



**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL  
TERRITORY**

**STANDING COMMITTEE ON JUSTICE  
AND COMMUNITY SAFETY**

(Reference: [Inquiry into ACT Budget 2021-22](#))

**Members:**

**MR J HANSON (Chair)  
DR M PATERSON (Deputy Chair)  
MS J CLAY**

**PROOF TRANSCRIPT OF EVIDENCE**

**CANBERRA**

**THURSDAY, 28 OCTOBER 2021**

This is a **PROOF TRANSCRIPT** that is subject to suggested corrections by members and witnesses. The **FINAL TRANSCRIPT** will replace this transcript within 20 working days from the hearing date, subject to the receipt of corrections from members and witnesses.

**Secretary to the committee:  
Ms B McGill (Ph: 620 70524)**

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

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

## **APPEARANCES**

<b>ACT Gambling and Racing Commission .....</b>	<b>159</b>
<b>Chief Minister, Treasury and Economic Development Directorate .....</b>	<b>159</b>
<b>Justice and Community Safety Directorate.....</b>	<b>134, 159</b>

## **Privilege statement**

The Assembly has authorised the recording, broadcasting and re-broadcasting of these proceedings.

All witnesses making submissions or giving evidence to committees of the Legislative Assembly for the ACT are protected by parliamentary privilege.

“Parliamentary privilege” means the special rights and immunities which belong to the Assembly, its committees and its members. These rights and immunities enable committees to operate effectively, and enable those involved in committee processes to do so without obstruction, or fear of prosecution.

Witnesses must tell the truth: giving false or misleading evidence will be treated as a serious matter, and may be considered a contempt of the Assembly.

While the committee prefers to hear all evidence in public, it may take evidence in-camera if requested. Confidential evidence will be recorded and kept securely. It is within the power of the committee at a later date to publish or present all or part of that evidence to the Assembly; but any decision to publish or present in-camera evidence will not be taken without consulting with the person who gave the evidence.

*Amended 20 May 2013*

**The committee met at 9 am.**

Appearances:

Rattenbury, Mr Shane, Attorney-General, Minister for Consumer Affairs, Minister for Water, Energy and Emissions Reduction and Minister for Gaming

Justice and Community Safety Directorate

Glenn, Mr Richard, Director-General

Nuttall, Ms Amanda, Principal Registrar and Chief Executive Officer, ACT Courts and Tribunal

McNeill, Ms Jennifer, Deputy Director-General, Justice

Johnson, Ms Kathryn, Executive Branch Manager, Justice Reform, Legislation, Policy and Programs

Garrison, Mr Peter, SC, Solicitor-General for the Australian Capital Territory, Office of the Solicitor-General for the ACT

Ng, Mr Daniel, Executive Group Manager, Legislation, Policy and Programs

Greenland, Ms Karen, Executive Branch Manager, Criminal Law, Legislation, Policy and Programs

Doran, Ms Karen, Deputy Director-General, Community Safety

Beattie, Ms Liz, Chief Human Resources Officer, People and Workplace Strategy

**THE CHAIR:** Attorney-General, welcome. To all of the directorate staff, the Solicitor-General and so on, it is great to have you here. This is the final of six public hearings into the ACT budget by the Standing Committee on Justice and Community Safety. Today we will be hearing from Mr Rattenbury, in his capacity as the Attorney-General, the Minister for Gaming and the Minister for Consumer Affairs.

The proceedings are being transcribed and recorded by Hansard. I also need to check that you have all seen the privilege card and that you understand its requirements. Not everybody's screen is up, so I cannot get a thumbs-up from everybody; if you have not, please go away and read that.

We are not taking any opening statements, in the interests of time. I will kick off the questioning. Attorney-General, over a decade ago, the opposition was asking for information on bail. You will probably remember that Mrs Dunne moved a motion in the Assembly. We were seeing a number of offences being committed by people on bail. We wanted information about who was on bail, who was committing offences, the nature of those offences and why they were on bail, to get an understanding of how bail was working in the ACT. The police described it as a "revolving door" of bail.

For about a decade, we have been asking for that information. We have been told that we have to wait, that it could not be collated manually, for whatever reason, and that the integrated courts management system would be able to provide us with that data. I note that that is now up online and, based on what I can see, the integrated courts management system is working. Can we now get a view of the nature of offences being perpetrated by people on bail, and what are we doing about it?

**Mr Rattenbury:** You will be pleased to know, Mr Hanson, that we do have an

answer for you this year. I know about the long and tortured history of this issue. We are here to make your day. We do have some data. I will ask Ms Nuttall from the courts to take you through the detail of that.

**Ms Nuttall:** Thank you, Mr Hanson, for your question. We have been able to work through some of the issues that we were having with drawing this data out of the system. The answer to your question is quite a nuanced one and depends on the question that is being asked. I have pulled some data on the basis of the question that you asked me on the last occasion, which was how many offenders recommitted offences whilst they were on bail.

The nuance in that, of course, is that somebody is not an offender until they are convicted of an offence, and they have not committed an offence on bail until they are convicted of that second offence. There are ways of pulling out broader data, and we can take on notice any questions you might have if you are looking for definite data.

Essentially, this is the answer to that question as to how many offenders have committed offences whilst on bail: in 2019-20 there were 2,890 people convicted of offences across the ACT Supreme Court and Magistrates Court. Of those, a little over half, 51 per cent, were given bail, either police bail or bail by the court, which is 1,482 people. Of these, 477 offenders who were convicted were subsequently convicted of an offence that was charged during the period that they were on bail.

**THE CHAIR:** Did you say 477?

**Ms Nuttall:** That is correct, Mr Hanson.

**THE CHAIR:** Of the 2,890?

**Ms Nuttall:** That is correct.

**THE CHAIR:** That is for the previous year, is it? For which years do you have data?

**Ms Nuttall:** That is just for 2019-20, Mr Hanson. The reason is that, obviously, it takes some time for those charges to come through the system and be finalised. Any data for 2020-21 would not give you the numbers who have been convicted of those subsequent offences. We could not be assured that those matters had come through the system.

**THE CHAIR:** Does the system—

**Ms Nuttall:** I am being corrected. It is 477. I have been transposing that.

**THE CHAIR:** 477 is the figure that I have written down. Do you have the nature of the offences for those 477, Ms Nuttall?

**Ms Nuttall:** I do, Mr Hanson. Most of those are low-level offences. The majority of them have been traffic offences. We have done it by way of percentages. These percentages will add up to more than 100 per cent because often people are charged with more than one offence. Forty-one per cent of those reoffenders are traffic

matters; 31 per cent are fail to appear; 18 per cent are theft and related matters; acts intended to cause injury are 14 per cent; illicit drug offences are nine per cent; and there are a range of other offences that are in the single digits.

**THE CHAIR:** I am writing some of those down. Could you provide that to the committee?

**Ms Nuttall:** Certainly, Mr Hanson.

**THE CHAIR:** Firstly, thank you very much. It has been a pretty long and drawn-out process to get to this point. I am very pleased that we can do this, because I think it is very important in order to review how bail laws are working.

Attorney-General, I have not gone through that data yet, and I look forward to doing so. I presume that you have. Having looked through that data, do you have any views on whether bail is doing what it should be doing? It seems to me, without looking at it in detail, that quite a large number of people are committing offences whilst on bail. Do you have a view, particularly looking at any serious offences that were committed, as to whether it is working as it should?

**Mr Rattenbury:** Mr Hanson, I received this data not long before these hearings, a couple of days ago. I have had a preliminary look at it, and I am having discussions with the directorate about the implications of it. We will provide you with the full list, because there are, from memory, 15 or 16 categories of offences that are reported there.

As Ms Nuttall pointed out, a significant number of them are for traffic and fail to appear matters. That points to some interesting issues around recidivism and people being caught in the justice process. Thirty-one per cent have failed to appear. Often we find that people who are failing to appear do so for reasons that are logistical rather than because of defiance of the law or seeking to abscond. For example, we are working with the ANU to come up with an app for people who are on bail to help them to remember to appear. Often people just forget or they have logistical issues in getting there.

In terms of your broader question, the purpose of not getting bail is not about punishment. There are a range of criteria that judicial officers need to take into account. They go to issues of whether a person is expected to reoffend and whether they are expected to reappear or abscond. That is a matter for the judiciary to form a view on, based on the evidence provided to them by both prosecutors and defence counsel. That is a judgement that sits with the judicial officer and, I think, sits with them very heavily at times. They are necessarily questions of judgement.

**THE CHAIR:** That is true, but it is also true that we as an Assembly determine whether an offence should have the presumption for bail or against bail and so on. There are levers that we can pull as well. Part of it rests with the court, but there is a responsibility on us, as parliamentarians.

Finally, before I move on, of those categories, what percentage or what raw number would be categorised as serious offences committed by people on bail?

**Mr Rattenbury:** I do not have that analysis off the top of my head, but we will provide you with the full list so that you can have a look.

**THE CHAIR:** Does Ms Nuttall have that to hand?

**Ms Nuttall:** Mr Hanson, I would have to look at the definition of serious offences. There are particular statutory definitions of those, and I do not have them to hand. I will need to take that on notice.

**THE CHAIR:** That is great. As part of that package you are providing to me, could you look at that definition of serious offences and provide it then?

**Ms Nuttall:** Certainly.

**THE CHAIR:** I think Ms McNeill was putting her hand up; she may have something to add.

**Ms McNeill:** Mr Hanson, I want to let you know that, even though we have not done a serious offence count, we have had a look at the offences charged, which involve claims of violence against—

**THE CHAIR:** Ms McNeill, I do not think that your microphone is working. Ms McNeill, we missed most of what you were saying.

**Ms McNeill:** It was—

**THE CHAIR:** That is not working. I am sorry, Ms McNeill. I am sure it was a very good answer to that question. Perhaps you could add that to what is being provided on notice by Ms Nuttall and the Attorney-General. We will go to Dr Paterson for a question.

**DR PATERSON:** My question, Attorney-General, is in respect of justice reinvestment, given that it is almost halfway through the strategy. My understanding is that it was launched in 2018 and the end of the evaluation of the strategy is in 2025. I am wondering how things are progressing towards the government's targets.

**Mr Rattenbury:** In broad terms, the government did take that policy stance of wanting to take a justice reinvestment approach and to emphasise putting our resources into programs upfront, building community strength, building programs that you believe will avoid people repeat offending or in fact potentially entering the justice system in the first place. There are a range of programs that have been rolled out, which I am happy to go through the details of, if you wish.

The other point I can make on your question of evaluation is that we have a partnership with the ANU where we have undertaken to work with them on a series of ongoing evaluation programs so that we can monitor the efficacy of the programs, the return on investment, and therefore make decisions on whether, for example, to scale up trials, whether to continue with pieces of work. I guess I have the view that if we have set off in good faith on something but it has not delivered as we hoped then we

should be willing to stop and either try something new or revamp or whatever the case may be. That partnership with the ANU is a very important ability for us to measure and not just wait till we get to 2025 and check how we have gone at the end.

**DR PATERSON:** In terms of the evaluation, how are we progressing? Particularly, I am looking at the family trial and the bail support trial.

**Mr Rattenbury:** I will ask Mr Ng from the directorate to assist me with some details there. I think he is the right person.

**DR PATERSON:** Those two trials are specific Aboriginal and Torres Strait Islander programs?

**Mr Rattenbury:** Yes. It is actually Ms Johnson from the directorate who is going to jump in.

**Ms Johnson:** I might be able to assist in relation to that. The ANU has been tasked with a range of evaluations. There is an evaluation to be done in relation to Ngurrambai bail support and in relation to the front-up programs, which are two of the most bail support-associated ones. You asked also about two different programs. You are asking about bail support and the family. Did you have a particular one in mind for family support?

**DR PATERSON:** No, any one. Just how many are there?

**Ms Johnson:** There were over \$132 million worth of programs brought together under reducing recidivism by 25 per cent by 2025. In relation to that, there are up to—I do not have the exact number—I think, 25 to 30 different programs: the Ngurrambai bail support program and the Yarrabi Bamirr yarning circles. There are a whole range of programs here.

I am just trying to think. Yarrabi Bamirr is the one that comes to mind in relation to families, and that is a program that was evaluated in 2017 and will be looked at again under this process. It has been a very successful program, with three providers who provide a range of services to up to 20 different families. They are trying to help and assist a person in relation to—it is very tailored—their particular issues, and it enables them to avoid coming back or being in the overarching criminal justice system.

I am just looking at the other programs. There is just such a good array. There are seven pillars under that program and they are such a good array of programs. I guess I am struggling to think about which ones you would be most interested in.

**DR PATERSON:** Can an individual engage with multiple programs at once? Do they know that they are engaging with multiple programs?

**Ms Johnson:** Yes, they definitely can. They might be somebody who is doing throughcare and could also be in the drug and alcohol court or might also be doing an alternative pathway for a person with a mental health illness. There is certainly not the ability to stop somebody from entering a program just because they are on another program. But some of these matters are for people who are before the Warrumbul

Circle Court or the Galambany Circle Court. It is a strong, connected neighbourhood. There are a range of programs there and, as you say, we are looking at that evaluation program through the ANU and looking at how we will get to that 25 per cent by 2025.

The initial data, while encouraging, is obviously a bit unclear because of COVID. We had those reduced crime rates. It is unclear what the data is telling us at this point, through our reducing recidivism program.

**Mr Rattenbury:** From a data point of view, this year's *Report on Government Services* did show that the ACT's percentage for adults released from prison who return to prison with a new sentence within two years, which is the general definition of recidivism, had fallen from 42.4 per cent in 2018-19 to 37.1 per cent in 2019-20. As Ms Johnson said, we are certainly not claiming that the programs have done all of that in one year, that we have seen such an immediate impact, but I am encouraged by that direction. We do see those numbers move around a little in the ACT, but they are certainly heading in the right direction.

**DR PATERSON:** Just one final thing, on the Indigenous recidivism rate, is it also decreasing in terms of those numbers?

**Ms Johnson:** It is not collected in that way; I have to be honest. We rely on a range of secondary factors in relation to a lot of our data or individual program data on Aboriginal and Torres Strait Islander programs.

**MS CLAY:** Attorney-General, we spoke to corrections yesterday and got some information about FASD in prison, but I was actually looking for a more fulsome answer than we got yesterday about what programs and what data we had on FASD. Do you have that information or is that something we need to follow up with corrections on?

**Mr Rattenbury:** It is something you will need to follow up with corrections on, but what I can tell you is that there are two things in place. One is that the ACT has put in place a Disability Justice Strategy, which specifically seeks to recognise that a range of disability factors influence how people interact with the justice system, and it recognises that there are particular vulnerabilities and particular needs for people with a disability in the justice context. I think FASD sits within, as a subset of that.

The other thing I would say is that we have recently been approached by advocates who work on the FASD issue and they have put some suggestions to us on looking at screening options for people with FASD, at various points of interaction with the criminal justice system. We are exploring how that might be implemented in the ACT. It is not something we have done here before. It is something that requires some further investigation, but I think it is of value because of the consequences that it can have on someone affected by FASD—on their behavioural traits, how they interact with authority and the like. I think it would be very valuable for the justice system to have those insights for people.

**MR CAIN:** Attorney-General, how could you allow \$40 million of capital funding to be cut from the reintegration pathways and are you concerned that such a cut will reverse the recidivism rate that you have mentioned, the trend?

**Mr Rattenbury:** I do not accept the premise of your question. What I assume you are referring to is the fact that the reintegration centre at the Alexander Maconochie Centre has been deferred for 12 months. This was discussed in cabinet this year and is due to the pressing need to make repairs at the AMC after storm damage last year—and also as a consequence of the incident that we saw in November last year where there was a lot of damage sustained to accommodation wings at the AMC. The minister made the case that that work needed to be focused on in the immediate term, and the work on the reintegration centre was deferred for 12 months.

**MR CAIN:** Are you concerned about the effect of that loss of capital funding?

**Mr Rattenbury:** The capital funding has not been lost. It sits in the budget still. I would like to see that work progressing. It is designed to provide both a lower security environment for some of our detainees at the AMC and it is designed to provide a stronger rehabilitative pathway to ease the transition back to non-prison life for those that have been in custody by giving them a range of skills which will include, potentially, job skills, just basic life skills, as well as giving them the ability to make day visits, whether it is to family or places of work.

**MR CAIN:** Will that be restored? Will that be retained for the next budget, that \$40 million?

**Mr Rattenbury:** The money remains in the budget.

**MS CLAY:** I am really pleased, Attorney-General, to see the work on raising the age of criminal responsibility progressing. I was wondering if you could run me through key milestones and also some of the big challenges that you can spot for that reform program.

**Mr Rattenbury:** Where that is up to is that, as you may have seen, in June this year the government released to the community a discussion paper that canvassed a range of quite detailed legal issues that are associated with this reform, including questions of what the age should be raised to, where there should be exceptions, how we deal with issues around victims and victim support, how we deal with alternatives for young people who commit acts that are either harmful to themselves or harmful to others, and some quite detailed legal questions around issues such as extradition to other jurisdictions, spent convictions and the like.

We received 52 responses to that consultation process, and I very shortly will release the listening report that will contain the details of the feedback that we got from the community on that. That should be out within the next week or so. That will be available to members of the committee. Similarly, you may have seen that we also released a report prepared by consultants for the government, Professor Morag McArthur and colleagues, that looked at the service response.

There are really two issues here. One is dealing with the legal questions, and one is making sure that we have got an alternative system in place. We released Professor McArthur's report earlier, in October, and that has significant advice to government on the necessary service reforms that we would need to make to ensure that there are

alternative therapeutic responses for young people. Those two streams of work are now coming together and leading towards a process where I anticipate introducing legislation into the Assembly in the first half of next year. That is the broad summary.

**MS CLAY:** That is great. With the consultation that you are doing, have you had good engagement from some of the people who are voicing doubts about this reform?

**Mr Rattenbury:** That is an interesting question. We got a range of views back in the community consultation. As I said, that will be released. But we did get strong levels of support for the reform. Most of the engagements were from organisations, rather than individuals. There were some individual submitters, but predominantly it came from legal stakeholders, community service stakeholders and the like.

**MS CLAY:** And you are really leading the charge on this one, so any challenges that come up, you will probably be the first to have to work those through.

**Mr Rattenbury:** The ACT is the first jurisdiction that is committed to making this reform, and I know that all the other jurisdictions in Australia are taking a significant interest in the work that the ACT is doing. From a local point of view, this is really a partnership between me and two other ministers—Minister Stephen-Smith and Minister Davidson, with their various portfolio responsibilities. The three of us are working on this and, as I have alluded to, trying to marry what is a legal question and a policy question with a service response question. It is vitally important to the success of this reform that we make sure that we have the right service responses in place. We need to be very clear that, in raising the age of criminal responsibility, there is still accountability for young people.

We are conscious that young people will still potentially be involved in harmful behaviours, and we need to make sure that this is not a situation where there is no consequence for that—but that the consequence is a therapeutic one, not a criminal one. So there is very important work to do in that space, which is why my two ministerial colleagues are a very important part of this reform process.

**MR CAIN:** Attorney-General, there has obviously been quite a bit of news over the last few months about rescission of off-the-plan contracts, particularly in circumstances where purchasers are asked to pay, in some cases, an extra \$200,000 on top of their original contract price. How do you propose to deal with this issue?

**Mr Rattenbury:** As I have indicated publicly, Mr Cain, I am deeply concerned by this. I consider that there is potentially quite unconscionable behaviour taking place here. I have done a couple of things on that. I have asked my directorate to find out further information about what has been going on and to find details about the contracts, where people have been willing to share those with us. We have had a number of people who have been affected who have been quite willing to share that information with the directorate. I appreciate that, because it has helped us drill into the details of the exact nature of how these contracts have sought to be rescinded. I have also directed my agencies to urgently prepare legislation to respond to this and to use the New South Wales and Victorian models as a basis for that.

They are rapidly, at the moment, looking at those two interstate models and preparing

legislation that I am seeking to bring to the Assembly urgently, because I am concerned that this practice has evolved in the ACT. As I have indicated publicly, historically we have not seen these sorts of issues arise in the territory. These rescission contracts have always been there, and they have been there to protect both parties. There have been a range of reasons historically why contracts may want to be rescinded. And that has, as I said, been to the benefit of both parties and has potentially ameliorated risk for both parties. But this new practice is one of great concern; it is one where we need to ensure better consumer protection.

**MR CAIN:** What consideration are you giving—unless laws are retrospective—to those currently impacted by this practice? Is the government anticipating any support for them or remediation?

**Mr Rattenbury:** That is part of the current examination of the legal options available to the government. I am sure you will appreciate that retrospective laws are approached with great caution, and of course we are impacted by the provisions of the Australian Capital Territory (Self-Government) Act around the acquisition of property and the like. That means that we need to be mindful of how that legislation might be designed, particularly in the context of retrospective application.

**THE CHAIR:** Attorney-General, last year the courts went, through legislation and a process through the emergency provisions, to a situation where we had judge-alone trials, and that could occur against the wishes of defence and prosecution.

**Mr Rattenbury:** Yes.

**THE CHAIR:** That has since been reversed, but there were some people caught in the middle of that. So I have a question in two parts. My understanding is that there is a case ongoing. I would like to get an update—not, obviously, on the detail of the legal matters—on that case. Is that case ongoing, and where is it at? Secondly, what steps have you taken to make sure that, should there be another pandemic or something similar, we are not having to go through that again—that we can actually run a trial system rather than have legislation, which, as you are aware, caused a fair bit of outrage in the legal fraternity?

**Mr Rattenbury:** Indeed. Let me invite Mr Garrison to give you an update on the first part of that question, then I will come back to it in the second part.

**Mr Garrison:** Mr Hanson, as you are aware, a case was run in the Court of Appeal a little earlier this year, and the decision has been reserved. The case involved, first of all, an appeal against conviction, and the secondary argument was about the constitutional validity of the provisions that, in effect, enabled the court to decide whether or not there would be a jury trial. I would like to say that I expect judgement imminently; however, of course, the constitutional question may not have to be resolved if the appeal is determined on the substantive grounds of appeal. It was a replay, in effect, of the issues that were raised in the matter of UD in the High Court, which, in the end, was not pursued. The matter petered out because ultimately there was an order for a jury trial. So that is really where it lands at the moment. Obviously, I cannot really comment on the detail in relation to the matter, as judgement is presently reserved.

**THE CHAIR:** Yes. When you say you are expecting a decision, that is on the substantive issues rather than the constitutional issues?

**Mr Garrison:** If the Court of Appeal dismisses the appeal on the criminal grounds—that is, the conviction—then the court will consider the constitutional challenge.

**THE CHAIR:** So they are not doing them in tandem; they are doing them sort of in sequence?

**Mr Garrison:** There is a principle of constitutional law that intermediate appellate courts such as the Court of Appeal ought not to consider or determine constitutional questions unless they have to. That has been a relatively longstanding principle flowing down from the High Court, and it represented, albeit briefly, part of the submission that I put to the court. So, if, for example, the appellant is successful in having the conviction quashed on the arguments that they have raised about the trial, there is no need for the court to consider the constitutional validity of the law because they will be eligible for a retrial.

**THE CHAIR:** That is useful; I did not know that. Attorney-General, do you have something to add in terms of any arrangements you have made to make sure that there is no necessity for judge-alone trials to be reinstated?

**Mr Rattenbury:** There are two components to that, Mr Hanson. One is the preparation that the courts have made around creating a COVID-safe environment. There have been a range of measures, and if you want to go into the details, I am sure Ms Nuttall could speak to those, but they are all the sorts of measures that you would expect that public buildings have put in place. We have, of course, seen some incursions into the court, and we have had a few exposure sites in the courts because the Magistrates Court, particularly, has remained operating during the recent lockdown and the outbreak in the ACT. In terms of the Supreme Court, there has been a pause on jury trials during the lockdown, but they will begin to resume now that the restrictions have been eased. On the broader measure, I have undertaken some consultations, through parts of this year, with a range of stakeholders on judge-alone trials and jury trial issues. I am currently reflecting on the feedback that we received.

**THE CHAIR:** I do not need the detail, thanks, but I want to get some sort of assurance from you that the necessary measures have been taken that mean that we will not need to go back to judge-alone trials or mandated judge-alone trials that are against the wishes of either prosecution or defence.

**Mr Rattenbury:** As you have just seen, we have just gone through an even longer lockdown than we had in 2020 and we did not bring that measure back.

**THE CHAIR:** Okay. Thanks.

**DR PATERSON:** My question is in respect to us being a restorative city, or under that framework. I read that there was a law reform report from 2018 that talked about restorative practices in child protection and public housing, and a recommendation for a restorative form of response in coronial processes. Are these being evaluated or is

the implementation of this being evaluated?

**Mr Rattenbury:** Perhaps the best way to answer that, Dr Paterson, is that the ACT took this broad position of wanting to be a restorative city, and I think that can manifest in a number of ways. You have touched on some of the areas where it has been the focus. Since I have become the Attorney-General, my focus has been particularly on the coronial space. This is an area that I think is well due for some reform and could be much improved by bringing a more restorative process to the coronial space. That is certainly a position that has been advocated for by a number of groups, particularly representing families who have been through the coronial system over many years now.

They have made some very strong points about families feeling more empowered during the process, having better access to information and having a less adversarial model in the coronial system. Families tell us that they just want to know what happened. They want to understand what happened to their loved one, and they are less interested in having that adversarial environment. They want to get to the bottom of what happened, so I have committed to doing that. We have been working with a number of those community organisations and, in the first stage, we have partnered with Relationships Australia, which has already conducted two very intensive sessions, one with families and one with professionals who work in the space of coronial processes, around their experiences and what possible reforms they see. A third meeting will take place. We are hoping to do it in person, so we are waiting to come out of restrictions a little bit. From there we will move into a more detailed process of legislative and process reform for the coronial system.

The other thing I will quickly add, and then I will stop talking, is that you will see in the budget that we have provided the resources to create a dedicated coroner position. I think this is a really important part of reforming the coronial system, because in having a dedicated coroner we can build a consistent practice in the coronial system. A dedicated coroner can be—as much as the separation of powers allows—an important part of that reform process. That is not a criticism of our current coroners, but it is obviously very challenging for them. At the moment, each of the magistrates is on call as the coroner for a week and then they are not. So you do not get that dedicated approach to the coronial jurisdiction that you would hope to get with a dedicated coroner.

**DR PATERSON:** Is there a particular jurisdiction that would be up there as best practice that we are looking to for a model?

**Mr Rattenbury:** Not particularly, at this stage. I have been sent papers about some of the reforms that have taken place in New South Wales and Victoria. My approach will be that—and I am always up for this—we will look for all the best elements from around the various jurisdictions and aim to become the best jurisdiction by taking advantage of the bits and pieces that everybody else has worked out, plus our own thinking on how to do it better.

**THE CHAIR:** Have you identified when the new coronial court will actually be up and running?

**Mr Rattenbury:** I did not mention it but, Mr Hanson, it is funded from sort of this financial year. I have spoken with the Chief Magistrate about commencing a recruitment process. The directorate is now preparing that recruitment process and I expect that to be live before Christmas. There is obviously going to be a bit of a recruitment time frame and the like, so I do not anticipate it starting till the early part of next year. But the resources are there to get going as quickly as we can recruit a suitable person into the position.

**MS CLAY:** I am interested in what sort of cultural lens we are putting across our courts and tribunals. People from different cultures sometimes have different types of body language and different ways of telling stories. I know that for the majority of Australian culture that can sometimes present as being evasive or suspicious. Are we doing any work to make sure that people from diverse backgrounds are able to engage fully with that system in a genuine manner and be received the way that they are engaging?

**Mr Rattenbury:** Thank you, Ms Clay. I will ask Ms Nuttall to provide some further details from the court. There are a couple of cultural elements. One is for the Aboriginal and Torres Strait Islander community and then the broader culturally and linguistically diverse community, which I think goes to some of your points.

On the first point, we have the Galambany and Warrumbul courts, which are specifically put in place for Aboriginal and Torres Strait Islander people in the criminal justice system. They appear in those courts where elders sit with the justices in order to provide a culturally appropriate and culturally aware environment for those people. That is for both juveniles and adults. We can go into more detail on that and then I will ask Ms Nuttall to provide further details from the court's perspective.

**MS CLAY:** I would like to hear more about the circle sentencing. It has been interesting to see that roll out and I would like to hear how it is going.

**Mr Rattenbury:** Sure. Let us come back to that and we will deal with the other matters first.

**Ms Nuttall:** Ms Clay, can I just clarify your question? You are seeking what information we have available for culturally appropriate practices within the court?

**MS CLAY:** No, not really. I want to know, when people from different cultural backgrounds appear in court and engage with the judicial system, what we are doing to make sure that the majority of Australian culture is receiving their engagement in the right way? So it is not so much a brochure as a lens.

**Ms Nuttall:** Yes. I would have to say, in terms of specific supports within the courtroom, we obviously have interpreters available for any member of the public who needs that, be they a witness, a defendant or a victim. There is no particular program within the court in terms of that cultural support. There are a number of community groups across the territory who do provide different types of support, such as Companion House and Winnunga, who attend court with different members of the community to provide that support.

The Aboriginal and Torres Strait Islander cohort, as the Attorney was saying, in the sentencing process have the circle sentencing process around them. That is supported by coordinators for the court, and those coordinators provide assistance to the court, in addition to the elders, around culturally appropriate practices.

We have also, in the last financial year, provided some additional culturally safe space for Aboriginal and Torres Strait Islander community members. That space was due to open just as we went into lockdown, so that has not formally been opened yet, but it allows the opportunity for people within the Aboriginal and Torres Strait Islander community who are coming to court to have space to speak to support people that they bring with them, or their lawyers, in a friendlier environment. That has got within it some meeting spaces and some culturally appropriate designs to assist people to feel comfortable within the court environment.

In addition to that, the judiciary and the staff undertake culturally appropriate training both for Aboriginal and Torres Strait Islander communities and culturally and linguistically diverse communities. In the last reporting year, the judges attended a seminar with Aunty Matilda and Paul House, and they helped them to understand some of the issues people might face within the court environment from a cultural perspective.

**Mr Glenn:** Ms Nuttall mentioned some of the training that judicial officers receive around unconscious bias, culturally and linguistically diverse communities, and Aboriginal and Torres Strait Islander culture. That can occur in different ways, including through the National Judicial College of Australia, which provides some of those resources to judicial officers. The Chief Justice has been heavily involved; she was the past chair of the college.

There was also some work done earlier this year with the Coroner's Court around death in different cultures and how that is approached. I think that is a really important component of being able to provide culturally sensitive support to those sorts of proceedings.

In terms of circle sentencing courts, there are two: Galambany relates to adult offenders, and the Warrumbul Circle Sentencing Court is for youth offenders. As the Attorney mentioned, that is a process where judicial officers and elders sit together with the offender to work through the causes of the offending, to unpack a lot of that, and to find culturally appropriate ways to have the discussion with the offender about what has gone on. There has been some really positive cost-benefit analysis around those sorts of measures that are really important. Ms Nuttall might have more detail on the operation of the courts.

The last thing to mention is that there is some money in the budget this year to be able to provide a more suitable space for the Galambany Court in particular, in response to some of the requests from the elders as to how best to configure a room to make the experience better for Aboriginal and Torres Strait Islander people who come before the court.

**MS CLAY:** I did see that funding in there; thank you, Mr Glenn. If there is further detail, the outcomes of circle sentencing are what most interest me.

**Mr Rattenbury:** Why don't we take that on notice and come back to you with the data we have. Mr Glenn just referenced the cost-benefit analysis work, and we can provide that on notice as well, because it is very interesting and paints a positive picture around the impact the circle sentencing court has.

**MR CAIN:** Attorney-General, are you able to provide some information on when we will be getting e-conveyancing in the ACT, noting that it has been up and running in most other states for years now?

**Mr Rattenbury:** Yes; I am happy to provide an update on that, Mr Cain. I know it is very close in the ACT. I am just trying to recall the details and I am thinking which official might be able to assist me with this one.

**Mr Ng:** Mr Cain, thank you for the question. I can advise that on 25 October 2021 the Land Titles Office successfully received the first electronic conveyancing transaction from PEXA, which is the selected provider. I understand that work is continuing with financial institutions and legal practitioners towards a wider rollout over the coming weeks.

**MR CAIN:** When do we expect a full conveyancing program to be instituted in the ACT?

**Mr Ng:** I am not sure if I have any Access Canberra colleagues here, who are leading the development of this work online, so I might need to take that operational question on notice and come back to you. It may be the case that I can come back to you before the end of this hearing.

**MR CAIN:** Thank you. During COVID lockdown restrictions, obviously something like e-conveyancing would have been of tremendous value to the community. I certainly encourage the government to get into these programs that other states adopt rather quickly, not just for emergency situations but for more efficient practice.

**THE CHAIR:** Moving back to the courts and clearance rates and any delays, matters that have been postponed or deferred because of COVID, can you give me an update on where the courts are at in terms of clearance rates for criminal and civil matters, the Magistrates Court and the Supreme Court? If any delays have occurred, what is the plan to catch up?

**Mr Rattenbury:** I will ask Ms Nuttall to provide that data to you, Mr Hanson.

**Ms Nuttall:** Thank you, Attorney. Thank you, Mr Hanson. In the Magistrates Court, the clearance rates have returned to better than pre-COVID figures. The additional resources that were provided last year have greatly assisted in us catching up with the backlog that we experienced through the first lockdown. Of course the latest lockdown has slowed things down, but we were far better placed this time to respond quickly to returning court matters online.

The figures as at 30 September indicate that our clearance rates across the Magistrates Court are still at 100 per cent for that quarter and our pending matters have returned to

pre-COVID figures.

In the Supreme Court, during this particular lockdown, there were six jury trials that were unable to proceed because of the lockdown. That equates to 35 days of trial time. These matters have been relisted for later this year and early next year, and we anticipate being able to catch up with those by the end of the first criminal trial period next year.

The civil matters have continued in the same vein. There have been matters that have been adjourned because of COVID, but those matters will be attended to by early next year in the Supreme Court and in the Magistrates Court. The civil clearance rate for the first quarter of 2021-22 is at 103 per cent, so we have been able to keep on top of those numbers during this lockdown.

ACAT have done extraordinarily well during this period. For the first quarter of this financial year they had a clearance rate of 112 per cent and for the 2020-21 financial year they had a clearance of 112 per cent again. That has caught us up and that backlog that we saw in the ACAT from the first lockdown has now been addressed.

There are still some delays in the Magistrates Court. This is not necessarily as a result of COVID but because of an increasing rate of filings. There are some delays in the areas of the Magistrates Court that did have to stop, and we will look at getting on top of those in the first half of the year. That is in the workers compensation jurisdiction of the Magistrates Court. The dispute resolution conferences came to a halt for a period of time. We asked parties to undertake their own informal conferences during that period. They will be coming back in, over the next month or so, for us to triage what conferences did not undertake an informal conference and to get those matters listed and progressing into early next year.

**THE CHAIR:** As we come out of COVID restrictions, has each of those courts got a plan for going back to face-to-face hearings?

**Ms Nuttall:** Yes. Each court and the tribunal has a *Pathway out of lockdown* document which is very much in lock step with the general easing of restrictions across the community. The Supreme Court undertook its first jury trial this week, and in the week of 15 November we will return to more jury trials. That will occur depending on where the restrictions are at that moment. We have put in measures to either have that occur across two courtrooms if the restrictions are still in place or, if restrictions have eased, we have undertaken a range of work that will allow us to have a jury in one courtroom and in one deliberation room—measures such as increasing the airflow through those rooms and putting air purifiers into those rooms.

**THE CHAIR:** If there is any fine detail on that, if you could just provide that on notice in terms of clearance rates and so on, that would be great.

**Ms Nuttall:** Thank you.

**Mr Rattenbury:** Just on that, one of the other things in the budget is that, in addition to the dedicated coroner's role, we have also extended the extra Special Magistrate role for the balance of this financial year. There was funding for the first three months

and we have extended it so that there is a full extra magistrate through till next July, in order to facilitate any backlog that needs to be addressed as a result of the pandemic as well.

I have also now got the information on Mr Cain's previous question on e-conveyancing, if you are happy for me just to come back to that.

**THE CHAIR:** Yes.

**Mr Rattenbury:** The details are that on 21 September this year the Registrar-General in the ACT finalised an agreement with PEXA, which is the company to become our first approved electronic lodgement network operator under the ACT operating requirements. As Mr Ng pointed to, that first process is now underway and PEXA is soon switching on the ACT module to be available for industry subscribers to use. It is expected that PEXA will be available for use by all eligible industry subscribers under the Electronic Conveyancing National Law Participation Rules before the end of 2021. In terms of your comment, yes, we are on top of making that an operating system here in the territory.

**MR CAIN:** Thanks for the update.

**DR PATERSON:** My question is in relation to supported decision-making. The United Nations recognises equal recognition before the law and states that supported decision-making should be within the law. As part of the first action plan for the Disability Justice Strategy, one of the first goals is supported decision-making. It says that a supported decision-making program is delivered from year one of the strategy. It does not actually reference supported decision-making being put in the legislation; so I am just wondering what your views are on that and whether we will move to supported decision-making being in the legislation in the ACT.

**Mr Rattenbury:** Yes, certainly. On the broad question, I am very supportive of this. I think it is an important part of the Disability Justice Strategy, empowering individuals to have the maximum opportunity to participate in shaping questions around their own lives. In terms of the detail of where it is up to, I think Mr Ng is probably the right person to provide some further detail there.

**Mr Ng:** Thank you for your question. Yes, in the Disability Justice Strategy the government is committed to considering and implementing legislative change to facilitate supported decision-making approaches. The territory is fortunate in some respects in that, unlike other jurisdictions, our guardianship legislation already provides scope for certain supported decision-making approaches to be implemented and ACAT and the Public Trustee and Guardian are already actively seeking to explore opportunities for supported decision-making, rather than substituted decision-making, in the course of their respective functions.

The directorate is currently exploring whether there are opportunities for legislative change to better facilitate some of those practices, but, as I observed, yes, the territory is fortunate in that the legislation that we already have does allow for those approaches to be implemented under the current regime.

**DR PATERSON:** Do you feel that we cannot progress much further in the Disability Justice Strategy if we do not implement this legislatively at the beginning, or sooner rather than later?

**Mr Ng:** Certainly the feedback we are getting is that legislative change would be desirable to drive a longer term culture of the implementation of supported decision-making; so I think that is one of the things that the government will have regard to when they are considering possible legislative change in the future.

**DR PATERSON:** Are there any time frames on when the end point of consideration and the decision to move on it will happen?

**Mr Ng:** Yes. I believe the Disability Justice Strategy commits to the consideration coming to fruition in 2022.

**MS CLAY:** I was wondering if we could get an update on the Therapeutic Care Court. I know it is a new program, but I would love to know how many families have accessed it and what the outcomes are. I am also wondering if we are continuing it. We are a bit concerned that the funding for that might run out.

**Mr Rattenbury:** On the intent to continue, yes, it is a trial program that has got at least a year left to run on it. I am going to look to one of the officials to help me out with the time line and also give you some figures on how many families have been involved so far.

**Ms Nuttall:** We have received funding for this financial year. We do not have any funding through to the forward years. The funding that was provided was reasonably conservative because we have had a slow take-up of participants in that court. The court commenced in March this year and we have had three referrals to that court. Of those, one of those families is still undergoing the assessment for their suitability in that court, one of the families was assessed as unsuitable, so one family at this stage has progressed through the process. I am pleased to advise that the young person that was involved in that process has been returned home to his family and returned home safely, with no further court involvement.

**MS CLAY:** This strikes me as exactly the kind of program we need to have working really well to support our Raise the Age reforms. Have you had any thoughts about whether it is promotions, education or simply a tool that only fits certain limited circumstances? What is the problem with that uptake?

**Ms Nuttall:** We are working very closely with the Community Services Directorate and the Children and Young People folk over there, as well as Legal Aid. Legal Aid were funded to have not only a solicitor involved in this court but also a duty solicitor, and he has been working with families at the point that they are coming into the court system, to talk them through the process of the Therapeutic Care Court and to assist them to apply if they wish to participate in that court. We have also done quite a bit of education throughout the relevant parts of the legal community to inform them of the process and the opportunities.

**Mr Glenn:** Could I jump in there, just to be clear? The funding for the Therapeutic

Care Court goes through to the end of 2022-23, the next financial year, to give us some time to be able to continue the work on the uptake and to have some evaluation to inform future government decision-making about the court.

**MS CLAY:** In a couple of years we will have a really good evaluation and decide whether to continue with that program?

**Mr Glenn:** Indeed.

**MR CAIN:** In previous years, Attorney-General, accountability indicators under output 1.1 have included a target of two initiatives aimed at reducing regulatory burden. Could you explain how this target is set and what is the methodology for selecting particular programs or regulatory burden reduction?

**Mr Rattenbury:** Yes. I will invite Mr Ng to comment on that one as well.

**Mr Ng:** Thanks for the question. As you are aware, my division of Legislation, Policy and Programs conducts regular omnibus programs to effect a range of tidy-ups across the statute book, I guess confined to the justice and community safety portfolio. As you can see in this year's report and previous reports, we often use those omnibus bills to identify and progress those reductions to regulatory burdens. They are tidy-ups across the legislation program.

In response to your question about how we go about identifying which ones, I would say that it happens quite naturally and that we progress law reform initiatives from a range of impetuses. Some are from the implementation of government priorities, but often we hear from members of the community or organisations in the community about improvements they would like to see made to the relevant regulatory frameworks that apply to them. It probably follows from that. Often those suggestions for changes and the like contain improvements and measures that reduce regulatory burdens on those relevant industries.

**MR CAIN:** You have two initiatives listed for this financial year. Can you outline what those are?

**Mr Ng:** Yes. I believe they are outlined in the descriptor at item B of the output description. One of them was the Births, Deaths and Marriages Registration Amendment Bill 2020. That is a bill that falls within what is now Minister Cheyne's portfolio as Minister for Human Rights—amendments to the Births, Deaths and Marriages Act—and the other was the Justice and Community Safety Legislation Amendment Bill 2020.

**MR CAIN:** Are these omnibus bill approaches simply to correct language and reorganise legislation?

**Mr Ng:** No.

**MR CAIN:** I am obviously asking: what are the substantive changes these initiatives hope to bring about?

**Mr Ng:** In relation to omnibus bills, the directorate and government can progress a range of different types of omnibus bills. In relation to the kinds of changes, the minor tweaks and missing punctuation and the like, I would say they are more within the remit of the Statute Law Amendment Bill program, which is progressed by my colleagues in the Parliamentary Counsel's Office.

The justice and community safety legislation amendment bills do sometimes result in some kinds of minor and technical policy changes; so they are slightly more substantive than the kinds of minor changes to language that I think you are alluding to.

**MR CAIN:** It would appear to me that the item B mention that you provided was with respect to last year's red tape reduction, unless I have misunderstood that. If so, if I have got that right, what is coming up this financial year?

**Mr Ng:** I believe that would be bills that were progressed within the relevant reporting period and some matters which are still for the consideration of government in terms of what progresses on the legislation program. But I would expect that my office would continue to conduct a regular program of omnibus bills of the JACS bill variety, which often include amendments which reduce regulatory burden.

**MR CAIN:** Are you able to identify two particular initiatives that have been listed for this financial year?

**Mr Rattenbury:** Not at this point in time. As Mr Ng has indicated, they will be matters that will need to be pursued through cabinet first, before they then come to the Assembly.

**MR CAIN:** How will they be notified once a decision is made on those?

**Mr Rattenbury:** The bill will come to the Assembly.

**THE CHAIR:** You might want to take my next question on notice. I am interested in offences for cannabis, both recording pre and post the legislation that legalised certain quantities of cannabis coming into effect. Are you able to provide me a view of the number of criminal matters in the courts that were dealing with cannabis prior to that legislation coming into effect, as opposed to post, and similarly the number of drug driving offences that involved cannabis pre the legislation coming into effect and post? If you do not have that to hand, I am happy that you take it on notice.

**Mr Rattenbury:** I suspect we will need to, but let me just look to the officials to see if anybody has that. I suspect not, though.

**Ms Nuttall:** Sorry, we do not have that data to hand. I will take that on notice.

**THE CHAIR:** That would be tremendous.

**MS CLAY:** I am interested in the body-worn cameras reform that we rolled out recently and I would like to hear about the policy settings and the consultation settings and how that has gone.

**Mr Rattenbury:** All this would sit with the minister for police of course, but the way the legislation was set up, as you may recall, is that the broad legislative framework was put in place and then the Chief Police Officer is required to produce a notifiable or disallowable instrument. Is anyone going to help me here? I should remember this. That actually sets out fully the operational details of how that will be put into effect. I see Ms Greenland has come online, so I will defer to her.

**Ms Greenland:** As the Attorney-General says, the Chief Police Officer will be involved in developing a disallowable instrument which sets out more detail around the circumstances in which body-worn cameras can and cannot be worn, but that will all sit under the framework that is set out in the legislation, which also is very clear about expectations about when body-worn cameras must be worn or may be worn and what the exceptions will be to those situations.

**MS CLAY:** Are you able to tell me anything about the consultation process? It was quite a big shift, and I have heard quite positive things about that consultation process. I would like to hear what it was and whether we are doing that in other areas.

**Ms Greenland:** I can tell you that the consultation process included a YourSay opportunity for people to provide views about body-worn cameras and it also included questions in the survey that the government puts out on a regular basis about views that people might hold about the use of body-worn cameras.

Interestingly, the responses certainly showed that people were interested in the use of body-worn cameras by police, and the majority of respondents were broadly supportive of the use of them, though some people were very clear that they felt that that needed to be in the context of having appropriate protections around when they could be used and the issue of police discretion. I think people were wanting to make sure that if body-worn cameras were available for use by police then it was clear that there was an expectation that they would be used when they were available, unless there were exceptional circumstances. That survey process certainly gathered some very helpful responses to indicate a level of interest in the community and a level of support for their use.

**MS CLAY:** The policy settings were actually adjusted directly in light of what happened in the consultation; is that right?

**Ms Greenland:** On the policy settings, we were definitely considering all of those issues around the importance of having appropriate protections around the use of body-worn cameras. To some extent, the feedback we got, I think, mirrored very closely the sorts of considerations that we were taking into account in working with ACT Policing and the Human Rights Commission. We certainly worked with both those organisations very closely around what would be an appropriate framework for the use of body-worn cameras.

**MS CLAY:** That sounds like a good way to make those changes. I appreciate being run through that.

**MR CAIN:** Minister, I have a question regarding the Sentence Administration Board.

Your annual report, page 444, for the 2019-20 budget, shows fewer board sitting days— 63, in fact—down 12.5 per cent from the previous year, due to a decrease in resources. Has this reduction of resources continued this financial year?

**Mr Rattenbury:** I would have to go back and have a look at that old annual report. I have not looked at it for some time, as you can imagine, but what I do know is that the board have actually been extremely busy and there have been sitting more days in the past 12 months. In the catch-ups I have had with them or the four meetings I have had with them they have indicated to me that their workload has been quite high and they have actually been programming extra days. I see Ms Doran has just come online. She deals directly with the SAB, so she might be able to add some details.

**MR CAIN:** Attorney-General, I might mention that it is almost a question on notice because I raised this very thing in yesterday afternoon's session and Mr Gentleman kindly referred it to you.

**Mr Rattenbury:** I suspect Ms Doran is well prepared, then. Let me hand over to her for a moment.

**Ms Doran:** We have been able to pursue the question since yesterday and have an answer for you today. In the period of the annual report, the SAB had experienced some resource shortages for various reasons—a maternity period for one of the members, as well as other circumstances. This was an issue we worked closely with the SAB on, both to provide temporary resources to try and support those short-term issues but also to negotiate a longer term staff structure for them, going forward, to reflect the increased workload that they were experiencing.

For this year, I can confirm that they have had both financial support and an increasing staffing FTE in their structure, which they have now been able to recruit to, and, as the minister has indicated, I think they are fairly comfortable now with the support that they are getting and the ability to reduce the backlog of work that they have experienced. All of that, of course, is subject to them still working in a COVID environment, which is bringing its own challenges, as for everyone else.

**MR CAIN:** Again, I appreciate that you have picked up this from yesterday's hearing and you have been prepared to answer. There is currently a backlog of cases. Is that the case?

**Ms Doran:** Certainly, as at their 2019-20 report, that was the experience they were having. I know they have been working to reduce that through this more recent period. As I said, the circumstances with COVID are still making it difficult to have the hearings as frequently as they would like, but I know that they are appreciative of the increased staffing and that is allowing them to meet more regularly and to work through that backlog.

**MR CAIN:** Generally speaking, or in as much detail as you have, how is your resourcing determined?

**Mr Rattenbury:** For the SAB, you mean?

**MR CAIN:** Yes.

**Ms Doran:** In discussion with the SAB, essentially. It is an independent board with a statutory function to complete; so they negotiate around the workloads and the staffing that they believe they need to support that. The staffing support that they have is essentially that the secretariat functions to organise the meetings and administratively support those meetings, and that has a dependency linked to the number of cases and the workload that they have at a particular time.

**MR CAIN:** Can you explain what protocols and governance arrangements are in place to ensure the privacy of people who appear before the board?

**Ms Doran:** That is essentially a matter for the board. I know that it is an issue they are considering themselves, in terms of policies that they are looking to develop in that space. I probably cannot answer in more detail than that at the moment.

**MR CAIN:** Is that something you would take on notice?

**Mr Glenn:** I think that is a question better directed to the board itself. Its own arrangements are determined by board members. We can certainly say that we afford them facilities in directorate offices and ICT facilities and so forth to be able to manage their business. But I think, in terms of those specific protocols about the operations of the board, that is really something they would need to answer.

**MR CAIN:** The Attorney-General is responsible for the Sentence Administration Board, under the administrative arrangements. I would like that question taken on notice by the Attorney-General. Also, could you inform me: are you considering virtual appearances or the continuation of current arrangements if that is the case?

**Mr Glenn:** On the question of virtual appearances, certainly the board is doing a range of different modes of appearance, by telephone and by other means. We would expect those to continue.

**MR CAIN:** My point, though, being: Attorney-General, you are responsible for the Sentence Administration Board. I would anticipate that you should be in a position to answer questions that I have just asked about its protocols and governance arrangements regarding privacy. I would ask that that be a question you take on notice.

**Mr Rattenbury:** I am happy to. I think the point that the director-general is making is that, at least in previous years—and I do not know what arrangements your committee has made this year—the SAB have appeared before the estimates committee themselves. I think the point that the director-general was making was that you could potentially ask them directly. But if they are not to appear this year, yes, you are right. Ultimately I am happy to take that on notice. I guess we are trying to offer you the opportunity to directly ask it yourself.

**MR CAIN:** Of course, my experience of previous years is zero, pretty much. Obviously that is something the committee could consider for next time.

**THE CHAIR:** My question is probably best directed to Mr Glenn. I am interested

in—not the front-of-house staff or the emergency services and others that fit within the directorate—the policy staff, the people in the directorate dealing with policy. Broadly, how many staff are in the office to do that body of work or the policy work for JACS?

**Mr Glenn:** In the office?

**THE CHAIR:** Not necessarily. By saying “in the office”, that is where I am going to be heading. How many staff are there?

**Mr Glenn:** In terms of actual numbers?

**THE CHAIR:** Yes. Once you take out the emergency services and the police and the jail and everyone else, how many are actually doing not the courts but the back-of-house policy work of the directorate? How many staff are there?

**Mr Glenn:** I wonder if Ms Beattie has the staffing numbers directly to hand?

**THE CHAIR:** I am happy if it gets taken on notice for a precise number. I am just after a view of what that number is, in broad terms.

**Ms Beattie:** I will have to take that on notice because we would have to actually break it down. While the table indicates where they work, I would have to put in a little bit of consideration of whether they were front line or not, Mr Hanson.

**THE CHAIR:** Okay, thanks. Are those staff located, in the main, in the government office building on London Circuit or are they spread across the board?

**Ms Beattie:** They are spread. There are some in 220. There are some in 2 Constitution Avenue. There are some currently in Customs House. There are a range of places where they are.

**THE CHAIR:** Right. Is that because there is not enough room in the government office building or is there a functional reason for that?

**Mr Glenn:** That is mostly functional, Mr Hanson. The legal policy engine within the directorate which Mr Ng heads up is predominantly located within 220 London Circuit, within the city office block. There are other policy staff that are attached to other business units within JACS who work in areas where those business units work. For example, there are some policy people in the Human Rights Commission who are working from Customs House at the moment. There are policy people in corrections who are mostly in 2 Constitution Avenue. So it actually goes to the functional disposition of the organisation.

**THE CHAIR:** As we all return to work, is there a consolidated JACS plan or is it being left to each functional area to determine the working arrangements—whether people work from home or whether they are in the office? Who is making those sorts of decisions? Are there broad guidelines or is that left to—

**Mr Glenn:** There are broad guidelines to the effect that people who have operational

or other pressing business needs to be in the office would be returning to the office. Many of them have been working from offices throughout the entire COVID period because of their particular roles. For those who have been working from home, there would be a gradual return to work, determined by the business needs, the safety needs and other needs of those staff members. Within that broad setting, I have asked each business unit to address their own transition plan, which is ultimately approved or not by the senior management committee of the directorate, which consists of me, the deputy directors-general and the chief operating officer.

**THE CHAIR:** In 220 London Circuit, are your staff going to be hot desking?

**Mr Glenn:** There is a system to book particular desks within 220 London Circuit and people would occupy that desk for the entire day. So it is less flexible than perhaps it would be in a non-COVID environment, where people could move through the day to different places in order to be able to locate with other people that they are working with at that particular moment. We ask people to book a particular desk so that we can manage the load of people across the building and the hygiene measures that are put in place to ensure a safe workplace.

**THE CHAIR:** Right. I am just wondering, culturally, if COVID has changed the view in terms of work practices. Are you going to be introducing more working from home, regardless of COVID? Do you see that as an ongoing arrangement or is it your desire to get everyone back in the office when it is safe to do so?

**Mr Glenn:** I think, like many workplaces, COVID is effecting some changes that I expect will be permanent, and there will be greater flexibility for people working from home. I would expect that, in the longer term, as the COVID situation eases, we would have fewer people who work exclusively from home, but I expect that there will be a mix for many of our staff, particularly policy staff. That is a flexibility that the ACT public service as a whole is seeking to pursue. We can now see the technology that supports that and some of the flexible buildings that support that as well.

That said, there will always be areas of the business where physical attendance is necessary, particularly in the frontline areas. For today's purposes, the courts, for example, will always require a reasonably large cohort of people to be physically located in the court, with the judicial officers to support that activity.

**THE CHAIR:** Thanks for that.

**MS CLAY:** I have a question, but it is rather lengthy, I imagine.

**THE CHAIR:** Maybe you could put it on notice, then.

**MS CLAY:** I might put it on notice.

**THE CHAIR:** Mr Cain, you will need to be brief.

**MR CAIN:** I do have something very brief to say. I want to commend the Attorney-General on assembling adequate officials across five output classes.

## PROOF

Unfortunately, the Chief Minister yesterday afternoon was unable to reflect the same approach across three output classes, which created a very inefficient estimates process. So perhaps, Attorney-General, you could pass on your approach to the Chief Minister for next time. Thank you.

**Mr Rattenbury:** Thanks, Mr Cain. As always, I thank the officials for turning up. They are excellent at what they do, and they always have so much more information. I am always keen for them to share it where they can.

**THE CHAIR:** If there is such bonhomie here, I suppose we will end this session. Thank you very much to the Attorney-General and officials, many of whom are going to be staying on for the next session.

**Mr Rattenbury:** Thanks, Mr Hanson.

**Short suspension.**

Appearances:

Rattenbury, Mr Shane, Attorney-General, Minister for Consumer Affairs, Minister for Gaming and Minister for Water, Energy and Emissions Reduction

Justice and Community Safety Directorate

Ng, Mr Daniel, Executive Group Manager, Legislation, Policy and Programs

Chief Minister, Treasury and Economic Development Directorate

Cubin, Ms Derise, ACT Commissioner for Fair Trading and Executive Branch Manager, Licensing and Registrations

Rynehart, Mr Josh, Executive Branch Manager, Fair Trading and Compliance Regulatory Strategy

ACT Gambling and Racing Commission

Chan, Ms Yu-Lan, Chief Executive Officer

**THE CHAIR:** I welcome the new officials for this session. Minister, in your role as Minister for Gaming can you give me an update on the Community Clubs Ministerial Advisory Council? I think there is a \$50,000 adjustment for the council. Can you explain what that is for and give a summation of the activity of the council this year?

**Mr Rattenbury:** Yes, certainly. Thanks, Mr Hanson. The Ministerial Advisory Council was established in May. We have appointed 14 members, and I publicly announced those. By way of quick summary, it is me as the chair; Minister Cheyne as the deputy chair; representatives of the clubs industry—both Canberra Community Clubs and Clubs ACT; a number of clubs to bring in a bit more of that operational focus; a range of community stakeholders and gaming advocates; representatives from gambling harm reduction organisations and experts; and a young person's representative, which I think is quite important in terms of contemplating the future of their clubs.

The purpose of the advisory council is to help us drive that agenda of creating a sustainable future for clubs. As you are aware, the government has been very clear through the parliamentary agreement that there are a range of reforms that we have in mind. I have also been equally clear that my intent is that we should create a sustainable future for clubs, which is about diversification and what their offering is.

In terms of the technical adjustment of the \$50,000, I will get one of the officials to jump in and help me. My recollection is that this is a rollover of some unspent funds, but Mr Ng might help me.

**Mr Ng:** Thanks, Minister, and thanks for the question. The \$50,000—it may be a feature of the labelling of the budget initiative—was actually a rollover from the last year's budget revisioning for the technical advice for the implementation of the bet limits and load-up limits commitment. We were reaching close to the end of the financial year so it was necessary to roll over a certain amount in order to meet the liabilities under that contract.

**THE CHAIR:** In terms of COVID and its impact on clubs, it has been pretty

significant, obviously. Has the advisory council come forward with any recommendations as a result, either in terms of something that is new or whether they want to slow down some of the pace of reform? Have they got any thoughts? If so, can you give us a bit of an outline?

**Mr Rattenbury:** Let me take that in two ways, Mr Hanson. One is that there has been the obvious immediate impact on clubs. To that end, I have been meeting directly with both the Clubs ACT representatives and Community Clubs representatives on a pretty regular basis, about once a fortnight, during the close-down period. We have been working through a range of issues, including questions of the restrictions and how they apply to clubs. That has enabled me to take those perspectives to the cabinet discussions around restrictions and the like.

We had a forum last week that had about 50 people online. It was all the operational people from clubs. We invited them to come on and I brought a couple of the government officials with me, and we just went through all of those really detailed questions. There has been that information-sharing, feedback approach during the pandemic. Of course, the clubs have been eligible for a range of business support measures that have been in place. So that has been the primary way that we have supported the clubs financially. I am happy to go through those in detail if you wish. And, of course, their staff have also been eligible for the disaster relief payments.

A number of the clubs have already reopened. In the meeting with them last week when I had those chats, they were finding they were getting pretty good turnout. Different clubs are operating different models. Some of them are inviting people to come for two-hour slots with bookings; others are taking different approaches.

**THE CHAIR:** I would be interested if you could outline any specific measures that have been introduced for clubs that are club specific.

**Mr Rattenbury:** One key issue for the clubs is that they were frustrated last year that when the clubs reopened, the rules around the use of the gaming areas were different to those in New South Wales. This year we have been aligned. The clubs' number one issue was making sure that the rules that applied to gaming areas in the second phase of last year's reopening applied from the start of this year, and that has been the case. So those practices that were built up last year were maintained this year.

In terms of direct financial supports, we have food and liquor fee waivers which have been automatically applied. So there is an annual license fee waiver for club liquor licenses that has been tapered to provide a 50 per cent fee reduction for 12 months from 1 April 2021 to 31 March 2022, and food business registration fee waivers have also been extended to 31 March 2022. Beyond that, it is the various payments that are available—the business hardship schemes, business support grants and payroll tax exemption for apprentices and trainees.

**THE CHAIR:** You said that you met with Clubs ACT. I understand your predecessor was refusing to meet with them, is that right? Has that been a change in government policy or a change that you have made?

**Mr Rattenbury:** I have always met with Clubs ACT, Mr Hanson. Despite the fact

that they did their best to run us out of the Assembly, I continued to meet with them right through last term. In my role as minister, I think it is appropriate to meet with them, and particularly recently to meet with them quite regularly because there has been a lot of issues at play. We need to have a constructive working relationship. We do not always agree, but there are plenty of things that we can agree on. My focus is being pragmatic and getting on with the things that we can get done.

**THE CHAIR:** You mentioned the other representative body. Do they have a divergent approach?

**Mr Rattenbury:** It is probably one of those Venn diagram exercises where there is a range of issues that are the same and then there are different emphases from different venues. I think that applies across the clubs sector generally. The club sector is so diverse, from your small ethnic clubs to your much larger clubs that have several hundred poker machines and are an entirely different business model. That is something I am always very conscious of in my discussions with the clubs as well.

**MS CLAY:** We were talking about the impact of COVID on the clubs, which has obviously been extreme, but it has also had a huge impact on the patrons. What have we learned about the changed behaviour for problem gambling during COVID?

**Mr Rattenbury:** Thanks, Ms Clay. When it comes to clubs and their patrons there are a couple of things that I can observe. One is that for a lot of people the club is a social connection point for them as well, which is why, from my personal point of view, the issue of poker machines is so significant. The overlay of having poker machines which can drive problem gambling in the same venues is a problem and steps away from some of the origins of clubs in the territory.

In terms of problem gambling and general access to gaming facilities, it is clear that the clubs have been closed down and people have not been able to go to the poker machines. I have seen some preliminary data which indicates that online gaming has gone up during that period. I think that is the main answer to your question. Is that what you mean?

**MS CLAY:** That and we heard reports particularly early in lockdown that people found some relief in not being able to go into the clubs and that that was a bit of a break. The increase in online gambling is certainly a concern.

**Mr Rattenbury:** Yes, you are right. I had this feedback as well, particularly from some of the advocates—the fact that people could not go broke that habit for them. For some people that was seen as a real positive. That is very interesting in the context of things like self-exclusion schemes. Some people, having had that experience, may now increasingly access the self-exclusion schemes, because they realise that there is a way that can help them deal with some of their own challenges.

**MR PARTON:** Can I just say initially in response to that last comment that I think Ms Clay, Mr Rattenbury and myself move in completely different circles. The feedback I received about the closure of the clubs was basically that people were devastated that (a) they could not go the club; or (b) they could not go to work.

Mr Rattenbury, I want to take you to task on your suggestion that the COVID restrictions lined up between the ACT and New South Wales. You will be well aware that I was vocally campaigning last time round for the reopening of gaming in line with New South Wales. I certainly concede that that has occurred. But I think the vast differences between the patronage levels at the clubs has meant that, with the greatest of respect to clubs that have opened in this last two weeks, the only way that they could open was to just offer gaming.

I am asking you, Minister, whether you have received feedback that at the 25-patronage level the only way you could open was to funnel people into gaming. I am not really sure that that is the sort of outcome that you as minister would have been pursuing.

**Mr Rattenbury:** Mr Parton, several things. The observation I was making at the start about lining up with New South Wales simply was that last year the clubs in New South Wales did open with their gaming facilities and in the ACT they did not. This year they did reopen with that.

In terms of your point around what people access when they go to the clubs, I have heard different reports. Clearly the clubs have opened with their gaming rooms open and some people have gone for that. I have also had feedback that some people have just gone for a meal and catching up with friends.

I was quite clear in reflecting the fact that not everybody was happy about the clubs closing; I was simply reflecting on the point Ms Clay made, which was that clearly some people who struggle with their use of poker machines were relieved by the lack of access. It did provide them a break. As I also talked about, there were lots of people who missed their clubs because of the social connection and the range of other reasons they go there.

**DR PATERSON:** Minister, touching on the theme of what we have been talking about, out of lockdowns, in all other jurisdictions poker machine players recorded record losses across the board. As much as people might have been relieved that they could not play pokies during the lockdown, there is also substantial evidence of people going twice as hard when they come out of lockdown. I am really concerned about the level of harm that will be going on in ACT venues post this lockdown. I would like to know what the government is doing to monitor and address that.

**Mr Rattenbury:** Certainly, Dr Paterson. I share those concerns as well. I have heard similar reports. There are various figures floating around of record takings, increased takings, through the poker machines.

In terms of what we can do in the short term, we have just had Gambling Harm Awareness Week. Certainly there has been an effort across various agencies and various partner organisations to promote that and to identify the risk to people. They are doing it in a way that is not about shaming or blaming people; it is about being really clear about the opportunities that are available for help, and the risks.

We had a peer support worker who did some media work with us last week who, I think courageously, shared his own experience about how he got trapped into

gaming and the impact it had on his life over a long period of time.

On your broader point, the bottom line is that poker machines are deliberately addictive. They are designed to hook people in and to extract, in some cases, frankly, more money than people can afford, which is why we have a long-term reform program of harm minimisation in the territory.

**DR PATERSON:** If, for example, over our lockdown period, people were not allowed to buy alcohol, and we got to a point where clubs, pubs and bottle shops opened, we would have significant risk mitigation processes, we would have extra police around, and we would be recognising as a community that there is potential for substantial harm from alcohol as a result of reopening. Has any consideration been given to substantial risk mitigation in these venues for people that may now go into the venues and experience substantial gambling harm?

**Mr Rattenbury:** As Mr Parton highlighted, to some extent there is a natural rationing at the beginning because of the public health requirements of limited numbers of people in venues. So there is a bit of a soft opening there. In terms of your specific point, outside the usual measures that are in place, there has been nothing specific put in place for the period post lockdown.

**MS CLAY:** I would like to get an update on how we are going with right to repair in the ACT and nationally.

**Mr Rattenbury:** Jumping across to the consumer affairs portfolio; no problem. The ACT has been a real initiator of this work in Australia. For members who were not here in the last term, during the 2019 consumer affairs ministers meeting, the ACT sponsored a paper asking for policy work to begin in Australia on the right to repair. This is the notion that has come from some work that is happening in both Europe and the US. The idea is that when you buy a product, you should be able to get it repaired, spare parts should be available to have it repaired, the tools should be available to open the device without destroying it—all of these basic concepts. We have seen built into some products what is called a deliberate obsolescence or an inability to repair them. So we have been pushing this idea along.

As a result of our paper that we sponsored at the consumer affairs ministers meeting, the matter was referred to the Productivity Commission. The Productivity Commission have been undertaking a substantial inquiry. They released a draft paper in, I think, April this year, in the first part of this year, which then went out for public feedback. They had public hearings across the country. I appeared at the one here in Canberra. I am expecting a final report from the Productivity Commission inside this calendar year. From there, there are some question marks about what happens next.

**MS CLAY:** It will be difficult; given that most of the manufacturing is at the international level, I wonder how effective that will be?

**Mr Rattenbury:** Yes and no. Australia, of course, already has a range of product standards that people have to apply to bring goods into Australia. In that sense, we can do it. But you are right; and the international trends will also assist in this—the fact that the European Union is now taking a range of steps in this space. In the US, it is

quite different. In the US it has been very focused on farm machinery, predominantly, whereas in Europe it has been focused more on what might be considered electronic consumer goods, phones, tablets and things like that.

It is an evolving space, and it is very early in the space. We are also seeing a bit of a grassroots movement of people wanting to repair their own things, whether it is repair cafes or people just getting a job repairing items. We are seeing an uptick of interest in the ability to repair goods.

It is really driven from an anti-consumerism and sustainability perspective, and saying, “These are good products that we should be able to get a longer life out of rather than using them for a couple of years and throwing them away.”

**MS CLAY:** I can see a risk. I actually understand the focus on farm equipment and machinery, both for the sake of the farmer and for the sake of the tonnage of waste. Do you think that there is a risk that right to repair might be directed at and focused on things of high public interest but perhaps low sustainability outputs—things that actually are not filling up our landfills and maybe do not contain a whole lot of embedded carbon, rather than focusing the efforts on where they are doing the most environmental damage?

**Mr Rattenbury:** It is an interesting question. It points to those different agendas. In the US the farm stuff has come about because farmers were finding that, at the critical harvest moment in their season, their tractor would break down, they could not get a repair person out in time and their crop would spoil.

Interestingly, in Australia, the consultation that the Productivity Commission has done has reflected both of those agendas. We have had the rural communities making that point very strongly. There has also been the consumer side. I think that will go to the recommendations from the Productivity Commission as to how we approach that. Certainly, from my point of view, both of those channels are quite important, for quite different reasons.

**Mr Ng:** Ms Clay, on the observations that the minister has made on timing, I confirm that the Productivity Commission released their issues paper on 7 December 2020. They are due to hand down their final report tomorrow.

**MR PARTON:** I have a question for Minister Rattenbury. Over the years, Minister, you have been a fairly tireless campaigner for the reduction of gambling harm in the ACT, particularly, of course, in the area of poker machines in our community clubs. You have certainly been a senior member of this government, in one way or another, for a decade or so.

While this is all happening, your government has developed quite a strong investment portfolio in gaming and gambling companies. I refer to the ACT Treasury website, and the list of company shareholdings as at 30 September 2021. This includes eight out of the top 20 gambling companies in the world, listed for 2021. In addition to these, your government holds shares in Aristocrat Leisure, BetMakers Technology Group, Crown Resorts and PointsBet Holdings—in all, at least a dozen major gambling businesses or those with a strong gaming business in their commercial

portfolios.

I understand, Minister, that this is not directly within your ministerial brief, but I thought that it was relevant to ask about the hypocrisy of that when you are constantly seeking to, many suggest, close down gambling in the territory and imposing restrictions that are extremely onerous on our clubs. While that is going on, your government is taking dividends and capital gains from the likes of Caesars and Las Vegas Sands. How do you justify that?

**Mr Rattenbury:** As a former radio journalist, you are excellent at editorialising one's comments. That is a really interesting piece of research. I appreciate you drawing it to my attention. I was not actually aware of that. The Greens, of course—in my capacity as a Greens member of this place—have sought over the years to bring a range of ethical investment filters onto the ACT government investment portfolio. I was not aware of those particular ones; but you have now drawn it to my attention, and I can assure you that I will be taking that up with the Treasury in order to clean up the ACT's investment portfolio. I do not think that that is a place from which we should be seeking to benefit, from an investment portfolio point of view.

**MR PARTON:** Minister, you are telling me that, having been a major player in this government for more than a decade, and having such an interest in a reduction in gambling harm, you had no idea that ACT Treasury listed company shareholdings included those companies?

**Mr Rattenbury:** No, I was not aware of that, Mr Parton. I was very clear with you in my last answer about that point.

**MR PARTON:** I look forward to hearing more on that, not necessarily through these hearings. I make the point that, with this sort of investment portfolio, if a bank or some other organisation had this portfolio, I could imagine you advocating or supporting people protesting outside the front door. But this is your government.

**Mr Rattenbury:** Yes. As I said, I am very grateful to you for drawing it to my attention, Mr Parton. It is a terrific bit of research. The challenge, as you know, in this role is that there are so many issues to pursue, and it is hard to keep up with them all. But now that this has been drawn to my attention, I can assure you that I will be taking a significant interest in it.

**MR PARTON:** Anything else that you want my help on, just let me know.

**Mr Rattenbury:** I know you have a great interest in gaming, so I can always rely on you to bring new elements to my attention.

**MR CAIN:** Attorney-General, regarding your statement that you were not aware of this, your fellow Greens member in 2017, during estimates, raised this very issue. I am very surprised that you, as the only other Greens member at the time, were not aware of this issue, which was in the *Canberra Times* on 19 June 2017. Could you explain how you could possibly not be aware of this?

**Mr Rattenbury:** Mr Cain, I think you know the answer to your own question.

**MR CAIN:** Please answer that question, then.

**Mr Rattenbury:** I have answered your question. You can form your own conclusions. You are editorialising; you can form your own conclusions. Clearly, it escaped my attention at the time. That is something I will endeavour to make up for now.

**MR CAIN:** This is most surprising; thank you.

On a different line of questioning, regarding your capacity as Minister for Consumer Affairs, Minister, as you are aware, under the Energy Efficiency Improvement Scheme, ActewAGL offers rebates to customers via selected retailers on the condition that individuals have a contract with ActewAGL. As you are aware, the ACCC in its accompanying legislation has prohibited what is called “third line forcing”. Have you had advice that this practice would constitute third line forcing?

**Mr Rattenbury:** No, I have had no advice to that effect, Mr Cain.

**MR CAIN:** Is that something that should be clarified with your department—that this does not indeed constitute third line forcing?

**Mr Rattenbury:** I am happy to seek some advice on that, yes.

**MR CAIN:** Could I have some answers on notice as to how you intend to go about that, and what conclusions you come to?

**Mr Rattenbury:** Yes, you can.

**MR BRADDOCK:** My question is to you as Minister for Gaming in terms of the \$5 million that is available for clubs for emissions reductions. Is any of that tied to a reduction in gaming machines?

**Mr Rattenbury:** No it is not, Mr Braddock. This is a scheme that is designed to deliver environmental outcomes to enable clubs to improve their own environmental performance; but it does enable them to diversify their revenue base, either through reducing costs or generating new income streams. So, in a broad sense, it is about creating a more sustainable future for clubs, both financially and environmentally.

**MR BRADDOCK:** Thank you.

**Mr Rattenbury:** I should probably add to that. There is a commitment in the parliamentary agreement, as you would know, to reduce the number of poker machine licences in the ACT this term to 3,500. It is currently a bit over 3,800. We have already reduced it from nearly 5,000. It is our intention to pursue that, but not through this mechanism.

**MR BRADDOCK:** Okay. Thank you.

**THE CHAIR:** Minister, as you would be aware, the Labor Party operates a number of clubs, and operates hundreds of poker machines. I am just wondering if you have

looked at how the Labor members of cabinet manage that conflict of interest. Maybe you could explain to me how they do, when decisions are being made in cabinet that would affect the operation of clubs and regulation of poker machines. Are you satisfied with the way they manage that conflict of interest?

**Mr Rattenbury:** Yes. Thanks, Mr Hanson. As you would well recall, this has been debated many times in the Assembly over the years. I guess the direct answer that I can give you is that, in cabinet, ministers are required to disclose any conflict of interest that they consider they have in relation to matters arising in cabinet; and that is noted by the cabinet minute taker.

**THE CHAIR:** Sure. Do they recuse themselves from decisions, or have you got Labor members who are part of a party that owns and operates clubs and hundreds of poker machines making decisions about the regulation of gambling assets in the ACT and who are sympathetic to, against, or in competition with those poker machines?

**Mr Rattenbury:** The direct answer to your question is that I am not aware of any minister recusing themselves from any decisions in cabinet on these matters. The second part of your question is that I think it is fair to reflect that across the Labor Party—and I will not speak for them too much—there is a range of views on these matters, as you might anticipate. Dr Paterson, on this committee, has some very particular views, and other colleagues have different views. If you want to explore those, you will need to ask the individual members.

**THE CHAIR:** I accept that. That is indeed the case, but I am particularly concerned about situations where you have government members making decisions about the operation of gaming assets. They are part of an organisation that supports their employment and which owns and operates those. How is that managed? If you do not have anything further to add, that is okay.

**Mr Rattenbury:** I think that the Assembly has, over a number of years now, formed a view that on these matters—I think there are Speakers' rulings; I would have to go back and check the *Hansard*—members have not been required to excuse themselves. I think that there is a difference between having an opinion or a view, as Mr Parton clearly does, and having a conflict of interest.

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

**Mr Rattenbury:** That is the distinction the Assembly has attempted to draw in recent years.

**THE CHAIR:** Sure. I am just wondering if, as the minister, you have come to a view that is more nuanced than that, because there is a difference obviously between what is made as a decision in cabinet and necessarily what the vote is of members in the Assembly. There is no difference in that view?

**Mr Rattenbury:** I have not seen a situation in which I think there has been an evident conflict in interest that I have been able to identify, or that any other members have identified. I think it is fair to reflect that Mr Parton's earlier criticism of me, where he indicated that we have, over a number of years now, reduced the number of poker

machine licenses in the ACT by around 25 per cent, indicates that these issues are being effectively managed.

**DR PATERSON:** In the last week we have seen the findings of the royal commission on Crown casino come through, reporting widespread money laundering. We have also seen reports recently about The Star casino in Sydney and last year whistle-blower reports from ClubsNSW about widespread money laundering in New South Wales. As we know with COVID, when the disease spreads all around us we are an island in the middle. Do you believe that there is widespread money laundering in venues in the ACT?

**Mr Rattenbury:** I am going to invite the Gambling and Racing Commissioner, Ms Chan, to provide you some details on that information in the territory, Dr Paterson.

**DR PATERSON:** Thank you.

**Ms Chan:** I am Yu-Lan Chan, the Chief Executive Officer of the Gambling and Racing Commission. Of course, we are aware of the commissions that have been going on in various jurisdictions across the country. We have been monitoring those very closely. We do regular compliance checks and integrity checks on Casino Canberra in the ACT, and we have a regular compliance program. We also work quite closely with AUSTRAC and other agencies in that anti-money laundering field to liaise and share information, where appropriate.

**DR PATERSON:** Has AUSTRAC raised increased concern of late that this may be widespread throughout Australia?

**Ms Chan:** I guess the way to express it would be that they have a number of different areas of risk that they look at. They have not at this point indicated that we are high on that hierarchy, I suppose. But we do liaise closely with them, and they keep monitoring many, many transactions through their processes and their databases.

**DR PATERSON:** At the commission do you have increased concern or increased attention on this issue of late, given what is going on in other jurisdictions?

**Ms Chan:** We have certainly been watching it very closely. We have been examining our own compliance program, and we have certainly been doing a lot of revision of that program and looking closely at what the other jurisdictions are finding, bearing in mind that there are some differences between the other jurisdictions and us. But, yes, we have certainly been watching it closely and reviewing our own activity.

**DR PATERSON:** Thank you, Ms Chan.

**Mr Rattenbury:** Dr Paterson, my broad view would be that a range of the harm minimisation measures that we are seeking to put in place in the ACT have a co-benefit of limiting the possibilities for money laundering. Things like load-up limits and bet limits mean people's ability to pour money through a poker machine is reduced, and I think that that can have a flow-on effect to issues of money laundering in the way that you were asking the question, if I understand it correctly.

**DR PATERSON:** Are those measures any further progressed in terms of cashless gaming?

**Mr Rattenbury:** We are pursuing those. Mr Hanson asked earlier about the ministerial advisory council. We have had discussions with the council, and the government is undertaking a range of research to help us develop the policy and implementation plan in relation to those measures.

**MR PARTON:** Mr Rattenbury, with regard to the line of questioning about the casino, I wonder if you could update the committee on the on-again, off-again debacle of the potential expansion of the casino and the potential addition of poker machines there, because it just seems to be in a constant holding pattern. Are you able to offer us anything in regard to the way forward there?

**Mr Rattenbury:** Probably not a great deal of detail, Mr Parton. What I can tell you is that, from 13 May 2018, the Casino (Electronic Gaming) Act allows for the operation of gaming machines within the casino.

**MR PARTON:** That has worked well, hasn't it!

**Mr Rattenbury:** Well, that is what the legislation says. At this point, as you know, that is linked to certain requirements for the redevelopment of the site, and there is an expiry date on that legislation which is, from recollection, five years after the commencement date. It really sits with the owners of the casino as to whether they wish to proceed with that development.

**MR PARTON:** That is cool. I just thought you might have had something else, but that is enough.

**Mr Rattenbury:** No, we have not heard anything specific.

**MS CLAY:** I just want to ask a supplementary to the earlier question about money laundering and gaming. There has been a lot of legislative change in the field of money laundering and a lot of enforcement attention, but what I heard from your answer is that some of the more effective ways might be dealing with the operational opportunities for money laundering and dealing with the potential for harm from money laundering. Is that one of the tools that you are currently using to deal with that rather than simply focusing on legislation and direct enforcement?

**Mr Rattenbury:** It is an interesting question. I think the point that I was making earlier is that obviously all those other systems that Ms Chan is involved with—AUSTRAC and the like—through the Gambling and Racing Commission are very important. My observation was simply that if you look at where these reports are coming from, they tend to be places with higher limits, and I think that the simple physical act of channelling money through poker machines, if the load-up limits and the bet limits are lower, is going to take longer and it will presumably provide some barrier to the scale of it.

**MS CLAY:** It is almost a fraud-and-risk approach to the problem, using a different set of tools to reduce opportunity in addition to simply doing legislation and enforcement.

Is that right?

**Mr Rattenbury:** Yes. As I said, I think it is a potential co-benefit. I am seeking further views on that from a range of experts in the field as we think through some of these things, including issues around cashless gaming, which was due to be rolled out as a trial—the first trial—in New South Wales in September. I am not sure if it occurred, because of lockdown; I will have to get an update on that. I think that there are a range of measures that could improve compliance with money laundering objectives.

**MS CLAY:** Interesting. Thank you.

**MR BRADDOCK:** Is there any evidence that money laundering has in fact happened in an ACT poker machine?

**Mr Rattenbury:** Not that I am aware of, but Ms Chan may offer some additional comments.

**Ms Chan:** Thank you, Minister. No, not that we are aware of at this point, either.

**MS CLAY:** Minister, I would like you to put your consumer protection and consumer affairs hat back on, for a bit of a shift. COVID has made a lot of changes to our lives. We have spent time at home. Online shopping increased; bricks-and-mortar shopping decreased. Our consumer patterns obviously just transformed overnight in a way that nobody expected. I am wondering what the government has learned in terms of consumer protection. All of this change has happened at a time when some people had a lot more money in their pockets and some people had a lot less money in their pockets. What have we learned about consumer protection, and is there anything that we need to do, particularly as we move into a more online environment?

**Mr Rattenbury:** Yes. It is a really interesting question, Ms Clay. Next Friday I am hosting the annual consumer affairs ministers meeting, and as the host this year I have been able to shape the agenda. I have put on the agenda, for all the ministers to talk about, the lessons that have come from COVID. We have a range of non-government experts coming to present to us, as well. Certainly CHOICE, for example, has identified issues in the travel space around rules and restrictions and refunds, and all those kinds of things. That has been a particular issue with restrictions, border closures, cancellations and all those sorts of things. So I think that there is some work to do in that space.

Outside of that, I will just invite my consumer affairs officials to comment about whether we have had any particular change to complaints and the like. The other area that we focus on, just before I throw to them, is online scams. They have been a significant concern during the lockdown period. With people being online much more, we have seen a rise in the reports of, and the sophistication of, online scams, which is obviously a real concern to us. Scams Awareness Week is coming up soon, and we will certainly be endeavouring to draw the community's attention to some of those increased risks. I invite Ms Cubin to join us.

**Ms Cubin:** Thank you, Minister. I have read and acknowledge the privilege statement.

Thank you for your question. As the minister noted, next week there is the consumers affairs meeting amongst ministers, and we have the Consumers Federation of Australia coming to speak at that meeting. They have identified the increase in online sales and the use of Afterpay, and I think their observations are going to be really beneficial for ministers to see what has been happening across Australia.

As the minister also noted, scams have been quite prevalent especially with, as Ms Clay noted, people doing online sales. There has been a scam around tracking missed deliveries that has been circulating and information has gone out around that across various platforms, including Scamwatch, to alert people to the fact that if you actually did not buy anything online or you are using Australia Post do not click on that link because it is a scam that is circulating.

We continue to watch complaints that get escalated to Access Canberra, but we are also engaged with other jurisdictions about what they are seeing with regards to consumer complaints and new scam types that might be circulating.

**MS CLAY:** Afterpay in particular worries me. Having formerly run an e-commerce company I know the platforms are all geared to push both the vendors and the consumers into Afterpay. I am pleased to hear there is some attention being put on those types of new credit arrangements that perhaps have tackled us all without the same protections as other credit arrangements used to have.

**MR PARTON:** This was touched on briefly earlier, but I just wanted to bring it up again because I think it is extremely important. We obviously have a program as originally outlined by the power-sharing agreement between Labor and the Greens. There is a very clear program that you are on, regarding machine reduction and other changes in clubs. Is this program absolutely carved in stone and immovable or, like many other things in our city and in our society at the moment, has it been adjusted a little because of COVID?

I have cast an eye on the gaming revenue figures from the last 12 months and from this last period. Obviously it has gone through the floor, but it had gone through the floor even before this lockdown. I am just asking sensibly, Minister, if there is going to be some potential movement in some of those goalposts as a consequence of the extreme financial pressure that the clubs find themselves in today.

**Mr Rattenbury:** Thanks, Mr Parton. It is a fair question, and in terms of the contents of the parliamentary agreement what I have said to the clubs very openly is that the government is clear the direction it is going in but we are very keen to work with them on the how and the when. They are the sorts of factors that can change as a consequence of the recent changes. We, of course, always have to have an open mind if the external circumstances around us change.

In terms of the financial position of clubs, there is no doubt the last few months has been taxing. I have also heard that for some of the clubs in the last year they had some really, really good revenue months because people were unable to travel and they were actually spending their dollars much more in Canberra. From some of the clubs I was getting feedback that their revenue was good for some patches there. Overall it has still been a tough period across the last 18 months, but it is swings and

roundabouts.

The broad answer to your question is: yes, of course, we will take those things into account. That is where groups like the ministerial advisory council I have set up are really beneficial because we have got that direct line of communication.

**MR PARTON:** With the greatest of respect to the ministerial advisory council, the numbers on that council are similar to the numbers in the Assembly. If a certain part of that council wants a certain outcome they will get it because they have got the numbers.

I make reference to the chair's comment to you earlier regarding your engagement with Clubs ACT. You know I have always publicly acknowledged that that is a wonderful thing. I am asking in this forum in particular for a common-sense approach if it is possible, because I just do not want to see people losing jobs.

**Mr Rattenbury:** Yes, I take that on board.

**DR PATERSON:** I would like to reframe Mr Parton's question and say that we have talked a lot in the Assembly about the hardship experienced by members of the community. People have lost jobs from COVID; people are suffering economically; business owners are suffering. The parliamentary governing agreement has particular reforms designed to reduce gambling harm. Why are we not considering the harm that may be caused by gambling in the community in mitigating the risk from COVID? Why are we not being more mindful of that?

**Mr Rattenbury:** Certainly from my point of view I am, Dr Paterson. I think I was clear in my answer to Mr Parton, which is that we remain committed to the objectives set out in the parliamentary agreement. The timing of the when and the how are the sort of factors we can consider. You make a fair point—there might be some things we want to accelerate. For example, we have got a very active piece of work going on at the moment in reviewing the self-exclusion regime in an endeavour to make it more effective. If I go back to the earlier conversation, it may be that more people, having had a break, do want to go down that path. That might be something we can accelerate—that work has continued through the lockdown—whereas other things may take a little bit longer for a range of reasons, be it technical, financial or just momentum.

**MR CAIN:** Minister, in relation to ACT government-owned businesses, what compliance activity does the government undertake to ensure that those businesses comply with Australian consumer law and the ACT government's competitive neutrality policy?

**Mr Rattenbury:** The broad answer, Mr Cain, would be that the agencies are required to follow those rules. I will invite my colleagues in the directorate to provide you with some more specific answers, though. Was there something in particular you wanted to understand, Mr Cain?

**MR CAIN:** ACT government-owned businesses are obviously under the territory's competitive neutrality policy. But also under commonwealth law they are meant to be

compliant with those consumer protection policies and laws. How do you ensure that that actually occurs? Additionally, have there been any instances of breaches by ACT government businesses?

**Mr Rattenbury:** This would be built into the directorate's governance structures, their compliance programs, their internal auditing programs. There would be a range of risk mitigation factors there. I am not aware of any circumstances of the ACT government breaching those, but there may be examples that I am not aware of. If you have some that you want to canvas, I am happy to go down that path.

**MR CAIN:** I raised ActewAGL's current practice and whether that constituted third-line forcing, and you are going to respond to that query. So are you really saying that you just leave it to the businesses themselves to ensure that they are complying with commonwealth law and government policy?

**Mr Rattenbury:** No, they are required under a range of governance arrangements to fulfil their obligations, not only under these acts but all sorts of acts. It is built into the performance agreements of the directors-general and it flows from there.

**MR CAIN:** What is it that leads you to a point of satisfaction that they are compliant?

**Mr Rattenbury:** We have a range of internal auditing and compliance processes. As the minister, I receive audit reports from agencies each year, and there are a range of other mechanisms in place.

**MR CAIN:** Do any of your officials wish to elaborate on the detail of those approaches?

**Mr Rynehart:** I have read and acknowledge the privilege statement. I think the answer to your question, Mr Cain, is that we treat all businesses the same regardless of the ownership. From a consumer perspective, there are a range of mechanisms for consumers to lodge a complaint with Access Canberra. There are compliance inspection programs that we undertake on a regular basis across the industry groups to monitor compliance activities. Regardless of the ownership of the business, they would fall within those mechanisms and we will respond according to the situation.

**MR CAIN:** How is community advised of the compliance of these ACT government businesses with competitive neutrality policy and law?

**Mr Rattenbury:** That would generally be in things like their annual reports, Mr Cain. They would be required to disclose.

**MR BRADDOCK:** I am interested in community batteries. Part of building the business case for those batteries is ensuring they are fairly remunerated for the frequency and ancillary services they bring towards the network. How are you as Minister for Consumer Affairs and the ICRC able to assist in ensuring that remuneration can happen and they can compete within the electricity market?

**Mr Rattenbury:** It probably sits much more accurately, Mr Braddock, in my role as the energy minister where the rules around the role of batteries in the network,

payments and all of those sort of things are being developed through the various rule-setting bodies as part of the national energy law, so groups like AEMO and the Australian Energy Market Commission and the like. That rule-setting is being in that space.

If I understood your question, you are sort of going to if there was uncompetitive behaviour could consumer affairs step in? I think it is such a new area that the rules are still being formed and it very much sits more in that other side at this stage. I have not received any complaints through that sort of consumer prism.

**MR BRADDOCK:** Part of developing those rules is to ensure that fairness is baked in from the start to allow that competitiveness to happen and fair remuneration for the services they provide?

**Mr Rattenbury:** Yes, a range of measures are already in place that allow access for those distributed energy resources to feed into the grid. But I think it is also fair to say that it is an evolving and still contested space. The work that the Energy Security Board is doing on the post-2025 market design is examining these sort of questions in significant detail.

Even this year we have seen the new distributed energy rules coming through that have been hotly contested about guaranteeing the right of solar generators to feed into the network. At the moment they can be shut off. New rules are coming through that propose that they be guaranteed access to the network but in return may have to pay access fees. These things are I think it would be fair to say contentious in the space, and I think that we are going to see quite a lot of evolution still.

**MR PARTON:** I am on budget statements D, page 29, table 25. It says that \$400,000 has slipped from last year into this year's budget to support families by reducing gaming machine numbers to 4,000. How would you define exactly what that is for?

**Mr Rattenbury:** Yes, we do have an answer for that. I will invite Mr Ng to provide you with the details.

**Mr Ng:** Thanks, Minister, and thanks, Mr Parton, for the question. Like a previous initiative I referred to, that is a feature or a legacy of the initiative name that was originally given to it. Mr Parton, you might recall, as part of the pathway to 4,000 document and the report that Mr Neville Stevens provided to government which informed the pathway, there was a recommendation to establish a diversification and sustainability support fund. That is co-funded with joint contributions from industry and government. That \$400,000 is a rollover to support meeting the liabilities of that fund.

Some \$300,000 of that is set aside as a result of a recommendation by the advisory board to make provision for training to board members and people running clubs, to support their capabilities to engage in diversification activities. So that was rolled over in order for the directorate to run a procurement process and engage a training provider.

The fund operates in a two-tiered funding model. Currently there is tier 1, which is

grants of up to \$25,000. They are available to small and medium clubs all the time. So as part of the tier 1 funding framework small and medium clubs are able to apply at any time for grants of up to \$25,000. So \$100,000 of that \$400,000 was set aside to meet any tier 1 applications that came through close to the end of the financial year.

**MR PARTON:** What is the take-up rate of those grants? How much is currently sitting unspent in the diversification fund?

**Mr Ng:** Thanks, Mr Parton. So \$632,811 has currently been distributed for a range of different activities—the engagement of consultants to develop an early learning centre, the upgrade and reopening of a kitchen, the construction of a shed to store golf carts and the like. As I said, there were seven grants totalling \$632,811 and currently there is \$1.08 million available in the fund to be spent in the 2021-22 financial year.

**MR PARTON:** Is it possible for you to give me an understanding of what percentage of the money that has been collected has been spent and what is still remaining, and is there a chance that that money will just remain unspent despite the fact that it has come from clubs that have really struggled to pay it? You are talking about a million dollars there that is sitting unspent that has come out of a sector which is struggling to keep the doors open.

**Mr Ng:** I am not sure that I have the percentage for you of the utilisation of the fund, Mr Parton. What I would say is that the second part to the story about how the fund operates is that there was the tier 1 funding framework whereby small and medium clubs can apply at any time for grants up to \$25,000. There is more structure around the tier 2 funding, so that is significantly larger funding amounts of up to \$250,000 that are available to clubs.

I believe the board has just finished or may be finalising its deliberations on the second tier 2 funds. So they have got a regular program to ensure expenditure of those large chunks of money. You will probably observe that given the potential size of those grants of the tier 2 variety that million dollars could be expended quite quickly as well.

**MR PARTON:** I will obviously keep an eye on it. Thank you for your explanation. As always, I appreciate it.

**DR PATERSON:** My question is in relation to the problem gambling incident register. Is that held within the commission?

**Mr Rattenbury:** I believe so, yes.

**DR PATERSON:** In the last financial year how many incidents were reported in the ACT.

**Mr Rattenbury:** Ms Chan, if I can get you to jump in on that.

**Ms Chan:** Thank you, Minister. The incident register is something that gambling venues—not just clubs—are required to use. It is used by staff of venues to share information between staff and between shifts about what they are observing in terms

of possible gambling harm amongst their patrons. Last financial year almost 16,500 incidents were reported over the last financial year.

**MS CLAY:** I would love to hear a little bit more about what we are doing to decrease the harm from online gambling and what has been the increase during this time.

**Mr Rattenbury:** Certainly. I am just looking for some details there. Actually, Mr Ng can tell you about the national framework, to start with. That would be a good start.

**Mr Ng:** Yes, as the minister has observed, the ACT is a signatory to the national consumer protection framework to deal with online gaming. That has a range of different tranches of work. And there is a co-regulatory arrangement, where states and territories are responsible for the kinds of online betting operators that are based in their jurisdiction. The commonwealth also has some responsibility under the Interactive Gaming Act.

As part of those arrangements, there have been a few tranches of work. In 2018, the ACT implemented the first tranche of amendments to our legislation. They were restrictions on inducements. Those are measures that prohibit incentivising people to open accounts or referring other people, encouraging gambling, bonus bet conditions, or direct marketing. Then there are account closures. These are measures—closing, cancelling online wagering accounts—that are made readily available and accessible to all customers, along with voluntary opt-out pre-commitment schemes and deposit limits. These are measures that provide consumers with tools to help them monitor and manage their gambling by pre-committing to deposit limits. And these limits are varied on an operator basis.

The ACT has already implemented that initial tranche of changes in amendments to the Gambling and Racing Control (Code of Practice) Regulation. The next tranche of work is one that is being led by the commonwealth, but will need to be implemented by the ACT as well. Those are on activity statements. These measures are where online wagering providers are required to send customers a monthly activity statement to track their betting activity. They deal with issues like the customers' spending, but also the wins and losses. The bit of work that has been happening behind this is that there is an inter-governmental committee with state and territory officials and the commonwealth, who have been closely monitoring this.

The matter was referred to the behavioural economics team in the Australian government, which released a report on activity statements in December 2020. That report indicated that participants who were provided with an activity statement reduced the amount that they bet when compared to participants who did not see a statement. So we are currently engaging with state and territory officials and across ministers to implement that next tranche of work.

**MS CLAY:** Is it easier to enforce some of those measures, like hard limits, in the online environment—or is it more difficult?

**Mr Ng:** I would observe that there is a different range of practical considerations when you are dealing with software infrastructure rather than hardware infrastructure. If you are talking about the changes to the technology or hardware with gaming

machines, they obviously present a different range of complexities, compared to changing IT infrastructure.

**MS CLAY:** I imagine we have learned some lessons from experience with anti-money laundering and our ability to enforce and apply some of those measures.

**Mr Ng:** I probably could not comment on the enforcement proposition in relation to money laundering. I am not sure if Ms Chan could, but I do not want to invite her if it is something beyond her limit as well.

**MS CLAY:** Thank you.

**Mr Ng:** Ms Clay, something I might add is that the other significant tranche of work is the progress on the national self-exclusion register for online gambling venues, which is a bit of work that is being led by the Australian Communications and Media Authority, who have procured a provider for the national self-exclusion register. I think that they are planning to have it implemented by around the middle of next year.

**MS CLAY:** That will be interesting. Then will we start tracking what the uptake is and how we can encourage more?

**Mr Ng:** Yes. I think the exclusion register operates with effect for people who indicate that they want to self-exclude. That operates across a range of different platforms. I am not sure that I could speak to the tracking or data collection capabilities, but certainly the expectation is that it will be operational in around May or June next year.

**MS CLAY:** Thank you.

**MR BRADDOCK:** I would be interested in examples of what clubs have been able to find as alternative revenue streams as they have reduced their pokies usage. Do you have some good examples?

**Mr Rattenbury:** It does vary. We have seen a range of strategies from clubs. Some have, for example, improved their food and beverage offering. The best-known example would be the Burns Club, where they brought in their buffet. It has been very successful for them and has generated a significantly different line of revenue. Others have invested in completely different things. We have seen the Southern Cross Club invest heavily, for example, in health and wellbeing, with a series of gyms and wellness venues and the like.

So clubs are taking a range of different strategies. Some are, particularly at the moment, contemplating the land that they have as to whether that might provide a pathway. So it really does vary. I think it is a fair observation that it is challenging for the clubs. They have, for a long time, had a significant stream of their revenue coming from poker machines. So it takes a big change to start to look at different pathways. And it varies depending, I think, on the drive of the board to want to go down that path. Some boards are very progressive and very forward focused, some less so.

**MR CAIN:** I have a brief question—and forgive me if it has been covered. It is

regarding, minister, the gaming machine reduction incentive payments. Can you explain how those are administered and, in particular, who approves payments?

**Mr Rattenbury:** Yes. I will ask Mr Ng to go into the details of that for you.

**Mr Ng:** The Justice and Community Safety Directorate administers those on behalf of government. We have arrangements whereby we work with our colleagues at Access Canberra who deal with the licensing and registration scheme for gaming machine authorisations. Part of that process is just about ensuring that the authorisations have indeed been surrendered and that adequate disposal of active machines is undertaken in accordance with the law. As part of that we enter into deed arrangements—legal arrangements with the clubs—to ensure that there is a legal basis for the provision of funding and money in response to the surrender of machines.

**MR CAIN:** Approximately how much money has been disbursed? It is possibly in a report which I have not put my eyes on. How much money are we looking at here over the last period, and how much is anticipated, going forward?

**Mr Ng:** Yes, I do have these figures, Mr Cain. In the last budget \$3.750 million was provided to extend the gaming machine surrender authorisation initiative. This is in addition to the Pathway to 4,000 exercise, whereby clubs were offered a financial incentive—either a cash incentive or the ability to access land and planning-related offsets in return for the surrender of machines. So this is kind of a COVID related measure.

I believe in October 2020, one club surrendered 20,000 authorisations for \$300,000. And the \$350,000 that you will see rolled over in the budget papers, Mr Cain, was done just to make provision for any surrenders that occurred right at the end of the scheme so that there would be a provision of money to respond to those surrenders if it did just tick over at the end of the financial year. And in relation to that, in June 2021, five authorisations were surrendered by two separate clubs in return for cash payments of \$75,000. I hope that answers your question, Mr Cain.

**MR CAIN:** Thank you. Are these payments intended just to be in lieu of loss? Are you required to track where that money goes and how it is used by the clubs?

**Mr Ng:** I believe they were provided for particular purposes. I might just take that on notice, Mr Cain, so that I can come back to you before the end of the hearing with exact details of any parameters around the use of those payments.

**MR CAIN:** Thank you.

**Mr Rattenbury:** Just while we are dealing with matters on notice, if I can: Mr Cain earlier asked about third line forcing, in relation to a matter with ActewAGL. I can let Mr Cain know that third line forcing is a competition issue under the commonwealth Competition and Consumer Act of 2010, so it is not enforced by Consumer Affairs in the ACT. The ACCC is the regulator for third line enforcing as it relates to exclusive dealing. So hopefully that goes to the question you were seeking to ask, Mr Cain.

**MR CAIN:** Yes. Thank you, minister. I recognise it is commonwealth legislation, but

apart from general internal audits, et cetera, does the ACT government do any quality assurance of compliance with commonwealth legislation with a particular focus on that practice of third line forcing and other exclusive dealing arrangements?

**Mr Rattenbury:** I will come back to Mr Rynhart or Ms Cubin, who were making some comments on that earlier.

**Ms Cubin:** Mr Cain, the Competition and Consumer Act is a commonwealth law. The ACT is the regulator for the Australian consumer law aspect of that act. We are not the regulator for the competition components. That sits with the ACCC.

**MR CAIN:** Thank you for that clarification.

**MR PARTON:** In regard to the gaming machine reduction program—obviously there is a very clear outcome for that program in regard to the gaming machine authorisations—is there a genuine focus on the real outcome in terms of (a) the outcome on actual gambling harm; and (b) on gaming machine turnover in the clubs? Sometimes I feel that the entire outcome is, “All right, we said we’d reduce gaming machines to this amount. Tick. We’ve done that,” without a great deal of thought given to other outcomes. Please correct me if that is not the case.

**Mr Rattenbury:** I think that the reduction in machine numbers sits as part of an overall package of harm reduction, which includes other measures. We have been given advice that reducing accessibility to machines is one way to reduce harm. That is why you also see policies such as load-up limits and bet limits. They are complementary measures that, based on the advice that has been given to me and my agencies, work together to reduce the overall impact of problem gambling.

**MR PARTON:** Are we stalled somewhat in the journey to changes to bet limits and load-up limits?

**Mr Rattenbury:** I do not think so, no.

**MR PARTON:** How would you describe where that process is at the moment?

**Mr Rattenbury:** We are doing a policy and technical research at the moment to move ahead with implementation. We are also undertaking consultation with the clubs and all of the stakeholders, in fact, but we have not got down to the detail with them yet.

**MR PARTON:** Would you suggest that that process is more difficult now than you thought it was when you started the process?

**Mr Rattenbury:** No, I think we are just in an implementation phase. It was always going to be a complex area and it was always going to be a contested space. There is no doubt that there are people in the sector who oppose this policy, so it was always going to be a challenging policy to move forward.

**DR PATERSON:** To follow on from Mr Parton’s question in terms of how we are actually measuring these harm reduction strategies, the ACT gambling prevalence survey is conducted every four years or five years, so that is due in the next couple of

years. Do you think that there needs to be more, perhaps not such a large-scale survey, but more constant monitoring to see if these measures are actually effective?

**Mr Rattenbury:** Yes, that is a good question, Dr Paterson, and certainly one that has been raised with me in recent times. The prevalence survey is every five years, and we perhaps should consider doing a smaller scale interim measure perhaps halfway along as a way of tracking some of that change more accurately.

**THE CHAIR:** There are no further questions. That being the case, Minister and officials, thank you very much for your attendance today. There were quite a few questions taken on notice, so if you could get those done in the time frame, or sooner if you are able.

As that concludes the hearings for JACS for this estimates period, I would like to thank the IT guys, Dennis London and Peter Crowley, for what has been pretty seamless, to be honest. Also I thank Brianna McGill, the committee secretary, who has again done a superb job. I note that she has been pretty heavily involved in putting the whole of estimates together. To you three, I say thank you very much for your support.

**Mr Ng:** I wonder if I could sneak in my answer to the question on notice that I took from Mr Cain?

**THE CHAIR:** Last word, go on.

**Mr Ng:** In relation to the question about the criteria for the use of those incentive payments, they are for staff employment diversification activities and initiatives, and energy and water efficiency measures.

**THE CHAIR:** Thank you. We will conclude the hearing.

**The committee adjourned at 11.56 am.**