



LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

**STANDING COMMITTEE ON JUSTICE
AND COMMUNITY SAFETY**

(Reference: [Annual and financial reports 2012-2013](#))

Members:

**MR S DOSZPOT (Chair)
MR M GENTLEMAN (Deputy Chair)
MRS G JONES
MS Y BERRY**

TRANSCRIPT OF EVIDENCE

CANBERRA

WEDNESDAY, 6 NOVEMBER 2013

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

By authority of the Legislative Assembly for the Australian Capital Territory

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

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Amended 20 May 2013

The committee met at 9.30 am.

Appearances:

ACT Human Rights Commission

Watchirs, Dr Helen, ACT Human Rights and Discrimination Commissioner

Durkin, Ms Mary, ACT Health Services Commissioner and ACT Disability and
Community Services Commissioner

Roy, Mr Alasdair, ACT Children and Young People Commissioner

THE CHAIR: Good morning. This is the first of four public hearings for the committee's inquiry into annual reports for 2012-13. Today we will be hearing from statutory officers who work in the areas within the committee's portfolio responsibility. Appearing today we will have the Human Rights Commission, the Victims of Crime Commissioner, the ACT Legal Aid Commission, the Public Advocate of the ACT and the Public Trustee for the ACT. The Electoral Commissioner will appear at the committee's public hearing on 13 November 2013.

Just before we begin, could you familiarise yourselves with the privilege statement that is there? I think you have been at enough hearings to have done that. Dr Watchirs, Ms Durkin and Mr Roy, as I have just asked, you are aware of the privilege statement and have no issues with that? Would you like to make an opening statement, or would you like to proceed to questions?

Mr Roy: Proceed to questions.

THE CHAIR: Okay. I will make a start. In the annual report of the commission it notes that it operates on a collegial model with equal powers to each of the three commissioners. It also states that the Children and Young People Commissioner shoulders more administrative responsibility. Is this a sustainable model? Would you like to suggest other alternatives? And that is addressed to all three of you.

Mr Roy: We moved towards that model about three or four years ago, I think. I can check that. Earlier on the administrative responsibilities were shared between the different commissioners. That proved to be difficult in the sense that there was not one central point keeping an eye on the administration of the commission as a whole. Initially, as you may recall, the Children and Young People Commissioner also had responsibility for disability services. That was when Linda Crebbin held the position.

When Linda Crebbin left and I became the Children and Young People Commissioner, the commission made a decision for me to take responsibility for all of the administrative functions of the commission and the disability functions moved to Mary Durkin. Certainly, in terms of acting collegially, having three bosses can sometimes prove difficult, I think. We have all got strong interests and passions in particular areas, so we obviously tend to protect our turf passionately. We have robust discussions, but overall we do our best to work collegially.

THE CHAIR: Dr Watchirs?

Dr Watchirs: Certainly I am aware of the differences, having run a human rights

office for several years before the commission began. I think the model works well. Having three people means the majority of decisions can be taken. There is a proposal to look at merging other statutory office holders, such as the Public Advocate and possibly the Victims of Crime Commissioner. That is something we are looking at at the moment. The directorate has engaged a consultant to enable us to do that work. Anything that would result in more services because of efficiencies I think would be welcomed by the commission, so long as it does not mean our present resources are diluted—my team in particular, because I have four staff and two are lawyers.

MR HANSON: Can I just follow up on a supplementary?

THE CHAIR: Yes, Mr Hanson.

MR HANSON: You just said there was a review being undertaken to look at an amalgamation of the Public Advocate, the Victims of Crime Commissioner and so on. Who is conducting that review and who has commissioned it? Is that a government review or is it something you have instigated?

Dr Watchirs: No, it is a government review instituted by the attorney and undertaken by the directorate.

MR HANSON: Do you know when that is due to report?

Dr Watchirs: Some time next year. It has not actually commenced yet.

MR HANSON: It has not commenced.

Dr Watchirs: It is on pages 7 and 8 of the annual report. We refer to it in brief.

THE CHAIR: Thank you. Ms Durkin.

Ms Durkin: As the other commissioners have mentioned, the model has challenges. It has been in operation since 2006, and the commission has not imploded as yet. It certainly is a sustainable model. Whether the review that Helen mentioned would bring a different dynamic into how the commission operates is open to discussion with the consultants and the attorney in the long run.

THE CHAIR: Thank you.

Mr Roy: It might be worth while adding, just to make sure the record is correct, that in terms of the review there have been a number of models suggested. Obviously the outcome of the review is yet to be determined. The amalgamation of the Public Advocate with us is only one of many possible options. I do not think we can jump to that conclusion yet.

THE CHAIR: The review that is taking place—obviously all three of you have ample input into that?

Mr Roy: Certainly we were made aware of it. We were contacted by the Attorney-General. We all had discussions with the Attorney-General and also discussions

between ourselves—all the statutory office holders. We have not yet been formally advised whether a consultant has been engaged and we have not had any discussions with a consultant. But we look forward to those discussions.

THE CHAIR: Are you able to put a submission to that inquiry?

Mr Roy: Certainly, yes. We will be.

Dr Watchirs: We are expecting it will be more informal in terms of interviews separately and jointly.

THE CHAIR: Thank you. Mr Gentleman.

MR GENTLEMAN: Thank you, chair. Can I just begin by congratulating all of you on the work that you do. I think it is very important to our community. I am interested in the report on the bullying of students with a disability. On page 31 of the report there is discussion on the investigations and the report entitled *Because it's a serious matter ... talking with students about bullying and disability*. Can you tell us how this report would aid students through the information obtained and help the wider experience of primary school students and the quality of education that they receive?

Ms Durkin: Basically, the report found that children and young people had different views of what might constitute bullying and what might be the reasons that someone will be bullied. We did a lot of activities with children and they said things like they look or act differently. We have recommended that the report be used to work with children and young people in schools to unpack that sort of thing a bit more so that there is a better understanding of bullying and also a better understanding of disability. The report identified that children and young people with disability had obviously a better understanding of disability and what disability means in the school environment than children and young people without disability.

Since the report was released, the minister has committed to ensuring that the report is available in every school in the ACT. Alasdair can probably talk a bit more about where to with it from here.

Mr Roy: We expect the report to be distributed into every school probably in the next week or two, which is fantastic. It is also worth while saying that one of the reasons we did the report the way we did—as Children and Young People Commissioner I am obviously passionate about talking to children and young people about issues which affect them—is that there is a lot of research about bullying and bullying and disability but little research actually focuses on talking to kids about it. I think a lot of the solutions that adults come up with for problems which are related to children are adult focused. So we took the approach of talking to children and young people to find out what they thought about the problem. Therefore, we can have a child-focused solution to the problem.

MR GENTLEMAN: Can you give us an example of how adults would see it differently from children?

Mr Roy: I am not quite sure how to answer that in terms of this particular project.

Children and young people have a unique perspective. Children, like all people, see the world from their own perspectives. I think as adults we assume children are seeing the world in a particular way, either because we did it that way or we would like them to see the world in that particular way. I just find it very useful to actually to talk to children and young people and ask them, “How do you see the world? What is your view of things?” It sometimes correlates with how adults see the world; sometimes it is markedly different. Having spoken to thousands of children and young people in my time as commissioner, it never ceases to amaze me how innovative children and young people can be in solving reasonably old problems.

MR GENTLEMAN: Thank you.

MS BERRY: Could I ask a supplementary, please, chair?

THE CHAIR: Yes, certainly.

MS BERRY: You said that that was going to be rolled out into the schools in the next couple of weeks—the bullying information. I do not know whether you have spoken with the education department about how, rather than just appearing in the schools and then going into the vault, that is actually communicated to the students and the teachers at the school, and even the parents, maybe.

Mr Roy: Yes, absolutely. We have thought about that, and we have had discussions with the education department about that. We certainly did not want it to just be a sort of drive-by “Here’s your report; see you later.” With limited resources in the commission, it is very difficult to go to many schools, but we have had discussions with the department to go to some schools to do smaller group work with some classes, groups of students or particular teachers. We will do what we can to make sure that the report, as you said, does not just sit in a drawer somewhere.

Dr Watchirs: There is also the potential for young people to make complaints on the basis of race and sexuality, which were the two highest areas. That is something we are promoting in relation to having the new right to education under the Human Rights Act, which started on 1 January this year.

THE CHAIR: I also have a supplementary, which is along the lines of Mr Gentleman’s but relates to community services. On page 33 you say:

The Commissioner received two approaches during the reporting period from people who wished to refer community services complaints to the Commission. As there is no power to investigate complaints about community services, the Commissioner advised that she was unable to take those matters on.

In my shadow portfolio areas, I have received complaints from parents of children with disability. The children are not exactly children; they are adults. The parents are in the aged category. They are very concerned about what is going to happen to their children after they depart. The concerns were very emotive and very serious in the sense that they felt unable to complain because they feared that there would be repercussions in the way that their situation was handled. I have had a number of those complaints. I think that at least two of you would have had complaints from

those people as well. Would you care to comment on that?

Ms Durkin: Just in relation to the community services aspect, complaints like that would come to me under my disability services jurisdiction or there might be complaints made to Helen under the discrimination jurisdiction. The community services issues were both matters where we do not have jurisdiction at all. One was in relation to homelessness services and one was in relation to emergency services from non-government organisations. The Ombudsman also had no jurisdiction.

In relation to the disability area, yes, those sorts of issues do come up. We work really hard with families and with people with disabilities to alert them to the fact that it is an offence under the legislation to cause detriment to someone if they complain, but it is obviously very hard. A lot of the time people with disabilities are dependent on services for everything that happens in their daily life, and people are reluctant to complain. When the national disability insurance scheme comes into place, and people have their own money and can go and buy their services from whoever they want, one would hope that that will change that dynamic over time.

THE CHAIR: Thank you. Mrs Jones.

MRS JONES: My question is directed more at Dr Watchirs and the women in the AMC. When will the human rights audit and review regarding the detention of women at the AMC be completed, and when will it be made public? And over what period has this review been conducted?

Dr Watchirs: This review began in late January this year, and I have an officer working on it half time. The report is probably two-thirds of a draft. We are hoping to finish in January, and it will be a matter of how long corrections want to take to make comments and consider the draft. The expectation is early next year. We have had a number of methodologies in doing the work. We interviewed the women there, ex-detainees, current and former staff, service providers, other statutory office holders and the community generally.

MRS JONES: As a supplement to that, there has been, obviously, a reduction in complaints at the AMC, according to the report. Has there also been a reduction in the number of complaints received from women?

Dr Watchirs: No. We did have two complaints this year, and my recollection is that they were probably women; in the previous year we had 11. We had 46 inquiries; there were 96 in the previous year. A joint commission project was to explain all the statutory office holders' duties, so there are posters and booklets around the free phones at the prison. That impacts on that. We cannot take human rights complaints; we can only take discrimination complaints. But if a systemic matter comes up, that informs the oversight role I have under the corrections act and whether to do a human rights audit. There are not sufficient resources to do a review of the male prison and the overcrowding; it is just the female area, which is between 12 and 15 detainees.

MRS JONES: Again as a supplementary, is there any intention, then, if possible, in the future, to do a review into the crowding that you have just mentioned in the male part of the prison?

Dr Watchirs: That would be a whole-of-commission decision, and it would depend on resources. In the current plan, probably not. On one particular issue, overcrowding, we would certainly have a view, and the minister has written to us about that.

MR HANSON: When did you last do a human rights audit at the jail?

Dr Watchirs: We did the adult corrections centre in 2007. There have been two juvenile detention audits—2005 and Bimberi by Alasdair.

MR HANSON: So you have not done an audit of the AMC?

Dr Watchirs: No.

MR HANSON: So when the government says it is human rights compliant, how would you know?

Dr Watchirs: We do have an oversight role there, and we go regularly to meetings and have inquiries from not only detainees but service providers. We will go to the prison and talk to people. If there are very specific issues, we will refer them to the Ombudsman or the official visitor in terms of an individual needing assistance.

MR HANSON: Given the overcrowding and the issues that have occurred, where remandees have been assaulted by sentenced prisoners and so on—you would be aware of a number of these cases?

Dr Watchirs: These are exactly the issues that were at BRC—

MR HANSON: BRC did not have remandees being assaulted by sentenced prisoners.

Dr Watchirs: Yes: there was a rape.

MR HANSON: Of a remandee by a sentenced prisoner?

Dr Watchirs: Yes.

MR HANSON: What was the sentenced prisoner doing at the BRC?

Dr Watchirs: Actually, he had been sentenced for rape before that occasion and rape after that occasion.

MR HANSON: So he was not a sentenced prisoner?

Dr Watchirs: There was a period when New South Wales was not taking any ACT detainees because they were full and the prison was expected to have been finished.

MR HANSON: I know there was a rape of a remandee by a sentenced prisoner at the AMC.

Dr Watchirs: It is the same person, but the charge was not pursued, whereas in the

Belconnen Remand Centre a conviction was obtained.

MR HANSON: If you have not got the resources to do it, would you otherwise want to do it? If you had the resources, would you see a need for an audit, given the overcrowding and the other issues, and the fact that one has never been done?

Dr Watchirs: Absolutely.

MR HANSON: What are the resources that we are talking about in dollar terms?

Dr Watchirs: The Bimberi review that Alasdair conducted—that was into the youth justice centre and Bimberi—cost \$200,000. We spent \$20,000 on the Quamby audit, but that was only five weeks. That was done with me and staffers. It would take at least one or two years with two staff.

MR HANSON: So about \$300,000?

Dr Watchirs: Probably \$200,000 to \$300,000.

MR HANSON: \$200,000 to \$300,000—half of *Skywhale*.

Dr Watchirs: I think the Hamburger review was about \$200,000.

MR HANSON: Thank you.

MS BERRY: Chair, I have a supplementary to Mrs Jones's question, if I may.

THE CHAIR: Yes.

MS BERRY: Mrs Jones asked about the number of cases of discrimination complaints and whether they had dropped. Do you know what the reasons were for that? Have there been any other systems put in place?

Dr Watchirs: Sure. It is not just us. The Ombudsman, I understand, also had a reduction in complaints. I think it is particularly to do with the card and the poster—that we made clear what our powers and our mandate are. That may have been a reason. Also, conditions may have improved, although the phone calls we have been getting have been about the overcrowding.

MRS JONES: Just with regard—

THE CHAIR: Ms Berry, it is your turn for a substantive question.

MS BERRY: My question is actually for the Children and Young People Commissioner. Mr Roy, you have highlighted in your report the move from a service model to a systemic model to meet your responsibilities as children's commissioner. Can you go through the detail about what was driving that decision? In particular, the report makes reference to allowing you to better meet your role and functions under the Human Rights Commission Act. Can you elaborate on what that is?

Mr Roy: I have got a number of functions under the Human Rights Commission Act, but I can sort of group it into three key areas. One is to assist to resolve complaints about services for children and young people. Another is to provide advice to government and other agencies about how to improve services for children and young people and also to talk to children and young people about issues of importance to them. Since I began as commissioner, the number of complaints I receive has increased tenfold, up from eight to about 88 to 90, plus an associated increase in complaint-related inquiries. So over the last five years I have received probably about 450, 500 complaints and complaint-related inquiries.

Obviously as the number of complaints goes up, my capacity to undertake my other functions goes down. A number of complaints, a significant proportion of the complaints I was receiving, were to do with the Community Services Directorate, and a number of the issues that were being alleged in the complaints were of a similar nature. So I took a sort of policy decision to shift away from a focus on complaints, because it was unsustainable to continue to investigate that number of complaints, to a focus on systemic issues, including working with CSD to improve their internal complaints-handling processes.

I am of the view, on balance, that if you can fix the system or the problem, it is better than just addressing complaint after complaint about the same issue. Also, because the complaints were primarily to do with the Community Services Directorate, I was being drawn into the world of CSD and care and protection, and obviously the children and young people in care and protection are vulnerable and certainly do need oversight. However, as I remind people, I am a commissioner for all children and not just children in care.

MS BERRY: As a supplementary, in creating these systems to ensure that fewer people and young people require individual advocacy—and I know that it is early days—has this change in the approach delivered results, do you think, or is that something that needs to be looked at a bit more and can be measured a bit further on?

Mr Roy: Yes, it has delivered results. I think by approaching things from a systemic perspective, we can be more detailed in analysing data and evidence et cetera, and making more evidence-based recommendations to agencies has resulted in changes of policy in a number of areas.

One example I would bring to your attention is that we were receiving a fair number of calls from young people in Bimberi over the last few years. And I think a couple of years ago it was probably 20 calls from kids in Bimberi every year. So, again, instead of just dealing with those complaints, I worked with Bimberi and actually wrote their complaints-handling policy for them and went out and said, “This is the sort of thing you need to do. You need to make it your mission when you’re here at work in Bimberi to talk to kids if there’s a problem and don’t just let the problem escalate so that they have to come to me.”

Since then, this year I think we probably received four calls from kids in Bimberi, and there has been a commensurate decrease in contacts with both the Public Advocate and the official visitor. So I think that is an example where, if you work with the system to improve the system, young people do not need to come to me and I can

focus on other things.

MS BERRY: Do you think there are other areas where you feel this systemic approach is not meeting the expectations?

Mr Roy: Yes, and this is, again, why we have developed what we call a systemic issues register, which is probably a fancy name for a list. But having dealt with 400, 500 complaints over the last five years, certainly a range of issues are raised in those complaints. We also look at best practice, not only locally but also nationally and probably internationally. We are also approached by service providers and family members and people in the community who say, “We think we can do better in certain areas.”

When I moved to the systemic approach rather than the individual complaints approach, I also sent a letter to all service providers in the ACT asking: “If you could fix one thing for kids in Canberra, what would it be?” So we have got a wealth of information and it is a huge list but, again, with one FTE assisting and one part-time employee assisting me, obviously we cannot look into all of them. So it is a matter of prioritising them.

THE CHAIR: A supplementary, Mrs Jones.

MRS JONES: Mr Roy, given your obviously solutions-focused attention to CSD and their processes and that type of approach, do you ever feel concerned that it is compromising the role that you were actually meant to do, which is a little at arm’s length, or do you feel that it is perfectly appropriate or are we still basically going back on the same bandwagon about the funding that your office and the other commissioners’ offices have?

Mr Roy: I am not sure I understand your question, I am sorry.

MRS JONES: When you are working directly with CSD about their processes—and you said that you felt that you have gone into the world of CSD, so to speak, and that is the bread and butter of your living—is that something that makes it difficult to do your sort of more independent-type role as you see the role of the commissioner?

Mr Roy: Not at all, no. I am eternally vigilant of my need to be independent and—

MRS JONES: It is not a criticism. I am just interested.

Mr Roy: Yes, absolutely. I have worked in statutory offices for nigh on 15 years now. So I am acutely aware of the need to be independent. However, I also do think it is important to develop relationships with agencies. I think you can get a lot more done if you actually have a relationship with an agency where you can just go across and say, “We’ve got a problem here. I think we need to talk about this.” And I can have frank discussions with senior executives in departments and give them my point of view.

THE CHAIR: Mr Hanson, you have a substantial question.

MR HANSON: Back to the issue of resources, I am interested in what it is that you would like to be doing that you cannot do. The AMC human rights audit is an example of that. Obviously you do have resourcing constraints. It is always a matter of prioritisation. But is there a body of work that you see that is urgently required that you simply cannot get to because of resources across any of your fields?

Ms Durkin: I will start. I am intending to do something similar to Alasdair in terms of developing a systemic issues register so that I can get on to more systemic matters. The problem that I have had is that since the commission was established, complaints have increased by 60 per cent in the health area but resources have reduced simultaneously. So during the last financial year, as you will see in my report, I have taken the approach of a systematic way of trying to reduce complaints. Now I am only dealing with matters which raise issues of significant public health and safety or which might lead to compensation or policy change et cetera.

MR HANSON: So over what time frame are the complaints up by 60 per cent?

Ms Durkin: Since the commission was established.

MR HANSON: Which was?

Ms Durkin: 2006.

MR HANSON: So 2006 to now, up by 60 per cent?

Ms Durkin: Yes.

MR HANSON: So you are then triaging those complaints?

Ms Durkin: Exactly. And that is working well. We are referring a lot of people back to service providers to get a solution. That works well with the Health Directorate because they get complaints and they know how to deal with complaints and deal with them appropriately. I have indicated here that I need to do a bit of work with the private sector, because they deal with fewer complaints and, therefore, find them a bit more confronting when they get complaints rather than dealing with them as part of core business.

MR HANSON: So with the complaints you get, what is the body that comes from the public system as compared to the private system? Is there a ratio there?

Ms Durkin: I had 355 complaints last year, and complaints that related to the public system were 102.

MR HANSON: So public was 102?

Ms Durkin: 102, yes.

MR HANSON: So the bulk of them are coming from the private system?

Ms Durkin: We have complaints about individual practitioners as well as about

organisations. So a number of the 355 might include some private practitioners who work in the public system. That 102 is organisational complaints.

MR HANSON: And when you do your triaging, how many complaints out of that 355 are you able to address as compared to the amount that you then send off to someone else?

Ms Durkin: We turned away 44 per cent of matters last year or dealt with them in a less direct manner than we would have done. Sometimes we will say, “This might raise an issue we might want to look into later.” So we will say to the provider, “Can you write to the person and send us a copy?” Then we can look at whether we are happy with the response and whether there are further issues we might want to follow up on.

MR HANSON: But the provider is the one that has had the complaint made against them.

Ms Durkin: Yes.

MR HANSON: Of those 44 per cent, there is no independent body that is reviewing that complaint?

Ms Durkin: That is right.

MR HANSON: It is really, then, flicked back to the provider?

Ms Durkin: We are sending the ones back that we, in the first instance, consider are less serious. So while there are some risks, I do not think there is a high risk in taking this approach.

MR HANSON: And of those 44 per cent, are there a number that you are concerned about? There might be 30 per cent you think are low risk, and that is fine, but is there a percentage there that you are concerned about and that you are not getting to and you feel that you should?

Ms Durkin: There have been some when, where we have seen the response, we have thought there were further issues and we have gone back and taken them on. But we have not actually collected the data on the ones out of that 44 per cent that we have then taken up.

MR HANSON: And as a final question, is there an area, particularly within the public system, that gets more complaints than others? Have you identified some hot spots?

Ms Durkin: The Canberra Hospital obviously gets the most complaints in the public system but, then again, it is the largest part of the public system. So I do not think it is disproportionate at all. The next area that we get the most complaints about is Calvary, then mental health, then justice health.

THE CHAIR: On page 7, under “Future risk”, the report identifies that the only future risk is due to the way in which staff and funds are distributed within the

commission. Can you elaborate on the nature of this risk?

Mr Roy: That, in a sense, goes back to the discussion about acting collegiately. As you would be aware, the Human Rights Commission opened its doors on 1 November 2006. At that time the then Human Rights Office came with staff and the then—if I can remember the name—health and community services commissioner—

Ms Durkin: Community and Health Services Complaints Commissioner.

Mr Roy: came with their staff and their FTEs. A few months later, the Children and Young People Commissioner and the Disability Services Commissioner arrived, with some resources as well. So it is about finding a tension between allocating those resources from a commission perspective and from a team perspective. As I said earlier, we are all passionate about our teams and obviously we want to ensure that we have the resources to undertake what we want to do. Again, it is about finding that balance and saying, “What is the priority? What is the priority of the commission as a whole?” That, in itself, is very difficult to answer. Is it more important to do a complaint about a health service, a human rights audit, a children and young people issue, a systemic issue, a policy issue or a review? There is the whole range of functions which the commission can undertake. We cannot do them all. Firstly, we do not have the resources to do them all, full stop; secondly, there is how you allocate those resources in each of the commissions to ensure that we can meet our statutory functions appropriately.

THE CHAIR: I should imagine you would be addressing some of these concerns in the inquiry that is coming up?

Mr Roy: I believe so, yes.

Dr Watchirs: Can I make a point about both of your questions?

THE CHAIR: Yes.

Dr Watchirs: My concern in the human rights and discrimination area is that we have lost a community engagement officer, so our training has dropped and we have moved to e-learning. I am very worried that our complaints on the grounds of discrimination have gone from 125 down to 82 in one annual reporting year, and for the first time race has overtaken disability. With disability we had 29 complaints. In the previous year we had 65. So that is more than 50 per cent. With race, there were 33 cases and there were 28 in the previous year. We have done work on race because of our reconciliation action plan and the annual race roundtable.

But disability worries me. Certainly, even the disability services complaints have gone down. It could be that advocates are busy looking at the NDIS, but it is such a vulnerable population that that kind of drop really worries me. We have done some joint functions together. The commonwealth Disability Discrimination Commissioner had a film called *Twenty Years: Twenty Stories* and we had a joint event with them to involve the disability community.

THE CHAIR: We may have some further questions that we will put in written format,

but due to time constraints, we will have to move on in a moment. Mr Gentleman.

MR GENTLEMAN: Thanks, chair. I bring you to page 45 and the working with vulnerable people background checks. This process has been working for a while now. Can you tell the committee how these background checks provide protection for vulnerable members of the community? It is normally a hot topic.

Mr Roy: It is a hot topic. I have been a long-term supporter of the working with children and/or vulnerable people checking program. The theory is that it will check people's background to ensure that people who have in the past done something which might pose a current risk would either not receive registration or receive conditional registration.

We do have some concerns as to whether it is the most effective way of ensuring that your staff are appropriate. My view—and I am not sure whether this is a commission view—would be that you also need to match working with children checks with child-safe, child-friendly procedures. That is something I have been passionate about for a number of years. It is all well and good to have an assumption that your staff are safe simply because they have got a card, but it is probably more important to ensure that your agencies actually have policies and procedures in place where children feel safe and feel friendly, where it is harder for something to happen, it is easier for something to be found out if it does happen and everyone who is within the system knows what they need to do if and when something happens. That is not to in any way discount the value of working with vulnerable people cards; it is a valuable tool. But it is only one tool in the suite of tools which are available to keep kids safe and vulnerable people safe in agencies.

It is also based to a large extent on a person's honesty. If a person does not disclose at that first level that they have something in their past, the odds of ORS finding that in a person's past is limited.

Ms Durkin: One of the concerns that the commission has had, and which we have recently written to the attorney about, is that people who might have concerns about workers or potential workers would currently be breaching privacy legislation to report to the Office of Regulatory Services about those concerns. We have written to the attorney suggesting that the issue be looked at and enable people to report without the fear of consequences if they reasonably believe that there is an issue of concern in relation to someone who may wish to work with vulnerable people.

The commission has powers to provide third-party reports to anyone that it considers appropriate. I have written to the head of the Office of Regulatory Services in relation to one person so far, and will probably be writing to them about two other people, where activities have been found by the police not to necessarily meet the criteria for criminal activity but they still meet the criteria for concern to me about people continuing to work with vulnerable people. So that is one issue that we consider might be looked at a bit further, to further protect the community.

MR GENTLEMAN: How would you change legislation to make that possible?

Mr Roy: Similar to mandatory reporting, to some extent. If an agency becomes aware

of information that makes them suspect that a person's circumstances have changed or that they may not have told the absolute truth when they went through the check in the first place, given the range of provisions that most agencies have with respect to secrecy—and appropriately—it should be made easier for those agencies to contact ORS and to say, “We suggest you might want to have another look at this person.”

MRS JONES: As a supplement to that, if I may: if you are writing about people who have not been convicted of criminal offences but there is concern about them, where does the commission sit legally with people's innocence and so on?

Ms Durkin: Basically I provide to the Office of Regulatory Services my report and my views. I say to them, “I consider that you should, in doing your own investigations, pursue these issues in your inquiry.” So it is not a matter of saying, “I've made a finding that someone is not suitable.” It is a matter of saying, “I've found evidence that gives me cause for concern and I think you should look into it if someone applies for a working with vulnerable people check.”

MRS JONES: It must be a very fine balance, I guess.

Ms Durkin: It is indeed.

MR GENTLEMAN: Are the background checks available to those workers to use in other jurisdictions? Once they have had the check done in the ACT, for example, does that cover them in New South Wales and vice versa?

Mr Roy: No, you have to do a check in each state and territory.

MR GENTLEMAN: How do we go about it for people like taxi drivers—for example, the disability taxi drivers—or volunteers? How are they costed? They would have to pay for both checks, I guess, in both states?

Mr Roy: Yes, they would.

MR GENTLEMAN: Is there any possibility of looking at having just one check?

Mr Roy: It is the ever-present, thorny issue about national systems.

MR GENTLEMAN: Yes.

Mr Roy: In the national child protection framework, which was released a few years ago, there was a suggestion that we needed to look at a national registration system. I would suspect that the royal commission will be looking at those sorts of things. I would suspect that there will be suggestions about having a national working with children check and probably national child-safe, child-friendly systems. Obviously I cannot pre-empt what the commission is going to do but that would be my guess.

Ms Durkin: In relation to people with disabilities, I and other disability commissioners around the country have raised with the commonwealth authorities that we believe there should be, as part of the NDIS into the future, a national working with vulnerable people checking scheme.

THE CHAIR: I think we have time for one more substantive question, Mrs Jones. Or did you want to ask a supplementary?

MRS JONES: I would rather go back to a supplementary, if I can.

THE CHAIR: It is your choice.

MRS JONES: Regarding the checks, they are currently interstate checks? They deal with people's records no matter where they live, presumably?

Mr Roy: Yes.

MRS JONES: I will move on to a substantive question. My question is about Disability and Community Services. The disability commissioner obviously will be contributing to policy development in relation to the NDIS. In this task, what is the role of the commissioner in relation to the policy development work of the government directorates and what is the time frame on that advice?

Ms Durkin: As I mentioned here, the Community Services Directorate has provided me with an additional staff member. That staff member is working for most of their time with the task force and is looking at the issue of safeguards for the development of the NDIS in the ACT during the launch period. I am also a member of the expert panel for the development of the NDIS. The staff member is for two years, with a possibility of extension. The expert panel will continue, I understand, until the full NDIS is rolled out in the ACT.

MRS JONES: Can you give some feedback on how you feel that work is progressing and the time frames that we can expect for rollout from your perspective?

Ms Durkin: The NDIS launch period starts on 1 July next year. Basically, in relation to the project that I have been most involved in in relation to safeguards, the bilateral agreement between the commonwealth and the ACT is that the current safeguards that exist in the ACT for people with disabilities will be carried over into the launch environment. So it is a matter of how that can be done. When you break the nexus regarding "government says you will comply with these sorts of things if we give you block funding", when you break that funding link, you have to look at other ways to ensure that service providers treat people with respect, that they deal with serious incidents, that they have audits et cetera—all the safeguards that are in the system.

MRS JONES: It is almost like the development of a manual for the smaller providers?

Ms Durkin: There are a lot of options being discussed at the moment.

MRS JONES: And not yet decided on.

Ms Durkin: That is right.

THE CHAIR: We have, unfortunately, run out of time. Ms Durkin, Dr Watchirs and

Mr Roy, thank you very much for attending this committee hearing. You will be hearing from the secretary regarding the transcript and any corrections that may be required.

Appearances:

Victim Support ACT

Hinchey, Mr John, Victims of Crime Commissioner

THE CHAIR: Mr Hinchey, I would like to welcome you to the hearing as the ACT Victims of Crime Commissioner. You are aware of the privilege statement that is before you, I presume.

Mr Hinchey: Yes.

THE CHAIR: Would you like to quickly read it again, if you want to familiarise yourself with it?

Mr Hinchey: I have read it a few times.

THE CHAIR: Would you like to make an opening statement or would you like to proceed to questions?

Mr Hinchey: Just proceed, thank you.

THE CHAIR: Your report refers to a review of the financial assistance scheme on page 2.

Mr Hinchey: Yes.

THE CHAIR: Can you expand on the implications of this for victims of crime support, for the crime support program, keeping in mind the other changes that have occurred over the past few years?

Mr Hinchey: Yes.

THE CHAIR: What do you hope comes out of the review?

Mr Hinchey: In my previous annual reports, I have indicated that victims of crime were having some difficulties accessing the scheme. I welcomed the review of the financial assistance scheme, which came about as a result of the Ombudsman's report. That review is underway, and I have been working with the Justice and Community Safety Directorate to identify the issues that we need to address. What I have spoken about previously is that I think it should be not a court-based scheme but an administratively based scheme, which is what Queensland and New South Wales have. I think that is the way we should go.

We are working through the details of what that scheme might look like. The indications are that there is a will to consider adopting that type of scheme. What are the implications? I think there will be a major change in the way financial assistance is administered to victims of crime, and I would expect more victims of crime accessing the scheme. From previous annual reports, you will see that about 100 cases per year are processed through the current scheme. I do not think that is truly representative of the numbers of victims that are being seriously harmed or affected

by crime. I see a more user-friendly scheme resulting in an increase. And these people, if they have those rights and entitlements, should be able to access it.

THE CHAIR: Supplementaries? Mr Gentleman, first.

MR GENTLEMAN: Mr Hinchey, in relation to that, you mentioned New South Wales and Queensland. Can you advise the committee of the differences that occur there?

Mr Hinchey: They are not court-based schemes. In Queensland and in New South Wales, the agencies that administer the victims of crime financial assistance schemes are victim support services—Victim Assist in Queensland and Victim Services in New South Wales. They employ assessors as opposed to having applications lodged at court. The clients are assisted to complete application forms. The assessors are not lawyers or court staff; they are public servants employed to assess a case on its merits. The legislation they work under is a bit more prescriptive in the form of what categories of crime or harm can be judged eligible for the scheme. And the outlay of the range of payments that are made as recognition payments is a bit more prescriptive. They are the main differences.

The main difference, of course, is that someone is responsible for the case management of their applications. In our scheme, no-one is responsible for that case management. We do it by default, because we have a role to assist victims of crime. We would not see all cases; not all applicants would come to us for assistance to access that scheme. People can engage lawyers. In the past, the number of lawyers that have been available to victims has been pretty low. People have blamed the cap on legal fees for that. The cap has risen substantially from its base of \$650 to, I think, over \$1,000 now, but it takes time for lawyers to become expert in this field.

THE CHAIR: Mr Hanson, a supplementary?

MR HANSON: Can you say, briefly, how many people are missing out as a result of the difference?

Mr Hinchey: I cannot say exactly. I know that in the ACT there are quite a few thousand victims of crime—property and personal crime. I find it difficult to believe that only the 100 cases, on average, that are processed each year are capturing everyone that is eligible for that scheme.

MR HANSON: Where does the money come from? Is that imposed by the courts on the perpetrators of that crime, or is it met administratively?

Mr Hinchey: It is public money. It comes from consolidated revenue; it is earmarked for that purpose. But because it is difficult to determine how much is spent each year, there is some fluidity around that. The courts collect money through other means for reparation purposes, and that goes to victims of crime, but the Government Solicitor manages that fund.

MR HANSON: Thanks.

THE CHAIR: Mr Gentleman, a substantive.

MR GENTLEMAN: Thank you, yes. Mr Hinchey, I bring you to page 7. There is discussion there about the crimes legislation amendment act. How will this amendment of the act positively impact on the protection of children?

Mr Hinchey: It protects children aged between 16 and 17 years from coming under the influence of people who would wish to take advantage of their authority over them. That is one purpose. That was the aim—to limit the ability for adults to use their position of power or to abuse their authority to engage in sexual relations with young people. While that is a worthwhile step, I indicated that I would want further protections for young people. I know that once they have reached the age of consent, in some people's eyes they are ready to make those decisions, certainly as adults. With 18-year-olds, some would argue that as well. I was wanting to further protect stepchildren, in particular, from making those decisions with step-parents. That was not taken up. That was the main thing that affected children in that amendment.

And also it was to broaden the category of people able to use audiovisual recording of a police interview as evidence in chief. That was an important thing. The more that we can use technology to protect young people from attending court proceedings the better.

MR GENTLEMAN: That would, hopefully, you would imagine, save further psychological impact on the witnesses?

Mr Hinchey: Yes. We need to administer our justice system appropriately and, in doing so, get what we need from witnesses. But we need to take their interests into account in how we go about that, particularly for sexual assault matters.

MR GENTLEMAN: Yes. Thank you.

THE CHAIR: Mrs Jones.

MRS JONES: I have a substantive question regarding two aspects of the victims of crime group based in Narrabundah. The VOCAL group has not been awarded side by side volunteer program funding. I am interested in feedback on the award that was made and if there is any support continuing to VOCAL, which still continues to exist down there in Narrabundah.

Mr Hinchey: Yes.

MRS JONES: And also, as part of that, I wonder if you have received any complaints about victims of crime from the tyre slasher in Narrabundah over the years and if anything has been done regarding that.

Mr Hinchey: I have not received any complaints from victims of crime regarding the Narrabundah tyre slasher.

MRS JONES: And VOCAL?

Mr Hinchey: VOCAL? Perhaps I will set out some history around this for my answer. When the victims services scheme, which is the scheme governed by regulation, was established in the year 2000, VOCAL was contracted to deliver a component of that scheme.

MRS JONES: Yes.

Mr Hinchey: That was to run the volunteer program. They were funded over the years to do that, from 2000 to 2011, when a review of the Victims of Crime Act resulted in the establishment of the commissioner position. In establishing that position, a range of responsibilities that were previously those of the Director-General of JACS were moved to the commissioner position. So I was responsible to run a volunteer program. I had considered running the program myself, frankly. It is only due to convention, I think, and practice, that another agency is contracted to deliver the volunteer program.

MRS JONES: Yes.

Mr Hinchey: I considered doing that. I did not think the time was right to do that. I thought we needed to align Victim Support ACT a lot closer with the operations of that program, because, to my way of thinking, if I was responsible for that program, I should know exactly what is going on with that program and try and create some efficiencies with clients who are coming to victim support.

I learned also that the program had never been tendered for publicly. I knew that there were other organisations that had developed some capacity over the years to deliver that type of volunteer program. I thought that if I was going to get best value for money, I would tender for the program. I did that and engaged Shared Services Procurement to oversee that process. It was a competitive process. VOCAL were competitive in that process, but they did not win the tender. I was the delegate. I was not actually involved in the selection process, but I certainly signed off on it and had responsibility for it. I believe the best organisation, the best tender, got the contract.

MRS JONES: Yes.

Mr Hinchey: That is the background to it. That was the only money that I believe government were allocating to VOCAL, and the reason they were doing so. I know that VOCAL has a house, accommodation, at Narrabundah. I think that once upon a time that might have been government stock, but it might have been moved permanently to VOCAL. I am not aware of any other funds. VOCAL has indicated in the past that it has sourced other funds through other activities outside the contract that it had with JACS. I do not know what those funds have been.

MRS JONES: Thank you.

THE CHAIR: Ms Berry, a substantive question.

MS BERRY: Thank you, chair. In your report you talk about court delays having a significant impact on victims of crime. There are some suggestions listed in this report about what could be done to continue the work of the court's backlog blitz. There is

talk of another magistrate and you make some suggestions. Could you go into some detail about some of the ideas that you have listed in the report?

Mr Hinchey: It is not a very fulsome coverage of what the issues are in the report. I was seeing a lot of talk in the media around the appointment of the fifth judge—I am talking about the Supreme Court rather than the Magistrates Court—as a solution to court delays. I had not seen any discussion around other aspects to address court delays, so I wanted to raise the issue that the blitz had uncovered some better case management practices. The avoidance of last-minute applications to vacate trials was one.

I looked at Victoria. They have legislation there to limit the time that certain cases take to process through our court system—sexual assault cases, in particular. There is a cost to that, if we adopt that type of thing, because if courts are already overburdened and we pay priority to particular categories of offences that may come at a cost to other categories of offences. There are victims behind these, and I am aware of that. I think that the docket system is a useful start. I think the appointment of the new chief justice with a clear mandate to concentrate on court delays is a good thing.

With these types of things I am looking to see some solution to the court delays. Admittedly, there were additional resources applied to the court during the blitz. That may well need to be done in the long term. I would like to see a quicker processing of cases through our courts, less tolerance given to last-minute applications for delay and greater management of the handing down of reserve decisions—less delay around that. Until we see these new case management practices played out, it will take some time.

MS BERRY: Is there capacity in the current system for victims' needs to be taken into account in scheduling hearings? If you think not, are there any examples where this has been done successfully in other jurisdictions?

Mr Hinchey: As I mentioned, Victoria has legislated for time lines around the processing of cases for sexual assault matters. I have not seen any evidence of paying attention to the needs of victims in the scheduling of hearings. It is part of a picture. It is a minor part, from my point of view. Victims are not party to proceedings. Unless we build it into the system through legislation, it is not going to be given a high priority, I do not think.

MS BERRY: Just as a supplementary to that, you talked about the delays occurring not just in hearing dates but in the handing down of decisions and you said that is having an impact on victims of crime. What are the changes that you think could be made to improve the capacity of the Magistrates Court to manage its business more efficiently? You have sort of delved into it a little bit.

Mr Hinchey: I am talking about the Supreme Court and not the Magistrates Court. The Magistrates Court, from my point of view, gets through its business quickly and efficiently and manages large numbers of cases through its system. I think that the management of Supreme Court cases needs to be given some priority. The role of the chief justice in that is integral to the addressing of delays. The chief justice has always had some authority around that. Only the court itself can really manage its processes

and address its delays. We can legislate around the edges of these things; ultimately, the court must hold itself accountable.

THE CHAIR: Thank you, Mr Hinchey. We are running out of time, unless there is anything specific you want to add to that?

Mr Hinchey: No.

MRS JONES: I just have a supplementary to that, if I may, quickly?

THE CHAIR: Very quickly.

MRS JONES: With regard to the timing and the management of sexual assault cases, would you conclude that it is somewhat unempowering for people who have experienced that to not be a party to the processes that are being laid out for the trial of those who they consider to have acted against them?

Mr Hinchey: Certainly. The system is not user friendly for victims of crime, but it is what we have got—it is our system—which is why Victoria have legislated to enforce justice processes to pay attention to the needs of victims. I am not saying that everyone ignores the needs of victims in decision making in our criminal justice process. I am saying that the victims' interests and needs are part of a picture. They play a small role. The decisions that impact them are important decisions. The impacts can be great. I do not see it is necessarily balanced appropriately for the cost that is implied or the potential to impact victims. I do not think that is balanced appropriately with the interests.

MRS JONES: Are you able to bring back to us as an answer later on, in an appropriate time frame, some information about what has been done in Victoria?

Mr Hinchey: I will certainly provide more detail to the committee about that.

THE CHAIR: If you could take that on notice, that would be good.

MR HANSON: Mr Chair, could I just seek a point of clarification? When you said that the system is not user friendly to victims of crime, you are talking in generalisations, not just about victims of rape there? You are talking more broadly about a lot of categories?

Mr Hinchey: I am talking about our criminal justice system focusing on protecting the rights of offenders, ensuring offenders get fair trials. Those processes around that are designed to ensure that the law is applied appropriately. Because victims are not party to proceedings, their interests are not always balanced appropriately, or balanced equally, with the interests of offenders. People can say there are reasons for that. An accused has a greater potential cost.

THE CHAIR: Can I just make a recommendation that for both of those last two questions, if you were willing to put some answers to those as questions on notice it would be useful.

Thank you very much for appearing before us this morning. The committee secretary will be in touch with you regarding the transcript and any corrections that are required.

Mr Hinchey: Thank you.

Appearances:

Legal Aid Commission (ACT)
Crockett, Mr Andrew, Chief Executive Officer

THE CHAIR: We will move on to the Legal Aid Commission. Mr Crockett, good morning. Are you familiar with the information that is before you regarding the privilege statement? I presume you have read this?

Mr Crockett: Yes.

THE CHAIR: So you do not need any further information on that. Would you like to make an opening statement or would you like to go to questions?

Mr Crockett: Perhaps we should go straight to questions.

THE CHAIR: Okay. Your annual report attributes the operating deficit that is higher than the budget in part to costs associated with the Eastman board of inquiry. Can you tell the committee what costs you have had to absorb from this process and to what extent further funding from government has defrayed costs arising from the inquiry?

Mr Crockett: The amount of \$118,000 in Eastman costs added to the deficit at the end of last year. That was an unforeseen addition to the deficit. The reason for that was the timing of the reimbursement by the territory government, which occurred after the start of the new financial year. So it was only a few days, but it did mean there was a \$118,000 increase in our deficit at the last minute because of the delay in reimbursement. In terms of funding of the Eastman inquiry generally, all of our costs are being reimbursed by the government. Certainly, that is the situation to date. The amount of funding so far made available is just over \$2.4 million for Mr Eastman's representation.

MR HANSON: On the Eastman inquiry, as a supplementary, Mr Eastman has sacked a number of legal advisers; is that right? What has happened there? What is actually occurring? Has he finally got some legal representation?

Mr Crockett: There has been a history throughout the Eastman matter, going back to the original trial, of legal representatives being sacked. We have had some difficulty in that regard since the start of this inquiry and the grant of assistance to Mr Eastman to enable him to be represented. On most occasions we have been able to persuade him to change his mind. The changes that have occurred in the legal team since the inquiry started have been more to do with objections raised by the DPP that some of these representatives had a conflict of interest. They were submissions that we were opposed to, but, in the end, it was decided in the interests of the inquiry that there should be no controversy of that nature around the legal representation. So the current team was put together back in May. It is led by Paul Willee QC, who is a Melbourne barrister. With him are Mark Griffin QC from Adelaide, and junior counsel John Masters from the local ACT bar. That is the team that will continue representing Mr Eastman now for the remainder of the inquiry.

THE CHAIR: Mr Gentleman, a substantive question.

MR GENTLEMAN: Mr Crockett, the 2012-13 financial year has seen the performance of the family dispute resolution program. Can you tell us how that has been going, and also what that program does for families across the ACT?

Mr Crockett: This is the program that provides lawyer-assisted negotiation and conciliation to try to resolve problems in families, particularly problems relating to children, without the need to go on to court. When we grant assistance for a matter involving children, it is normally a grant initially for family dispute resolution. Of course, there are some cases where it is not a suitable case for conciliation because one or other of the parties refuses to attend or there may be allegations of violence and that makes a power imbalance that makes it inappropriate to put those parties together in a conciliation situation.

We do have a great deal of success with the program. It has grown over the years to a record number of conciliation conferences held last year, and already this financial year we are running ahead of last year. So it is a program which is developing. It is ultimately, we believe, saving money. Our success rate is fairly high. It is between 70 and 80 per cent. That is not necessarily resolving all the issues between the parties, but 70 to 80 per cent of either all or some issues are being resolved. So, at the very worst, the issues that need to go to court are narrowed somewhat as a result of that process.

MR GENTLEMAN: Are they narrowed by that amount as well—70 to 80 per cent? What is the impact?

Mr Crockett: That can vary. Sometimes it may be that one issue is got out of the way and agreed upon at the conciliation, leaving other fundamental issues that still need to go to adjudication. It does vary very much from case to case. The other aspect of the program that is worth noting is that, with some additional money that we received from the commonwealth government, we have set up an extension of the program to try and encourage people from the Aboriginal and Torres Strait Islander community to use the service. We are starting to have some success now in attracting people from that community in to the program. There is one conciliator on our panel who is also an Aboriginal and Torres Strait Islander.

MR GENTLEMAN: Fantastic. Thank you.

MS BERRY: Can I ask a supplementary, please, chair.

THE CHAIR: Yes, you may ask a supplementary.

MS BERRY: How do parents and families get into that program? Do they refer themselves or are they referred by somebody else? How do families find out about it?

Mr Crockett: It normally comes about because one of the parties has made an application for legal assistance. We cannot under the act provide this service to parties where there is no-one who is receiving a grant of legal assistance. So as soon as one party gets a grant, unless it appears to be a case that is not suitable right from the outset to go to conciliation, we will write to both parties—the assisted party and the

unassisted party—and say, “We’ve got this process available as a way of trying to resolve the differences between you at an early stage,” and invite them into that process. We get a fairly high success rate in parties accepting that, because, obviously, the non-assisted party sees it as an opportunity, perhaps, to save in legal expenses which would be involved if they had to go to court.

MRS JONES: Mr Crockett, regarding the national partnerships agreement, in view of declining commonwealth funding in real terms, what is the rate of decline in assistance that the commission can provide in commonwealth law matters? Is funding generally keeping pace with demand, other than that particular bucket of money?

Mr Crockett: There has been a decline in the number of commonwealth grants. In fact we are probably running close to a situation where we have a substantial deficit on the commonwealth side. Commonwealth indexation of funding is around 1.6 to 1.9 per cent per annum, so it is well below the rate of inflation. That is the rate that is set in the national partnership agreement, and there will not be an opportunity to renegotiate that until the current agreement goes into the process of renegotiation.

MRS JONES: Which is when?

Mr Crockett: It is not clear when that process will start. The current agreement is supposed to expire at the end of June next year. But given that there has been this review of the national partnership agreement carried out by the Allen Consulting Group, and that report has gone to the federal Attorney-General but it has not been released yet, we do not know what recommendations are in that around the question of the next funding arrangements. Of course, there is now also the Productivity Commission inquiry into access to justice. Our understanding is that the commonwealth government will wait and see the outcome of both of those inquiries before making a decision, possibly, about the form that the next funding agreement takes. So I do not imagine there is going to be much in the way of negotiation probably for 12 months at least. In the meantime, the current agreement will just be rolled over.

In broader terms, while our service levels are overall increasing, and last year we saw quite substantial increases in a number of them, as Mr Gentleman noted, in relation to dispute resolution, the legal aid help desk has also brought about a big increase in the number of telephone inquiries we have taken and the amount of information and referral work we have been doing. One area where assistance is declining is grants of assistance—that is, grants of financial assistance to people to enable them to be legally represented, usually in court or tribunal proceedings. Here we have seen a decline over the last six years purely as a result of the fact that funding is not keeping pace with increases in operating costs and the cost of providing legal assistance.

We are now seeing grants at the lowest level they have been since 1990, which is not something, obviously, we are very proud of, because the population of the ACT has grown considerably since 1990. So, in that sense, we are not meeting the needs of the community, and there is an increasing gap—some people are calling it the justice gap—between those who qualify for legal assistance and those who can afford, without undue hardship, to pay for a private lawyer. There is an increasing number in the middle who are falling through that gap.

MRS JONES: Just to clarify, is more of your funding being eaten up in administration and just simply surviving and, as a result, there are fewer grants available, or is the money directly split up into two separate zones?

Mr Crockett: There is some separation between commonwealth and territory money, but, in terms of service delivery, we try to ensure that it is applied in a way that is seamless, so that we do not get sudden cut-off points if we have a problem on one side or the other.

MRS JONES: So more and more money—

Mr Crockett: The main pressure on costs is coming from the cost of grants of assistance, and we have seen, for example, with criminal law grants, over the last six years, an annual increase of 11 per cent in the average cost of those cases. The reason for that is not that we are increasing the fees we pay lawyers each year by 11 per cent. In fact, the hourly rate has only been increased once since I have been in this position, and that is seven years. It is to do with the way matters are now heard by the courts. It is to do with the nature of the people we are assisting. Often they have got multiple problems, quite apart from their legal problems—drug and alcohol abuse, other social problems—and we find now to properly represent people it takes longer to take instructions and explain to them what is happening in the case. It tends to take longer in court. We tend to have to obtain more expert reports and they become increasingly costly. So we are seeing this quite substantial increase each year in the cost of grants, and that is the principal reason it has fallen so much over the last few years.

Salaries, of course, are going up in line with salaries in the ACT public service. On the territory side, we are fully supplemented for those increases. On the commonwealth side, we are not. So, again, there is an erosion of our ability to provide grants of assistance. Fortunately, it has only affected grants, not other services, at this stage. But unless there is some adjustment in funding over the next few years, I suspect we are going to see other services affected as well because it will mean we will have to start to reduce staff to a greater extent than we have already.

THE CHAIR: Ms Berry, a substantive question.

MS BERRY: Mr Crockett, I want to talk about the waivers and write-offs that you have reported on in the report. There have been some changes here, I can see. Can you explain what those changes are and the reasons for them?

Mr Crockett: The principal changes have been to try to bring forward a decision about whether a debt is unrecoverable or not, because the former position was that the debts would stay on the books for a long time and build up into a very substantial bad debt balance. Most of these debts are the initial contributions, \$90, which are imposed in most cases. But given that increasingly the people we are granting assistance to are on very low incomes, sometimes no income at all, and more often than not are on social security, their capacity to pay \$90 is fairly limited.

So we have a two-pronged approach to this. One is to try to be a bit more realistic at the outset about whether this person is likely to be able to pay \$90, and if the decision

is that it is unlikely they will, then we do not impose it in the first place. And in those circumstances where there is the imposition of a contribution, we will follow it up two or three times but then adjudge that it is not cost effective to continue chasing \$90, it is costing more to do that, and we are writing them off at an earlier stage than we were in the past.

MS BERRY: And I know you have been making some structural changes as well to meet client needs. There is a lot of data in here about the implementation of the help desk model. Can you give us some background on what drove those changes?

Mr Crockett: I guess the impetus for the help desk came from the realisation that it is better to spend resources or focus resources on the early stages of disputes either through preventative types of programs or early intervention before disputes escalate to the stage they can really only be resolved through court proceedings. So we are talking here about providing people with information and advice early in the matter.

This is also one of the main thrusts of the national partnership agreements. All legal aid commissions were required to increase the amount of early intervention work they did. It seemed to us that a very good way of doing that would be to set up a help desk-type structure, which is staffed by trained paralegals under the supervision of a lawyer, and they are the first contact that most clients have with us. People either ringing our help line or coming into our office will see a paralegal. They are trained to, in effect, triage the person's problem, ascertain the nature of it, how urgent it is, work out whether legal advice is going to be required or whether perhaps just the provision of some information and procedural advice might be all they need at that stage. If more help is needed, they will then arrange for the person to see a lawyer. We are still bedding that system in but so far as the figures show, it certainly has been successful in attracting more people to come and seek help at an earlier stage, which is really what it is all about.

THE CHAIR: We are running out of time. Would you care to put another question on notice?

MS BERRY: It is a supplementary. He has almost completely answered it anyway. You were talking about how the figures are showing this already. It has been going for a little while now; so you have been collecting data. Do you think the help desk has been a successful way of addressing this?

Mr Crockett: Yes. We are convinced it was a good move. There are still some teething problems we are working out, mainly internal communication to make sure there is a smooth referral of somebody who needs advice to get that advice as quickly as possible, preferably the same day. So we are still working out internal procedures to ensure that. But it has been a success and money well spent, I think.

THE CHAIR: Mr Crockett, I believe Mrs Jones will have a question to put on notice. I am sorry, we have run out of time. We would like to thank you very much for coming along to this inquiry this morning. And the secretary will be in touch with you regarding any issues of transcript and corrections.

Mr Crockett: Thank you.

THE CHAIR: Thank you.

Meeting suspended from 10.53 to 11.06 am.

Appearances:

Public Advocate of the ACT

Phillips, Ms Anita, Public Advocate

Pearce, Ms Marion, Senior Guardian, Office of the Community Advocate

Mackey, Ms Patricia, Principal Advocate, Advocacy Unit

THE CHAIR: I call the meeting to order. The committee meeting will now move to our next witnesses, the Public Advocate of the ACT. Good morning, Ms Phillips, Ms Pearce, and Ms Mackey. Can I ask if you have read the privilege statement and you are familiar with it?

Ms Phillips: Yes.

THE CHAIR: Would you like to make an opening statement, Ms Phillips?

Ms Phillips: Thank you. In relation to the annual report, I suppose one of the things that I am saying yet again, and have said for many years, is that I have to commend the remarkable commitment, passion and work ethic of my very small staff in achieving the quite significant outcomes that we have throughout this year again. Because they work quietly behind the scenes in work with people who often do not understand even what it is that my staff are doing for them, they are very rarely given the credit that is due to them. And I want to commence by saying that on their behalf.

THE CHAIR: If I can interrupt for one second on that, could I also echo the committee's thanks and appreciation to you, in particular, for the work you have conducted for the last eight years. As this is your final period, we would like to thank you because we appreciate the work that you have done, and obviously your colleagues as well. Thank you. Do you wish to continue with a statement? No.

My first question would be: your report details the work of the Guardianship Unit and notes the very high number of clients serviced by the unit. It is on pages 4 and 5. It also notes that your office has been restructured to give greater focus in this area. What is the current balance between your available resources and the stated demand in this area?

Ms Phillips: Currently I have an FTE of 13.5, which includes me. So I have 12.5 staff. Of those, 6.5 or seven of them work in the guardianship area, but once I take out managerial staff, one admin staff and one who person who does all of our advice line—that is, she answers all of the queries every day—I only have four guardianship staff and a case load at the moment of about 250 people for whom I am legal guardian. That is over and above any other jurisdiction in Australia. We are only a small jurisdiction.

We, however, do have a high number of people who are referred to the Public Advocate as guardian. I suspect one of the reasons for that is the mobility of the Canberra community. We do not have a lot of second and third-generation families, although, as we were discussing before, that is increasingly becoming the norm. There are not families for a lot of people—elderly people whose children have moved away for work or whatever—and they do not have anybody who can be their guardian. So

the Public Advocate is, in fact, appointed as guardian in a higher percentage of cases than in other jurisdictions. So a workload or a case load of 50 is untenable for my four guardianship staff.

THE CHAIR: Mr Gentleman.

MR GENTLEMAN: Ms Phillips, can you tell us how much use was made of the advocate's ACT telephone advice line during this last period?

Ms Phillips: Yes. I will ask Marion Pearce, who is the principal guardian and the Deputy Public Advocate, because she supervises the advice line staff and service, to answer.

Ms Pearce: As is indicated in the annual report, there were 833 new inquiries received by the office in the reporting period, which was an increase of 25 per cent. And those inquiries varied significantly in terms of how long each inquiry would take. Sometimes it is simply a matter of an incorrect person has phoned the office and if we are not the correct place, we refer them on. Others will take up a lot of time in terms of it then leading into an advocacy role to assist the person or the situation to some resolution. So it is a very busy position and it, at times, has to be shared because only one person does that position and that person is, at times, on leave—sick leave or rec leave—so we do have to share it between the other members of my team. I am in charge of the guardianship team within the office. Yes, it is just another—

MR GENTLEMAN: And is it a 24-hour advice line?

Ms Pearce: No, it is only during working hours.

MR GENTLEMAN: During working hours?

Ms Pearce: Yes.

MR GENTLEMAN: And what sort of a benefit does that advice line then provide to the community?

Ms Pearce: It is a range of benefits, I would say, because a lot of those inquiries do relate to people who cannot protect and promote their own rights and interests. So it is a matter of looking at each case and trying to work out what is the best way forward. It may be that we suggest that someone puts an application in to the tribunal for guardianship so that someone can step in and start making decisions. It may be that we think they need to be referred to the management assessment panel, due to the complexity of the issues.

It may simply be this: a lot of the inquiries, in fact, are around executing an enduring power of attorney, because we actively promote that in all of our community education and whenever we can promote it. We are finding a lot of people phone us to obtain the forms or booklets that we co-produce with the Public Trustee. I think that also helps ultimately in terms of the number of guardianship hearings and guardianship appointments. I have been in the office for 15 years, and I really do notice a change in the number of people seeking to receive the forms and complete the

enduring powers of attorney.

Of course, with that and with the change to the legislation, the Public Advocate is also now being appointed. I would say, on average once a fortnight at least there is a new appointment of the Public Advocate as an attorney. And we are now finding some of those people have lost capacity. The Public Advocate then is getting authority to act as the attorney for the person. There is not a huge number, but it is starting to happen.

MR GENTLEMAN: So how would that compare with how it was operating before the increase in the advice line?

Ms Phillips: When I took over as Public Advocate, the previous community advocate had responsibility for six people as enduring power of attorney. We now have about 60—

Ms Pearce: I think it is even more than that.

Ms Phillips: Even more.

Ms Pearce: Since the annual report, it is more like in the 80s now.

Ms Phillips: And the advantage of that is that people in the community who do not have anybody or do not trust anybody in their family or friends to make those decisions, should they lose capacity, then have the opportunity of being able to ask me or my delegate in the office to take on that role. And we are encouraging this with our community education programs all of the time so that, hopefully, the number of people who require guardianship will reduce because when a person comes to a situation of lacking capacity, they will have already appointed somebody—it might be me, so I might not lose a lot of the case load—that they have chosen to be their substitute decision maker.

THE CHAIR: A supplementary on that, in regards to the guardianship services issues we are talking about, have you or your office brought these resource issues to the attention of the government?

Ms Phillips: Yes. I regularly do this. I, of course, appreciate that government resources are stretched across all the portfolio. I sometimes wonder that in a small jurisdiction, where ministers have responsibility for so many portfolios, it is very difficult to fully appreciate the extent of operational practice and operational need. Ministers running governments need to have good and sound policy advice. That is the area that they focus on. We implement that policy in our office. We are service deliverers. It is a very different service that we offer than a policy advice.

It is complex to try to explain to government that to do this—to do this face-to-face, interviewing and work that we do with clients—requires significant resources. For example, I have to say, we attend ACAT, the guardianship tribunal. It is held each week, and a number of people have applications come to that tribunal. Usually the tribunal meets for two or three hours in the morning. Yesterday it sat all day, which meant that my manager, my senior principal guardian, was occupied in the tribunal all day for the number of cases. And that is the operational imperatives that you find are

very difficult to account for and to argue to government the need for resources to do the delivery of the services.

THE CHAIR: I guess your answer to my question was: yes, you have brought this to the attention of the government. Can I ask what the government's response has been in relation to your questions or your concerns about this?

Ms Phillips: When I first came into this position eight years ago, we had recently had an increase in our children and young people advocacy positions, because the new Children and Young People Act had significant references to the Public Advocate, and in relation to that we had an additional staff member. And since then we have had one additional guardian appointed. But I think we need two or three staff in each of the teams.

MS BERRY: I have a supplementary.

THE CHAIR: Yes.

MS BERRY: You were talking a bit about the growing demand for guardianship as our population ages and the work that you are doing to give them other options for guardianship. Can you go into the detail about what the recruitment, training and support programs are for alternative guardians?

Ms Phillips: We do not have very many people who volunteer to be alternative guardians. So our program really is very theoretical. At one stage a couple of years ago, we did decide to embark on a program of recruitment of four community guardians to get alternative guardians. The response was not very high, and, again, it is another case of when you are dealing day to day, face to face with people, you cannot lift your head up and run a training program and really do proper recruitment training.

We were at that stage having discussions with Volunteers ACT to try to see whether they may be able to identify appropriate people and to be able to work with us in that, but it is very time consuming and very demanding. Although it is certainly something we really want to be doing and it is in our strategic plan, it is not something that we can often give a lot of time to.

Also, other jurisdictions provide more support for private guardians than we do. Again, it is because of lack of time and resources. But some of the other jurisdictions run training or assistance programs for family members who recently have become guardians. I send them a letter. All new private guardians receive a letter from me and a booklet about guardianship standards and what it means to be a guardian, but that is not very much when, all of a sudden, you have got all of these additional responsibilities and you really do not know how to go about it and what to do. And I would like in the future to have the resources to be able to support other people to be supportive in the guardianship role.

THE CHAIR: Thank you. Mrs Jones, a substantive question.

MRS JONES: On page 30 of the report, 2(e) states that one of the aims of the Public

Advocate pertaining to the rights of people within the mental health system is to foster and promote quality service provision for children and young people engaged in the mental health system. I am just wondering if you can shed some light on the information that the Canberra Hospital has advanced for admitting “the majority” of young people to the adult mental health unit.

Ms Phillips: I will ask Ms Mackey, who is the principal guardian, to answer that in more detail. As you would appreciate, statistics can be read in a number of manners. In identifying a young person, it is a person under 18. So, in truth, it can be a 16 or 17-year-old person. If they have a very, very severe mental illness or an onset of a mental illness, it may be more appropriate for them to be accommodated within the acute mental health unit that we have because we do not have an acute mental health unit for children and young people.

If a young person has a mental illness or an event that requires their hospitalisation, mostly they are accommodated within the adolescent health or medical ward, which again might be more appropriate. A decision is made as to which is the most appropriate. However, if it is an involuntary admission then it really does need to be through the acute unit. That might be why it sounds like the majority are going there, but, in truth, it is the majority of young people who have the need for involuntary treatment. I will let Trish Mackey elaborate a little more.

Ms Mackey: As Ms Phillips said, most of those admissions to the adult mental health unit are for the older ones—16 and 17 years. Another part of the hospital where we visit young people is the adolescent ward. We do that to ensure that their rights and their treatment are upheld and that they can bring concerns to us so we can put forward those with mental health services. Our role there is about protecting their interests. If family members have concerns we can take those on board as well.

We are at the hospital every week. Tuesday is our day. We spend the whole day at the adult mental health unit, but we also visit the assessment unit there. We visit young people who are involuntary detained and we also meet with the CAMHS liaison person—the child and adolescent mental health liaison person—which enables us then to get a better picture of those young people who are admitted voluntarily so we are across their cases and we can do advocacy, if that is required, for them.

MRS JONES: Am I understanding the picture correctly: there are 250 people that, essentially, four case managers work with under their own managerial structures and they do things like attend hospitals to check that people’s conditions are what is expected and make decisions on their behalf?

Ms Phillips: I was just going to clarify that that is our guardianship team. This now is our advocacy team. In fact, last year more than 2,000 cases were brought to the attention of the advocacy team. That is people who have a mental illness who might be in the adult mental health unit, people who have complex disabilities who need a range of services and who need someone to advocate for them. It includes children and young people in care. As you know, we advocate for those children and young people in care should they need protection. In the last year the number—you have got it there, Trish—of people with a mental illness who were brought to our attention was quite significant.

Ms Mackey: Yes. The number of adults who were notified to the Public Advocate last year for mental health reasons was 1,029 people.

MRS JONES: How many staff are there to deal with their needs and concerns?

Ms Mackey: I have one senior advocate for mental health, who is responsible for all the adults who are brought to our attention and all the young people who are brought to our attention, as well as those detainees at the Alexander Maconochie Centre, the Brian Hennessy rehab centre and the older persons mental health—

MRS JONES: Can I just ask for a bit of an explanation of what a week looks like for that one person?

Ms Mackey: As I said, Tuesdays are spent at the Canberra Hospital covering off the centres there. On Wednesdays we are at the Alexander Maconochie Centre. On Monday afternoons we can be at the hospital again for hearings before the ACAT tribunal. On Thursday mornings and Thursday afternoons, basically the whole day, we are available for hearings as well. That position literally is beyond capacity with the workload that has to be managed.

MRS JONES: Do you have internal processes—are there reports of how that person is able to cope with their job?

Ms Mackey: We are required to triage everything that comes in. Under the Mental Health (Treatment and Care) Act, there are about 26 reports and notifications that need to be made to the Public Advocate, so we review all of those. We review every application for a mental health order and we determine and prioritise where we best can value add and use our resources. It is fraught at times because I have no capacity to backfill should there be illness or accident. It is very difficult. We do the best we can with what we have got.

THE CHAIR: Thank you. Ms Berry, do you have a last substantive question?

MS BERRY: Just as a supplementary to what you have just been talking about there as far as the number growing in instances of advocacy but the number of advocacy occasions per client is reducing.

Ms Mackey: That is correct. That is because it is a resource restriction issue. We find that we are doing more intensive advocacy. Some of the clients have multiple complex needs. You might find that one client has got 50 episodes where we have attended court or we have attended meetings. Whilst the episodes might be decreasing for some clients, for others it is very intensive. It just depends on the needs of that client.

MS BERRY: Thank you.

MRS JONES: Are you able to come back to us with some information about times when you have felt that you have not been able to cover off as much as you should have been able to or would like to be able to?

Ms Phillips: If you would like to put a question to ask that, I certainly will respond to that.

MRS JONES: That can be taken on notice.

THE CHAIR: Take the question on notice.

MRS JONES: Across the whole work of the organisation.

Ms Phillips: Certainly, Mrs Jones.

Appearances:

Public Trustee for the ACT

Taylor, Mr Andrew, Public Trustee

THE CHAIR: Time has beaten us, as usual. Thank you very much, Ms Phillips, Ms Pearce and Ms Mackey for joining us this morning. The secretary will be in touch with you in connection with any further questions that may arise. Good morning, Mr Taylor. I guess we have asked you this a number of times, but are you are aware of the privilege statement? You are comfortable with that?

Mr Taylor: Yes.

THE CHAIR: Would you like to make an opening statement or would you like to go to questions?

Mr Taylor: I normally do not make a statement, but I should draw your attention to a table on page 20 of my annual report. The table is a 10-year comparison of historical business activity, and the point that I wanted to make was with the head item on that, “Financial management orders”. You can see a trend from 2002-03 to 2012-13 of continual increase. There has never been a year when that figure has dipped, in comparison with other business statistics.

In the light of what the Public Advocate has just said, that is the other side of the appointments that ACAT makes. The ACAT may make appointments of the Public Advocate as a guardian, and they may make appointments of the Public Trustee as a financial or property manager. Generally speaking, there are around 1,000 appointments active for financial management in the ACT. We have 486 of those, so roughly half. The Public Trustee only receives funding for community service obligations, of which this forms a big part.

I guess what I am saying is that in terms of any discussion that we may have around the Public Trustee’s financial performance, it is useful to note that the cost of financial management orders, which is subsidised about three to one by our commercial activities, is increasing, whereas the funding for community service obligations is merely indexed every year.

MRS JONES: What is it indexed to? May I ask how the indexation is applied?

Mr Taylor: CPI.

THE CHAIR: I have a question for you in regard to your report. First, I refer to responsibilities held by the Public Trustee over confiscated criminal assets. Can you tell the committee what your role is in connection with these assets?

Mr Taylor: Yes.

THE CHAIR: And does that role have a term or is it ongoing in relation to those assets?

Mr Taylor: Ongoing, but only in the sense that in a year we receive assets and we declare them distributable. Our role is to manage, liquidate and, twice yearly, declare the funds that are yielded, if you like, from management of those assets as distributable. They are distributable through the confiscated assets trust fund, what we call the CAT fund. In the last two years, moneys have been distributed out of those by the Attorney-General, but that process is nothing to do with my office.

Our role is merely to receive assets and determine whether they are able to be disposed of, for money, or destroyed. If there is money involved, sometimes there is a reparation order—as was the case, I think in the last 12 to 18 months, when there was a claim in respect of a person who had defrauded the Catholic Church. In that, the assets that were seized and sold were subject to an order that moneys be paid to the Catholic Church, because the person had defrauded the church. The rest of it, which was very little, had gone to the fund. So while we have the assets in cash, we invest them and safeguard them in that sense until they are able to be distributed.

THE CHAIR: Thank you. Mr Gentleman.

MR GENTLEMAN: Mr Taylor, on page 8 of the report there are some highlights for the year. There is one there of particular interest, the increase in assets for GreaterGood.

Mr Taylor: Yes.

MR GENTLEMAN: Can you tell us about the work they are doing and what they will be able to do with that further increase?

Mr Taylor: Yes. We went from about \$9.4 million to approaching \$11.5 million. As you know, the fund is an endowment fund. The nature of the endowment fund is that any yield on the investment of those for growth is distributed in accordance with the wishes of the people that set the funds up. So generally speaking, there is no increase in the capital through investment, because the investment yield is distributed.

The Public Trustee takes a 5.5 per cent income commission, which is quite small. It is only taken from the income before distribution. Most of the increase, I think, has occurred through—at the moment, we have got about 170 wills that we have made where the testator has said that they wanted to set up a fund in GreaterGood to benefit a charity as part of their estate, so it is a bequest. Typically, then, when people die, we administer that estate, we morph the assets into a separate trust in GreaterGood, and then that is managed.

There has also been, more recently, money coming into GreaterGood through a number of quasi government funds. You may be aware that we are the trustee for the arboretum as well as the capital woodlands and wetlands trust. There have been, in the last few years, significant amounts of money going into the fund over that. In the ongoing sense, with the arboretum, we are doing them an entry-level service in the sense that they have not got their own deductible gift recipient status so they are using ours. But they cannot spend the money until they have their own status. We are safeguarding it. It is quite likely that that money will go out in a block when it does. The capital woodlands and wetlands fund has about \$2 million in there, which is

earmarked specifically for the development of the Capital Woodlands and Wetlands Conservation Trust. But 80 per cent of the money in there would be will bequests.

THE CHAIR: I have a supplementary on that. I understand that GreaterGood has closed the year at \$11.4 million. I presume that is a record in itself?

Mr Taylor: It is the highest we have had, yes.

THE CHAIR: Our congratulations to you. Can you expand on how you have managed to do that?

Mr Taylor: It has been a very good initiative for the community and for the Public Trustee. For the community, it is good in the sense that nearly all of the benefit from GreaterGood goes back to the community. For the Public Trustee, if you can imagine that one day the assets in that fund would be \$100 million and the Public Trustee gets an income commission for looking after that, that is seriously good funding for the Public Trustee which is not required to come from other means of commercial activity, and a good supplement to the community service obligations that we have. Having said that, the cost of running GreaterGood is marginally more, because it uses exactly the same infrastructure that we use for other things. It is a very good fit for what we do.

THE CHAIR: Thank you. Mrs Jones.

MRS JONES: Mr Taylor, the operating surplus was significantly down on last year—down to \$307,000, essentially, from \$813,000.

Mr Taylor: Yes.

MRS JONES: And the dividend paid to government has also declined over the past three years.

Mr Taylor: Yes.

MRS JONES: I just wondered, in the first instance, about what strategies are in place to manage the current and future years, ensuring operational ability, and also factors contributing to the decline in the dividend, and what the short to mid-term forecast for future dividends is.

Mr Taylor: The revenue for the last year was about 3.5 per cent down on the year before. The year before was a record. We suggest that that continued performance is marginal—the drop in revenue.

MRS JONES: Yes.

Mr Taylor: The difference has been the other side of the ledger, with expenditure. As I mentioned at the outset, the continuing cost of community service obligations and the complexity of those cases is a three to one drain on the revenue, if you like, that we do achieve. We have had to significantly invest in the business in an IT sense. I have made a number of briefings where we have had to invest money back into IT.

We already have a business system which is two versions behind the current one; we have got to invest again to upgrade to those kinds of software, the latest version. That could be in the order of \$100,000, but it is not recurrent. Additionally, we have invested in an unclaimed moneys database during the year. We have further developed the precedent letter database, or precedents database. We have acquired a share price index update tool called Tactics, which allows us to present our data to clients in a much more professional way; it more or less allows you to use data in your business system to present in a manner that you otherwise would have had to have reprogrammed to do.

MRS JONES: Sure.

Mr Taylor: So there is a lot of investment there. And also, from a succession perspective, it was identified in the staff survey that JACS undertakes that we may have had some shortcomings in some areas of succession. We have had to recruit, in particular, two new people from other public trustee offices around Australia to fill identified gaps that will be coming up. We have probably three to four managers who may leave the Public Trustee within the next three years. People like that, with that kind of background, do not come cheaply, I am afraid, particularly people who write wills. It is a very niche part of succession law. The other thing is, as I have said before, that it is impossible to predict the revenue that we are going to achieve. We are in a business that relies upon death and disability, and that is impossible to predict.

MRS JONES: Yes.

Mr Taylor: And from a commercial sense, we are only permitted to make wills where somebody appoints us as the executor. Not everybody wants to do that. So we only tend to administer deceased estates arising from the wills that we make.

MRS JONES: Yes.

Mr Taylor: Those wills could have been made five years back, 10 years back, 20 years back. It is a very unpredictable business.

MRS JONES: Indeed.

THE CHAIR: Ms Berry, I think you have got the honour of the last question once again.

MS BERRY: Thank you. Mr Taylor, I am interested in your workforce. This is a good opportunity to ask about that; I am always interested to learn more about how we make our workforce more inclusive. You are doing well at senior levels, with a majority of women employed within your organisation. Can you take us through what sort of active roles you are taking to achieve that?

Mr Taylor: Yes. For a start, when we are looking for staff—a lot of the work that we do can be highly emotive; it can be very draining; it can be extremely confronting. On the community service side, we have a lot of people who are aggressive and unpredictable. It takes a particular kind of person to deal with that. I have to say that generally women are better equipped to deal with that kind of thing. They have

perhaps got a different level of emotional maturity than guys do. They do not react in the same way and they have a more calming influence on people like that.

On the other hand, on the commercial side of the business, we all know that when somebody dies in a family it is very trying, to the extent that people's horns come out: some people suffer grief, some people anger, some guilt. Generally speaking, there is a lot of tension within families. People tend to appoint us as an executor in an estate so that they can insulate their family from those problems. So again, on that side of the business, we are looking for people who have not just expertise but emotional maturity.

It is becoming extremely difficult to buy in people with the right qualification. And increasingly people with those qualifications can demand good salaries outside. Because we are a commercial entity, we have got to match the kind of salary to the kind of qualifications that we need.

There is a tension, too, between whether we hold a particular area of expertise within our office as part of the core business or whether we buy that in from a service provider outside. Typically, there has been an argument about whether we should have an income tax consultant in the office or whether we should outsource that to a supplier. On balance, the revenue raised by having an internal person exceeds that that we could get from outside, plus we are able to wheel that person in to a client in a matter. On the other hand, we have just outsourced conveyancing, because we do not see it as a core business. It is something that we do for 40 properties a year, and it is not really something we need expertise in house to do.

We have two boards. We have a GreaterGood foundation board, which now has, I think, two female board members, and our investment board, which is a statutory board, which has a better balance, of two females, two males and me as the incumbent Public Trustee. Was there any other aspect you wanted me to deal with?

MS BERRY: No, that is fine; you have pretty much answered that for me. Thank you.

THE CHAIR: Mr Taylor, we thank you, as we thank all witnesses who have appeared before the committee this morning. Your efforts are appreciated. The committee looks forward to any responses to questions that may have been taken on board by you or other witnesses. The evidence provided to the committee will be reflected in our report, which will be available after it is tabled in the Legislative Assembly.

The committee adjourned at 11.50 am.