give that consideration against those principles and run that potential performance audit topic through against those criteria, if you like. Otherwise, we may also receive a representation from a community member which is more or less that the Audit Office could consider doing an audit in relation to X or Y, and we will absolutely give that consideration to in planning for the next performance audit program.

**Mr Sharma:** Also in making that consideration, we have to assess whether, in the current performance audit, the topic that has come up can be incorporated into the performance audit so that we do not actually have to forgo one performance in order to do another and also have a look at the competing priorities in terms of what we have announced is the program of what it has to do and, in terms of public interest, if we were to take on an additional audit with the resources and competing priorities, whether it would make sense from the perspective and the criteria that we have got.

**MR COE:** Is there capacity to take on additional performance audits without dumping one of the scheduled ones or would it have to nudge one of the others?

**Mr Stanton:** In the past we have taken on new performance audits in a year that were not identified in the performance audit program and, from past experience, that has generally displaced or put back a performance audit that was in the queue, as it were. But in those instances the decision was made against those criteria that it was

appropriate to do an audit on that topic against that objective at that point in time.

**MR COE:** Is there merit in actually planning to have unscheduled audits so that there is not a disposition towards not inquiring?

**Mr Sharma:** In addition to the performance audits we also have representations. For example, last year we had more than 70 representations on top of the performance audits and financial audits that we were currently doing. It does create a pressure on the system. We do have some additional capacity, and sometimes that capacity is absorbed, depending on the nature of representations and how many we receive in that year. We certainly have more performance audits in our program than we are required to do for a particular year, and if we find that we have capacity we generally have to start the audits earlier to be able to have that even spread of audit.

Often we are doing more. For example, if we have to table seven audits we would be doing about eight or nine audits to be able to get that even spread in the following year. Often there are more audits already happening.

**MR COE:** And noting that this is obviously a public hearing and I am not on PAC, are you able to say what is the time line for reports to be published?

**Mr Stanton:** For the current suite of audits—we are in the reporting process for audits—we are working to complete or table an audit before the end of this year in relation to Housing ACT's management of the total facilities management procurement, and then we are working on tabling the next suite of audits in relation to referral processes for vulnerable children and ICT strategic planning, Access Canberra and its business planning, and human rights protection early in the calendar year next year.

**THE CHAIR:** To follow up on that and Mr Coe's suggestion of perhaps building in some capacity to take up another audit, you have a process. You write to people. You contemplate—

**MR COE:** The repechage.

**THE CHAIR:** Yes, I suppose a repechage or a contingency. Yes, you put together a list—and that is important and they should not be displaced—but there are often things that come up that could not possibly have come across your radar when you were making that decision. What contingency do you have for that?

**Mr Stanton:** Contingency is primarily in relation to the flexibility of the program. For 2018-19 we put out a program list of about eight or nine audits for the year. We are working through those audits. For example, we have determined or we have decided that it is not a good idea to proceed with the lease variation one in this half of the year. But we went through a process of giving that some consideration, planning and scoping that, but we are likely to give that further consideration in the next half of the year.

Whilst this program puts out a list of audits—and for 2018-19 we have got nine audits on the list—we are flexible in the way that we actually go about that program, such

that if an important issue comes through, and we run it through our considerations and our criteria and we determine that it warrants that consideration right now, it will get attention and the audit will commence. That is where I said earlier it will displace, it will proceed prior to the other ones in the program. But the other ones are flexible as well.

**Mr Sharma:** And one of the things we have to consider is that an audit takes about seven to nine months on average to complete. Often if we are halfway through an audit, it will be an inefficient process if we were to—

**THE CHAIR:** Stop and take up something else?

**Mr Sharma:** Yes, take up something, in terms of resourcing and how we have lined up our contractors versus mix of contractors and internal staff and in terms of the expectation that we have already created with the agency as to the resources that are coming from the agency in providing us with the information and the request for information.

**THE CHAIR:** On the subject of extra information or new things that arise, it has been reported that in relation to the Dickson land swap there were documents that were missing. Would you revisit that audit if those documents became available, hypothetically?

**Mr Stanton:** Certainly the audit report stood at the time we made the conclusions in relation to the evidence that we had. If there were new information that came through we may give that consideration as to what impact that might have on the audit conclusion. That is certainly a possibility. But it is hypothetical because this is fairly uncharted waters.

**THE CHAIR:** Any other questions for the Auditor-General? No. Thank you very much, acting Auditor-General and staff, for your presence today.

**Short suspension.**

Appearances:

Burch, Ms Joy, Speaker of the Legislative Assembly for the Australian Capital Territory

Office of the Legislative Assembly

Duncan, Mr Tom, Clerk of the Legislative Assembly for the ACT

Duckworth, Mr Ian, Executive Manager, Business Support Branch

Skinner, Mr David, Director, Office of the Clerk

Prentice, Mr Malcolm, Chief Finance Officer, Business Support Branch

**THE CHAIR:** I welcome the Speaker and officials from the Office of the Legislative Assembly. Madam Speaker, I have returned from the United Kingdom and I spent a bit of time in the UK parliament in the last week. In discussions with people in the UK parliament, one of the things that came across my radar, which I knew about but I had not realised how big an issue it was, was the issue that has arisen in the UK parliament in relation to bullying and harassment of staff, both parliamentary staff and political staff. It was put to me by a couple of people that this would be an issue which is at least as big as the entitlement scandal five or six years ago.

None of us is immune to these issues. In that context, I was wondering whether the Speaker and the Office of the Legislative Assembly have put their mind to issues in relation to bullying and harassment of staff.

**Ms J Burch:** Within it? Not constituents ringing up and harassing?

**THE CHAIR:** No, within—

**Ms J Burch:** This is within the confines in an employment sense?

**THE CHAIR:** In the employment sense.

**Ms J Burch:** We have recently written to members. Often a member is elected with limited management skills or experience in managing a workforce and dealing with all the HR matters that you have to do once you have staff. Whilst OLA, through Mr Duckworth, would offer some of that through orientation, recently we have touched base about to what extent we have to remind people of their obligations and responsibilities, and what other sorts of training and awareness members need.

I personally have not had people come to me as staff saying that there is a matter with another staff member or a problem within an MLA's office and asking where they go or what they do.

**THE CHAIR:** I am not talking just about MLAs' offices. The issues in the UK parliament are across the board, both political and parliamentary staff.

**Ms J Burch:** Yes, and I would say that applies to OLA staff. But also, MLAs come in and they do have responsibility for a number of staff as well. They have employer—

**THE CHAIR:** I am mindful that you did write to members a little while ago. Was there any particular motivation for that?

**Ms J Burch:** No. The motivation was from members saying, “Where do we get training? We are in a new world, a new environment of being responsible. Where do we have this ongoing training?” There was not a particular—

**THE CHAIR:** But the Remuneration Tribunal said that members do not need training.

**Ms J Burch:** There is training that can be offered through the OLA, such as this.

**THE CHAIR:** And that is fine with the Remuneration Tribunal, who said that members do not need training?

**Ms J Burch:** There are two points. I might get Mr Duckworth to talk about the training that can be offered through OLA to MLAs and staff. The matter of remuneration is a separate matter.

**Mr Duckworth:** I think it is fair to say that, perhaps dealing with your first question, there are 160-odd people working in this building. There are certainly instances where we have had complaints about harassment and bullying. Those matters have been managed in accordance with our policy, which has been in place for 10 or 15 years and has not been fundamentally altered in that time.

It would be pleasing to report that we are not aware of any instances at all, but that is not the case. There have certainly been instances where harassment or bullying has been alleged. Those issues are usually, as I said, dealt with in accordance with the procedure, which is to engage with the allegations, give the opportunity for people to respond to allegations that have been made, and so on. I do not think there is any suggestion, from my own sort of rear-view mirror, if you like, that the policy is ineffective. In each of those cases I believe they have been resolved.

As for the issue about training for members, it may be important to make the distinction between orientation and awareness raising or information for incoming members or existing members. I appreciate the comments you made about the tribunal’s decision to abolish the study-travel-training entitlement and roll it into salary and so on. We would continue to provide members with training or information that we feel they need as they become members, and we have done that pretty much at the beginning of every Assembly. When we have new members elected through a casual vacancy, for example, we offer the same, usually on more of a one-on-one basis.

As Madam Speaker indicated, we did recently write to members and we have had a couple of responses from members suggesting that there would be some areas where members could benefit from some further information. In fact, at a meeting earlier today, we were talking about what our timetable might be to look into that.

**MS CHEYNE:** How many members have responded?

**Mr Duckworth:** Two.

**MS CHEYNE:** Who is the other one?

**Mr Duckworth:** You were one of them.

**MS CHEYNE:** Yes.

**Ms J Burch:** This has been raised through admin and procedure, and it is raised often through estimates or annual reports hearings—I will use the word “training” or awareness raising so that we do not get into tribunal-land—through the OLA. Many things may be put on offer. There is very limited uptake of it, but that should not dismiss the need to keep putting it on the calendar for people to buy into.

**Mr Duncan:** The CWP recently wrote to Madam Speaker asking the very same question that you ask—apparently this was discussed in the Australian region CWP—about what policies are in place in the various parliaments across Australia. We responded to that, and there is a document that is—

**THE CHAIR:** Policies in relation to what?

**Mr Duncan:** Bullying and harassment of members and members’ staff. There is a document that we put out at the beginning of every Assembly which is signed by the Chief Minister, the Leader of the Opposition, the leader of the Greens, the Speaker and me, as the major employers in the building, which sets out the responsibilities we all take as employers in relation to harassment and bullying. We do that every Assembly. That is a pretty strong sort of document to indicate that the leadership of this whole building, whether it be LAMS Act staff, ministers’ staff or all staff, are committed to having a building that is free of harassment and bullying.

There is an occ health and safety committee that meets regularly to discuss matters such as this. And we do have a code of conduct with the Commissioner for Standards. Part of that code of conduct is about respect for people in the ACT but also about staff.

I think we have a regime in place that, hopefully, militates against any bullying and harassment within this building.

**Ms J Burch:** We may put a copy of that letter that went back to the CWP through to the committee so you can see what we have.

**THE CHAIR:** Thank you, and also the current version of the letter that you talked about, Mr Duncan.

**Mr Duncan:** Sure.

**THE CHAIR:** I have no recollection of that but, then again, I do not necessarily remember everything.

**Ms J Burch:** I can forward it to you. Please do it on my behalf.

**THE CHAIR:** Mr Duncan can do it; it is his job.

**MS CODY:** The awareness-raising and training in the broadest sense of the word would include obligations of staff, and possibly members, in relation to public interest disclosure, FOI and those sorts of things?

**Mr Duckworth:** I think what we said to members was: “Give us your suggestions about the sorts of things that you think you would benefit from better understanding.” We did get some suggestions. And the door is not closed; it is not too late for members.

**MS CODY:** I must be honest; I did not see the email. I must have missed it. But then I do drop off the group email every so often and Chris has to fix it for me.

**Mr Duckworth:** It would be very easy for us to just send out a further reminder giving members a further opportunity. It is probably something that we are looking at targeting early in the new calendar year anyway. With a sitting week remaining and then the Christmas-January period, we are not going to get the take-up.

**Ms J Burch:** I note that there were some questions earlier around public interest disclosures. It is something that people need to be aware of as MLAs, as members. People will come knocking on your door halfway through the process or at the beginning of a process. You do need to know where you are in that.

**MS CHEYNE:** In estimates we talked about the security of the building. I know there is a broader review underway but it feels like that review has been underway for a bit of time now, because it is at the front of my mind literally every day, walking through those doors. Has there been any further consideration as part of that review to reconfiguring our entry way? I have been conducting my own experiment as to how many times I can tailgate people through, and it is high.

**Mr Duckworth:** Yes. We are actually in a process at the moment—probably in a fortnight, I would expect. We have had Hal Guida, who was the original architect for this building when it was converted from an office block to the home of the Assembly in the early 90s. We engage with him regularly on major redesign work in the building, and we have engaged a security consultant. There has been some work done on some ideas about how the public and members entrances could be reconfigured. I have been away on leave for the past fortnight. I know that while I was away Scott Howard, our manager of security and building services met with those folk and that there is some refinement going on.

I think that within a few weeks we are expecting to see some conceptual drawings of ways in which we can minimise the risk of tailgating and improve our security. One of the challenges that Hal Guida, the architect involved, has showcased is a change to where the public would enter the front entrance. We have emphasised that these committees and estimates committees have observed identity as a problem. People do not identify with the Assembly. They go, “I didn’t know what was in that building.” He has indicated in the rough design sketches that he has done that that would be something that would be part of any change. We are probably two to three weeks off getting some design concepts. I guess the next process would be to look at what the cost of those changes might be.



**Ms J Burch:** And that would be followed by a budget bid that Mr Prentice would fine-tune on our behalf.

**MS CHEYNE:** In the interim has there at least been some identification that having one door open during office hours and another door for use after hours that are right next to each other is a little silly?

**Mr Duckworth:** The after-hours entrance was put there to be used after hours. It can be used during daytime. You can swipe and use it but—

**MS CODY:** Perhaps you need to explain why you think it is silly.

**MS CHEYNE:** I have explained it in estimates. Why can they not both be open during office hours?

**Mr Duckworth:** You can swipe and—

**MS CHEYNE:** I know, but I have got to swipe it. It is hard enough to remember which door to use.

**THE CHAIR:** We will arrange counselling.

**MS CHEYNE:** Feel free. It cannot just be me. Maybe it is but—

**THE CHAIR:** I have never had that problem.

**MS CHEYNE:** You have been here a little longer than me.

**MS CODY:** Sorry, I just had a very quick follow up. Mr Duckworth mentioned that a lot of people come in and go, “We didn’t even know this was the Assembly.” I note we have been doing some public tours. How have they been attended?

**Mr Skinner:** I have got some statistics here. There is a separate line for tours. We had 96 participants last year for those walk-in tours: people coming in and doing those tours.

**Ms J Burch:** And then there are groups that come through.

**Mr Skinner:** There are the tours that are done separately to that.

**MS CODY:** I am talking about the 1.30 on a Wednesday or something when you have that open-door policy where people can go for a bit of a tour.

**Mr Skinner:** Yes: 96.

**MS CODY:** And are we working on ways that we can promote those a bit more?

**Ms J Burch:** I think it is part of the broader work to the plaza and the entrance to the Assembly. Not that it is there now, because of double glazing, but the monitor on

London Circuit tells people that this is what goes on in this building, these are the people in here and this is what the activities are, from sitting days to committee work. I think that will slowly shift it.

**MS LAWDER:** Page 50 of the annual report has the contracts summary. One is for EGlaze, the double glazing. Is the \$428,000 for the calendar year, or is that the totality of the contract?

**Mr Prentice:** That is the amount that was paid to EGlaze in the 2017-18 financial year.

**MS LAWDER:** So there is still more to come?

**Mr Prentice:** Yes.

**MS LAWDER:** How much more?

**Mr Prentice:** There have been two phases of the double glazing project. The first one was \$380,000. That was largely to do the southern facing part of the building to help minimise the noise. For the second part of it the total budget is 850,000. Altogether it is a bit over \$1 million for the double glazing of the entire complex.

**MS LAWDER:** Do you have before and after testing of the noise suppression to determine how successful it has been?

**Mr Prentice:** I am not sure.

**Ms J Burch:** We can probably track it on energy cost but I know my personal world is much quieter. Take it by the rule of thumb of the Speaker.

**THE CHAIR:** It is better than the perspex that used to be there.

**Ms J Burch:** Yes but I think we have seen a difference in our energy usage.

**Mr Prentice:** Yes. We are monitoring the energy use, comparing previous years to where we are now. We have seen a decrease in the energy use. LED lighting has also been put in throughout most of the building now. That is obviously contributing to the reduction in energy use. We will continue to monitor how we are going with the electricity and gas from now on and see what results we get.

**THE CHAIR:** In relation to the double glazing why did you go with the clip-on option for most of the windows? I know that where it is plate glass you have replaced all the panels with double glazed panels. But where there were windows you have gone for—

**Ms J Burch:** Magnetic strips.

**THE CHAIR:**—the clip-on or whatever strips. They do not stick and there are air gaps and things. It seems to me that there are quality issues, with bits that come off. You can actually stand with your head on the side and see the air gaps in various

places.

**Mr Duckworth:** The contractor is aware that with some of the earlier units they have got to return before they are finished here and rectify those. To go back to your original question, the unit that has been chosen, which was going to be fixed either through a masonry screw or using the magnetic strips, was favoured because it was far less costly than replacing the entire window unit. Remember that the original glazing remains, so it is effectively a third—

**THE CHAIR:** Yes but it is only effective if the air gaps and air circulation between the double glazed panel and the original three-millimetre panel is sufficient to cut down air circulation and things like that.

**Mr Duckworth:** There are a number of units which the contractors acknowledge that they have got to return before they finish here and properly secure.

**THE CHAIR:** Is there any sort of testing for airtightness and the like? I know that the building was not airtight before.

**Mr Duckworth:** No. That is—

**THE CHAIR:** Are there performance measures in place? Is there a particular level of performance that you are looking for out of those panels? It is a very expensive bit of kit. It is not just that it is a double glazed panel. They are already in panels; they are already performance. There are two sheets of performance glass in a double glazing panel but it is only as good as the way it is attached.

**Mr Duckworth:** As I said, there are a number of units, particularly some of the early-installed units, that have to be rectified. The contractors acknowledge that they have got to return and rectify those. The specification we were after was a double glazed unit. I do not have the particular technical specifications to hand but the unit itself was seen as the standard that we were after. With the exception of those units that have to be rectified, I do not believe there is a performance issue.

**THE CHAIR:** I would say, Mr Duckworth, that most of the panels in the first floor corridor that overlooks the Canberra theatre have a performance issue. There is hardly one that is sealed all around, unless it has been fixed in the last couple of weeks, in the last week while I was away. There are some that have fallen off and are just sitting there. With almost all of them, if you apply a very small amount of pressure, you can detach them, and with those that are not detached you can see air gaps and things like that. There are big issues with performance. I understand that you had spec for the panel, but you do not seem to have had spec for the attachment. Were you actually looking for airtight attachment?

**Mr Duckworth:** Yes, we were.

**THE CHAIR:** How do you measure that?

**Mr Duckworth:** I would simply say that our contractors acknowledge that about some of those units, and, after they have installed their major work on the ground

floor, they have undertaken to return to those units that are not properly secured. That will happen under the contract, at no cost to us.

**MS LAWDER:** Is that under the original contract? There is no charge for that rectification?

**Mr Duckworth:** No.

**MS LAWDER:** How long will that go on for?

**Mr Duckworth:** How long will the—

**MS LAWDER:** Is there a period of time after which that rectification will start costing money?

**Mr Duckworth:** I would have to take that on notice. I do not have the details.

**THE CHAIR:** When we went in for this, I understand that some of it was about sound deadening. The Speaker says that her office is quieter than it used to be, but have we done measurement? I walked down this corridor, which is now complete, I think—

**Mr Duckworth:** Nearly.

**THE CHAIR:** and we are sitting here with this door closed because the traffic noise still impacts on this committee office.

**Mr Duckworth:** The double-glazed units were never intended to remove outside noise, but the—

**THE CHAIR:** But it was sold to us as mitigating the noise from the construction site.

**MS LAWDER:** That is right.

**Mr Duckworth:** Well, it has.

**THE CHAIR:** Have we measured it?

**Mr Duckworth:** No.

**THE CHAIR:** How do we know?

**Mr Duckworth:** The anecdotal view is that it is a big improvement.

**THE CHAIR:** I am sorry—

**Mr Duckworth:** I am just being honest with you.

**Ms J Burch:** What we did—

**THE CHAIR:** We did not have any performance measures there.

**Ms J Burch:** Mrs Dunne, what we may do—it may be a way forward—is for Mr Duckworth to go back to the original specs to see if there is anything that we can provide to the committee for that purpose.

**THE CHAIR:** Yes.

**Ms J Burch:** Also for Ms Lawder, to get a sense. It is my understanding that they are completing the ground floor and then they will come back to fix the first floor. But we will get that information back to you.

**THE CHAIR:** Yes, because it was sold to us, Madam Speaker, as addressing the noise, abating the noise—

**Ms J Burch:** Yes.

**THE CHAIR:** I would have presumed that you would then have some performance measures. You would have recorded the noise beforehand—

**Ms J Burch:** And after.

**THE CHAIR:** and afterwards.

**Ms J Burch:** It was around not only noise but energy efficiency. I think we all remember the hammer drill next door. Nothing was going to save us from that, I do not think.

**Mr Duckworth:** It is also worth noting that certainly the noise was a factor in the timing, but the predominant benefit that we are seeing is the reduction in energy use.

**THE CHAIR:** Yes, but the original proposal was to double glaze that side of the building to deaden the noise of the construction. Yes, I agree that, now that we have extended the project, there will be energy improvements, but the original proposal was to deaden the noise.

**Ms J Burch:** We will come back with the specs.

**MS CODY:** I wanted to talk about Mr Duncan's favourite subject—committees.

**Ms J Burch:** How many are there, Mr Duncan?

**THE CHAIR:** He is going to have another one, too.

**MS CODY:** It depends if it is all agreed to, Mrs Dunne.

**THE CHAIR:** I think it is going to be agreed to.

**MS CODY:** I note that we—

**THE CHAIR:** Tripartite support.

**MS CODY:** I am not just talking about committees, but I want to start there.

**Mr Duncan:** Sure.

**MS CODY:** On page 66 there is a table showing the number of committee meetings in total, private meetings, public meetings, study visits et cetera. Do we benchmark those across any other assemblies?

**Mr Duncan:** I do not think that we do. The CPA has a set of benchmarks, which—

**THE CHAIR:** Have just been updated.

**Mr Duncan:** It has just been relaunched, yes.

**Ms J Burch:** You were there for that, weren't you?

**THE CHAIR:** I was there, yes.

**Mr Duncan:** Occasionally there have been benchmarks. I think one of the accounting firms did a benchmark exercise about 10 years ago, specifically about public accounts committees. But, to my knowledge, there is not much benchmarking going on. I am looking at Hamish to confirm that. No, there is not any systematic benchmarking going on.

**MS CODY:** That would be the same for Assembly sitting periods—

**Mr Duncan:** *Hansard*, yes, the whole—

**Ms J Burch:** It would be hard. Our committee structure is not replicated across any parliament. The benchmarks refer to, “Do you have these committees?” “Do they meet on a regular basis?” “Do they have strong terms of reference?” “Do they have representation of the parliament within them?” rather than, “PAC in ACT meets 50”—

**THE CHAIR:** More than anybody else.

**Ms J Burch:** Yes, “54.42”.

**MS CODY:** Yes, we do. I have noted that.

**Mr Duncan:** The other aspect of what Madam Speaker is saying is that there are some unicameral parliaments in Australia and there are some bicameral parliaments. I had discussions with the clerks of the Northern Territory and the Queensland parliaments, probably five or six years ago, about benchmarking those parliaments, because you have to compare apples with apples. The New South Wales parliament has house committees, council committees and joint committees, and that complicates the benchmarking, whereas with Queensland, the Northern Territory and us, being unicameral parliaments, and, to a certain extent, New Zealand, if you were going to

go down the benchmarking path, that is where you would go. But we have not done that exercise.

**MS CODY:** Is that something we might consider at some point?

**Mr Duncan:** We are going to benchmark ourselves against the new CPA benchmarks. I promised the Secretary-General that I will do that.

**THE CHAIR:** So I do not even have to encourage you to do this?

**Ms J Burch:** No.

**Mr Duncan:** We were the first branch to do it.

**THE CHAIR:** That is why I was going to encourage you to do it.

**Mr Duncan:** I am assisting the CPA to engage a set of consultants to roll out the benchmarking. I actually spoke to a couple of consultants last week about that process, so we will be doing that. As part of that, there is a big section about committees in the benchmarking process. In some sense we will be doing some of that benchmarking. In the long term I would love to do that, but it relies on the cooperation of other parliaments. They have to be interested in doing the benchmarking. I have to say that there has not been a great deal of enthusiasm from other parliaments in doing it. But that might have changed.

**THE CHAIR:** Being mindful of the time, can I ask members, unless they have something brief and burning, to put the rest on notice? I thank the Speaker and officers of Legislative Assembly for attending.

**The committee adjourned at 5.07 pm.**