

**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

SELECT COMMITTEE ON ESTIMATES

(Reference: Appropriation Bill 2004-2005)

Members:

**MR B STEFANIAK (The Chair)
MS K MacDONALD (The Deputy Chair)
MS R DUNDAS
MRS V DUNNE
MR J HARGREAVES**

TRANSCRIPT OF EVIDENCE

CANBERRA

MONDAY, 31 MAY 2004

**Secretary to the committee:
Ms S Leyne (Ph: 6205 0490)**

By authority of the Legislative Assembly for the Australian Capital Territory

Submissions, answers to questions on notice and other documents relevant to this inquiry which have been authorised for publication by the committee may be obtained from the committee office of the Legislative Assembly (Ph: 6205 0127).

The committee met at 9.16 am.

Appearances:

Ms Katy Gallagher MLA, Minister for Education and Training, Minister for Children, Youth and Family Support, Minister for Women and Minister for Industrial Relations

Women and industrial relations portfolios

Mr Mike Harris, Chief Executive, Chief Minister's Department

Ms Pam Davoren, Executive Director, Industrial Relations and Public Sector Management Group, Chief Minister's Department

Ms Penny Shakespeare, Director, Industrial Relations and Public Sector Management Group, Chief Minister's Department

Mr Warren Foster, Senior Manager, Industrial Relations and Public Sector Management Group, Chief Minister's Department

Mr Karl Phillips, Financial Controller, Corporate Finance, Chief Minister's Department,

Mr Phil Hextell, Director, Accounting Branch, Treasury

Mr Nic Manikis, Executive Director, Multicultural and Community Affairs Group, Chief Minister's Department

Ms Helen Hill, Director, ACT Office for Women, Multicultural and Community Affairs Group, Chief Minister's Department

Mr Erich Janssen, Commissioner, ACT WorkCover

Mr Wayne Creaser, Chief Inspector of Dangerous Goods, ACT WorkCover

Mr Ian York, Manager, Business Services, ACT WorkCover

Mr Phil Ulrich, Manager, Workers Compensation, ACT WorkCover

THE CHAIR: Ladies and gentlemen, all those who are to be witnesses should understand that these hearings are legal proceedings of the Legislative Assembly, protected by parliamentary privilege. That gives you certain protections but also certain responsibilities. It means that you are protected from certain legal action, such as being sued for defamation for what you say at this public hearing. It also means that you have a responsibility to tell the committee the truth. Giving false or misleading evidence will be treated by the Assembly as a serious matter. Does everyone understand that? For those of you who haven't given evidence here before, would each witness, on coming to the table, state your full name and the capacity in which you appear before the committee.

If you are taking a question on notice, please ensure that you check the transcript to respond to the question. Responses to questions on notice have to be supplied within three working days. The transcript will be emailed to the minister and the departmental contact officer for following up and distribution to witnesses as soon as it is available, which is usually about 10 am the next day. If members asking questions want a question to be taken on notice, please give the page references. These proceedings are broadcast through certain government offices. The media may be recording them and they may come in and take visual footage. Do you want to make any opening statements, Minister?

Ms Gallagher: Thank you, Mr Chair. I'm happy to proceed.

THE CHAIR: We will start with women's issues and do the industrial manslaughter legislation later. I've asked a question before in relation to output class 1.2 and the fact that here we have targets and estimated outcome in respect of the performance

indicators. I think I've already asked you that one, Mr Harris, and you indicated that you didn't think that was a very sensible way of doing it. We'll take that on board.

MR HARGREAVES: Excuse me, Bill. What page are you on?

THE CHAIR: Page 43. I see that in the target for 2004-05 there is a decrease, which is explained in footnote 4, due to the cessation of the Canberra Community Foundation program and the transfer to the community engagement unit to output 1.1. That is one of the main reasons there is a drop in funding. How much of that \$4.675 million is envisaged being spent within the next financial year on the women's portfolio?

Ms Gallagher: Really staffing is the cost of the Office for Women's budget. There are four staff, and that is soon to be increased to 4.4. There isn't necessarily a specific budget given to the Office for Women; it sits within community affairs. If you talk about staffing it would be over \$400,000 and then, if there is additional work that needs to be done, that is provided through the global budget of that area.

THE CHAIR: It doesn't add any specific budget?

Ms Gallagher: No. It sits within community affairs and is funded that way.

THE CHAIR: You've got Aboriginal, Torres Strait Islanders and multicultural areas. What other areas do you have in community affairs?

Ms Gallagher: I have only the Office for Women.

THE CHAIR: Those other areas are in community affairs, aren't they?

Ms Gallagher: Yes. I think the Office for Ageing is in there.

Mr Manikis: My name is Nic Manikis, Executive Director, Multicultural and Community Affairs Group. The group comprises of four offices—Office of Aboriginal and Torres Strait Islander Affairs, Office for Multicultural Affairs, the Office for Ageing, and the Office for Women.

THE CHAIR: Minister, have you had any problems in terms of missing out on funding? In an organisation like that, where you're just one of four areas—the other areas I think are the responsibility of the Chief Minister—have there been any problems in accessing funds for programs?

Ms Gallagher: No, there haven't. Mr Manikis's area has been very supportive of specific requests that have been made to find one-off money for certain things—for example, publishing a history of Toora. I was approached about that and found some money for it. I would say that the budget initiative for a women's grants program will assist there, so we can do a bit more. There have been requests over the past year from women's organisations for bits of money. The grants program will be there to support that work.

MS MacDONALD: Minister, on BP3 page 170 are the scholarships for company

directors' courses. That sounds like a pretty good initiative. Can you tell me a little more about them, please?

Ms Gallagher: This is provision for three women to undertake a course in company directorship. It is linked to one of the recommendations in the status of women report. The course will cost about \$3,000 for each woman to go and gain skills in corporate governance. The Ministerial Advisory Council on Women will work with the office to design guidelines for the scholarships. They be finalised in August, with the program starting next year.

MS MacDONALD: You don't have any decisions on what courses they'll be undertaking? You are just looking at those at the moment.

Ms Gallagher: It is a course with the Australian Institute of Company Directors—the company directors' course.

MRS DUNNE: How long are the courses? If they start next calendar year, are all the moneys going to be expended?

Ms Gallagher: In that year? Yes.

Ms Hill: That is right. The course we're looking at is a two-day intensive course. Then it involves some action learning over a period of time. They can convert that to a diploma, if they want to, in subsequent years.

MRS DUNNE: Would you envisage, Minister, that for people who start off who want to continue, there might be ongoing support, or is it just the entry level support that you are looking at?

Ms Gallagher: At the moment it is entry level support, but this is the first year, but we'll have a look at it. If people are wanting to continue, obviously this is an area that would be good to increase if we can.

MRS DUNNE: I think it is a good initiative. Congratulations!

MR HARGREAVES: The other day when the Minister for Health came forward, we talked about women's health services. I can recall its establishment out in the community. It is now located in Civic, as you probably know. Is there any role or liaison between the Office for Women and the department of health over setting of policy directions, future directions or quality assurance in respect of women's health services specifically?

Ms Gallagher: It is fair to say that the Office for Women works with all agencies in providing them with advice around women's policy. In relation to that service specifically, I don't know.

Ms Hill: My understanding is that discussions have been held around the role of the service and how to make it more effective, but we haven't had any input in respect of day-to-day functioning.

MR HARGREAVES: I was more interested in the setting of future directions for the service. It is a fantastic service which doesn't need interference, I suppose. I did voice some concern when the Minister for Health appeared that its original aim was to outreach into areas of concern for women and having it located in Civic might have been compromising that outreach perspective. I was wanting to know whether or not your office was involved in that—and, perhaps in a not too subtle way, suggest that you do get involved in it.

MS DUNDAS: The women's budget statement that is included at the back of budget paper 3, which starts on page 291, indicates that 87.7 per cent of all budget initiatives directly or indirectly benefit women. Through that, it talks about the capital works happening at the hospitals, the upgrading of schools and what is happening at CIT. There is quite an extensive list of 87.7 per cent of the budget initiatives. I was wondering about those 13 per cent of budget initiatives that don't affect women. This is quite an extensive list. It even includes the development of the new ACT government communication network. Considering you've got such a broad list that covers almost every budget initiative, what do you consider doesn't impact on women?

Ms Hill: I am the Director of the Office for Women. There are 39 initiatives that we in the office felt didn't benefit women. I have to say from the outset that this was a really subjective process. Different people could cut the cake in very different ways, but we happened to cut it this way. There were 39 initiatives that we saw that didn't benefit women in some way. Of those initiatives there were a range of minor capital works—things like upgrading of keying systems and some other minor maintenance. The men's link initiative is interesting. We didn't put that in because there was very strong debate in the Office for Women. I wanted that—

MS DUNDAS: No. Supporting men has flow-on effects!

MRS DUNNE: I would have thought that was more likely to be than the urban tree safety initiative of \$1 million over four years.

THE CHAIR: A branch could come down and hit a woman as equally as it could a man, I suppose.

Ms Hill: That was the logic.

MRS DUNNE: I suppose so. I have to say that I draw the long bow.

Ms Hill: The other one was the dragway. That caused hot debate in the Office for Women.

THE CHAIR: You didn't include that?

MS DUNDAS: Manuka Oval renovations benefit women but a dragway doesn't?

Ms Hill: It was a subjective process. We came up with 39 that we felt just couldn't be fitted in. We could have put 100 per cent but we felt there would be some criticism if we said that the whole budget benefits women.

MS DUNDAS: I think was what was in the budget statement last year.

Ms Gallagher: There wasn't a budget statement last year for women.

MS DUNDAS: There was a press release.

Ms Gallagher: This is the first women's budget statement. My office and the Office for Women have had lengthy discussions about how best to portray the budget. This was our first year. I wouldn't say we've got it perfect. I think we need to spend a bit of time with the advisory council on suggestions as to ways that this could be more informative—the committee might have a view on that—in respect of the tests we used this year and in relation to how final budget initiatives are put together. The timing leads to restrictions on the work that can be done to get it ready for the budget papers. This year we decided to have two criteria and fit them within that criteria.

MS DUNDAS: What were the criteria?

Ms Gallagher: They are listed on page 291 as defining what initiatives directly benefit women. They are “defined as those meaning a specific purpose or need for them as individuals”, et cetera. It then says, “Initiatives indirectly benefiting women are those that assist the broader community”, et cetera. They are the two measures outside of the targeted initiatives which we separated out.

MS DUNDAS: Which are in the highlights.

Ms Gallagher: Yes.

MS DUNDAS: I guess that, from my point of view, reading nearly 90 per cent of the initiatives in the women's budget statement wasn't a helpful snapshot as to how the budget benefits women. The first two pages, where there are specific highlights, were helpful. I can read what the initiatives in the budget are elsewhere. That was my subjective view on it, in that sense.

Ms Gallagher: When we were looking at that it was also a question of: should we put in just one page, or two pages? In that case, does that really reflect the whole budget and some of the programs that will benefit women, if we include just the targeted initiatives, or is it worthwhile doing a bit more work? I accept that there is more work to be done on the women's budget statement to make it a more useful document.

THE CHAIR: It is subjective, though. Why didn't you include the dragway? I'm interested in the reasoning.

Ms Hill: The view in the Office for Women was that it mainly benefited men.

MS DUNDAS: There are women who race drag cars!

Ms Hill: That is right.

THE CHAIR: Yes. And there could be a stereotype view. It is terribly family friendly. There are dragways around the country and there are lots of women and children who go

there and thoroughly enjoy it.

Ms Hill: That is right.

MS MacDONALD: I wish to put on the record that I think we're being incredibly mean in asking the Office for Women to justify not including that.

THE CHAIR: I'm saying they could probably have had 100 per cent.

Ms Gallagher: That was the point. Yes.

MS DUNDAS: Can we get a list of the 39 initiatives that weren't included?

Ms Gallagher: Yes, sure.

Ms Hill: I've got one here that I'm happy to table.

Ms Gallagher: Has that got the 39?

Ms Hill: No.

THE CHAIR: What I'm getting at is that, on your two points there, you could really argue—especially on the second point—that it would be pretty hard to find an initiative that assisted the broader community that wouldn't have an impact on women. So the 87.7 per cent is somewhat meaningless.

Ms Gallagher: This was the argument last year.

THE CHAIR: You could say, "These are the initiatives. In some way they'll all affect women. Some are specifically directed to women and some are not."

Ms Gallagher: This was the argument last year when we said that many initiatives target women, and the committee had a different view about that. It is difficult. We'll be working on the women's budget statement.

MS DUNDAS: We've had debate in the past about the role of the Office for Women in the development of the budget and their opportunity to view cabinet submissions. What was the involvement of the Office for Women in the development of this year's budget—the 2004-05 budget?

Ms Gallagher: The Office for Women put forward initiatives—the women's grants program in particular. They had also worked with Treasury on the payroll tax exemption for private sector maternity leave. The Office for Women also considered the budget initiatives.

MS DUNDAS: They were considering budget submissions from other areas?

Ms Gallagher: Yes. Agencies were required to demonstrate, through their initiatives budget case, how the initiative may impact on women.

MS DUNDAS: Was the Office for Women seeing all budget submissions, or some budget submissions?

Ms Hill: All of them.

MS DUNDAS: With only four staff?

Ms Hill: It was a busy time!

MS DUNDAS: I can imagine that. The workload of the office is possibly the reason why there needs to be a budget submission asking for more support for the office.

Mr Harris: Mike Harris, Chief Executive, Chief Minister's Department. There was, if you like, an initial culling process so that agency initiatives which weren't going to be considered by cabinet weren't passed through the office. They had access to them if they wished, but ones that were never going to be considered by cabinet—which was a fairly large number—didn't go through the assessment process. All initiatives which were considered by cabinet went through that process.

MS MacDONALD: I refer to budget paper 3 at page 156, "Payroll tax exemption for maternity, adoption and/or primary caregiver leave." I was very pleased to see this initiative in the budget. I had conversations with a few women immediately after the budget was brought down—at the budget breakfast the next day—and undertook to obtain more information about how it would work. I have spoken to a few people since then. I know it doesn't come in until the 2005-06 year, but can you tell me how it will operate? What information can you give me about it, so I can pass it on?

Ms Gallagher: There have to be some amendments made to the legislation. It is going to come in on 1 July 2005. It is a system I learned about when I was at the meeting of the ministerial council on women in Melbourne. The minister down there, Mary Delahunty, had just introduced it in Victoria and said how well it was being received. We've picked up their idea and we'll do it here. It is basically to give payroll tax exemptions to businesses that offer their staff paid maternity leave.

MS MacDONALD: I don't want to pre-empt the bill before it is introduced, but how will businesses be applying for it? How does it operate in Victoria? Do you know?

Ms Hill: It is like the tax system. It is based on self-assessment. They'll grant the leave and then they'll self-assess what payroll tax they should be paying. It will work on that system.

MS MacDONALD: Is the committee able to get information on how it operates in Victoria, so I can pass on the information generally?

Ms Hill: Can I take that on notice?

MS MacDONALD: Yes. That would be great.

MS DUNDAS: Why is it 1 July 2005, considering we have two sitting weeks in June when we'll be debating other legislation changes that need to be made, so the budget can

be passed? We've had this discussion with other ministers about timeframes for a number of things. The small business commissioner is due to start on 1 July 2004, and that needs a change of legislation. Why is there a year's delay on this?

Ms Hill: I think the bill is going to be drafted for the next sitting. The problem is getting all the infrastructure in place in the revenue office, getting an education program out to businesses and getting the software online to be able to do the exemption itself. It is a compliance issue and getting the structures in place; that is why there is a delay. I understand there was a similar delay in Victoria.

MS DUNDAS: I wanted to get an analysis on how the grants program will operate.

Ms Gallagher: We were just going through that. I was having a discussion with the Office for Women the other day. The idea is, in the first year, to separate the money into two \$50,000 lots and have \$50,000 available for women's organisations that are wanting to build capacity—or projects that support that. The second \$50,000 is research projects for women to apply for. At the moment, the idea is that we'll work again with the Ministerial Advisory Council on Women and the Office for Women. We may pull in another non-government organisation to consider applications when they come in. Hopefully we'll have some money available in the first part of next year.

MS DUNDAS: What do you mean by “research”? The budget papers talk about small projects. I assume that Toora's history would be a small project, and supporting the national conference of the constitutional convention that was held here a couple of years ago would be a small project. That is different from research, in a sense.

Ms Gallagher: That is right. That is why we're separating it into research and some of the project work.

MS DUNDAS: So the \$50,000 that you said is for research will be for research and projects? There is \$50,000 for capacity which I see—

Ms Gallagher: Yes, but that has to be for projects—it isn't recurrent funding for woman's organisations—that women's organisations might want to undertake. They can apply for that, but it'll be a one-off grant. Your example is the women's convention. I think WEL wanted some support, from memory—I'm going back a bit—to pull that conference together. That would be considered under “capacity building”.

Then there is the other side, which is more research work about issues that might be affecting women. Maybe the indigenous women's circle want to look at something that matters to them or supports their plan that is going to be in place and requires research. Those are the initial thoughts about how we should structure it—that we'll give half and half for research to inform us better about women in the ACT and then some extra money for those organisations that need to have one-off project money. I guess Toora would have fitted in either category, now that I think about it, because it is capacity building for the organisation to have its history. Pulling it together was research, although the money they requested was for publication of their work. So in fact it probably wasn't research that we were paying for.

MS DUNDAS: Will all the money be given out in one grant round?

Ms Gallagher: Yes.

MS DUNDAS: In respect of the capacity building of the women's sector, has any consideration been given to supporting an organisation to be a peak organisation? The youth coalition is funded to be a policy advocacy body on behalf of young people; COTA is a policy advocacy on behalf of the aged; and ACTCOSS is a policy advocacy body on behalf of the community sector; but there isn't any funding for a women's organisation to be solely a policy advocacy body. Has any consideration been given to that?

Ms Gallagher: That wouldn't come under this round of funding. It was a recommendation in the report, wasn't it, that an advocacy organisation be funded? No, we haven't done that.

MRS DUNNE: I suppose one of the difficulties with that is to find an organisation which could be the advocate on behalf of all women.

Ms Gallagher: Yes. That is right.

MRS DUNNE: The parallel between that sort of organisation and COTA is not very clear because COTA has a set of issues, although not well defined, that most people of a particular age are interested in. That is possibly not the case with women's organisations.

Ms Gallagher: That is right.

MRS DUNNE: That could be a significant problem.

Ms Gallagher: Yes.

MS DUNDAS: That is why the federal government funds three—to try and get a diverse range of views. They used to fund 50, and got a very diverse range of views, but they stopped that.

MS MacDONALD: Following on from the payroll tax exemption issue, can you tell me what other family-friendly initiatives we're offering to public servants?

Ms Gallagher: In the template there is a range of family-friendly initiatives being negotiated or completed, including entitlements around maternity leave and return to work programs with the ability to do part-time work. There are conditions around home based work and support for families at school holiday times. I don't have the full range of conditions in front of me but it is quite an extensive range. There are 15 or so different parts of the template which cover family-friendly initiatives. A lot of work has gone into this—not only in the public sector.

The ACT is presently running a work and family test case for private sector workers. The states and territories have provided a joint submission to the Industrial Relations Commission on that. It is around those same conditions—right to part-time work, right to emergency leave, right to carer's leave and right to maternity leave and adoption leave. Whilst it was a little more difficult in the private sector, the position of the states and

territories is that there should be a position that the employee had the right to request and the employer had the obligation not to unreasonably refuse. That is currently before the commission, but there is work going on in that area in the private sector as well. This area is around trying to work more family-friendly initiatives into people's working lives and employment conditions. It is probably a key focus of policy development for all workers in Australia, and even around the world.

MS MacDONALD: Obviously we've got a lot less influence in the private sector areas. The payroll tax exemptions are a good start. Presumably you're in discussion with employer groups about how to implement that in the private sector, as well as putting a submission to the Industrial Relations Commission.

Ms Gallagher: We have not done that—or I haven't done that specifically. The employer associations are presently providing their submissions to the commission. Of course, we are here under federal law, so what happens happens.

MS MacDONALD: Would I be able to get a copy of the things that are in the template agreement?

Ms Gallagher: Yes, sure. I've found it now. I think I've covered most of it. I'm happy to provide that to you.

MRS DUNNE: I wanted to seek your comment on the fact that there was almost nothing for the Office for Women in the last budget, and there are some things this year which are laudable and commendable, one of which was possibly recommended by this committee's predecessor last year, which was the women's grants. I'd like your perspective on why none of the women's initiatives in either Treasury or Chief Minister's that would be considered women's initiatives makes it into the highlights in BP4? They don't get a mention.

There was a fair amount of general consensus that a women's grants initiative was a good thing. It was recommended by the select committee and I think it was recommended, or at least commented on, this time last year, but none of the women's initiatives appears in the highlights. A very laudable thing like the payroll exemption doesn't appear either. For instance, the Treasury review of the Utilities Act to determine currency and relevance is a highlight, but not payroll tax exemption. Why do you think that might be? Do you really think that the role of the Office for Women and its impact is sufficient in the structure of government? When you do have modest but important initiatives, they don't get very much acknowledgment in the budget.

Ms Gallagher: Mrs Dunne, you make a good point there. I think part of it, which I touched on before, is that this is our first year with a women's budget statement. Perhaps everyone believed, when putting the budget together, that those would all be dealt with in the women's budget statement and that there didn't need to be duplication. I think you make a good point. They should be in the highlights of those agencies.

MRS DUNNE: You're not going to have everything, but somehow I think more people will be interested in payroll tax exemption than in a review of the Utilities Act. That is not to demean the importance of the review of the Utilities Act, but it doesn't get you very excited. I've done one before.

MR HARGREAVES: It got me excited! There was me and Big Kev!

MRS DUNNE: Yes, I can see how excited you are! One gets the impression that there is a schizophrenic approach. Everything is for women, so you have this long, exhaustive list of everything, excluding the dragway, which impacts on women but, at the same time, that is quarantined in something towards the back of BP3. There is a slightly schizophrenic approach: is it mainstreamed or is it not? I think that, as a territory, we need to work that out.

Ms Gallagher: Yes, you're right. It is a sort of hybrid model. There is a view that we shouldn't mainstream because we need to acknowledge that we need to address issues for women. Part of that is through the women's statement. I think you make a good point—it should have been reflected consistently through the budget papers.

MS DUNDAS: On page 43 we understand that there are six major projects that the Office for Women will be working on.

MRS DUNNE: Sorry, this is in BP4?

THE CHAIR: BP4, page 43.

MS DUNDAS: And I think officials from CMD—

THE CHAIR: Mr Manikis has actually read them out.

MS DUNDAS: Yes, the action plan against violence, the Women's Day awards, the women's register, the implementation of the women's plan, supporting the ministerial council and the Women's grants program. The status of women inquiry did make a lot of recommendations and its report actually came down after the action plan for violence was announced, so that plan doesn't necessarily reflect what that study found. I understand, from memory, the women's plan doesn't necessarily reflect the status of women report either. So actual implementation of the recommendations that were supported by government in terms of the women's report don't seem to be one of the six major themes or six major projects of the department. Has that report disappeared from the scene?

Ms Gallagher: No, not at all. The status of women report actually very much directs the work of the Office for Women. The women's plan was a recommendation of the select committee, from memory. Yes, it was, wasn't it? I think this year's budget delivers on 27 recommendations of the 59 recommendations, and the Office for Women is constantly tracking implementation of that. I believe we're able to table—

MS DUNDAS: We can get that list of 27.

Ms Gallagher: Well, we can table the latest implementation against the recommendations and what's going on; but no, not at, all has that report not been—

MS DUNDAS: If we can get that report that would be very helpful.

Ms Gallagher: Yes.

MS DUNDAS: And does that report actually detail which of the 27 recommendations—

Ms Hill: Yes, it does. It actually identifies the budget initiatives against those.

MS DUNDAS: Thank you.

MS MacDONALD: Minister, the action plan to address violence and safety issues for women was well received last year. There's no line item in the budget but I assume it's something that you're doing annually. When's the next plan going to be released?

Ms Gallagher: Very shortly. Yes, it is something we're doing annually. I was just trying to think of the release date for it but it has certainly gone through the processes it required prior to release. June, yes, next month.

Ms Hill: It is actually with the graphics people now.

MRS DUNNE: That's tomorrow. Yes, that's pretty soon as well.

THE CHAIR: I think we can accept that as being soon. Thank you very much. All the officials who are here for the women's part can go. We will move on now to output 1.4, work safety and labour policy. Could the officials come to the table, please.

Minister, we'll go back to my initial question when I had everything around the wrong way. Correct me if I'm wrong, but my understanding was that the industrial manslaughter legislation was due to actually take effect after a three-month hiatus period where there was meant to be information giving the details. I think it was on 31 March or 1 April. And I won't be so unkind as to say—

Ms Gallagher: It was 1 March.

THE CHAIR: 1 March, yes. So what actually occurred in those three months? What training was actually done in relation to businesses and how was that actually organised?

Ms Gallagher: WorkCover ran the education program in conjunction with work safety and labour policy. There were a range of ways of providing this. There were some fairly large meetings, with in excess of 300 participants; there were two more targeted meetings with particular groups who had requested them. That work was all done. It is ongoing, but there was a very big emphasis in the lead-up to 1 March.

We're finding—the commissioner can probably add to this—that there still is some interest around, in terms of having education provided about it, but certainly the work was done and it was useful to have that three-month period to do that work with businesses. Maybe the commissioner will add to that.

Mr Janssen: Erich Janssen, OH&S Commissioner. We've had three public seminars where we had, I think, about 500 to 600 people attend. That was in the very early period, in March. Since then we've worked with a lot of the industry organisations in the ACT, like the Chamber of Commerce and Industry, the Master Builders and so on and Clubs

ACT. They hosted functions or seminars that we've presented at for their members, and that's probably brought in a similar number. So we're getting close to, I think, 900 to 1,000 businesses that will have attended a session.

We've also conducted sessions in Queanbeyan, with Australian Business Ltd and the Queanbeyan Business Enterprise Centre, for those businesses that operate in the ACT, and, again, that attracted a significant number of local businesses there.

In addition, we've run a seminar for OH&S officers and executives in the ACT public service to again cover what the legislation means for them. Importantly, I think, in all the seminars, we've run a major component on OH&S and the requirements of the current legislation; what's good practice and how to go about doing it, which is really the message we've been getting out there; and using the industrial manslaughter legislation, to some extent, as an attractor to get people to come along and really get them the main message around OH&S compliance and assistance for their workplaces.

THE CHAIR: It has been operating now for some two months. Has there been anyone charged or any business charged?

Mr Janssen: No.

THE CHAIR: Are you aware of any businesses that have left the territory or relocated across the border as a result of this legislation?

Ms Gallagher: I'm not aware of any.

Mr Janssen: No.

MR HARGREAVES: One of the worries expressed by the Chamber of Commerce, I think, during the public hearings was, as the chairman was sort of asking about, the worry about people leaving town or going to Queanbeyan. I hear you say that there's nobody. But I think it is fair to say that there was considerable disquiet expressed by a range of people prior to the introduction of the legislation.

Can you give us some sort of perspective on how business actually feels about the issue now? Is it just now part of the industrial regime around which they work? Do we still have people who are worried about it out there and expressing their worries to you?

Ms Gallagher: I think there are probably people out there and business that are still out there worrying about it. It was a controversial piece of legislation. I think there was a lot of misinformation being run about what the legislation was trying to do, but what we're finding is that, particularly for the businesses that come in and take part in the education sessions, or even throughout the process, when they came in and spoke with me in my office about it, they left certainly feeling a lot better because, particularly for small business, it became clear that there was no new obligation being placed on them.

Prior to this legislation's coming in, you were not allowed to kill anyone at work. So the situation didn't change. What it did allow was for large corporations to be treated on the same level playing field as small business was treated under the general manslaughter laws.

I think once people understood that it was not a civil matter, that it was beyond reasonable doubt rather than balance of probabilities, that there was no vicarious liability involved, that certain tests had to be met in order for any person to be charged under this, then people felt a lot better about it. But I think the name of the legislation worried people, and I think some of the campaigns that were being run worried people greatly.

But the sky didn't fall in on 1 March, and I have to say—and I said this to industrial relations ministers around the country when we met recently—that never has there been more interest in occupational health and safety in the territory from the employers' side than we've seen over the past six months in the lead-up to the legislation coming in. People are really very conscious of their OH&S obligations, and that's fantastic. I think we'd all support that.

MR HARGREAVES: Did you say 900 or so businesses have come forward or have taken up the offer? I suppose that would be a better way of putting it. You mentioned that there were quite a number of small businesses there. I don't want to know the names of the people who've done that stuff but, in terms of your perspective, are we seeing a greater number of small businesses than medium sized businesses coming, given that we don't have a whole stack of large business, big business, in this town? The BHP Billitons seem to bypass this town sometimes. But we have got a reasonable number of medium sized businesses and a stack of little ones.

I guess what I'm trying to find out is: are you having an interest from those medium sized businesses as well for this training? Or is it predominantly the small business guys that are doing it?

Mr Janssen: I think we've had a good cross-section right from the very small organisations, one or two people, through to some of the larger corporations in the construction sector, for example. And the way we've targeted our education, going through some of the industry organisations, they themselves reflect different sectors of the business community.

For example, we had sessions with the air-conditioning and maintenance contractors association, and that brought in a lot of small operators who have small numbers of employees. The Master Builders brought in some of the larger construction firms as well as small subcontractors. So we do get across the range, and certainly they have taken the opportunity to attend.

MR HARGREAVES: One of the issues that Ms Shakespeare might recall us talking about when we had the public hearings on the legislation was the way in which we could trace responsibility back for larger companies external to the ACT and the difficulties we've had about sheeting home responsibility for industrial accidents. The pressures on long-distance transport operators was the example, in fact, that we were using and the pressures put on those by national companies making people work or be in their truck a little bit longer than they should, et cetera.

Have you had any sort of interest expressed from companies like your Woolworths, your Coles, that sort of sized business—national?

Ms Shakespeare: Penny Shakespeare, Director, Office of Industrial Relations. We haven't been contacted by Woolworths or Coles. David Jones were quite interested in the legislation and came down to meet with the Office of Industrial Relations a couple of times to discuss the legislation.

There has been more general interest in other states and territories. I've spoken at a public seminar for a firm of lawyers in Sydney who were quite interested in the new laws and those sorts of things—just providing information to people who represent larger companies in other jurisdictions.

MR HARGREAVES: Excellent stuff, thank you.

Ms Gallagher: Just on industrial manslaughter, too: this has been an issue in New South Wales—a very public issue—with the death of a young 16-year-old on his second day at work. That instigated a committee inquiry into the issue in New South Wales, and they reported back on 18 May recommending that a charge of corporate manslaughter be implemented. This is an issue that I think we'll see more of around the country.

MR PRATT: In relation to that New South Wales case of the unfortunate young fellow falling off the roof—it wasn't really industrial manslaughter—do you know whether the New South Wales government said they had to get corporate manslaughter because common law manslaughter wasn't going to cover that?

Ms Gallagher: In relation to that case? I'm not aware of where that case is up to in terms of charges. The concern was that the employer could be charged with OH&S breaches and have fines that weren't commensurate with the suffering of his family and also that there's some evidence to say that corporate structures collapse and re-emerge somewhere else where they don't have the obligations to pay those fines. That's been the concern in New South Wales. For the families, that's certainly what the debate focuses around.

MR PRATT: Yes, I think we all recognise those concerns. I think we've had a case here too, haven't we, Minister, where a company has decided to go underground, so to speak, when faced with concerns? In terms of that case that you've now raised, you don't know whether the New South Wales government has actually said that, in their view, the New South Wales garden-variety manslaughter wasn't not going to be able to be brought to bear in addition to the OH&S regulations?

Ms Gallagher: I'm just not aware of the specifics. What the New South Wales government said was that that incident instigated the inquiry into whether or not there should be a separate charge around industrial manslaughter or corporate manslaughter. That committee has now reported, saying that they believe it should, but the New South Wales government has yet to respond to that report.

MR PRATT: You ran a number of seminars once the legislation was passed—at least three that I know of—to brief organisations. What else have you done since the implementation of this legislation to broaden the education, provide the information out to organisations? Are you satisfied that you've been able to reach all those who will now be obliged to conform to this legislation?

Ms Gallagher: As much as that is possible, yes. WorkCover has put in a great deal of

effort in terms of having meetings, attending not only the larger meetings but providing information where people request information. There's information available electronically about it. I've been speaking at several meetings. I've spoken at professional association meetings. I spoke at a conference here recently. I'm due to speak at a conference in Sydney in another few weeks. As much as we can, and as much as people are wanting to listen, the information is there.

MR PRATT: What's in the budget to continue with that sort of work?

Ms Gallagher: Well, that's part of WorkCover's budget.

MR PRATT: What, as part of this OH&S, BP3, page 158? Am I jumping the gun by referring to this? In terms of the "Expansion of Functionality—OH&S Compliance Program", page 158, BP3, are you talking about that instrument, or is there funding in addition to that?

Ms Gallagher: Part of WorkCover's core function is to provide information and education to businesses and employers in the ACT. That initiative will allow for some additional—four, I believe—inspectors with WorkCover.

MR PRATT: Taking it to what, about 10? Is it from six to 10 inspectors? Does that reflect that sort of increase in capacity?

Mr Janssen: No. In our inspectors, we have 43 staff covering the OH&S, dangerous substances and workers compensation areas.

MR PRATT: But how many field staff? Is that 43 field staff, or is that—

Mr Janssen: I think the majority of those would be field staff.

MR PRATT: So an increase of four.

Mr Janssen: That's right.

MR PRATT: I'll come back to that later if I may.

THE CHAIR: Just one more thing from me on industrial manslaughter: in 2002 we passed a Criminal Code which has corporate responsibility in there for the first time. I understand this year we are meant to pass some further segments of the Criminal Code which will include manslaughter, which will then beyond any doubt, I think, tie in manslaughter and a number of other offences with corporate responsibility.

Do you still intend to continue with industrial manslaughter on the books when it would seem that once corporate responsibility is linked in with manslaughter it would be unnecessary? Could someone tell me why you should continue it and what is the difference between industrial manslaughter and manslaughter generally, which will have corporate responsibility attached to it through the code?

Ms Shakespeare: I can't really comment on the timing of the review of the fatal offences and when they'll be criminal coded; that's within the Department of Justice and

Community Safety. As part of the government decision to go ahead with the industrial manslaughter laws, there was an agreement to review the need for separate industrial manslaughter provisions once those fatal offence provisions have been reviewed and re-enacted subject to the Criminal Code.

THE CHAIR: So it is conceivable, once the Criminal Code actually comes in—it may not be in the term of this Assembly; you haven't got much time left—that a separate offence of industrial manslaughter would not be necessary. Is that so?

Ms Shakespeare: Yes.

MS DUNDAS: You said there were 43 staff members in OH&S compliance and that the majority of them would be field staff. Can we actually get a breakdown of that?

Ms Gallagher: It wasn't just OH&S; it was—

Mr Janssen: It is 43 staff across the three inspectorate functions—dangerous substances, occupational health and safety, and workers compensation and labour regulation—which is the unit. So that's 43 staff across those three areas. The majority of those 43 would be staff involved in fieldwork, I guess. It varies depending how you define fieldwork because some of the work we do around workers compensation investigations is much more forensic in that we're looking through data, we're looking at lapsed policy information, and through computer records basically. So it's not as if they're walking around the streets knocking on doors asking whether there's a policy in place. A more effective use is doing it in a more forensic way. But they are counted among those 43 staff.

MS DUNDAS: So there's 43 staff who are doing investigation and compliance work.

Mr Janssen: That's right. Some of those would also be—

MS DUNDAS: When you say the majority would be fieldwork, it means that, out of the 43, all are dedicated to ensuring compliance with the three different areas that you—

Mr Janssen: This would include some administrative staff in those areas to support the activities, to make sure the phones are getting answered—all the sorts of things that administrative support people would do.

MS DUNDAS: How many people are working to ensure that those three areas of legislative compliance are being complied with?

Mr Janssen: We can certainly provide figures. I'm not sure exactly what the question is, but you'd like a breakdown—

MS DUNDAS: Yes. There are 43 people working in the office who are dedicated to this, but some are admin support staff. That means that not all 43 are actually doing the on-the-ground investigation work. They could be. It's just unclear at this stage. So a breakdown of inspectors and support staff would be helpful.

Mr Janssen: Sure. Yes, that can be done.

MS MacDONALD: Mr Janssen, while we're on the subject, I was looking at the ownership agreement for the Occupational Health and Safety Commissioner, page 26. The human resource plan doesn't actually have a breakdown of numbers working in each area for WorkCover and the Occupational Health and Safety Commissioner. Would you be able to provide to us that information either now or on notice, because I think pretty much all the other ownership agreements do actually provide that information?

Mr Janssen: I can take that on notice and I can certainly provide that information.

MS MacDONALD: You've given a breakdown of people's age profile, gender and EEO categories, which is great, but it would be nice to know how many people are working in each section of WorkCover.

MR PRATT: Minister, or perhaps Mr Janssen—I'll happily await the detail of your response as asked for by Ms Dundas—I have a couple of quick questions now on this breakdown of inspectors. Are you saying that the 43 allocated to those three or four functional areas are specialising in those areas or are they cross-trained to be able to talk to any organisation about any matter dealing with OH&S, industrial manslaughter and other compliances?

Mr Janssen: No, they're not all able to do that. One of the requirements, for example, of appointment of an inspector under the Workers Compensation Act is that they've undertaken specific training in that legislation. Before I will appoint somebody or delegate appropriate inspector powers under that act, too, I need to be satisfied that they've had that training. That training isn't available currently to everybody, simply because we've got requirements, for example, in the OH&S area for people to have qualifications, a background of OH&S and, again, an on-the-job training arrangement.

What we are going to introduce in this financial year is an externally accredited qualification, a diploma in government workplace inspection, which is recognised in other jurisdictions and is run and implemented by WorkCover elsewhere, as part of our induction process, I guess, in training arrangements in WorkCover. That would be across the various inspectorates. In addition, we do currently require people to have a good understanding of the legislation that applies specifically in the ACT as part of their appointment as an inspector.

So the long term, because it's such a small jurisdiction and there are limited numbers of resources obviously that are available, is to maximise, where we can, multi-skilling across the different areas. The alignments that are taking place in relation to legislation assist that, because the scheme of arrangements in the dangerous substances and OH&S legislation and the way it works have come in closer together.

There's going to be increasing scope to multi-skill staff. That's really a thread that goes right through WorkCover. The way that we manage our human resources is, where it is possible, to multi-skill staff, and this will take some time and some training to bring to fruition.

MR PRATT: The government has made a big play of the fact that as part of the OH&S legislative changes—I think we're pretty supportive in general of those, although we

were critical at the margins—this process is going to be educative and information. So in terms of getting out there and educating organisations on OH&S, you've probably got, what, somewhere in the region of 15 or 20 inspectors, have you? What do you need to get to, to be able to get out there and make sure, through an educational information program, that you can prevent accidents occurring? Surely the capacity is extremely thin.

Ms Gallagher: I think there are a range of ways you can provide information to business about their obligations and ways to encourage a safe workplace. I don't think using your figure of 15 inspectors would deliver that anyway.

MR PRATT: I won't hold myself to that number.

Ms Gallagher: No. But there are ways in which WorkCover does provide information. The new commissioner has come in; there's an email bulletin that goes out, which there's been strong take-up for; people inquire of WorkCover about obligations they may have. It's not delivered necessarily just through the inspectors out and about in workplaces; there are a range of ways education is provided.

This budget does allow for an additional number of inspectors, and I know the commissioner, since he's joined WorkCover, has been looking at the way the budget in WorkCover is allocated to ensure that priority is given to supporting workplaces with information and support to say that there is no need for prosecutions or compliance activity to take place. That's in an ideal world, but that's been the focus.

MR PRATT: Do the inspectors have the same powers of access as do the unions under what you're proposing?

Ms Gallagher: In relation to the proposal before the Assembly?

MR PRATT: Access to the organisations.

Ms Gallagher: You're referring to the right of entry. That's still at the will of the Assembly. That hasn't been debated yet, but that provision—

MR PRATT: Well, in terms of what you what you are proposing, though.

Ms Gallagher: Union officials are not going to have the powers of inspectors, no.

MR PRATT: But they do have powers of access.

Ms Gallagher: Under the proposal by the government, they will have a right to enter the workplace if they believe there is a breach of occupational health and safety in that workplace, as will, in an amendment to be moved by the government, employer associations.

MR PRATT: In terms of your proposal, will that be all union officers or only those in unions who are certified as training-safety competent?

Ms Gallagher: Well, that's some of the detail we've been working through with industry over the past few months. The idea is to have a register showing that those people who

are seeking to access the right of entry provisions—be they from the employer or the union, an employee association—are trained. The model is that they be on a register.

MS DUNDAS: Excuse me, Chair, this is a matter of legislation that is due for debate in the next sitting. If Mr Pratt would like to get a briefing on it, that might help move this process along. It's not necessarily related to budget initiatives, and we're having a debate that should best be had on the floor.

MR PRATT: Well, Chair, I would beg to differ on that. We're asking questions here about the ability to inform and educate organisations. I just want to know: what is proposed to be the relationship between the WorkCover inspectorate and the unions? Or are unions required to take up the slack?

MS DUNDAS: That wasn't the question you asked, Mr Pratt. You asked, "What were the right of entry provisions in the proposed legislation?" This is something quite different.

MR PRATT: That's what I was heading to.

THE CHAIR: Let's not argue. Mr Pratt's explained what he intends to ask, which I think is certainly within the parameter of what we're here about.

MS DUNDAS: Well, get to the question and don't go fishing for it.

MR PRATT: Thank you, Ms Dundas, for your gratuitous advice.

THE CHAIR: Thank you, Ms Dundas. Continue, Mr Pratt. I hear what you say as to what you're getting at. So if you could ask those questions, thank you. Continue.

MR PRATT: We'll leave it at that at this point. I'll come back to that, though. I'll reserve my right to come back to that. Thanks, Chair.

MR SMYTH: I was just going to ask this question: what training has been carried out for the inspectors in the last 12 months and what training will be carried out in the next 12 months under this budget?

Ms Gallagher: Do you want to answer that?

Mr Janssen: Yes, okay. Over the last 12 months, I'd have to have a look at exactly what's been provided, but we do have, for example, where a new inspector's appointed, they go on an investigations training course. We've also run a number of specialist courses in-house and we've brought external people in, in things as diverse as explosives or a whole series, I guess, of more technical things. The plan for the future is to bring in place that diploma I mentioned before, the diploma of government workplace inspection, and that provides core skills for all inspectors in undertaking statutory enforcement roles for workplace legislation.

In addition to that, we are looking at two other areas. One is training in those specialist areas, whether it be around explosives or whether it be in relation to chemicals or whatever, for particular individuals who might develop specific expertise in the

organisation in that. We're also looking at more general training for our management group to improve our management capabilities, particularly at the middle-management level within the organisation. And that's part of our training strategy that we're putting in place.

Then, of course, there is general other training for clerical and admin support staff in the sorts of things that they do. These training programs, I guess, or strategies are work in progress at the moment. And our intention in this coming financial year is to develop that right up and start putting in place these more structured arrangements for all staff. So the intention is to really use the opportunity, with this external diploma and other specialist training, to up-skill the organisation; to assess the skills, for example, among existing inspectors around their competencies; recognise what is possible as prior learning; and have all of them come through a process where they actually have an externally accredited qualification which is recognised in other jurisdictions and through the vocational education and training system.

MR SMYTH: How much was allocated for training last year and how much will be allocated for training in the coming financial year?

Mr Janssen: I don't have last year's figures here. In terms of the internal WorkCover budget—and this is looking at the total cake, I guess, that we've got and how we're slicing it up—we're looking at about \$150,000 this year going into these new training strategies. From what I understand, it's probably a larger amount than has been the case in the past going into formalised training. That's really to kick-start the competency-based training around the diploma.

MR SMYTH: Can you find out how much was allocated for the current financial year and how much was actually spent, please?

Mr Janssen: Yes.

MS MacDONALD: I actually wanted to ask about the work safety and labour policy area rather than WorkCover because I think that's the output class we're supposed to be on at the moment. In BP4, page 45, the cost of work safety and labour policy has increased by nearly 5 per cent from the target of 2003-2004 to the target for 2004-2005. What will that extra money be spent on? Can you tell me what areas it is going to be spent on?

Ms Shakespeare: The extra funding represents whole-year costs of additional staff that was provided through the second appropriation in 2003-04. There were two additional policy officers in work safety and labour policy funded and there was also some money provided to engage an occupational health and safety liaison officer at Unions ACT. In the 2003-04 budget, you only have part-year costs reflected there. For 2004-05 it is full year costs of those additional staff.

MS MacDONALD: What areas are the new officers going in?

Ms Shakespeare: One is in the industrial relations policy area and the projects that that person has been working on so far—they were employed in early November last year—were developing the government's submission to the working-family test case; also

developing the budget proposals for the work-based child-care feasibility study; just general industrial relations briefing projects.

The other officer is employed in work safety policy and to date has been working on the dangerous substances legislation and developing regulations under that; asbestos regulations; and is currently working on developing a regulatory framework for ammonium nitrate.

MS MacDONALD: So the office is divided into two areas. Is that right?

Ms Shakespeare: There are actually a few areas. There are the two main areas: the public sector side and the private sector framework team. Within that private sector framework policy area there are both the industrial relations policy, which covers workers compensation policy and general industrial relations, and the work safety policy team, which covers dangerous substances and OH&S legislation.

MS MacDONALD: And those two extra officers bring up the numbers to how many?

Ms Shakespeare: For the Office of Industrial Relations that covers the private sector framework, there's currently eight staff. There are four in the work safety policy team, and four in the industrial relations policy team. There are also additional staff in the Office of Industrial Relations who work on Chief Minister's functions relating to occupational health and safety, injury prevention and management in the public sector.

MS DUNDAS: So what's the total figure?

Ms Shakespeare: Fifteen.

THE CHAIR: We might break there for morning tea. We'll finish page 45 and then go on with WorkCover.

Meeting adjourned from 10.30 to 10.51 am.

THE CHAIR: There being no further general questions in relation to output class 1.4, we will move on to ACT WorkCover. Minister, fireworks have been an ongoing problem for government in the territory. An Assembly committee made some recommendations. Since then there have been a number of incidents and problems associated with fireworks. I note that the opposition has a policy of banning the sale of shopgood fireworks. You have expressed exasperation. What is the current situation and why don't you simply bite the bullet and ban the sale of shopgood fireworks?

Ms Gallagher: Under the new Dangerous Substances Act, the sale of shopgood fireworks or consumer fireworks has, effectively, been banned, except for a seven-day period which will commence next Monday, the 7th. Under the legislation, the shops that were operating all year have been closed and there are much tighter restrictions on what consumers will be able to purchase in relation to what constitutes a consumer firework. So we have gone as tightly as we can go.

I have been pretty upfront in saying that we will review what happens this June long weekend. It is fair to say that some of the incidents and complaints we had from long

weekends over the past few years we don't want to see happen again. Consumers will not be able to buy the type of firework that caused many of those problems. The one that had a loud effect, a loud bang, will not be able to be bought this year. A lot of work is going into that, as Mr Creaser can explain in detail.

If we have a situation where this June long weekend delivers the problems that we had last June long weekend, then I would say there is no further place to go than to have a complete ban, not allow the legal sale of particular fireworks for that seven-day period and the use over that long weekend. Whether a complete ban would stop the illegal use of fireworks, I don't think so, but we will look at that. Maybe Mr Creaser can go through what is being done in the lead-up to the long weekend.

Mr Creaser: Wayne Creaser, manager, dangerous substances, gas and plant safety. Part of what we are doing this year is requiring all fireworks to be authorised with us before they can be sold, which means there is a series of information that must be provided to us about each firework, along with test results. That includes whether they make loud reports or noises and what the actual other effects are.

Under the new Dangerous Substances Act, there are legislative restrictions on the types of fireworks that can be sold as consumer fireworks over the Queen's Birthday period. They have been restricted down from what has been allowed previously with the intention of getting noisy fireworks out of the system. Currently, we have about 200 applications for authorisation before us, which we are working through. Most of those have lobbed in our office in the last two weeks, so it's a fairly frantic process at the moment, but we hope to have most of that completed by the end of this week, ready for the sale period on Monday.

THE CHAIR: Despite the steps you have taken, I continue to hear loud bangs in my suburb, Macgregor, and around north-west Belconnen generally. I hear from people throughout Canberra that these obviously very powerful fireworks are being let off, usually at night, no matter what time of the year. It seems to me that the situation isn't getting any better.

Mr Creaser: We collect statistics on complaints about fireworks and it's probably a little early to say at this stage whether the legislation is having any effect on that, but anecdotally we have been getting a lower number of complaints than we would normally get since that period. But it's probably going to be a few weeks further before we can determine whether that is a continuing trend or just part of the normal movement in averages.

MR PRATT: Illegal trading in fireworks occurs now, doesn't it?

Mr Creaser: There is obviously an illegal trade of fireworks going on and an illegal use of fireworks. They're the sorts of fireworks you do hear around the suburbs at night.

Ms Gallagher: It's not just restricted to the ACT. The illegal use of fireworks occurs around the country.

MR PRATT: But in terms of our own patch and trying to do something about it here, clearly you are still struggling with that. Is that because some of the retail outlets, in your

view, provide some sort of cover for this illegal trade? Clearly, there are some very compliant operators, but do some of them run a cover in terms of other activities?

Mr Creaser: Certainly with the new legislation, there are no legal retail outlets for fireworks in the ACT, as of 5 April. Basically, the fireworks shops that were allowed to operate in Fyshwick under the old legislation no longer have a basis for operating, so the ability for opportunistic sales from those sorts of outlets should basically have ceased. The problem we do have, though, is that the majority of people that used to operate those premises in the ACT have large storage facilities around Canberra—in New South Wales, not in the ACT; in Queanbeyan, Gundaroo, Gunning. That's still a potential source of fireworks, I suppose, into the community. The other problem we have is that the ACT probably has some of the strongest laws or legal requirements around fireworks in Australia and it's now a matter of, I suppose, other jurisdictions putting some pressure on their jurisdictions to restrict sales and things there so that they don't find their way into the ACT.

MR PRATT: The advertising of fireworks sales is now not allowed to occur, except during prescribed periods.

Mr Creaser: That's correct.

Ms Gallagher: To the public. There are legal sales through the year to licensed pyrotechnists.

MR PRATT: So they're allowed to put up banners on the side of the road adjacent to Mitchell at any old time of the day.

Mr Creaser: No, they wouldn't be allowed to under the new definition of supply.

MR PRATT: As of now, they can't do that. Where we have seen quite blatant advertising, even in recent months, that will now be banned.

Mr Creaser: Under the new legislation, we should be able to take action against that, yes.

MR PRATT: I agree with the minister that, if you do decide to move to outright banning, that is not going to destroy the black trade, but isn't it true that banning would surely minimise the black trade and make it that much harder?

Ms Gallagher: I don't know. I have talked to other industrial relations ministers about this. This was an issue on the workplace relations agenda a month ago and it's fair to say that all jurisdictions are concerned about the illegal use of fireworks and what's happening in their own states. There was some discussion and there is some work to be done now involving the Commonwealth about the importation of fireworks and some involvement of customs so that the states actually have a bit of an idea about what is coming into the country, which we don't have at the moment.

In terms of some of what we were seeing in Canberra, there was anecdotal information that opportunistic sales occur; that is, people wandering past Fyshwick were thinking that they were having a party that night and they wouldn't mind having a few fireworks, so

they were buying some, but not with the intention of engaging in an illegal act: there is a fireworks shop with the doors open and they are having a party. Not having that opportunity for those sales means now that someone who wants to get fireworks outside of the legal period would have to take more significant steps to engage in an illegal activity. That in itself, I believe, will reduce the incidence. As Mr Creaser just said, there is some early information that complaints are down, but it is far too early to see. But with a total ban, we would still have problems with fireworks and the illegal sale of them, just as we have problems with all types of illegal activity.

MR PRATT: But, like everything else, you cannot always legislate out risk, can you? What capacity in the budget do we now have for maintaining the fireworks inspectorate operation, the compliance? Are you increasing that capability?

Ms Gallagher: That area of WorkCover has had significant increases in past years, so that money is there. We are hoping that the actual attention paid to it will reduce over time because the legislation is so strong now and the penalties are so severe. There has been no reduction, but we are hoping to see a reduction in that area of the functions of WorkCover, in terms of the time taken for prosecutions and everything that WorkCover has been funded for over the past couple of years to address shortfalls in its budget.

MRS DUNNE: On the fireworks issue, there was an item in the paper the other day about the sting that was conducted. Are you able to do anything about that? On the basis of how the evidence was collected, are you able to do anything about that?

Mr Creaser: Yes, we are. In fact, we are currently preparing a brief to go to the Director of Public Prosecutions about that; so we hope to get that up, probably soon after the June long weekend.

MRS DUNNE: Do you have any litigation at the moment in relation to fireworks?

Mr Creaser: There are currently, I think, some seven matters before the Magistrates Court, some of which have been in court since 2001, against two particular operators that used to operate in the ACT. I suppose the fact that they're still there is partly a reflection of the old legislation and the difficulties we had with the old legislation, but it's also partly a reflection of the litigious nature of the two individuals involved and the way they conduct their affairs. They've managed to delay those matters being heard to date, but they are still before the Magistrates Court.

MRS DUNNE: There have been a number of matters where WorkCover has had a pretty rough time in the courts and sometimes little success in the matters that it brings. Does the change in the legislation make it easier to bring matters and create more certainty about prosecutions?

Mr Creaser: Yes, we believe it will. Certainly, the legislation has been drafted in much clearer terms. The old legislation was some that we inherited from New South Wales and was drafted 25-odd years ago, so it was fairly outdated. It appears that basically it was adapted to fit in the fireworks regime. Consequently, it left quite a few gaps in the process. The way the new legislation has been drafted treats fireworks as it does any other explosives and applies exactly the same regime across-the-board, so it makes the whole framework a lot more coherent.

MRS DUNNE: A bit more bulletproof. At this stage, is the matter that we first spoke about the first one under the new legislation?

Mr Creaser: That will likely be the first matter under the new legislation, yes.

MS MacDONALD: I refer to the highlights which are listed on both page 63 of budget paper 4 and page 5 of the ownership agreement. You state that one of the highlights for the coming year will be the undertaking of programmed and targeted occupational health and safety and workers compensation compliance activity and inspections in specific industries with high injury and non-compliance rates in the ACT. How will you be doing that?

Mr Janssen: That will involve a number of strategies. At the national level, the jurisdictions collectively have identified a number of targeted areas where there are high incidence rates and where there is a view that doing something on a national basis, raising awareness with businesses and organisations at that level, would meet the sorts of targets that have been set in the national occupational health and safety strategies.

For example, at the moment we have a targeted intervention program on falls in the construction industry. This is all about ensuring workers working at height are working in a situation where there is proper fall protection in place. That is part of a national campaign and that involves the territory. We have visited about 50 building sites, of which around 20 or close to 30 have met the specific criteria that we are looking for. There is a nationally developed audit tool that is used to undertake an analysis of the safety arrangements on site. That becomes, again, a part of a national dataset that we're able to look at and get a snapshot of the industry nationally, as well as our own sector.

One which will be coming up in the second half of this year and for which the planning is being put in place is manual handling in the health and community sector, particularly aged care facilities and hospitals. Again, that is a national effort and in that one there's a quota established in each jurisdiction for the number of places that will be looked at. We will be doing an initial baseline audit of these workplaces and then a comparison audit further down the track to see whether there has been a measurable change in compliance.

Others we generate locally without necessarily being part of a national effort. We have been involved with one in the security industry which is to be undertaken over the next three or four months. That involves the development of an audit tool that is consistent and looking at a number of industries. Prior to any of these campaigns, particularly the ones we run locally, we tend to survey as close to possible the whole industry, all the businesses within it, and give them some tools to assess their own occupational health and safety arrangements and the level of compliance and then do formal inspections of a sample of them.

Those are the sorts of things that are referred to there. We are looking at, as part of our business plan, around 10 programmed strategies or inspection strategies over the next 12 months, some of which will be part of a national effort, some of which will be ones that we've identified through our own data in terms of the incidents, accidents and so on in particular workplaces or industries.

MS MacDONALD: Will any of the planned 10 programs in the next 12 months be looking at the retail or office areas, which are the largest employers in the ACT?

Mr Janssen: Retail is being looked at on a number of fronts. There are a number of ways of dealing with it. In addition to the actual inspection campaigns, when people present at a workplace after a survey and so on, we are looking at using the data that we have in relation, particularly, to retail, some of the larger retailers, and presenting that to them. In fact, we are looking at around 40 or 50 employers across the most high-risk areas from data that we've collected in the ACT and providing them with specific information in relation to their own injury rates compared with their industry as a whole and the territory as a whole, and then asking them to advise us how they might address some of the specific issues that have been identified in the data. In addition to the inspection process, we are looking at using data itself to generate some behaviour change in some of the businesses where there are identified issues around particular work hazards, incidents or accidents.

MS MacDONALD: How is the data collected?

Mr Janssen: The data is collected through our accident information monitoring system.

MS MacDONALD: The AIMS database.

Mr Janssen: That's right. That is largely sourced from approved insurers and self-insurers and there is a whole series of data that we collect through that process. We then use that as a way of developing an evidence-based approach to the way we might undertake compliance activity.

MR PRATT: I return to a line of questioning that I was putting before about union access to the workplace. I know that Ms Dundas had a fit of apoplexy about that, but I want to tidy up this matter. In terms of the OH&S compliance plan which has been laid out for this year and in terms of what the minister is proposing for union access to the workplace, what will be the technical relationship between ACT WorkCover—the inspectorate and the compliance mechanism—and those unions? What will be the operational and technical relationship?

Ms Gallagher: The employee and employer associations already have a very close working relationship with WorkCover. Neither of the employer associations or employee associations will have the same powers as WorkCover inspectors. The focus of this ability to enter workplaces will be on promoting cooperative and voluntary compliance without involving WorkCover. We are looking at a notification system in terms of WorkCover, I imagine, keeping the information about who has done the training to access workplaces under the act. There will be a close relationship, but they are quite different responsibilities and powers that an employee or employer association has compared with WorkCover.

MR PRATT: Do you propose to ensure that the guidelines will be well and truly monitored by WorkCover in terms of who goes onto a site?

Ms Gallagher: Yes. We are looking at a system where you have to be trained and demonstrate that training.

MR PRATT: A union training officer or an education officer with an OH&S background.

Ms Gallagher: Yes, demonstrating that qualification. I imagine WorkCover would keep that database. Is that right? Is that what is being planned?

MS DUNDAS: The legislation hasn't been passed. There are amendments to it.

Ms Gallagher: This is the plan.

MR PRATT: But it is being proposed for this year and I just want to see whether WorkCover is equipped to take it on board.

Ms Shakespeare: Should the bill be passed—as has been pointed out, it is still subject to Assembly passage—the idea is that, after completing a visit to a workplace, the person exercising right of entry would then provide a report to the employer at the workplace and also to the OH&S commissioner.

MS MacDONALD: I had a look at the asset management plan in the ownership agreement and I was interested to note that there wasn't mention of the WorkCover van in the asset management plan. Why is that?

Mr Janssen: I am advised that it is not included because it is a leased vehicle. As a consequence, it is not included as a WorkCover asset. It's actually an asset of Totalcare, if anybody.

MS MacDONALD: I see it a lot in the car park here. I don't see it much out on the street. What does it actually do?

Ms Gallagher: We answered a question on notice about that recently, from memory. I can't remember who asked it. I don't think it was you, Ms MacDonald.

MS MacDONALD: No, it wasn't me.

MS DUNDAS: I think it was Mr Smyth.

Ms Gallagher: The WorkCover van does promotion work at shows and I've seen it out in some of the shopping centres. It is used for investigations and interviews, where required. I can't remember who asked the question—it might have been Mr Pratt or Mr Smyth—but we have provided some odometer readings to show that it is travelling around the ACT and doing the work required.

MS MacDONALD: Was that for the budget estimates or for a general question on notice?

Ms Gallagher: A general question.

MS MacDONALD: I will chase it up.

Ms Gallagher: I'm happy to provide you with a copy of the answer to that question.

MS DUNDAS: I have a question about what WorkCover has been doing in terms of workplace management. It is about the number of workplace-related fatalities. In 2001-02 it was three and in 2002-03 it was also three. Are you confident that by the end of 2003-04 we will actually meet the target of having zero workplace-related fatalities in the ACT?

Ms Gallagher: I think we always set the target at zero and then reflect the outcome.

MS DUNDAS: I am just asking whether anything has changed since the printing of these budget papers.

Ms Gallagher: No.

MS DUNDAS: Some questions have been raised in the past about how those figures are calculated in terms of whether they include a fatal accident involving a pizza delivery driver and those kinds of things. I know that in the past WorkCover has expressed concern that it doesn't always know when a workplace death occurs. I guess I'm asking about the accuracy of the zero figure here. Are you confident that it is a true reflection of the fact that there have been no workplace deaths this year?

Ms Gallagher: As far as I'm aware, yes.

MS DUNDAS: That's a very good outcome.

Ms Gallagher: Yes, the best outcome.

MR HARGREAVES: One of the issues for us is deaths in vehicles. For example, when is an injury or a death—an injury is more frequent than the other—just a traffic accident and when is it an industrial accident with respect to drivers? This is one of the big challenges of all time, from where I have been sitting in the last couple of years. It goes to the notion, I suppose, of where is the workplace. In some cases, it is pretty obvious, but with some of the subcontractors it is not so obvious. Can I have your perspective on that?

Ms Shakespeare: In the ACT, like a lot of the other Australian jurisdictions, our workers compensation legislation covers journey claims. So, where you have somebody who travels to work in a vehicle and has an accident, that is a compensable fatality. Under national guidelines for counting compensated fatalities and counting work-related fatalities that have been established by the National Occupational Health and Safety Commission, those fatalities are included. If somebody was driving to work, that would be counted as a workplace fatality, not just a road fatality.

MR HARGREAVES: In a sense it would be counted twice but not numerically. What about as they drive around town—for example, if they don't actually go to work but get in a truck at their house and off they go and get out of the truck at their house?

Ms Gallagher: They are not at work but they are using a work vehicle?

MR HARGREAVES: They don't actually go to a base, per se.

Ms Gallagher: That would be work, yes. You don't need to be in an office.

Ms Shakespeare: There are no requirements under the legislation, for instance, to report into a head office or something. If you're working, if you're employed and just travelling around in a vehicle, that's still at work.

MR HARGREAVES: That is from the perspective of travelling to and from work. The difficulty I have is with the definition nationally. It seems to me that the cabin of a truck is actually a workplace, not a vehicle getting a person to and from work, and I think there is a need for some work nationally to correct that definition. It concerns me that, when we talk about statistics on injuries to people in trucks or small commercial vehicles, we hear about the road accident statistics, but we don't actually hear about them in terms of whether they are industrial accidents. Perhaps that is something that the transport ministers nationally ought to be addressing. You might think about that after we win the next election, Minister.

THE CHAIR: Maybe that is something the minister can take up with her colleagues.

MS MacDONALD: The ownership agreement refers to EWSIS, which is obviously a new initiative. Is it the OH&S integrated database mentioned on page 158 of BP3? Is that what it is?

Mr Janssen: Yes, it is. It stands for employer workplace safety information system.

MS MacDONALD: You have that in the ownership agreement. It is just that there is no mention of EWSIS anywhere on page 158 of budget paper 3. How will it be established and what will be involved in setting it up?

Mr Janssen: We currently have a number of separate databases in WorkCover for the different bits of legislation that we administer and enforce. Some of that is stored electronically through access databases and so on and some of it is on paper files to do with particular workplace inspections. The aim here is to integrate into an electronic database all of those different bits of information stored in those different areas. The objective is to be able in one interrogation of the database in relation to a workplace, a company, an employer or a locality to get information in relation to compliance and visits that have taken place or other activities across the range of legislation that we administer, rather than separately going to each of the databases that we currently have.

The funding that we have received is to start that process, which will be over a two-year period, and the intention is to have in place a database that integrates our current separate collections and provides a tool which would underpin the things I was discussing before in relation to multiskilling of inspectors, where there is then an opportunity to have a snapshot across a number of bits of legislation in relation to compliance activity in a business and for inspectors to have access to that data irrespective of where they work in the organisation.

MS MacDONALD: Will somebody be developing a software program for it?

Mr Janssen: Yes. The funding is capital funding for bringing in the expertise to look at our needs and put in place a database in terms of that objective.

MS MacDONALD: Surely there are similar databases around the country that could be utilised.

Mr Janssen: One of the things that we will be wanting to look at is what is in use elsewhere. I'm keen to ensure that we have a functional system that is as least complex as possible but does deliver the particular outcome that I've described. We will be looking at how it's done elsewhere and we will be looking then at what we can do with the existing databases to integrate them into the integrated system that we are talking about.

MS MacDONALD: It just seems a lot of money, that's all—\$616,000 over two years.

Mr Janssen: Certainly the investigation that we did in terms of what would be involved in developing this sort of database and putting it in place would suggest that those are the sorts of funds we need to put into this sort of exercise if we really want to modernise our data collections and the way we manage information within WorkCover.

MRS DUNNE: Mr Janssen, with regard to the implementation of the database, the money there is simply for setting it up. What are the resource implications for the work force within WorkCover? Is the running of the database just going to be absorbed? Will there be savings from one part of the place in the way you handle data that will help you run the database once it is established, because there are no ongoing funds for the maintenance of it?

Mr Janssen: That will be the repository of information which is currently collected by inspectors and stored in different databases; so, to that extent, if we get the thing right and it is a functional and user-friendly system it should be resource neutral, I guess, in terms of inspectors using that database as the place they store information in relation to particular workplaces.

MS DUNDAS: Will you be following the procurement guidelines in terms of contract tendering for the development of the database?

Mr Janssen: That's the case, yes.

MS DUNDAS: So you will, of course, be considering open source software solutions.

Mr Janssen: Yes.

MR PRATT: Looking at note 3 on page 73, it appears that there will be a 62.5 per cent reduction in services in terms of what is targeted for 2004-05 for compensation compliance monitoring. That is a pretty significant reduction. Can you explain how that translates? What will you do with the savings from reducing those services? According to note 3, the removal of the hard copy newsletter is going to bring that activity down and you will be relying on the electronic newsletter. Is it a cheaper exercise because you are able to get it out electronically through industry magazines, or are you still maintaining the number of hits in terms of information out to clients?

Ms Gallagher: So you are talking about note 1.

MR PRATT: Sorry, you are right; note 1, contacts with clients.

MS MacDONALD: We haven't moved on to that output class yet.

MR PRATT: Yes, we have. We're still there. Output 1.1

MS MacDONALD: No, we're still doing general overview.

Ms Gallagher: We're doing general overview, I thought.

MR PRATT: As I understand it, we're on BP4, page 73.

Ms Gallagher: It is okay; we're happy to answer the question.

THE CHAIR: Yes, answer it anyway.

Mr Janssen: What has been the practice in the past is that WorkCover has had a hardcopy magazine, which was sent out quarterly. One of the earlier things I had a look at in the organisation is how we communicate with business. In my early period, when I met with a lot of the industry organisations, the unions and others and businesses, I asked the question: what did they think of the hardcopy newsletter? The general view was that it wasn't meeting the needs for timely information that they would desire to get from WorkCover.

We then also had a look at some literature and research which has been undertaken on how and where businesses obtain information in relation to occupational health and safety, workers compensation and so on. This was research commissioned by the National Occupational Health and Safety Commission. The conclusion was the Internet is one of the largest primary sources of information for businesses looking to find out about OH&S, workers comp and so on.

As a consequence, we've moved forward with a monthly emailed newsletter which has links to our website. That currently has a subscriber base of around 3,000 businesses. It is also provided to all of the industry organisations and peak councils of the unions and so on in the ACT. We have an understanding with them that they are free to on-publish any of the material in that newsletter. The difference in the targets is that, as a consequence of the way things are audited, it is not possible to get an accurate figure on how many people see the emailed newsletter at any one time, because of the on-forwarding.

For example, we know that we on-forward it, within the ACT public sector, to one person who then shoots it right around the OH&S network in the public sector. We send it to the Master Builders Association, the Chamber of Commerce and Industry and so on. As a consequence, they're not auditable figures. We think our new strategy will provide much more timely information on a monthly basis to a lot more businesses than a quarterly magazine did. Certainly the feedback we've had to date since we've started putting out our emailed newsletter has been positive about it, that it is providing useful

and up-to-date information.

MR PRATT: What about organisations that may not be in the industry networks? How do you keep in contact with them about what your changes are and the evolution to the legislation?

Mr Janssen: A number of things. I guess some of that is being seen in terms of the seminars we ran for industrial manslaughter. We also encourage the industry organisations, in their hard copy, to circulate material; and we will also be taking advantage of from time to time advertising in the community newspapers and so on as to WorkCover and where you can access information. We're increasing the functionality of our website as well to enable people to access information online from their desktop wherever they are—at home, business or whatever—in a much more effective way.

MR PRATT: Thanks.

MS DUNDAS: To follow up: one of the ways you're changing these measures is that the small business OH&S toolkit will now be counted under contact with clients. How is it counted anyway? Is it the number of small businesses who have received a small business OH&S toolkit?

Mr Janssen: In the past it is been counted on the basis of how many businesses go through a process which results in them getting a certificate indicating they've gone right through, they've been assessed and have completed all the steps in the toolkit. What we found was that it was a very resource intensive process for WorkCover and was, to some extent, putting WorkCover in the shoes of the business in having to take responsibility for ensuring that that business went through the program. The resources involved were quite significant. Many, many days of inspectors' time would go into one small business, to walk them through the program.

We've changed the mode of delivery of that to get to a much wider group of businesses. We're offering a one-hour introductory session for businesses that take up the offer of the 10 steps program, where an inspector will go through the various steps and effectively provide a one-hour, one-on-one consultation. As we get more people onto the program we will then be looking at offering, on an as-needs basis, an opportunity for a workshop—for businesses that are involved in it to come together with us. We would then provide to 10 or 20 businesses in the program information, advice, a show-and-tell or whatever it might be.

Subsequently, at the end of it, to those businesses which feel that they have gone through it and conducted the various steps in the program, we would be offering the opportunity of an inspector to go out and have a look at it and see the extent to which they have gone through it. That significantly reduces the amount of resources going in from us and expands quite significantly the number of businesses that would have access to the program. We're making all the information available on the website.

MS DUNDAS: It appears that there have been 130 businesses over the last two years that have accessed this—this is from last year's budget and this year's budget. So, in the old way, 130 businesses have accessed it. How many businesses do you expect to access it over the next financial year, in the new mode?

Mr Janssen: The 130, I think, doesn't necessarily mean they have fully completed the program.

MS DUNDAS: It is less than that?

Mr Janssen: Again, I don't have the figures in front of me.

THE CHAIR: Can you take it on notice?

Mr Janssen: I can take that particular question.

MS DUNDAS: Yes—how many businesses have completed this whole business OH&S toolkit? My follow-up question is: how many do you expect to take up the program under the new mode?

Mr Janssen: I could probably answer that simply by saying that there will be a number who respond to our email invitations to participate—and that will be driven very much by the businesses themselves. It is available online, so it is difficult. I guess we could look at projects in that area. We were trying to make it as accessible as possible, so that people could go on the website and download it.

MS DUNDAS: I guess I was just wondering how contacts with clients were going to be counted. If most of it is going to be accessed through the web page, do web hits count as contact with clients?

Mr Janssen: No, they're not. It will be the direct interface with them.

MR SMYTH: I just wanted to pick up on the question Ms MacDonald asked—and I apologise for not being here—about the van. Is the van home-garaged?

Mr Janssen: Yes, it is.

MR SMYTH: I assume it is parked there because it doesn't fit into any of the basement car parks because it is so tall.

Ms Gallagher: That is right.

MR SMYTH: Do we happen to know what suburb it is garaged in?

Ms Gallagher: I don't know what suburb it is garaged in.

Mr Janssen: What we've tried to do is ensure that the on-call OH&S inspector is the one that home-garages it. It could be home-garaged in any of the suburbs or anywhere—whoever is on that roster. It would rotate among the various inspectors as they work out their program.

MR SMYTH: It would appear that, on an average working day, just counting Monday to Friday numbers—and Mr Hargreaves worked out the figure—it does about 36 kilometres. I live in Chisholm. Driving from there to the Assembly and home is about

42 kilometres for me. Is the van being used for much? Does it do much work, or does somebody drive it in here and drive it home? Based on the numbers provided, over the 25 months it has been in operation it has done about 21,000 kilometres. It doesn't seem to be moving around the city very much at all.

Mr Janssen: I think that is a fair comment. That van was in place, certainly when I arrived. One of the things we're currently doing is reviewing whether or not it is suitable for the sorts of things we want to use it for. It is a large vehicle and we're looking at whether or not we can serve the same outcome with a smaller vehicle—a van that will provide the mobile operation centre where there is a major investigation and provide for onsite interviews of people being questioned about particular incidents. We are looking at replacing that van with a more useable vehicle that will become, I think, much more versatile for our needs.

MR SMYTH: Is it possible, without putting officers to too much effort, to work out how much work it has done, as opposed to how much travelling it does just going home? It doesn't seem to be a very effective use of that vehicle—and the expenditure for it over the last two years.

Mr Janssen: That is exactly what we're looking at now. Is this the most useful type of vehicle? My conclusion is that it is not, and my conclusion is that we should be replacing it. We are now looking at what sort of vehicle would meet the needs that that van had been used for, particularly in terms of the educational activities, but also the inspectors using it as a place for only taking interviews onsite. I guess we'll be going to a smaller vehicle. It will still be a van but something that can be parked in our car park and driven by all staff.

MR SMYTH: On a different issue, if I may: I also asked a question about the education unit. Minister, you advised that the unit has ceased to exist since January this year. Why was it decided to discontinue the education unit, given that education is such an important part of what WorkCover does? Where have the staff gone? Who are now conducting the education functions of WorkCover?

Ms Gallagher: With the arrival of the new commissioner, the commissioner has instigated a thorough review of all aspects of WorkCover's functions and how it operates internally. There was a decision taken by the commissioner that some restructuring of functions was required.

Mr Janssen: One of the early things I wanted to do was look at how we deliver information and education. Again, in a small organisation, I felt that having a very small unit dedicated specifically to education does two things: it restricts very much your capability to respond where there is a major education campaign to be undertaken, and it compartmentalises that function in an area. Inspectors, for example, will see, "Education is done there; I do other things."

The restructure has made education a responsibility for everybody in the organisation. Each of the inspectorate areas now—workers compensation, dangerous substances and OH&S—are tasked with the responsibility of developing and delivering educational activities to do with their particular bits of legislation and their particular issues. As a consequence, we've got a lot more people being involved in the delivery of educational

activities.

MR SMYTH: More involved, but, surely, at less time each. Have you had a net gain in the number of hours of education delivered by the new structure?

Mr Janssen: I think the answer is yes. In the six months to the end of the last calendar year, there were 900-odd people that attended education activities run by WorkCover. In just the first three months of this year, we have had at least another 900; so we've virtually doubled the number of people attending sessions.

Sessions are not the only mode of delivery. The email newsletter is another one. We're trying to develop partnerships with industry organisations so that they host events that we speak at, rather than us organising them. Again, it is maximising the networks that are in place already and getting the maximum educational outcome at the most effective cost. Where we have made the educational function something that is part and parcel of every inspector's activities, I think has been a positive move in the organisation as far as reach of our educational activities is concerned.

MR SMYTH: How many staff were in the education unit?

Mr Janssen: There was a manager; there were three people in the communication and events side of it; and then one other. The one other was involved in delivering things like the 10 steps to safety program. Were they off for a period on sick leave, that program would stop. We've now got it spread across more people. The communications group, which looks after the website and so on, is still there; it is working in another area of WorkCover under another manager.

MR PRATT: The planning and coordination functions of educational information, those responsibilities have now been delegated down to the inspectorate?

Mr Janssen: No. If we are to do an event—put on a workshop or a seminar—that is done by virtually the same people who were doing it before, working now in a different part of the organisation. When it comes to delivery, we're encouraging inspectors to get up to speed in being able to go to small industry organisations at meetings and deliver a presentation, and we're trying to get that skills set spread right across the organisation so that more people can get involved.

MR PRATT: What you're saying is that the preparation for delivery is standardised by the people now working in a different of WorkCover to ensure that at least all of the inspectors are carrying the same message to the same standard?

Mr Janssen: Certainly those who are involved in this. Not all inspectors are doing these presentations, but yes. We've got a number of presentations that are delivered, covering various issues around occupational health and safety, workers compensation and so on, and that is the standard. We are trying to ensure that a clear message is presented.

MR PRATT: Thanks.

MRS DUNNE: I just wanted to go back to the changes to appropriation. I missed a little bit just before morning tea. If someone has asked this, jump in and tell me. In the third

appropriation bill there is a quarter of a million dollars this financial year, for the investigation of the Fairbairn hangar collapse. Why do we need a special appropriation, a particular appropriation, to do something that should be core business for WorkCover?

Ms Gallagher: We did explain this during estimates on the third appropriation, but the hangar collapse was the biggest workplace accident investigation the territory has seen for some time. The investigations budget at WorkCover was about \$80,000, from memory. It didn't cover anywhere near the cost of investigating the hangar collapse. We did provide the committee at the time with a breakdown of what those costs were. They were largely about interviewing witnesses, bringing on specialised expertise and advice around engineers' reports. Do you want to add something?

Mr Janssen: Yes.

Ms Gallagher: Those were the issues, and there wasn't capacity in the budget to meet the cost of the investigation.

MRS DUNNE: Before you answer, Mr Janssen: is this an extraordinary, occasional thing or does it indicate that the general budget for investigations is just not enough?

Ms Gallagher: That was my feeling. It is an extraordinary occurrence. We don't plan on having a workplace accident like that every year. But, from my looking at it and in discussions with the commissioner at the time, I did think that \$80,000 for investigations appeared to be a bit of a small target.

Mr Janssen: I guess the hangar is an extraordinary event and it is not something that we would be expecting. I certainly hope that we wouldn't be seeing that size of event again. There were 33 different companies involved on that site, a very complex contracting arrangement, from a principal contractor to the various subcontractors and 200-odd people on the site. There were quite complex engineering issues associated with the method of construction. As a consequence—unlike other investigations that we would undertake which generally would involve one employer in a particular accident, an injury to an individual—having so many businesses, looking at the chain of contracting, looking at the engineering issues, it required us to get some expertise externally, certainly on the engineering front.

The expenditure items were around engineering and testing; some legal services, because of the complexity of the briefs of evidence that we were putting together in relation to the case we wanted some expert advice in that area; transcript and translation services for interviews that had taken place; storage costs for the storage of evidence—and that includes bits of structure from the hangar itself; we had to have inspectors travel interstate to interview people involved with the companies that were involved in the construction, which is not usual, given that the smaller businesses tend to be headquartered here; and so on. There were characteristics about this investigation that we don't expect to see generally in the investigations that we undertake.

MRS DUNNE: The \$80,000 that is generally allocated in the budget for investigations would be barely two inspectors' salaries. Are you sufficiently resourced for the everyday sorts of inspections that you have to do?

Mr Janssen: The \$80,00 in the last financial year for investigations doesn't cover the salaries. It is about those other things—the sorts of things that I've mentioned—if we need to get expert advice on a structural issue and so on. The staff are covered by budget allocations elsewhere.

What we have done, though, is develop—and this has come out of the hangar thing to some extent—an investigations unit within WorkCover, and we put that in place around December last year. The aim there has been to capture, within the structure of the organisation, the experience that we've got out of the hangar exercise, in terms of developing how to put briefs together, the interview process and so on. The unit is a small one, with a team leader and an admin support. The inspectors, as they are involved in investigations, rotate into that unit, which really is the repository for the procedures and the arrangements as to how we undertake investigations. My expectation is that \$80,000 will be adequate in the coming financial year, short of another catastrophic event like the hangar.

MRS DUNNE: Thank you.

MR SMYTH: I just wondered whether the commissioner had also taken over the responsibility for the workers comp supplementary fund?

Mr Janssen: Yes. I'm the fund manager.

THE CHAIR: We'll have questions on that. I'd like to finish this area by about 12 noon so we can go on to that fund for the last half hour.

MR SMYTH: The question is more on his role as the commissioner. It relates back to the output class 1.4, work safety and labour policy. Does the work safety and labour policy group play a role in the management of the workers compensation supplementary fund? Specifically, does it provide any advice either to the fund, yourself or to the minister on the issues of the fund?

Mr Janssen: In terms of the management of the fund, that group doesn't provide any direct input simply because there are operational issues around the management of the fund. I guess in relation to policy and advice of the minister, that might be something that would need to be answered by others.

Ms Gallagher: Certainly I've had advice from that area around the supplementation fund.

MR SMYTH: Concerning what, minister?

Ms Gallagher: At the time it was on a specific matter about a calling on the fund. I just wanted to check that out and get some advice about that.

MR SMYTH: Has the policy group ever advised you on, say, the use of the \$634,000 that was spent on legal fees for the 2002-03 year?

MS MacDONALD: Mr Smyth, can we deal with this—because it is after the output class?

MR SMYTH: I appreciate that. This is about policy, the minister and WorkCover, rather than the fund itself. There are different functions.

Ms Gallagher: I have had some discussions with them. As to how that originated, I can get back to you, Mr Smyth. I just want to check some of the briefs around it and the reason for those briefs.

MR SMYTH: Can you tell us what the advice was?

Ms Gallagher: In relation to?

MR SMYTH: In relation to the sub-fund spending \$634,000 on legal fees.

Ms Gallagher: I can't recall. I'm a bit nervous about sitting here and saying something that I wasn't told.

MR SMYTH: Can you take it on notice and provide copies of the briefs, or the advice?

Ms Gallagher: Yes.

MS MacDONALD: We dealt with the issue of WorkCover workplace management a bit before, with the inspections. I note that one of the highlights is, "Enhancing the implementation, delivery and refinement of ongoing initiatives"—and it goes on. At one point you say—I think it is in the ownership agreement—that we're going to increase the number of inspections. But then the target for 2004-05 is reduced by 700 inspections.

Ms Gallagher: You can see that there is a new measure there, which is the 700. It is reporting against two different measures.

MS DUNDAS: That remains consistent, then. You know, \$5,000 equals \$4,300 plus \$700. So there is no increase reflected in the budget papers.

Ms Gallagher: No, there isn't.

Mr Janssen: These figures are targets. There is a process underway within WorkCover looking at, in light of the budget outcomes and the resources we're going to get, what we can achieve in the period. My objective would be to surpass the \$5,000, in total, target. One of the changes and shifts in activity within WorkCover has been the development of the investigations unit and a significant increase in the number of prosecution briefs we prepare and send over to the Director of Public Prosecutions.

To give you an indication of that, in 2002-03 there were six briefs of evidence sent to the Director of Public Prosecutions for that year. In 2003-04—that is this current year—we're at 16 at the moment. That is a reflection of some of our activity. Some of our energy is going into the preparation of these briefs and getting some clear messages out there in relation to the outcomes of non-compliance with the legislation.

MS DUNDAS: If you have to take this on notice that is fine. Can you provide us with a breakdown of which of the six for 2002-03 and the 16 so far for 2003-04 briefs

progressed to prosecutions and whether or not the prosecutions were successful?

Mr Janssen: I've got some figures that I can give you. In 2002-03 three prosecutions were concluded, but I don't know the outcome. In relation to 2003-04 so far four prosecutions have been completed. You'd appreciate the lead time between a brief going to the prosecutor, the court process and so on. It could be some years before there is an outcome.

MS DUNDAS: I understand that. Perhaps we could just have a breakdown of the current status of the cases you've sent off in the last two years: whether or not they have been completed, whether they were successful or unsuccessful, whether or not the cases are still ongoing and whether or not the cases were picked up.

MS MacDONALD: How many inspectors do you have working on this? You may have answered that before.

Ms Gallagher: Yes. We've answered that, I think.

MS MacDONALD: Sorry. I've forgotten how many you said.

Mr Janssen: I said that there were 43 staff across the three inspectorates, not all of whom are inspectors.

MS MacDONALD: Yes. I'm talking about the workers compensation compliance monitoring.

Mr Janssen: I think I have taken it on notice. I'll get back to you in relation to a breakdown of that.

MS MacDONALD: I have another question in relation to the output class 1.1. Under "quality/effectiveness" there has been a change from one measure in reduction in the number of non-compliant businesses under the Workers Compensation Act 195." I think that is supposed to be 1950-something.

Ms Gallagher: It should be 1951.

MS MacDONALD: Thank you. You've changed from one measure to an increase in workers compensation compliance. It has gone from a measure of reduction by an average of 10 per cent per year to something that says, "The percentage increase in the wages pool is greater than the percentage growth in wages." Can you explain how that is measured and how this is an improvement on the previous measure?

Mr Janssen: Yes. The previous measure suffered from the fatal flaw of there being no baseline against which to measure performance. The number of non-compliant businesses is unknown. If we knew that, we would be doing something about it. It is very difficult to measure change in the number of non-compliant businesses and people who aren't observing the workers compensation legislation.

We feel that the new measure is probably a better way of assessing performance across a range of compliance activities we would undertake. Those essentially are looking at

what is the total pool of wages the workers compensation scheme currently covers—and that is reported through the insurers and so on; they provide data on wages covered by the various policies they write for businesses—and what is the pool of wages in the community. We are looking at changes in those two pools.

If, for example, wages in the community go up through either one of two factors—the total pool will be affected by increases in salaries for people—that might go up a certain percentage and work force growth. They're the two components that we have regard for: what does that mean for the total pool of wages earned in the community; and is the growth of the pool of wages covered by the workers compensation scheme greater than that?

If it is greater than that, we're picking up not only the growth in the community. In other words, we're making sure that employers have workers compensation policies covering their employees and that they're properly reporting the amount of wages they are seeking policy coverage for. The measure really is here that our compliance is improving if, in fact, the growth of wages reported covered by the fund exceeds the rate of growth of wages in the community.

MS MacDONALD: How was that done previously?

Mr Janssen: This is the difficulty. There was no baseline against which to measure. When I looked at these performance measures I thought, "We need something a baseline against which we can assess our performance." That is why the measure has changed. As to how it was done previously, I don't think it has been successfully done previously.

MS MacDONALD: I still don't understand how it was done previously, and why it was done that way previously if it didn't work?

Ms Gallagher: That would have been before the commissioner's time. I think he has answered the question by explaining that they don't think it is a satisfactory way of measuring, because they can't tell how many non-compliant businesses there are—or if they are aware that there is non-compliant businesses, they would be doing something about it. If you'd like more information on that, I'm happy to provide it to you.

MS MacDONALD: I might seek a briefing on it.

THE CHAIR: Let us now turn to BP4, page 383, workers compensation supplementation fund.

MS DUNDAS: Could you clarify something for me? The only revenue the fund receives is from the interest it is generating off the fund?

Ms Gallagher: Yes. There is no levy.

MS DUNDAS: Can you explain in more detail the dot point on page 387? Why was the interest and revenue received roughly half of what was budgeted for?

Mr York: Ian York, Chief Finance Officer, ACT WorkCover. My understanding is that that was the trend across government in terms of the rate that investments were

receiving. Based on the models we had when that budget was put together, we had an anticipation of an interest return to the fund of a lot greater than it turned out to be.

MS DUNDAS: Is the budget for 2004-05 a conservative estimate of the interest that will be received, or are you again expecting that there will be a high rate of return?

Mr York: Once again, based on our investigations with the people who are investing, the public trustee, it is our view that that is the appropriate level of interest we will receive in 2004-05.

MS DUNDAS: And the reason it decreases in 2006-07 and 2007-08 isn't because the amount of holding you have decreases; again it is about the economic cycle.

Mr York: No, it's because our level of investments is decreasing as we pay out more claims. So, as the years go on, we are paying out more claims and the level of investments is reducing; therefore, our interest on that level of investments also reduces.

MS DUNDAS: Isn't that an unsustainable position in which to put a workers compensation fund?

Mr York: But the level of liability is reducing at the same time.

MS DUNDAS: You could end up at a time when you do not have any funds left, so you will not be getting any interest and you will not be able to pay out any workers compensation. Is that the aim?

Mr York: The intention is that as the years roll on the level of HIH liability will reduce to a zero position.

MR SMYTH: How many HIH claims have not been finalised?

Mr Ulrich: Phil Ulrich, manager of workers compensation. Currently, we have 75 open HIH claims, of which 13 are going through settlement processes. So, if you deduct that number, we are really looking at 62 open claims.

MR SMYTH: What is the exposure to the fund?

Mr Ulrich: The exposure to the fund of those claims is approximately \$6.7 million. However, we are currently getting an actuarial analysis done, as we do each year, in relation to the projected liability of the fund.

MR SMYTH: Is the \$6.7 million over the 75 claims?

Mr Ulrich: It is on the open claims, yes, that's correct.

MS DUNDAS: How many open claims are there?

Mr Ulrich: There are 75 open claims at the moment. Of those claims, 12 are going through closure processes. For example, last week we had workers compensation hearings in the territory where we resolved a number of those claims. It will take a month

or some months to bring those claims to final closure, but they have been resolved.

MS DUNDAS: How many claims are currently still open in relation to the NEM insurance collapse of 1990.

Mr York: Currently, we have two.

MS DUNDAS: I am referring to page 383.

MS MacDONALD: There have been other collapses, apart from NEM. Do you have any outstanding claims for them?

Mr Ulrich: We have had previous collapses. They were by Palmdale and Bishopsgate. I can't recall what years they were in, but they were some time ago.

Mr York: In the 1980s.

MS MacDONALD: Are any claims outstanding from them?

Mr York: As far as I am aware, one has just been advised to the fund.

Mr Ulrich: There is only that one claim.

MS MacDONALD: From which one, do you know?

Mr Ulrich: From Palmdale.

MRS DUNNE: In addition to the 70 HIH claims, there are three others.

Mr Ulrich: Correct. There are 75 at this point in time.

MS DUNDAS: There are actually 78 claims on the fund altogether.

Mr Ulrich: Correct.

MR SMYTH: And the exposure for the 78 is \$6.7 million.

Mr Ulrich: That is based on the 75.

MR SMYTH: And on the 78.

Mr Ulrich: I will have to take that one on notice.

Mr York: Can I just clarify, if I may, that the \$6.7 million is a very recent figure. The figures that we have in our financial statements relate to what the last actuarial report said, so there is a higher level of liability sitting on the financial statements because of the most recent actuarial assessment. When the new one comes out, that information will be provided in our annual report. The figure that you see in the financial statements will be—

MRS DUNNE: So the \$6.4 million in the current liabilities on page 385 has been superseded since—

Mr York: No, the actual liabilities of the fund at the moment are a combination of the \$6.4 million and these, which are current liabilities. If you look at two lines below that, there are the non-current liabilities, \$15.8 million. As it stands at the moment, it is whatever the sum of those two are, \$22-odd million. That will change with the new actuarial assessment.

MRS DUNNE: Sorry, does the \$6.7 million that you are talking about, the HIH money, fit into those two lines? Is it current or non-current?

Mr Ulrich: It's current as of today. I looked at the figure in preparation for coming over this morning in relation to the estimates on the file.

MRS DUNNE: I'm glad to see people do their homework before they come.

THE CHAIR: Well done, Mr Ulrich.

Mr York: It's gets a little bit complex, because the \$6.7 million that Mr Ulrich is talking about is based on a central estimate, which is what we think the cases will actually cost at this point in time.

MRS DUNNE: So that it is the average of the worst case and best-case scenarios?

Mr Ulrich: No. If you look at the actual real liability, there is a range of items. If you asked what is the current estimate on all those claims, it is \$6.7 million. When actuarial analyses are done, they actually look at past claims experience and make projections into the future in relation to claims yet to come onto the fund, so it takes into account that component. I am not an actuary, but in the analysis of those they allow for a certain risk margin, so we normally get two figures, as presented there, of a central estimate, compared with a 90 per cent risk margin estimate. The figures you see in the financial statements are based on what we have been doing since HIH collapsed and, consistent across all jurisdictions, is that conservative risk estimate.

MR SMYTH: Is NRMA still the supervising insurer for the HIH collapse?

Mr Ulrich: That's correct.

MR SMYTH: Is it also still the nominal insurer for the ACT?

Mr Ulrich: No, that's not correct. The OH&S commissioner currently holds the role of nominal insurer in the ACT.

MR SMYTH: In 2002-03, \$634,000 was spent on legal advice for the supplementation fund. How much has been spent in 2003-04?

Mr York: The estimate that I had leading into the middle of last week was just under \$950,000.

MRS DUNNE: Legal advice! What is it for?

THE CHAIR: How is that made up? It's a lot of advice.

Mr Ulrich: It's in relation to claims expenses of managing that litigation. We are dealing with separate court appearances for each case and the day-to-day running off of those particular cases.

MR SMYTH: Is it not the role of the supervising insurer to manage those cases?

Mr Ulrich: The role of the supervising insurer is to manage the day-to-day claims management in relation to those cases. Where legal proceedings are commenced, you need to engage legal providers.

MR SMYTH: The firms that provide these services aren't on contract, are they?

Mr Ulrich: The current legal panel contract is, I think, the subject of a current question on notice that we are responding to. The panel providers go from 1999 to 2002 and there was an option in that particular contract for a 24-month extension. That 24-month period is due to expire and we are looking at putting new arrangements in place to engage service providers in the future.

MS MacDONALD: That is a long time for them to be extended. Was any consideration given to reopening the panel?

Mr Janssen: That's what we are doing now and the current arrangements with the panel conclude in the next month or two and we will be going out to a tender process in the normal way. That will take a little while, so we will probably need to have an interim arrangement in place, at least for a month or two, while that unfolds; but the intention is to go out to tender and go through the proper procurement process to appoint a new legal panel for the range of WorkCover activities, including the nominal insurer.

MR SMYTH: These contracts and payments aren't on the register, as required by the Government Procurement Act. Is there any reason why?

Mr Janssen: I think you will find that the contracts are on the register. Certainly since I've come into WorkCover, I've asked that that be undertaken and I understand that it is the case that they have been put on the register. I expect you'll find them, if you look.

MR SMYTH: Minister, you might be surprised to know that three firms have picked up that \$634,000. One firm picked up \$464,000, the second firm picked up \$62,000 and the third firm picked up \$107,000 in the 2002-03 financial year. But there is no contract with these people; it is just taken off the panel, isn't it? There isn't a firm contract for the provision of services; you go to them as you need them.

Mr Janssen: We talked about the contracts a moment ago, that contracts were in place and have been extended for the requisite period, as provided for in the contract, and none of those periods has yet expired. So I think the answer is that there are contracts in place between the territory and those providers for legal services to be provided to WorkCover.

MR SMYTH: So I'll now find them on the register of notifiable contracts.

Mr Janssen: I understand that's the case. Certainly, I've asked for that to happen, that they go onto the register.

MR SMYTH: You didn't go out to tender for these contracts; you simply used the nominal insurer panel. Was there a reason for that?

Mr Janssen: That was, again, before my time, but I'm advised and I understand from my own experience that the nominal insurer activity, which is also a claims management function, is not that dissimilar from the supplementation fund, and to that extent the previous fund manager simply utilised the contracts for the nominal insurer, which also are contracts covering work generally for WorkCover, for the supplementation fund. As the territory is, in fact, the party that is contracted to that contract, we understand that that is not an inappropriate arrangement. Again, it was something that was in place before I came on the scene and those contracts, because of the similarity of the work between the nominal insurer and the supplementation fund, were the basis of the arrangements with the legal providers currently providing service to the supplementation fund.

MR SMYTH: I might come back to that. Why did we go out to a private firm? Why wasn't it done by the GSO?

Mr Janssen: Again, it was all before my time, but the GSO, in fact, does an enormous amount of work for WorkCover. Having come from outside the public sector, I'm amazed at the resources available to organisations like WorkCover from an organisation like the GSO. The GSO is used by the fund for the broader governance issues, for policy issues and for interpreting the legislation.

I understand that the practice of using the GSO for that and using other firms for the hands-on claims management has been in place for some time and, certainly from my looking at it, it would seem to be a not inappropriate process in that you would have somebody who would advise independently of being involved in the day-to-day claims management and the legal activity associated with that around potentially your relationship with those legal providers who do the claims management activity or the levels.

It is not a bad thing to have somebody looking after the governance and advising on how the fund should be managed being separate from the providers of a service to the fund in terms of legal activities associated with claims management, and that has been the practice. There is a contract with the GSO and that stands and I understand that there is no requirement for them to have a contract because of the arrangements within government between agencies and the GSO. But that is how, historically, the GSO has been used in relation to fund activities as far as legal matters go.

MR SMYTH: Which is why, I guess, Minister, you said to PAC on 14 January this year, "The GSO requested that ACT WorkCover use other legal firms on the panel because of the level of expertise required in this field of litigation and because of the GSO's resourcing constraints." That contradicts what you said to the committee on 16 April this year, when you said, "The GSO was considered to have specialist expertise to offer the

fund manager and ACT WorkCover generally in relation to the administration and interpretation of legislation. Neither resource constraints nor any lack of expertise on the part of the GSO were a factor in this decision.” Can you clarify that?

Ms Gallagher: Was that a follow-up to the question? I wrote back to the committee.

MR SMYTH: Yes, Ms MacDonald asked further questions.

Ms Gallagher: My second answer was a correction to the first answer, from memory.

MR SMYTH: So the first answer was wrong.

Ms Gallagher: In relation to that part that I clarified around lack of funds and the resources.

MR SMYTH: Okay. If the GSO actually does have the qualifications and does not suffer from resource constraints, why is the government spending \$634,000 from the supplementary fund with external firms?

Ms Gallagher: The commissioner has just explained that in relation to the way that the GSO is used to advise WorkCover as opposed to the individual expertise that is brought in by other funds. I think the commissioner, certainly in terms of going out to tender, is heading in the right direction. I think the changes that the commissioner is looking to implement are good ones.

MR SMYTH: Okay. You have been the minister responsible for some time now. Are you happy with the way that it has been operating?

Ms Gallagher: Based on the advice given to me, yes, I am; but I think there need to be some improvements done in terms of, I guess, scrutiny of the arrangements and in terms of the opening out to tender of that contract. I think that is the right way to go. As I said, these arrangements do go back to 1999.

MS MacDONALD: Mr Smyth has already referred to it and it was in the original answer to the question on notice about how much each of the three non-GSO firms on the panel actually received in 2002-03, and we have heard recently how much it has been since then. Can we have a breakdown of the amounts spent with each of those firms on the panel in the last financial year? You just mentioned a very large sum. I would be interested to have that broken down. Also, \$464,644 was spent with one firm and, as has been stated, the next highest amount spent with another firm was \$107,244, and then \$62,541. Why did one firm—I’m not sure whether I should name it, so I won’t—get almost 3½ times the amount spent with them as opposed to the next firm down?

Mr Janssen: The information I have is that their claims costs are lower, their average cost per claim settled is lower than that of the other firms, so I guess it’s more a cost-effective approach.

MS MacDONALD: How do we know that?

Mr Janssen: By looking at the number of claims they manage against the cost of legal

services for that provider.

MS MacDONALD: Surely they have an economy of scale by having that amount of money spent on them.

Mr Janssen: That's one of the other benefits that accrue from using a firm with particular expertise who can manage these claims on the legal side of them and that's one of the benefits of that outcome, I guess—economy of scale is what we are after.

MR SMYTH: Or is the firm just more aggressive, the sort of tooth-and-nail, fight to the death, don't pay an injured worker a cent attitude. Are we funding the pit bull of the legal fraternity to limit our payouts or are we actually working to assist workers who have been further injured through the collapse of HIH?

Mr Ulrich: I think it's actually quite the opposite, from my experience. There is no correlation between legal expenses and the amount that is paid out to injured claimants. There is not a correlation there between the two. The average claim cost is perhaps your best idea in relation to resolution. Obviously, a firm that was taking an aggressive approach, running up legal bills, would have a much higher average cost per claim than someone who was trying to proactively resolve claims.

MR SMYTH: Can we have details of the amounts that were paid out against each of these claims, as a combined sum?

MS MacDONALD: I just asked for that. Sorry, no, I didn't ask for that.

MR SMYTH: Against the three firms, so that we can test that theory.

Mr Ulrich: Yes, we can. It will take quite a bit of time to provide that data. It would mean going back to each of the 700-odd files and pulling out that information.

Mr York: We would probably have to put somebody off line for some period of time to go through each of the files.

MR SMYTH: All right, let me think about that. I will put it on notice.

Mr Ulrich: We can do a similar exercise to what we did earlier this year in relation to breaking up the amounts and the dates on which expenses were incurred per claim, legal expenses, similar to what we have done previously. It would probably take a week or so to collate that.

MS MacDONALD: Mr Smyth asked about the NRMA being the supervising insurer. Don't they employ legal people? If so, why did we spend money on settling these claims if they were going to pay for it?

Mr Ulrich: The NRMA is managing the claims on behalf of the fund manager.

MS MacDONALD: And they don't seek legal advice.

Mr Ulrich: They are party to the legal advice on each of those individual claims as they

need to know that information for the day-to-day management.

MRS DUNNE: Sorry, it's not clear to me why the territory is incurring these costs rather than the insurance manager.

Mr Ulrich: The territory incurs the costs because the territory is picking up the bill, so to speak, in relation to all HIH claims-related expenses, and that is a claims-related expense.

MR SMYTH: I go back to the piggybacking of the workers compensation supplementation on the nominal insurer? The nominal insurer contract and the panel commenced before the Government Procurement Act of 2001. The 2001 act is quite clear about government money and how, for instance, contracts are to be procured. The 2001 act is a pretty clear benchmark, a pretty clear watermark, for procurement. I would suggest to you, Minister, that it actually does not allow you to piggyback another contract that is actually governed through a different act on that procurement panel. Are you satisfied that what has been done is in keeping with the law, with the Financial Management Act and the Government Procurement Act?

Ms Gallagher: As far as I am aware, yes, that is the case. There have been some concerns which the commissioner has brought to my attention since coming into the job, information around some of the arrangements in place and wanting to address some of the areas in relation to contracts and the scrutiny of them, which we have had some discussions about, but this wasn't a decision of the minister at the time. I don't know who was the minister at the time; it could have been you in 2001. So, as far as I'm aware, yes. Is there anything more to add to that?

Mr Janssen: One thing I have asked to happen is that those contracts go onto that database site, whether there is a legal requirement or not, and closely looking at the whole way the fund is managed. We are going out to tender in relation to the legal firms. We are now much more involved in getting information about fund expenditure beyond what comes in annual reports, getting internal management information and so on, to improve the level of governance of the fund.

MR SMYTH: Sure. The role of the nominal insurer is very different from the role of the supervising insurer and the workers compensation supplementation fund, isn't it?

Mr Ulrich: Yes, it is.

MR SMYTH: They're quite different, aren't they? Can you explain the difference?

Mr Ulrich: The type of work is very similar, but the roles are very different. The nominal insurer is the safety net mechanism where employers fail to have a policy in place and there is an injured worker, whereas very simply the fund is where an insurer collapses and there are a number of injured workers that, via the collapse of a particular insurer, are not covered. The job of the fund is to pay out on claims, whereas the role of the nominal insurer is to try to get employers to meet their obligations. It's only where employers default in meeting their obligations that the nominal insurer is required to intervene.

MS MacDONALD: How many cases would the nominal insurer deal with each year?

Mr Ulrich: It varies from year to year. I can give you some up-to-date stats as of today, if you like. At the moment, we have 62 nominal insurer claims. Of those, 28 are waiting on a process of a levy to be collected or a refund to be given to insurers for closure. That leaves 34. Of those 34 open claims, the role of the nominal insurer would vary. Some of those may be claims where proceedings have been commenced which do not require the nominal insurer to intervene, yet they need to be prepared to if the employer defaults, whereas there are some cases in which employers are not represented and don't defend where they intervene. If you said, of those 34, how many were ones that had an active involvement from the nominal insurer, I'd say about six.

MR SMYTH: How much did the nominal insurer spend on legal fees in 2002-03 and 2003-04?

Mr Ulrich: I think that's a question subject to notice. I can get that for you.

MRS DUNNE: Do the 62 claims represent 62 individuals or broad classes of people?

Mr Ulrich: Yes, 62 individuals.

Mr Janssen: We will have to take that one on notice.

MR SMYTH: Minister, Mr Ulrich has said that the role of the nominal insurer is very different from that of the workers compensation supplementation fund. In your answer to a question to PAC, you said that it was because of the fundamental similarity between the two funds that you piggybacked one set of contracts on the other panel. If they are as different as Mr Ulrich has pointed out, doesn't that excuse therefore collapse?

Ms Gallagher: I don't think so. I think the work of the fund is different, but the legal work involved with the claims wouldn't be different.

MR SMYTH: But if you have a contract for the procurement of a service to the nominal insurer which is very different from the work of the supplementation fund, isn't the excuse that they're fundamentally similar—

Ms Gallagher: It's legal advice and management of claims, which is the same regardless of the fund.

MR SMYTH: But they do different functions.

Ms Gallagher: The funds do.

MR SMYTH: The nominal insurer and the supplementary fund do different things.

Ms Gallagher: Yes, they do. No, I'll stand by that answer.

MR SMYTH: You'll stand by that answer. So it's not a breach therefore of the Financial Management Act, section 31 (2) (f), which relates to adequate control being maintained over the incurring of liabilities by the department. You're not in breach of the Financial

Management Act.

Ms Gallagher: I'm certainly not aware that I am, that there is a breach of the Financial Management Act along the lines of what you are alleging, no.

MS MacDONALD: Mr Janssen, the act states that there shall be a manager of the fund. You said, I think, in answer to Mr Smyth that you are the manager of the fund; is that correct?

Mr Janssen: That's right, I'm the fund manager.

MS MacDONALD: I have heard that that may be changing. Is that true?

Mr Janssen: Yes, that's the case.

MS MacDONALD: Can you tell me how it is going to be changing?

Mr Janssen: Again, as part of the overview of WorkCover activities that I've undertaken in the period that I've been there, I've looked at what are the core activities which only WorkCover can do and which government charges us with the responsibility of undertaking, and what functions are ones for which we don't have necessarily a special expertise and which could be done as well, if not better, in other places. The supplementation fund activity is an area that I have concluded does not need to sit with me as the commissioner for OH&S. To some extent it is activity which is drawing me and my time away from going forward under the OH&S act and there is a process currently under way to look at the fund being managed by another person appointed as a fund manager in another part of either ACT government or elsewhere.

MS MacDONALD: So it won't be looked after at all by your position? Is that the idea?

Mr Janssen: I am just simply the person who has been appointed and I am appointed by the chief executive of the Chief Minister's Department, who has the discretion to appoint another person, not necessarily within WorkCover.

Ms Gallagher: The government is currently considering arrangements for the workers compensation supplementation fund.

THE CHAIR: There being no further questions, I thank the minister and officials.

The committee adjourned at 12.32 pm.