

**REPORT ON PROCEEDINGS BEFORE**

**PORTFOLIO COMMITTEE NO. 6 - TRANSPORT AND  
CUSTOMER SERVICE**

**INQUIRY INTO THE PROVISIONS OF THE DIGITAL RESTART  
FUND BILL 2019**

**At Macquarie Room, Parliament House, Sydney, on Friday 7 February 2020**

**The Committee met at 9:40**

**PRESENT**

Ms Abigail Boyd (Chair)

The Hon. Mark Banasiak (Deputy Chair)

The Hon. Catherine Cusack

The Hon. Samuel Faraway

The Hon. John Graham

The Hon. Shayne Mallard

The Hon. Daniel Mookhey



**The CHAIR:** Welcome to the hearing of Portfolio Committee No. 6 inquiry into the provisions of the Digital Restart Fund Bill 2019. The inquiry is examining how the proposed Digital Restart Fund will operate, whether the bill as it stands will ensure appropriate use of public money and examine privacy and cyber security concern. Before I commence I acknowledge that we meet on the lands of the Gadigal people, the traditional custodians of this land. I pay my respect to elders past and present of the Eora Nation and extend that respect to other Aboriginals present. Today is the only hearing we plan to hold for this inquiry. We will hear today from the privacy information commissioners, the Acting Public Service Commissioner and the New South Wales Government Chief Information and Digital Officer.

Before we commence I will make some brief comments about the procedures for today's hearing. Today's hearing is open to the public and is being broadcast live by the Parliament's website. A transcript of today's hearing will be placed on the Committee's website when it becomes available. In accordance with the broadcasting guidelines, while members of the media may film or record Committee members and witnesses, people in the public gallery should not be the primary focus of any filming or photography. I also remind media representatives that they must take responsibility for what they publish about the Committee's proceedings. It is important to remember that parliamentary privilege does not apply to what witnesses may say outside of their evidence at the hearing. I urge witnesses to be careful about any comments they may make to the media or to others after they complete their evidence, as such comments would not be protected by parliamentary privilege if another person decided to take an action for defamation. The guidelines for the broadcast of proceedings are available from the secretariat.

All witnesses have a right to procedural fairness according to the Procedural Fairness Resolution adopted by the House in 2018. There may be some questions that a witness could only answer if they had more time, or with certain documents to hand. In those circumstances witnesses are advised that they can take a question on notice and provide an answer within five days. Witnesses are advised that any messages should be delivered to Committee members through the Committee staff. To aid the audibility of this hearing may I remind both Committee members and witnesses to speak into the microphones. The room is filled with induction loops, compatible with hearing aid systems that have telecoil receivers. In addition, several seats have been reserved near the loud speakers for persons in the public hearing who have difficulty hearing. Finally, would everyone please turn their mobile phones to silent for the duration of the hearing.

**SAMANTHA GAVEL**, NSW Privacy Commissioner, Information and Privacy Commission NSW, sworn and examined

**ELIZABETH TYDD**, NSW Information Commissioner, Information and Privacy Commission NSW, sworn and examined

**The CHAIR:** Do you wish to make an opening statement?

**Ms TYDD:** I thank you for the opportunity to appear before the Committee on this gloriously wet day. My colleague, the Privacy Commissioner and I provided a joint submission to assist the Committee at the request of the Committee. Since that time, the benefit of consultation with agencies, further information and submissions provide additional details regarding the operation and governance of the fund to be delivered under the bill. I have also confirmed my availability to contribute to those policies, procedures and funded projects to ensure the identification and preservation of information access rights and promote public interest outcomes in funded projects.

It is also important to recognise that not all projects considered for funding under the proposed legislation will give rise to information access rights issue. With this in mind, my evidence to the Committee reflects the statutory role and functions of the Information Commissioner together with an overview of current and emerging issues related to digital services and policies in the government sector. The role of the Information Commissioner arise under two pieces of legislation Government Information (Public Access) Act 2009 [GIPAA] and the Government Information (Information Commissioner) Act 2009 [GIICA]. Importantly the Information Commissioner promotes the object of the GIPA Act and assists citizens by promoting awareness of their access rights. To further secure information access rights the commissioner's powers include the review of agency decisions and conduct and making recommendations to agencies about their decisions, policies and practices. Additionally, the Information Commissioner provides advice assistance to agencies and is empowered to make reports and provide recommendations.

Securing information access rights and public interest outcomes in the application of technology by government is a contemporary challenge and is one which the commissioner plays a role. In doing so, my advice is provided with the objective of guiding, assisting and supporting agencies to harness the benefits of technology and preserve extant rights. Technology has delivered positive outcomes that promote open government for example transparency of government performance using the GIPAA dashboard; apps that support consumer protection and rapid deployment of government services to areas in need. It also enables faster, more effective and lower cost access to information. Our effectiveness as a regulator with a large remit of over 220 agencies across five sectors is secured by the provision of robust and expert advice to influence agencies and enhance outcomes for citizens. That approach is demonstrably recognised as effective in my annual reports on the operation of the GIPAA.

There are a number of recognised approaches to support the identification of risks to information access rights and facilitate the development of mitigation strategies. Whilst that may take the form of additional legislative requirements our submission recognises that this is not the only solution. Contextual considerations will inform the identification of a preferred approach to compliment government's delivery of digital services. In summary, some of those approaches that are set out in our submission, reference a public interest test, the provision of advice in relation to rights potentially impacted by technology, and on a more fundamental level they reference criteria or questions to guide decision making and promote the best outcomes. These questions also support public interest outcomes.

Increasing digital service delivery requires the preservation, assurance and assertion of information access rights. One of my key objectives is to ensure that I am effective in highlighting those rights and constructively influencing agencies through engagement on policies and projects to protect that fundamental right whilst realising the benefits of digital transformation.

**Ms GAVEL:** I am pleased to have this opportunity to appear before the Committee today. The Information Commissioner and I provided a joint submission to the Committee on the bill. I note the Committee's interest in whether privacy and cybersecurity concerns are adequately addressed by the bill. As Privacy Commissioner, I believe it is critical that funded projects that involve the use of personal information are developed subject to a privacy-by-design approach to ensure that privacy rights are safeguarded.

As the Information Commissioner has indicated, since the Committee invited us to provide a submission in November last year, which we finalised in December last year, we have had the benefit of additional information provided by the Government in its submission to the inquiry. This provides greater clarity and assurance about governance arrangements, including for privacy, in relation to funded projects. In particular, it is noted on page 7

of that submission that data and privacy aspects of the Digital Restart Fund investment process are considered as part of the funding request process.

In New South Wales, public sector agencies have legal obligations in respect of collecting, storing, using or disclosing personal or health information under the Privacy and Personal Information Protection Act (1998) (NSW) [PPIPA] and the Health Records and Information Privacy Act 2002 (NSW) [HRIPA]. Accordingly, before agencies are granted funding for their Digital Restart projects, they should be able to explain how they will comply with the PPIPA Act and HRIPA Act where applicable. This can be done by way of a privacy impact assessment [PIA], which identifies privacy risks of a program and how those risks can be mitigated.

Further, privacy compliance should be incorporated into the design of the project for which funding is sought from the Digital Restart Fund. A privacy impact assessment can identify and mitigate the challenges that are encountered in implementing a privacy-by-design approach to a project or initiative. We have explained the meaning and effect of privacy by design and privacy impact assessments in the submission before the Committee. I note the information the commissioner has also said not all of the projects that will be funded under the bill will raise privacy issues.

In our submission, the Information Commissioner and I have made a number of suggestions about safeguarding information access and privacy rights in relation to projects funded under the bill. The additional information provided in the Government submission, gives me a level of confidence that there will be mechanisms to ensure that funded projects will appropriately take account of privacy issues. In this context, we have been invited to consult further with Department of Customer Service in the development of the Digital Restart policy that is currently being developed and will include privacy requirements as part of the approval process for projects. This will ensure that privacy considerations are taken into account and privacy protections built into funded projects.

The Information Commissioner and I recognise that the development and implementation of new technologies and modes of service delivery have the capacity to enhance the citizen experience of government. Such services require funding and support. At the same time, these services and technologies introduce potential new risks of harm. Maintaining the trust and confidence of citizens that their rights will be protected as these projects are developed and funded will contribute to the success of the projects and their overall acceptance by the community.

**The Hon. SHAYNE MALLARD:** For transparency, I declare that I serve on the State Archives and Records Authority Board with Ms Tydd.

**The Hon. JOHN GRAHAM:** Thank you both for your submission, which we found very useful in navigating some of the information privacy issues in relation to this proposed fund and that probably forms the central basis of some of the question that we will ask. Will you expand, firstly, on some of the areas of your submission, particularly around additional safeguards that you propose? I will start with the public interest test to which you have referred, which you call for it to be included in the bill. Will you expand on what that public interest test might involve? What sort of guidance might it provide for these projects?

**Ms TYDD:** The public interest test that I can speak to is the one enshrined under the GIPA Act and that, as you are aware, provides both a framework for decision-making together with an outcome—the decision itself. That decision itself reflects a balance of the varying competing public interest factors, for example. In that context, it is a recognised test that is very familiar to all government agencies. However, the public interest test in that context does not necessarily highlight the factors that are now highlighted in the Government submission that talk about public benefit and public value and they are certainly enshrined in the application process, as I understand it, that has been described in the submissions of the New South Wales Government. There is a strong nexus there between assessing public value, public benefit in that context which has to be distinguished from the context in which it operates in the provision of access to information.

**The Hon. JOHN GRAHAM:** It does exist in the GIPA Act, it does not exist in this proposed Act and you believe it would be strengthened by putting those principles upfront?

**Ms TYDD:** There are many ways to achieve some of the outcomes that we highlighted in our submission. One of the ways that now is contemplated, certainly in the Government's submission, is including a framework for assessment at the very early stages that goes to the issue of the benefit to be delivered. So that is an option available and it is one that the Government has put forward. I would also further stress the issue that my colleague and I both pointed to that not all projects funded according to the parameters of the bill necessarily enliven information access or, indeed, privacy rights. So a blanket solution may not be an ideal outcome, a more nuanced outcome, that goes how to applications are made.

And those governance factors, which really are a matter for government in relation to the fund itself, I would confine myself to observations as to how projects would impact information access rights. In that regard, in the context of the GIPA Act there is a framework that exists that allows that to be considered; so too a framework that allows for those issues to be considered is a very healthy feature of ensuring rights are preserved.

**The Hon. JOHN GRAHAM:** And that framework applies in some circumstances. As you have already pointed out, it does not apply in other circumstances, for example, where the contract values might be low or where these matters not fall within the provisions of the GIPA Act. Can you talk us through particularly this issue about contracts with private companies and how that relationship happens? What issues might arise?

**Ms TYDD:** I will confine myself to matters in which information access rights may be relevant. So under the current legislation the provision to which you are referring, section 121, has operation in relation to services that are traditional government services provided by a non-government provider. That provision places a requirement on the agency to include in its contract an immediate right of access to that information for the agency. It does that to achieve the purpose of information access to the citizen who is receiving those services from a non-government entity. So the provision operates in certain circumstances, it does not operate in all circumstances, and it operates in relation to prescribed categories of information. The circumstance that it operates in that may be relevant is that it is predicated on service delivery. As such, there is a question as to whether decision-making is currently captured within that. I will, for the Committee's benefit, recognise that there is a matter currently before the NSW Civil and Administrative Tribunal that is actually examining these issues. That matter is one where the Information and Privacy Commission [IPC] has been active. The Information Commissioner has made submissions.

**The Hon. JOHN GRAHAM:** Will you talk us through that example because that is probably a good way to describe the sorts of issues that might arise?

**Ms TYDD:** That has a degree of complexity.

**The Hon. JOHN GRAHAM:** I am sure that is right.

**Ms TYDD:** I am also conscious that it is before the Committee. With the Committee's consent, I would like to read from our draft case notes, recognising that they are in draft. The case concerns an application for information about calculation of private rental subsidies by a government department which assists people in accessing accommodation through a private rental market. The case potentially highlights limitations on access under the GIPA Act in that regard. The applicant is seeking to understand how her rental subsidy was calculated. She alleges that the explanation given to her by the agency about the calculation does not match the figures that she has seen in her subsidy.

The private sector contractor developed and operated the software that manages the private rental subsidy scheme within the system. The software calculates the subsidies. There has been evidence that the software is accessed via an internet browser so questions in relation to who holds the information arise. I think it is important to note that the GIPA Act works on the basis of holding information so it applies to agencies that hold information. That is one of the first touchstones, I think, that are relevant here. Likewise the algorithm that calculates the subsidy is predicated on, was built upon, source codes so accessing those source codes is another factor for consideration in terms of information access.

Access is normally in the form of a document or viewing information. If it is algorithm or source code explainability is one of the features that arises. Likewise, was there the insertion of the clause that gave the agency the immediate right of access in a situation where it might be argued that it was not, indeed, a service; rather, it was input to a decision-making process?

**The Hon. JOHN GRAHAM:** It may fall outside the provisions altogether—

**Ms TYDD:** Potentially. I think they are the primary issues, if that assists.

**The Hon. JOHN GRAHAM:** That is useful. I might paraphrase you and then feel free to correct me. What you are doing is bumping against the limits of the GIPA Act that provides certain transparency limitations. What you are describing is a citizen who might be, for example, paying more rent than they believe they should be but unable to access the secret algorithm that is setting that calculation? Is that the sort of circumstance that you are describing are the facts of that matter?

**Ms TYDD:** I think that is an acceptable summary. I would also add that it represents the operation of the GIPA Act currently in which commercial-in-confidence provisions are part of that decision-making framework anyway. So if there is a claim that that information has an IP value, and that is provided, no matter how the service is provided that may still influence the outcome of a decision. But it is considering those new features of how we provide services and make decisions.

**The Hon. JOHN GRAHAM:** That may have implications for the GIPA Act so that is about the limitations of that Act. We are looking at a new Act, a new fund, new services being provided but they might well be in this rental space. One of the things that has already been developed under this fund is in the housing space. What we would be talking about though is publicly funded services, paid for by the public that may hit similar limitations, so limitations under the GIPA Act. But these are legitimate issues that may arise now with publicly funded and perhaps are being developed, which probably makes it even more urgent that these protections are in place.

**Ms TYDD:** The role of the Information Commissioner as relevant to your question really is reflective of the GIPA Act's strategic approach. There is clearly a strategic approach and there is an operational or transactional approach. As Information Commissioner staying abreast of those strategic issues in a time of transformational change, together with delivering on the operational outcomes, is something that does occupy the sort of influence, recommendations and guidance that I can provide to agencies in the development of these new ways of delivering services.

**The Hon. DANIEL MOOKHEY:** Having listened to your evidence just now, a parallel comes to mind about the Commonwealth program to recover alleged debt owed to Centrelink with which the Commonwealth embarked upon effectively using an algorithm to predict whether a person is owing debt, and then used public funds to fund that program and therefore assert it for which a whole bunch of citizens tried to use freedom of information, for example, to get access to the underlying algorithm and source code in order to understand how it is that this software was predicting that they had debt that the Commonwealth was then legally enforcing. Should the New South Wales Government, for example, want to use such programs—to be fair there is an argument to say that it makes government more efficient to invest in such algorithms, particularly now in the year of big data—if that program were to be funded through this fund, in the absence of any legislative protection or insertion of that requirement, it is entirely possible that the scenario that you just described could repeat, is it not?

**Ms TYDD:** The sorts of information that has now been available and the sorts of engagement that I have accepted as Information Commissioner would provide an input to decision making. I am reasonably confident it would take place early on relation to specific projects.

**The Hon. DANIEL MOOKHEY:** Right. I will unpack that. When you say that after some conversation to the department you now have a bit more information as to how it intends to proceed and, therefore, know how you might or might not be able to—is that a correct summary of what you have said?

**Ms TYDD:** We have ongoing engagement with all departments on matters and specific consultation mechanisms in relation to specific projects.

**The Hon. DANIEL MOOKHEY:** Do you have a specific consultation mechanism in respect to projects that are proposed that will come from this fund?

**Ms TYDD:** We have been invited, both my colleague and I, to assist in the development of the policies that will support the fund and those policies, with input from both commissioners, and clearly the issues that we would be raising are the sorts of issues that we have raised in our submission to the Committee.

**The Hon. DANIEL MOOKHEY:** The way the bill is currently written, the Minister has the ability to fund programs. He or she is the decision maker at the end of the day on advice from the Secretary, I think, is the way the bill is written. Where in that process do you have the opportunity for input? Is it from the program guideline design perspective or is it each project?

**Ms TYDD:** I think there is probably an answer to that question that goes to both issues so as distinct from the governance of the fund itself which as I have said is not within my legislative remit. But in terms of overarching principles, overarching considerations, for example, rights impact where they are enlivened, together with specific projects. So on a broad and then on a case-specific situational basis, in that context, there are now envisaged opportunities for commissioners to have input and we will continue to do that, as we do with a number of government projects.

**The Hon. JOHN GRAHAM:** That is in the administrative arrangements that sit under this bill but your submission makes it clear that the sorts of protections in place in the GIPA Act are not in place in this bill. My question is: would this bill be strengthened if some of those things were made more explicit, as your submission indicates?

**Ms TYDD:** In terms of being explicit both the application process is one mechanism of, if you like, providing a threshold test and so too are policies, for example. Legislation is not the only answer, however, a holistic solution is really what our submission was aiming to achieve. The solutions currently put forward go to a more holistic solution. Turning to the legislation there is provision for the Minister to take advice and, likewise,

under the GIPA Act there is provision for the Information Commissioner to provide advice. I would certainly be looking at ensuring that all avenues remain open to undertake the role that I am appointed to undertake.

**The Hon. DANIEL MOOKHEY:** Commissioner, if you are satisfied that the consultation mechanism that you have resolved for the department will be effective in addressing the concerns that you have expressed in your submission, why should not we just right into the law a formal requirement for you to be consulted and formal requirement for you to be included at the point of project conception and assessment? Incidentally, also write within the law a legal authority for you to provide advice to the Minister and, incidentally, a legal requirement for the Minister to require your advice?

**The Hon. SHAYNE MALLARD:** It is already there.

**The Hon. DANIEL MOOKHEY:** From the secretary is what is there.

**Ms TYDD:** The legislation currently under the GIPA Act enables me to provide advice to the relevant Minister, and in this case that is the relevant Minister. So that provision is there.

**The Hon. JOHN GRAHAM:** It enables but does not require?

**The Hon. DANIEL MOOKHEY:** It does not require nor does it require, incidentally for you to have fundamentally more power at the table. What is the harm in writing your office into the law give that there are these concerns that you have expressed?

**Ms TYDD:** I think perhaps on one level it is important to recognise that not all projects will give rise to information access and privacy matters. There are frameworks to achieve that end. Legislation remains obviously open to consideration by the Committee. The new information that we have indicates there is a range of additional proposals that are under consideration and that we will actively inform.

**The Hon. DANIEL MOOKHEY:** For example, if it is a new Secretary or a new Minister and effectively what you have described is a discretionary arrangement that has been entered into by the current leadership but if that were to change ordinarily in such circumstances that is why we write that into law so it is blind to who the decision maker is and they have a law to follow, of course I accept that in good faith you have resolved a mechanism which addresses your immediate concerns, but I saying what is the harm in making that the default position in law as opposed to effective the discretionary arrangement that you have currently struck?

**Ms TYDD:** I am conscious of my role as Information Commissioner and my remit in relation to my existing legislation which does give me the power to provide advice. It is certainly open to the Committee to consider the legislation from that perspective and one option, and indeed we did put forward that option in our submission, is to consider legislative amendment or other mechanisms to include those considerations of information access and privacy. There are a range of ways to do that and those options, as set out, remain available to the Committee.

**The Hon. MARK BANASIAK:** A lot of the commentary today—in terms of privacy and release of data—has been about a release of data to the public and the public requesting the data. I am interested to know about safeguards that you are talking about. Safeguards for release of data between government agencies that the person that data is about does not necessarily authorise. To give you a couple of examples, we have heard recently that there have been over 2,600 police requests for Pharmaceutical Benefits Scheme [PBS] and Medicare benefit data without warrants. For a lot of us that raises some concerns. We have also had an example in 2017 and we are talking about service contracts for private companies.

We had a private company called Avocado Consulting do testing on firearms licensing systems on behalf of Service NSW. Service NSW spent \$65,000 on this and the private company would have had access to people's private licensing information, including their address and where they store their firearms. There has been no report at all done on this testing so we spent \$65,000 and no one knows what has gone on but this private company has been given access to firearms licences details. I am interested to know what safeguards are going to be put in place to stop the release of private information to either private companies or in between government agencies that are not necessarily authorised by the person that essentially owns that data which is the individual?

**Ms GAVEL:** I think that is a question for me as NSW Privacy Commissioner. That question really comes back to what I mentioned during my opening statement and the information in the submission about the real importance of agencies taking a privacy by design approach to projects and conducting a Privacy Impact Assessment because a Privacy Impact Assessment looks at the information flow. So where is the information going? Is it going to another department? Is it going to a private company, for example, and if so what are the risks in that and how do we mitigate those risks? For example, I have seen government projects where the private company is required under contract to act as if they were bound by the Privacy and Personal Information Protection [PPIP] Act as if they were a government agency. That is one way that agencies can manage that kind



of issue. That is why it is so important for agencies—when they are developing these projects from early stages—to consider privacy issues and really build them into the design of the project so that privacy rights are protected.

**The Hon. MARK BANASIAK:** But there are no real hard-and-fast rules that are going to be applied? It is going to be, you know, project by design. So individual projects, you will go this needs that, this needs these safeguards. It seems a little bit loose that there is going to be no standard in terms of safeguards at all.

**Ms GAVEL:** I think it is important to remember that we have the Privacy and Personal Information Protection Act that sits over the top. That is our overarching privacy framework and agencies are obliged to comply with the requirements of that act and that is regardless of whether the projects are funded under this bill or funded in some other way. They are required to have a lawful purpose for collecting information. They are required to think about how they use the information and make sure it is within the limits imposed by the act. It is the same with disclosing information and keeping information secure. So regardless of what is in this bill, the privacy act applies to agencies.

**The Hon. SHAYNE MALLARD:** Your opening statement pretty much updates your joint submission which we received on 13 December. You have some reservations, which you outline on page 2, around privacy but your opening submission says that since you have seen the Government submission, which was on the 24 January some five weeks later, your concerns are adequately addressed. Is that correct to say that? Both of you?

**Ms TYDD:** From my perspective I would continue to exercise my functions in relation to monitoring.

**The Hon. SHAYNE MALLARD:** I would expect that.

**Ms TYDD:** So the framework remains in place. It does address a number of the features we raised. It addresses access to information from my perspective. It addresses public value. I will leave my colleague to speak to the other matters. It addresses cyber security which was something that we also raised. It is important at a project level that I would continue to monitor and provide advice and I am able to do that under the GIPA Act.

**Ms GAVEL:** Yes and the same for me. I can monitor the work that agencies are doing. At the same time, it does give me a level of confidence that the issues that I talked about in the privacy section of the submission, ensuring that agencies take a privacy design approach to these projects because they are digital projects. They therefore can raise higher privacy risks, so that is important. And also conduct a Privacy Impact Assessment so that risk mitigations can be put into place and the whole project is designed with privacy throughout it. I am confident that during the consultation process we will be able to put those processes in place.

**The Hon. SHAYNE MALLARD:** Were you engaged at all during the process of design of the legislation? Or was it after this inquiry was commenced?

**Ms GAVEL:** While we have been consulted in a general way, we were not consulted on the specific design of the legislation.

**The Hon. SHAYNE MALLARD:** Okay. My last question is—

**The Hon. DANIEL MOOKHEY:** Expand on that, Mr Mallard.

**The Hon. SHAYNE MALLARD:** Sorry.

**The Hon. DANIEL MOOKHEY:** Expand on that line of questioning.

**The Hon. SHAYNE MALLARD:** No. I am happy with the answer. The legislation is quite unique. Correct me if I am wrong, but the Government did not need to legislate to invest in this project. It could have done so through the government mechanics of Treasury. So if you accept that position is correct, which is my understanding, it invites greater transparency and scrutiny and awareness of what the Government is doing in this contested area of privacy and data collection, would you not agree?

**Ms GAVEL:** The bill is quite a simple bill, as you would see. So before having the benefit of the information in the Government submission, we were not entirely sure about how those safeguards would operate certainly for privacy, even though agencies are obliged to comply with the PPIP Act and they are obliged to put them in place, regardless of the provisions of this bill. We wanted to be sure that these issues would be taken into account because, as we know, digital projects raise higher privacy risks so these issues become even more important.

**The Hon. SHAYNE MALLARD:** What I am getting at is the bill—in an internal government sense—is not necessary to do the projects but by doing the bill it invites your involvement more publicly and the public's and the Committee's scrutiny of the Government's project in terms of digitalisation and data and customer journey, as they call it. Do you accept that? So it is actually a positive step.

**Ms GAVEL:** It is certainly positive that we have been able to put forward our submission, that we are able to talk to the Committee today, and you are right in that sense. It is a transparent process.

**The Hon. SHAYNE MALLARD:** Thank you.

**The Hon. CATHERINE CUSACK:** I will expand on that theme. This is a very significant development for the Government in the area of digital policy which is obviously the future of service delivery. So this is really an opportunity to address privacy issues in a long term way by ensuring that it is built into the design of this.

**Ms GAVEL:** That is right because this does involve digital projects and some of those projects will involve the use of personal information.

**The Hon. CATHERINE CUSACK:** I guess what I am saying is this is framing digital future across multiple portfolios. So privacy would be particularly important to build in at this point, yes?

**Ms GAVEL:** That is right.

**The Hon. CATHERINE CUSACK:** Thank you for the submission, which was really informative. We get lots of critiques but this seems like a really positive solution. How is that concept of Privacy Impact Assessment progressing in Government overall? How are you making that input and how is it being taken up?

**Ms GAVEL:** Yes. So we have the PPIP Act which requires agencies to comply with the information privacy principles [IPPs] and agencies consult with the IPC around projects that they are doing. This process is already in place. So, for example with the digital drivers licence, we consulted with Service NSW on that project. They conducted a Privacy Impact Assessment. We were then able to consult with them on how they were going to mitigate the risks that were identified in the Privacy Impact Assessment. So it is a process that is already in place. I cannot stress enough, and I do this to agencies all the time, just how important these processes are because you can identify the privacy risks and you can mitigate them.

**The Hon. CATHERINE CUSACK:** That is wonderful to hear and I am reassured by that. I want to ask about privacy and about balancing value in terms of the customer experience versus the risks and the privacy. Often in order to deliver a positive customer experience, if I can use this terminology that way, across multiple agencies, privacy can be a blockage in terms of agencies accessing information they need. For example, the Office of State Revenue does not share information with Services NSW so customers trying to address blind recovery issues.

**Ms GAVEL:** I am not aware of the specific example that you are talking about but I have had many discussions with agencies that have suggested that perhaps privacy is a blocker. When we work through the issues with them it is often other things such as capability within the agency to understand the issues and work through them. It is not always privacy and often when you tease out the issues it is not privacy that is acting as a blocker. I think the other thing that is really important with these services the Government is providing to the public is that the public needs to be able to have trust in these services because the public often has no choice about doing business with government. For example, we can all say, "Well, I'm not going to have Facebook" but we cannot say, "I'm not going to interact with the government if we want a licence", or something like that. Government has to demonstrate to the public that it is more trustworthy than a company like Facebook and one way to do that is through good privacy practice.

**The Hon. CATHERINE CUSACK:** I have asked you about a routine-type service area. But what about a high-risk area like child protection services where multiple agencies are often involved and there is information sharing but then there is other parties—parents and everyone—who have privacy considerations?

**Ms GAVEL:** Yes, that is right, and these are very difficult complex issues. There are ways to work through them from a privacy point of view. We have also done some work on the recommendations coming out of the royal commission and some of those went to information sharing between agencies to protect children in these ways. There are some exemptions in the privacy Act already but there are also ways that agencies have exemptions within their own legislation in some circumstances. In other circumstances it might be an important matter like child protection where an agency will actually bring forward a legislative proposal to be able to share this information and the Parliament itself can form a view about that and whether that should occur.

**The Hon. CATHERINE CUSACK:** For example, I refer to medical information concerning a child in care and agencies being able to share that maybe to foster parents?

**Ms GAVEL:** Again that is very sensitive information pertaining to a child. You would need to have strong reasons for sharing it. Either there would be an existing exemption within the agencies' own legislation or within the privacy Act or there could be mechanisms to enable that through a privacy code of practice or a public

interest direction in the PPIP Act or it may require a legislative change if it is so important that the privacy Act needs to be modified to allow that.

**The Hon. CATHERINE CUSACK:** Taking that line of the discussion, is there any possibility that the child's best interests can be somehow one of the priorities that is considered—

**Ms GAVEL:** I think they can be considered in all of those issues. That was certainly part of the consideration with the recommendations from the royal commission.

**The Hon. DANIEL MOOKHEY:** Can I put a question on notice?

**The CHAIR:** You may very quickly put a question on notice.

**The Hon. DANIEL MOOKHEY:** Is it possible for the commissioners any written document which reflects the arrangement that has been reached with the customer service cluster about the policy that they will follow consulting?

**Ms GAVEL:** We have not got one as yet.

**The Hon. DANIEL MOOKHEY:** There is no written document?

**Ms GAVEL:** Not as yet, but we have already accepted an invitation to consult further with customer service on that.

**The Hon. DANIEL MOOKHEY:** I can ask the Government this afternoon.

**The CHAIR:** If any questions were taken on notice they are due within five days but the secretariat will be in touch if that is the case.

**(The witnesses withdrew.)**

**SCOTT JOHNSTON**, Acting Public Service Commissioner, sworn and examined:

**The CHAIR:** Do you want to make an opening statement?

**Mr JOHNSTON:** I am an independent statutory officer appointed under the Government Sector Employment Act 2013 and I lead the Public Service Commission [PSC]. My functions include identifying reform opportunities for the government sector workforce, advising the Government on policy innovations and strategy in those areas of reform, and leading the strategic development and management of the government sector workforce in relation to a variety of matters.

The relevance of the Digital Restart Fund for the PSC is that we are currently building the foundation for one of the NSW Government's Premier's Priorities to deliver a "World Class Public Service". The goal is to "implement best-practice productivity and digital capability in the New South Wales public sector and drive public sector diversity by 2025". Digital capability is the term we use to describe the skills and attitudes that individuals and organisations need if they are to thrive in today's world. At an individual level we define digital capabilities as those which equip someone to live, learn and work in a digital society. At the public sector level, it is about building the skills to transform service delivery to ensure the people of New South Wales receive the services they need, when and how they choose to consume them.

Developing the digital capability of the public sector and delivering this at scale is complex and requires investment. In April 2019 the creation of a Digital Restart Fund was flagged with clusters. In July 2019 all clusters contributed to the establishment of the Digital Restart Fund, with agencies participating in a rigorous process to submit ideas, evaluate and deliver projects in support of a whole-of-government approach to the digital transformation of the sector. As part of this process, the then Public Service Commissioner, Emma Hogan, was nominated as the Executive Sponsor for a series of small seed-funded projects focussed on digital capability uplift. This was a timely opportunity for the PSC to continue to build on some initial phases of work in building digital capability that we started last year.

The starting point for our digital capability work was to understand the meaning of digital across New South Wales government. This was a discovery phase and confirmed the varying levels of digital maturity across New South Wales government and uncovering a strong demand for capability uplift. It also found that there are a range of initiatives already in play that build on digital ways of working. These include the Department of Customer Service's Digital.NSW Accelerator (DNA) Lab and Transport for NSW's Transport Digital Accelerator. We identified six digital capability areas which will form the basis of a learning pathway for public servants looking to increase this capability. These are: customer at the centre; collaboration and agility; data, decisions and ethics; ideas to impact; enabling technology; and digital leadership. The Digital Restart Fund has enabled a subsequent phase to this initial work to test and validate the findings of the discovery phase, with an aim to ensure that any digital capability uplift program is feasible, compatible, sustainable and relevant.

Previously, funding has been small and mostly focused on individual agency outcomes. A more holistic approach using the Digital Restart Fund should ensure a consistent level of uplift and capability is achieved across government. This is impossible to achieve from an individual cluster perspective. The digital capability uplift program of work includes funding the Transport Digital Accelerator to deliver a series of regional training sessions around human-centred design for employees across the public sector, not just the Transport cluster. It also includes the creation of an online platform as a pilot to share experiences of applying digital capabilities to eight in-flight programs across different clusters, to be concluded in June 2020. It has provided support via the Department of Education and the Department of Planning, Industry and Environment for development of communities of practitioners in both regional and metro New South Wales.

The fund has also assisted the PSC to work on a digital maturity assessment tool, piloted in six agencies of varying size, to deliver baseline digital capability across those agencies. It is the PSC's view that the Digital Restart Fund Bill 2019 will support the State of New South Wales to build the digital infrastructure and skills necessary for the New South Wales public service to become world class and to significantly enhance the experience of members of the public in their interactions with government. The PSC is already assisting in uplifting digital capabilities across the sector and considers that the bill will contribute to that work. The PSC supports the core program areas defined in the bill and welcomes funding which will contribute to the delivery of the Premier's Priorities, including making New South Wales a world-class public service. Digital capability growth is important for the sector and the fund provides the investment we require for this growth to occur.

**The Hon. JOHN GRAHAM:** Thank you for appearing. We were told that the information and privacy commissioners were not consulted prior to the drafting of this legislation. Were you or the Public Service Commissioner consulted prior to the drafting of this legislation?

**The Hon. SHAYNE MALLARD:** That is not quite what they said.

**Mr JOHNSTON:** I was involved in the early discussions about the fund and had the opportunity to provide feedback on the drafting of it.

**The Hon. JOHN GRAHAM:** You do consider that the Public Service Commissioner was consulted on the legislation?

**Mr JOHNSTON:** Yes, correct.

**The Hon. JOHN GRAHAM:** Was the Public Service Commissioner consulted on the \$38.6 million of projects that have already gone out the door from this, prior to that fund being established?

**Mr JOHNSTON:** No, not in full. The role of the Public Service Commissioner is in the space around capability uplift, his awareness about what priorities or projects are being funded, and specific aspects that relate to the capability lift of the public sector I have been consulted.

**The Hon. JOHN GRAHAM:** In the submission you say that the Public Service Commission has been tasked with leading the reform agenda whose goal is to implement best-practice productivity and digital capability in the New South Wales public sector. That sounds like the commission would have something significant to contribute by way of advice on these projects.

**Mr JOHNSTON:** Absolutely.

**The Hon. JOHN GRAHAM:** Should that be something that is required as part of this fund—that that advice is made available?

**Mr JOHNSTON:** I am comfortable with the involvement of the commission, that it has an understanding of where the digital priorities are, which is not in the commissioner's responsibility. It is very much connected to who is involved in this and what part of the sector is working on it and what capabilities they need to drive. The outcomes of those decisions are very important to me but the relative importance of different priorities less so.

**The Hon. DANIEL MOOKHEY:** Part of the Public Service Commission's function is to make the assessments as to capability uplift on a whole-of-government basis. Is that correct?

**Mr JOHNSTON:** That is correct.

**The Hon. DANIEL MOOKHEY:** In your opening statement you said that the fund was effectively for whole-of-government capability upgrade across clusters. Is that correct?

**Mr JOHNSTON:** Yes.

**The Hon. DANIEL MOOKHEY:** You said that the reason why the fund is necessary is because no cluster on its own is capable of doing that effectively and that there are benefits to be gained from coordination. But the way in which the law is written, the only secretary who has to be consulted is one secretary of one cluster, which is the Minister's cluster—the Customer Service cluster. I accept that the Secretary of the Customer Service cluster should be consulted, but the Secretary of Customer Service is in no position to provide whole-of-government advice around capability upgrade. Is that correct? If she was, there would be no need for you.

**Mr JOHNSTON:** The governance associated with the acceptance and approval of projects is, from my perspective, quite rigorous and the assurance of the value and importance of them and the feedback loop about whether they are achieving their outcomes is quite clear. There is an expectation requirement in these business cases that are built to talk to the capability required. This is seeing investment in areas around digital capability uplift, cyber security improvements and such. Actual endorsement of the specific priorities and being involved in whether decisions of one priority over another priority be made is not directly a concern of the commissioner.

**The Hon. JOHN GRAHAM:** You talked about some specific projects of which the Public Service Commissioner is the executive sponsor. Of the \$38.6 million, what is the value of the projects for which the commissioner is the executive sponsor?

**Mr JOHNSTON:** Currently it would be \$650,000. There is further investment in other areas around capability uplift, which I am not the executive sponsor but have awareness, such as the work around cyber security.

**The Hon. JOHN GRAHAM:** Would it not be better to have your advice at the table in a more systematic way across the vast—you do not have oversight for the bulk of the money that has been spent already. Given your remit, would you not be better placed having your advice being required to be inputted?

**Mr JOHNSTON:** The challenge in getting scale and shifts in terms of capability across the sector is thinking about how we support the projects that have been identified in an appropriate way, so that the learnings that the people have in those areas can go back to into their sector and work well. Our problem is less how we choose the right things—these are all typically bound by collaboration about different ways of thinking and changing culture in the way that you approach a problem. The method and the strategy that we have, which is closely tied to discussions with the Department of Customer Service, is about where the capability need is greatest. We work well with digital.nsw and have a good sense of the throughput of what projects are being identified. It is not that I am not unaware of what is being considered but whether there is relative priorities of some is, as I said earlier, less my concern or my role.

**The Hon. JOHN GRAHAM:** There is no requirement under the bill that the Minister consult the Public Service Commission. Do you agree with that? Would the bill not be strengthened by requiring some sort of consultation?

**Mr JOHNSTON:** I am comfortable with the framing of the governance and the approval of projects, which does have the Public Service Commissioner consulted on part of the process where capability is a part of it.

**The Hon. DANIEL MOOKHEY:** Can you nominate any harm that would result to the fund if it was a legislative requirement for the Public Service Commission to be consulted?

**Mr JOHNSTON:** As the previous witness spoke to, it is a fairly simple bill, which in practice has very strong governance around the development of business cases and quality assuring the value that they will bring to citizens.

**The Hon. JOHN GRAHAM:** None of that is in the bill.

**Mr JOHNSTON:** I appreciate that.

**The Hon. JOHN GRAHAM:** You might be referring to the administration.

**Mr JOHNSTON:** In terms of its operation and effectiveness of bringing together different parts of the sector to give a view on what is the priority, I think it is effective. Adding further content and complexity to the bill would probably run the risk of slowing down the process, where we are trying to quickly—

**The Hon. DANIEL MOOKHEY:** The complexity being consulting the Public Service Commission, whose responsibility is to maintain whole-of-government advice on the public sector's capabilities?

**Mr JOHNSTON:** As I mentioned, I am comfortable with how I am consulted in relation to the projects that are being put forward currently. Adding that further detail to the bill does not enhance the function of what it is trying to achieve currently.

**The Hon. MARK BANASIAK:** Just to clarify, you said you were not fully aware of some of the current projects. How aware were you of \$1.2 million being allocated to the firearms licence management systems, a project that has been going on for a good decade now and is rife with issues? How aware were you that another \$1.2 million was going to be spent on that?

**Mr JOHNSTON:** My awareness would have been to see it in the frame of a list of projects and priorities that were identified. Specifically at the moment I have no recollection of that particular project, or being involved in any consideration of its further investment to it. What I find in my team benefit from is understanding where the allocation goes and then who do we work with to try to think about lifting their capability. So the decision on the appropriateness or otherwise of that allocation, have no—

**The Hon. MARK BANASIAK:** Do you see whether it is a new project, a continuing project and where it is up in terms of its implementation? The Commissioner of Police said in budget estimates that it was already implemented but in his annual report he says it is not due to be implemented by 2020. I am trying to reconcile what you are told with what we are told about projects that are having huge amounts of money thrown at them.

**Mr JOHNSTON:** In relation to Digital Restart Fund projects progress is reported on for various projects which I have a focus on but specifically the history of projects and how they have come into this fund I would have less knowledge around. The specific project you have mentioned, I have no awareness of it.

**The Hon. MARK BANASIAK:** The existing projects have business cases attached to them?

**Mr JOHNSTON:** I have not read all the business cases that have gone through in this but my understanding is that the business case process is quite rigorous and validated by a process which is made public. The outcomes that they are trying to achieve are very clear. A lot of the projects, because this is still new in terms of the funding, we are still trying to achieve those outcomes and frame it.

**The Hon. JOHN GRAHAM:** Are you part of that evaluation working group that looks at these?

**Mr JOHNSTON:** No, and importantly not, I think, because you need an evaluation structure to evaluate the success of projects and identify the outcomes that they are trying to achieve from the outset.

**The Hon. MARK BANASIAK:** Who is part of the evaluation team?

**Mr JOHNSTON:** That is a question for the Department of Customer Service to give the specifics of.

**The Hon. MARK BANASIAK:** You mention that there is already central agency working groups in place to ensure oversight but there does not seem to be any mention of these central agency workings groups in the Government's submission. Will you flesh out how the central agency working groups work in practice?

**Mr JOHNSTON:** I can speak to what we are doing around capability. As the executive sponsor of the work associated with lifting capability in this space, it is working with the projects that are in flight. So we are including people from transport, Department of Planning, Industry and Environment, Public Service Commission and the Department of Customer Service to ensure that the progress that the progress that projects are working through are achieving their outcomes and they are going to go somewhere.

**The Hon. MARK BANASIAK:** You say you are working with those agencies. You are working with Service NSW and Firearms Registry on this system that has been given another \$1.2 million?

**Mr JOHNSTON:** No, not specifically on that one. I referred to the projects I am executive sponsor. These are additional projects that are specifically about trying to lift capability across the sector. These are creating tools and ways of working that will be of use for the people and value of the people that are working on the projects that are trying to deliver these outcomes. The projects that you are specifically speaking to, when we continue to evolve this way of working such as the online platform that we spoke of, lifting human centre design capability across the sector, these will benefit the people, the public servants, that are trying to complete these projects.

**The Hon. MARK BANASIAK:** In your mind what consideration has been given to the end result of these digital capabilities—we are talking about the customer's experience—when you have got over 900,000 people who do not access the Internet in New South Wales and by that extension they do not access the Internet, they do not have mobile phone apps and all these things that these projects would obviously looking to implement at the end result? What consideration is given to that fact and are priorities given to projects that would improve that uptake?

**Mr JOHNSTON:** At the heart of the work we are talking around lifting digital capability, it is not about technology, there are parts to it which are talking to digital transformation, maybe the use of technology in some cases, but it is actually firstly understanding what the citizen or the customer's needs are. From the Public Service Commission where the values of the public service are inherent in our legislation and everything we do, inclusion for all as well as public servants, is important. So to that end where we are lifting capabilities about how do you start to include everyone in the solutions that you are designing—and this might be how do public servant's capability gets enhanced where they can spend less time doing administrative technical work and more time in community. That is not about actually taking a service from a face-to-face to a digital platform, it is actually about getting the most out of the time that you can with people.

I think it is really critical that the point of digital capability does not stop at actually being able to—it is partly about data science and cyber security and using new ways of working and block change and such, but it is as much about actually thinking about who are we trying to serve in the best way, and what are all the tools available for us to deliver them.

**The Hon. SHAYNE MALLARD:** Are you involved in submissions from agencies that seek funding for projects?

**Mr JOHNSTON:** My involvement typically comes when we start thinking about who is going to be involved in delivering it and how we can get the workforce primed in the best way to do that. Specific outcomes around projects there may be an interest for the commission in terms of the outcomes it is delivering but often actually these are problems that arise from the interaction between agencies, departments and the community. Involvement and consultation on every project, no. But awareness and availability to understand the purpose, the intent and who it affects within the sector is where my function lies primarily.

**The Hon. SHAYNE MALLARD:** Obviously departments have been doing their own bits and pieces around the place. After the election the new Government created the senior Minister for Customer Service. Is it to pull together, coordinate and integrate some projects and get other ones into work projects?

**Mr JOHNSTON:** In part. My perspective is that where we are trying to find consistency across the way we work with community and the citizens of New South Wales, instead of solving the same problem multiple times, if we can do it once with a broad view about who are we trying to impact, we will achieve more. And that lies at the heart of the commission trying to lift the capability of our workforce so that we learn how to collaborate better and consider different perspectives and focus on the outcomes to the customer and citizens.

**The Hon. SHAYNE MALLARD:** To your knowledge is this unique, groundbreaking legislation in terms of other governments around Australia?

**Mr JOHNSTON:** Yes, to the best of my knowledge it is, yes.

**The CHAIR:** I do not believe any questions were taken on notice but if there were the secretariat will be in touch and they need to be returned within five days.

**(The witness withdrew.)**

**(Short adjournment)**



**GREG WELLS**, NSW Government Chief Information and Digital Officer, NSW Department of Finance, Services and Innovation, sworn and examined

**The CHAIR:** Would you like to begin by making a short opening statement?

**Mr WELLS:** Yes, thank you. First of all, I thank you for the opportunity to be part of this. The Digital Restart approach, for us, is a really important method and initiative. It is great to be able to talk about it and it is one that is already making a difference. As we all know, information and communication technology [ICT] and digital technologies really play a critical role in delivering great government services, whether it is safety or quality of service or just great experiences, and we have made some great progress in this State already. Whether it is being able to turn up to any hospital and see any medical image from any hospital, no matter where that was taken or on what device, or attend court virtually if you are an at-risk client—complex services like that through to really simple, everyday tools, like tools to help you plan your travel or check the price of fuel. We feel like we have done quite a bit already.

However, about 18 months ago, I think, we set ourselves the task of thinking about what the next level of maturity might be for New South Wales in terms of digital. We did that by looking at the great things we had already done but we also looked around the world at the best digital governments and what they were producing—that's your Denmarks, your Estonias, your UKs. From that process, what seemed to be the next level of maturity and what we wanted to focus on were probably four things.

The first one was around focusing on customer journeys and life events to really support people across government, no matter what agency or interaction they had to deal with. The second one was making sure that we reused solutions across government. We call those State digital assets but they are really just common things that you should use across government, whether that is a customer payments process or a call centre—whatever that is. So it's common things that we should reuse across government, rather than doing them 10 or 12 times. We needed to look at some pretty important legacy systems, some big systems that support frontline operations and critical roles, and, as I think Scott Johnston this morning talked about, lifting capability to be able to deliver technology and services in a different way. So they were the sort of focus areas that we came up with.

In order to deliver those faster and better, you have got to look at the way you plan and fund and deliver digital in general. Just focusing on the old way was not going to really speed things up and get things really customer focused. It is that funding component that is particularly important and that is where Restart comes from. Because I think, traditionally, a lot of what we have done in digital is—it is based on more of a physical infrastructure approach where you build a big business case. It is mostly capital money. It takes 12 or 18 months to develop. It has got to fit in with our capital cycle around a Treasury budget process. There are a lot of problems with that process. First of all, you do not know the problems and user needs and everything that you are going to encounter along the way. What digital is more about is it should be smaller, more incremental improvements to services that make a difference and testing those constantly with customers for feedback. So trying to write a business case to start something in 12 or 18 months is not really the best way to do digital. That is the first one.

The second one is what customer service is about is working across agencies, as I said, rather than in the silos of an individual agency building a business case and bringing that to Treasury. There is a need for increasingly more cross-collaboration across agencies. That is the other thing. And, of course, the last one is just taking 12 or 18 months to start a project is not something we want to do. We needed a way to do things more quickly, with more agility, and to get things in people's hands that make a difference faster. So from those priorities and thinking about the way we do things—that is the way we have tried to shift and that is what Restart does.

It enables smaller amounts of money to start things earlier, to test things with users to make sure they are going to be of benefit to users. They allow us to test, also, important issues like privacy and security and all those sorts of things before you get into a big user base. They allow us to build common solutions. And, really importantly, they allow us to de-risk those big programs that you would have heard of around IT. There is a bit of a perception around IT of having big programs and big failures. So this is an approach also to de-risk that old model of going for really big things at once. It's an approach to chunk things down.

This legislation is about the Restart funding component of that. The legislation is really about the mechanisms for the way the money works. I am sure we will talk about the processes of application and prioritisation and the other governance mechanisms at work to pick the projects, run the projects, assure the projects. This bill is really about the money and how that works. Thank you very much for the opportunity. This is a really important initiative for us.

**The Hon. JOHN GRAHAM:** Thanks for that opening statement. From what you have described, there are a number of elements of a strategy in this area that might well be appropriate. I agree with a number of the

principles you have outlined. What I am struggling with slightly is what this legislation does separate to the general administrative decisions or funding decisions or government strategies that are implemented by the Executive. Some \$38.6 million has already been spent without this legislation. Why is it necessary? What does it do that the Government cannot do by itself?

**Mr WELLS:** I think because it is so important we want to legislate it to make sure it is a sustainable model. I think from best practice around things like the infrastructure restart process, Snowy Hydro generations fund and other similar Acts that establish a special deposits account, which is what this does—

**The Hon. JOHN GRAHAM:** This is modelled on the Restart model but with few of the protections, few of the criteria. There is no required benefit-cost ratio [BCR].

**Mr WELLS:** I will come to that, if that is alright.

**The Hon. JOHN GRAHAM:** There is no requirement for a business case.

**Mr WELLS:** There is a—

**The Hon. JOHN GRAHAM:** Not in the legislation. This is a very stripped-down Restart model. This is not the Restart NSW legislation.

**Mr WELLS:** Yes, I think it is comparable from that sense. I will go through that, if that is alright. What the bill does is establish the way that the mechanism for the money works and it establishes broadly the criteria or the categories of what an eligible project would be. Again, to my opening statement—those life journeys, State assets, legacy solutions and capability are talked about in the bill in the same way that Restart talks about roads and other specific things. I think they are completely comparable from that perspective. We will talk about the application process, I assume, in detail but the way that projects come to the fund is a very rigorous process. The way that works is—and it is in our submission—agencies prioritise and clusters prioritise within their own cluster things they would like to—

**The Hon. JOHN GRAHAM:** What you are moving to is the government administrative arrangements around this fund. Understood. I am asking about the significant distinction between the very clear criteria in the Restart NSW legislation and the much looser, broader way this legislation is drafted. There is no BCR requirement and no business case requirement. Half the money has been spent without the bill going through. What does—

**The Hon. DANIEL MOOKHEY:** Can I just add additional details of the Restart bill which you might wish to address? The Restart bill also requires Infrastructure NSW to sign off on it—that is, not the Secretary of the Department of Transport, for example. So there is lots of collaboration, which is actually the principal independent assessment process that is undertaken in order for any agency to access it. We are looking at this bill and, in addition to not being able to see those parallels that my colleague mentioned, I cannot see any parallel to the role Infrastructure NSW would play. The bill, as written, says the Minister makes the decisions only upon advice from the secretary.

**Mr WELLS:** Sure. I will cover both—

**The Hon. DANIEL MOOKHEY:** Just so I can put it to you, so you can address it all at once, the other thing is that you make the point that this is a special deposit account. That is the other point of difference between this and Infrastructure NSW, the Restart NSW Fund. That is a special account designed to hold the proceeds of privatisation. Is there a parallel here to that?

**Mr WELLS:** Okay. I will try and pick up all those four points.

**The Hon. SHAYNE MALLARD:** Madam Chair, it is quite a long—

**The Hon. DANIEL MOOKHEY:** Yes, but we are giving him the opportunity to address it all at once.

**The Hon. SHAYNE MALLARD:** Two of you jointly asked the questions and I just think that Mr Wells should be given time now to answer them.

**The Hon. DANIEL MOOKHEY:** It is collaboration.

**The Hon. SHAYNE MALLARD:** Laurel and Hardy.

**The CHAIR:** Okay. If you could continue, Mr Wells.

**Mr WELLS:** Thank you. I will try and address each of those four. Please come back to me if I do not pick up on those. First of all, I do think the criteria in the bill is clear around those four categories and that is the way we prioritise and pick projects to fit in with those categories. I do see that the bill covers that. You know there are guardrails around the things that we pick, that would be a first thing. To come to the way that the assurance

and Infrastructure NSW [iNSW] role mirrors this, it would be worth me talking through the application process so you get a sense of what is around this in terms of how it works.

**The Hon. JOHN GRAHAM:** Well I do not accept that because there are protections in the bill—in the legislation—for the Restart NSW bill so I am happy for you to compare the two bills and that is really what this Committee is trying to do.

**Mr WELLS:** I am not saying that it is a complete match to the Restart bill either. The point I was making was that we are trying to draw the best of those things out of what is available. But digital, to be clear, is quite different to infrastructure. If I could just get through the four bits maybe that would give us a bit more context as to where you still feel there are questions that you need to understand? So in terms of the application process, Mr Mookhey, the way it works is that clusters prioritise the projects they would like to put to the fund. The information and communications technology assurance function—which is an independent ICT assurance function for the State, a statewide function—helps screen those projects against the criteria we have just talked about. So is it a life journey, does it commonly fit in with what we would think about as a life journey or event for a customer? Or is it eligible as a common solution—

**The Hon. DANIEL MOOKHEY:** When you say ICT assurance framework, which one are you referring to?

**Mr WELLS:** That is the ICT assurance framework that applies to all ICT and digital projects for the State.

**The Hon. DANIEL MOOKHEY:** Is that the one that Infrastructure NSW applies for the information technology [IT] projects that they assure?

**Mr WELLS:** It depends on the project. For all digital and ICT projects that are core to delivering services that have a digital or ICT component, that is what the ICT assurance framework covers. So anything above \$10 million is assessed against a formalised Treasury gateway process and is run by a function within the customer service department.

**The Hon. DANIEL MOOKHEY:** Okay.

**Mr WELLS:** So that function helps screen the proposals if you like, so they look at that. Then what happens is they help screen and advise, I guess, the cluster as to make sure it is going to fit in with the methodology. That it is not just a grant or a lump sum payment, it is working in the ways that Mr Johnston would have talked about this morning. So first of all it is screened. Secondly, what we use is a working group between Treasury, the NSW Department of Premier and Cabinet [DPC] and customer service again, who administer the process of the fund to review and assess and improve a lean business case. So everything that comes into the fund has to write a lean business case.

It is a shorter business case than you would normally appreciate for a big long process but it is a formally documented process that talks about what the value of the initiative is, how it complies with a checklist of things about security, privacy—all those normal things that you would expect in a business case. So that working group approves, essentially, a lean business case to go through to something called the ICT and digital leadership group, that is the chief information officers [CIOs] from every cluster across the State who meet every month. They approve those projects before they go to the delivery and performance committee of Cabinet. So in that process there is a lot of opportunity for consultation, for pressure testing of ideas, for rejecting—

**The Hon. JOHN GRAHAM:** Mr Wells, a lot of this is in the Government submission, I guess our question is, what is different about IT that means you do not need independent advice, you do not need a benefit-cost ratio [BCR] of greater than one, that is there is not a test to say this is positively in the public interest and we are getting the best projects. You do not need a formal business case required by the legislation. Those things are not in this bill, they are in the other one. What is different about IT that just says these things are not a formal requirement? We are having higher standards here. That was the model but none of those protections are there.

**Mr WELLS:** From my perspective, those protections are in the process that I have described.

**The Hon. JOHN GRAHAM:** In the administrative processes though. You accept that they are not in the bill?

**Mr WELLS:** They are not in the bill, sometimes for a good reason. As many people have talked about—

**The Hon. JOHN GRAHAM:** So what is that reason?

**Mr WELLS:** The projects that could come through the Restart methodology can be very different. If you think about some of the initiatives that might be a State digital asset for example, and I will provide an example just to give you a bit of context of what that might look like, in its most simple example a common solution—let us just call it that—might be an address validation service. So any government website, rather than everyone trying to validate that this is a correct address, there is a service we have built on behalf of all of Government that when you start to look up an address, it surfaces that information and makes sure it is the right one because it is based out of spatial services which is correct, right? So that is a common solution that we have assisted to build through this process. In its first instance that, you know, does not necessarily have a BCR greater than one.

**The Hon. JOHN GRAHAM:** I would have thought that it did.

**Mr WELLS:** There is definitely, once it scales across Government, as everyone picks up that service, stops paying for other services, saves time in terms of bad data and duplicating it, so there is lots of value overall in that process but in terms of what we invested in a small amount of money to get it stood up, there is not necessarily a—

**The Hon. JOHN GRAHAM:** So does that mean that the BCR is out of the window for any of the evaluation of these?

**Mr WELLS:** No, it certainly does not.

**The Hon. JOHN GRAHAM:** So there is one applied?

**Mr WELLS:** There certainly is. That is what the lean business case is for. It is to talk about that benefit.

**The Hon. JOHN GRAHAM:** But you may well be approving things with a BCR well below one?

**Mr WELLS:** As I said, it does not always apply. In most cases, particularly in life journeys and legacy as I said, it is quite specific to different sorts of projects. In general, we would not be doing projects and that group would not be approving projects if they could not see at a point in time that was absolutely going to create a return because part of the assessment criteria is how does it line up with Government priorities? How does it line up with the Premier's priorities? So to get right to it, putting that in the legislation is then going to prevent really important projects that we need to get started on—the bill and the fund is really about, in a lot of instances, starting the process rather than waiting 18 months and writing a business case that we never get to.

**The Hon. DANIEL MOOKHEY:** Can I just go back to one of the questions that I asked which I do not think you had the time to address? Why is a special deposit account needed on this, at all?

**Mr WELLS:** Good question. We want this to be enduring. We see this as really important and I think people are recognising that. This week Intermedium, who does a ranking of all government agencies across Australia including the Commonwealth, gives each jurisdiction a scorecard of where they are up to. New South Wales has been first for many years and this year was the first ranked jurisdiction again at 9.7 out of 10. Three of the key reasons they highlighted that we are still going up the maturity curve and leading the nation, is because we are coming up with ideas to fund and better deliver things faster, like in this process, that other jurisdictions that have still got this old process.

**The Hon. DANIEL MOOKHEY:** But is the dominant process of establishing this therefore, to avoid you having to go to Treasury all the time?

**Mr WELLS:** No. Certainly not. Treasury, as I said, is involved in assessing each of the cases that go through this process. The other thing to point out is, the idea of this is to start earlier. It is not to avoid Treasury or to avoid the budget process, quite the opposite. It informs that process in a better way because, as I talked about before, if you write that business case without any context in the old model, your business case is probably wrong. If you start this way and prove the model and feed that into a business case that makes sense, Treasury are going to be more confident that it is going to achieve its objectives. So both in terms of the Restart model, it goes to Treasury, but then it fits in with a broader process.

**The Hon. DANIEL MOOKHEY:** You just said then that you want it to be enduring. It is a relatively low sum as far as New South Wales Government expenditure goes at around \$100 million. Insofar as every cluster has cluster has a desire for their programs to be enduring, they do not all come to Parliament and ask for a special business model. If we accept your premise, that there is a public benefit in making this enduring, does not the logic of that to say that we should also insert some governance on it as well? So that the governance aspect is enduring and does not just turn on administrative processes that may or may not change?

**Mr WELLS:** I think to your comment first about each individual cluster, remember a big part of this is the cross-government component. I would not see every cluster—

**The Hon. DANIEL MOOKHEY:** But I have sat here and heard this from Premier and Cabinet and many other clusters—

**The Hon. JOHN GRAHAM:** That may not be the view of other clusters.

**The Hon. DANIEL MOOKHEY:** They all have the same view as well. My point is that your cluster has come forward with the bill, saying we would like to have this locked up.

**Mr WELLS:** I think that is from the perspective of Customer Service playing a whole-of-government role. That is my role: a whole-of-government role. That is why we wanted to establish this in an enduring manner, so that whole-of-government ideas, projects, functions and things that fit across agencies are enabled by this—

**The Hon. DANIEL MOOKHEY:** We are not disputing the need for this to be enduring. Our point is that if it is going to be enduring, should not the governance be enduring as well?

**Mr WELLS:** Sure. I feel like that is in place and will be improved over the next six months as we write the policy that sits behind this. It is not to say we do not have mechanics in place to run it; I have just described some of those. But associated with the bill will be a policy that is, again, taken to the Delivery and Performance Committee [DAPCO] for approval.

**The Hon. JOHN GRAHAM:** You have spent just under half the money already without this being required. Why is this required?

**Mr WELLS:** Without what being required, sorry?

**The Hon. JOHN GRAHAM:** Without this fund being in place, just under half the money is spent already.

**Mr WELLS:** Yes.

**The Hon. JOHN GRAHAM:** What is the legal basis on which you spent that money? What is the impediment here that you are seeking—

**Mr WELLS:** No, there is not an impediment.

**The Hon. JOHN GRAHAM:** What is the legal basis? The Minister is exercising his executive authority.

**Mr WELLS:** Sorry, I am not sure I understand the question.

**The Hon. DANIEL MOOKHEY:** If you have been able to spend \$38 million without this bill, why do you need this bill to spend the remaining \$62 million?

**The Hon. JOHN GRAHAM:** What problem are we fixing?

**The Hon. SHAYNE MALLARD:** Got to keep the Parliament busy.

**The Hon. JOHN GRAHAM:** That is exactly my concern. This looks like, at its worst, a public relations stunt to highlight the fund.

**The Hon. SHAYNE MALLARD:** Withdraw that.

**The Hon. JOHN GRAHAM:** That is the concern we want to address here. What impediment are we overcoming?

**Mr WELLS:** Part of delivering great services for customers is digital. There is no question. We see this as important as Snowy, as infrastructure, so we want to make sure that that is enduring and a core part of this State's DNA.

**The Hon. JOHN GRAHAM:** So it is to highlight the importance of it. But what administrative function does this fund provide that the Minister cannot overcome already using their executive authority?

**The Hon. SHAYNE MALLARD:** Internal stakeholders.

**Mr WELLS:** I think it is just making sure that no matter what changes over the next years, this is seen as just as important as infrastructure and other mechanisms.

**The Hon. JOHN GRAHAM:** So it is really about highlighting its priority.

**The Hon. DANIEL MOOKHEY:** It makes no practical difference, from what we can tell.

**The Hon. JOHN GRAHAM:** What is the practical difference?

**Mr WELLS:** There are a few. One of the advantages of a special deposits account is something that has traditionally worked against ICT and digital projects. Traditionally, again, money is generally allocated in years and if it is not spent exactly or that profile does not look exactly like that, that is when you have got to do a lot of work in terms of rolling things over and moving things around.

**The Hon. JOHN GRAHAM:** So it is about protecting it from Treasury.

**Mr WELLS:** No. That helps.

**The Hon. DANIEL MOOKHEY:** You can tell us.

**Mr WELLS:** Treasury holds the funds.

**The Hon. JOHN GRAHAM:** I do not object to that.

**The Hon. DANIEL MOOKHEY:** You have parliamentary privilege. Let us know what you think.

**Mr WELLS:** Treasury holds the fund. That is the right way to do it. In terms of that process of having yearly spends that you have got to fit in exactly with that do not match what reality is, that is another reason why a special deposits account, as I understand it, helps better enable the way you want to work in terms of a digital expense.

**The Hon. SHAYNE MALLARD:** But this is not new money, is it? This is savings from expenses within the cluster, so it is not even new money.

**The Hon. JOHN GRAHAM:** I agree that Treasury may well love it. That was exactly where I was heading. Where has this money come from?

**The Hon. SHAYNE MALLARD:** It is in the submission.

**Mr WELLS:** Yes, it is in the submission.

**The Hon. JOHN GRAHAM:** No, the submission says that it has come from offset by cluster expense reductions. Is that for the full \$100 million?

**Mr WELLS:** That is correct.

**The Hon. JOHN GRAHAM:** So the \$100 million has been taken out of stopping what other functions?

**Mr WELLS:** It is from efficiencies that were found to make sure—

**The Hon. JOHN GRAHAM:** What efficiencies?

**Mr WELLS:** That is for each cluster to determine.

**The Hon. DANIEL MOOKHEY:** Is that above the efficiency dividend that each cluster is subject to?

**Mr WELLS:** You would have to talk to Treasury about the various sorts of efficiency.

**The Hon. DANIEL MOOKHEY:** Customer Service is a 2.5 per cent requirement. Is the money that has been sourced for this fund in addition to that 2.5 per cent, or has it come from that 2.5 per cent?

**Mr WELLS:** No, I think this is in addition to that.

**The Hon. DANIEL MOOKHEY:** So there has been 2.5 per cent plus \$100 million of efficiency gains?

**Mr WELLS:** I can only comment on this process. As we have just said, this has been found from efficiencies and ICT savings.

**The Hon. JOHN GRAHAM:** But you are saying that is not just in Customer Service; that is across government.

**Mr WELLS:** Yes, that is right. All clusters have contributed to it.

**The Hon. JOHN GRAHAM:** So all clusters have contributed, but have probably contributed above the efficiency dividend over two years?

**Mr WELLS:** Again, that is for clusters to work out how that is—the way they work out how they contribute to this process.

**The Hon. JOHN GRAHAM:** Yes, that is their decision. But you are confirming it is additional to the efficiency dividend?

**Mr WELLS:** Yes. It would be probably more prudent to take that on notice and confirm exactly, just so I do not get that wrong. But in terms of this fund, which is what I am here to address, yes, it has been a contribution.

**The Hon. JOHN GRAHAM:** But it is essentially chopped out of their ICT?

**Mr WELLS:** It has been a contribution from all clusters.

**The Hon. JOHN GRAHAM:** It will tend to be chopped out of their ICT areas because this is additional help in that area?

**Mr WELLS:** Yes, that is the way that most clusters probably have addressed it. But, again, it is a cluster decision about how that works. It would be on a cluster-by-cluster basis.

**The Hon. DANIEL MOOKHEY:** Do you require a law to set up a special deposit account? Can Treasury not just give you permission?

**Mr WELLS:** I would have to take that on notice. I am not sure.

**The Hon. DANIEL MOOKHEY:** It is not like there are only two special deposit accounts in New South Wales.

**Mr WELLS:** Again, I would have to take that on notice.

**The Hon. DANIEL MOOKHEY:** Going back to your original contestation around the need for there to be governance requirements, the only governance requirement that we can see in the bill that is formally written into the law is that the Minister can seek the advice of a secretary prior to making the decision.

**Mr WELLS:** Yes.

**The Hon. DANIEL MOOKHEY:** Is that your understanding of what the bill says?

**Mr WELLS:** Again, the bill is about the mechanics of the money. In terms of the Minister, which—

**The Hon. DANIEL MOOKHEY:** It is pretty important, is it not?

**Mr WELLS:** In terms of the Minister's accountability around that, that is the Premier's decision if this is passed.

**The Hon. DANIEL MOOKHEY:** No, to be fair, it is written into the law that the Minister is the final decision-maker.

**Mr WELLS:** Yes.

**The Hon. DANIEL MOOKHEY:** The Minister can seek the advice of a secretary.

**Mr WELLS:** Yes.

**The Hon. DANIEL MOOKHEY:** Therefore, it is in the law. That is one of the decisions this Parliament is being asked to sign off on.

**Mr WELLS:** Yes.

**The Hon. DANIEL MOOKHEY:** What is the harm of us requiring them to subscribe with the minimum requirements of Treasury, so the minimum requirements of Restart NSW so it is enduring? I know it is the inconsistency between the lean approach that you have described and the agile development—which, to be fair, is how products are developed in the digital space—and those requirements. I do not see how they are in conflict, so why should we not write them in?

**Mr WELLS:** I do not see it as in conflict. I just see the better place for that process is in the policy and associated governance that supports this bill, because the bill, in the end, is really just about the mechanics of where the money is, how it flows and what sort of broad criteria to be eligible for it.

**The Hon. MARK BANASIAK:** You have touched on this briefly. You said in your submission that a policy will be developed a year after legislation is implemented. To me, that seems like starting a basketball game and only bringing in the umpire at half-time. Considering we have already spent just under half, as Labor members have indicated, have you already got some of that policy in place, considering what you have learnt from spending half the money already?

**Mr WELLS:** Yes, 100 per cent. As I talked about before, before we started and spent any money, what we agreed across Treasury, Department of Premier and Cabinet and ourselves was what are some of those artefacts that support assessment of the projects in terms of what does a lean business case template look like; what is the

checklist you should go through in terms of alignment to strategic priority, privacy principles, security by design; how would we prioritise and assess. So a lot of those components are already in place and were agreed beforehand. Our submission says we will put in place the policy after a year. We are not starting that process; that policy is in draft and we are starting to consult from that policy at the moment. We would want to be trying to formalise that policy after the first year, so starting the policy then. A lot of that is in place. It would be fair to say this is a new process and we are improving it and adapting to things we learn along the way. But to answer your question, Mr Banasiak, those processes are in place.

**The Hon. MARK BANASIAK:** You talked about big projects in the digital scene not really working well. I am curious about one big project that you did spend money on, which was \$1.2 million on the firearms licencing and lifecycle management system [FLIMS].

**Mr WELLS:** Yes.

**The Hon. MARK BANASIAK:** That is a big, clunky project that has been going on for a decade. I am curious as to what changed from that big, clunky project to make you throw another \$1.2 million at a project that has been struggling. Did you know what you know now about digital clunky projects when you made that decision?

**Mr WELLS:** I do not have the details of every bit of what that program is addressing. In terms of the investment from Restart NSW, that \$1.2 million will specifically go to some of the underlying legacy infrastructure that supports the firearms registry. There are other components to the program; I understand that. The core of what this is looking at is, I think, first of all the way dealers buy and sell and record firearms. Again, it is taking an approach that is really making sure we go slowly and get it right. That project has been funded and is in the process of going through that.

**The Hon. MARK BANASIAK:** You say it is about the front end in terms of dealers and customers, but the police reference it as the back end.

**Mr WELLS:** To be clear, what we have funded is mostly about the back end and assisting with that process. As you know, there is a lot of old technology in that space that does not support anyone's best practice—

**The Hon. MARK BANASIAK:** I think they are still using fax machines up there.

**Mr WELLS:** And there are others like that. It is a great candidate to pick up and really think about what the right processes and controls are.

**The Hon. MARK BANASIAK:** You talk about one of the focuses being on re-using this across government. How do you see that project being re-used across government?

**Mr WELLS:** In its own right, at the core of that project is something that will be done by many other agencies or clusters. There are things in the Restart fund that will assist that project, whether it is a common payment platform, or a common way to authenticate and identify yourself, through to call centre platforms, which are probably outdated in some of this space as well. What Restart is doing in that middle component that I talked about—common solutions—is making those things available by building them out and then putting them on a design system that is available to all clusters to leverage. That will do a couple of things. It will speed up the process of replacing legacy technology, rather than everyone having to build up a payment platform or address validation service. So it speeds it up but, importantly, it is about a common experience so that as a customer, when I use some of these government services, it feels the same and is a good experience. That is why the middle component is really important. It is something we need to do a lot more of, in my opinion.

**The Hon. MARK BANASIAK:** I received some testimony from the Privacy Commissioner and the Information Commissioner and I raised concerns that this seems to be a glossing over of the protections for people with their data. Not necessarily concerns about public disclosure of data through the Government Information (Public Access) Act, but government agencies sharing data. I cited examples of police accessing or requesting Pharmaceutical Benefits Scheme and Medicare benefit data. They mentioned the privacy and personal information protection [PPIP] guidelines—but they are just guidelines, are they not? There is no punitive end result if someone breaches those guidelines or if the Government chooses to ignore those guidelines. They do not have to follow them. What I was seeking from the Privacy Commissioner was what the additional safeguards are outside those guidelines that will protect or reduce instances of such examples occurring. All she could talk to was the guidelines, which are non-binding, in my view.

**Mr WELLS:** There are a lot of mechanisms in terms of privacy and information security and cybersecurity that are put in place and should be put in place up-front as part of all of these initiatives. For example, in the digital and IT space, any supplier or agency that is embarking on a project will have to look at those guidelines. If they employ a vendor, they sign up to mandatory procurement frameworks, which have the PPIP Act



and Health Records and Information Privacy Act [HRIPA] as part of those things. They cannot do business with us as a government unless they are complying with those things. I am assuming that Ms Tydd talked about lots of mechanisms that are in place across government, depending on the sort of project, the sensitivity of information, where the information is stored and how it will be accessed, to make sure that those protections are in place.

This process does not work around that, either. That is the same thing that we make sure that we do at the start of this from a cybersecurity perspective, importantly. Doing in this way gives us a chance to better test that with the commissioners in terms of how that works, rather than on a theoretical basis. In a business case where the way we are thinking about setting up a program of funding it, we can work through, try out and test with users the implications of what information we will collect, how it will be stored, how it will be used and shared across government. Again, I see this as de-risking not only the commercial components of big programs, but also that dimension as well.

**The Hon. MARK BANASIAK:** Taking what you said about the contracted companies that are engaging in this, saying that they are going to adhere to these guidelines, I will double back to the FLIMS system. You had a company called Avocado Consulting get paid \$65,000 to evaluate the FLIMS system and test it using live data of people's details. There is no report to be seen as to what they did and what the result was. How does that comply with these guidelines?

**Mr WELLS:** I can check that. I do not know the specifics of that particular contract or that process but I can take it on notice.

**The Hon. MARK BANASIAK:** Thank you. I will go to an aspect of the bill that I find a bit concerning in terms of delegation. The bill states:

- (1) The Minister may delegate the exercise of any function of the Minister under this Act (other than this power of delegation) to—
- (a) the head of a Public Service agency, or
  - (b) any other person employed in a Public Service agency

The number of public service agencies is listed at roughly 226—I think we were quoted this morning. It seems like a long list for a Minister to delegate functions of this Act, including who gets the money. In some instances he can delegate who gets the money to the very person who is asking for the money. Would it not be more sensible to delegate the functions of this Act to heads of the clusters, rather than the 226 or 228 public service agencies?

**Mr WELLS:** In terms of an individual having a single decision about where money flows, that cannot happen through all the mechanisms that I have just talked about. If you think about the levels of governance that this goes through to get to the point where it is approved—a cluster level, a cross-agency assessment level, a whole-of-government CIO level. Secretaries' boards site that on the way through to DAPCO, so there is probably more governance around this process than there is around individual cluster processes. The mechanics of that are very rigorous. When projects start, the assurance of those products by the ICT Assurance team is in place, as well. There is a fair bit of rigour that has been designed around this whole process. It is not an individual—

**The Hon. MARK BANASIAK:** It does not seem that the rigour has been reflected in this Act. You are saying that the rigour will come in the policy?

**Mr WELLS:** In the supporting policy. To be clear, the things are already in place.

**The Hon. SHAYNE MALLARD:** It seems to me that this is about a quiet revolution going on in the New South Wales public service. This is a third-term government that is addressing cultural issues within an ancient bureaucracy. That is why we are having legislation—

**The Hon. DANIEL MOOKHEY:** Ooh—

**The Hon. SHAYNE MALLARD:** There is resistance from the Labor Party and I am surprised to hear you say that we do not need legislation. Maybe we should just close Parliament?

**The Hon. MARK BANASIAK:** Is that a question or is it a second reading speech?

**The Hon. SHAYNE MALLARD:** I am not going to go into the gun registry either.

**The Hon. DANIEL MOOKHEY:** To be fair, our position is that if we are going to have legislation it should be effective.

**The CHAIR:** Order!

**The Hon. SHAYNE MALLARD:** I put it to you that the reason for this legislation is to make it very clear to every person in government agencies—from the bottom to the top, across the board—that customer service is everyone's primary focus within the public service. This legislation is driving that culture change.

**Mr WELLS:** Yes, 100 per cent. The formation of the Customer Service cluster, which is focused on customer satisfaction, making government easy, building a world-class public service and all of those things—digital is fundamental to all that. The old ways of doing digital do not always work. That is why we have designed this to support important life events. If I can give one example of a project of school enrolment, which was talked about in the paper this week. I am sure some of you might have been enrolling children in school over the past few months, which in most places is still in a form of 16 pages of paper that you fill-in in probably 30 or 45 minutes, you find the attached information, find an appointment, sit down with the school, then find out that you have missed out a couple of things. You go back, you go forward; it is not a great experience. It wastes your time and it is not great for the school either. One of the projects funded from this Restart process, and I am sure you have read a bit about it this week, is to put that online. In 20 minutes parents can fill that out online. They have a better experience and it is personalised based on their children or child. The school picks that up and that is it.

No matter where you are or when you need to do it, it is a great experience—and even better for the school administrator who used to pick up that paper form and re-key it into their systems half an hour, probably, per form. The pilot, so far where we are up to with that is they can check six of those forms in the time it took to enter one. And that is just one example in education of how this fund can enable a digital solution really quickly that is of value to parents everywhere, to school administrators, and is making a big difference. And I could pick 10 more of those. That is what great customer service is, that is what we aspire to do and that is what this enables.

**The Hon. SHAYNE MALLARD:** This builds upon the Minister's work in his previous role, compulsory third party insurance reform, Service NSW. Now it has expanded to whole of government.

**Mr WELLS:** That is right.

**The Hon. SHAYNE MALLARD:** Cabinet has made a decision to put that at the core of this Government. I know when the Minister was appointed there was some cynicism, including in the media, about the title. But this is driving it—it is a Cabinet decision—and the legislation is underpinning it.

**Mr WELLS:** That is right, 100 per cent.

**The Hon. SHAYNE MALLARD:** The Opposition in their questioning, looking at fairly antiquated approaches to legislation, suggested that it needed more red tape, more governance, more consultation with bureaucrats. This is exactly the opposite of what we want with this piece of legislation.

**Mr WELLS:** I think we have struck the right balance and we will continue to assess that balance between being able to move quickly and have agility but also have controls in place to make sure that Treasury, DPC, everyone else, all clusters have oversight and some control about the prioritisation of funding process and then the ongoing assurance of projects. We do not want to just let it go without control but at the same time if you try to load it up with too much governance, red tape and other things it defeats the purpose of what we are trying to do. It is not to say when an idea turns into a bigger program that we do not put more belts and braces around what that looks like, but again the purpose of this fund is to get started—get started 18 months earlier than you probably would have before—to deliver value, like in the school enrolment case, in weeks or months, not in years. So I feel like we have struck the right balance between those two sometimes competing objectives.

**The Hon. SHAYNE MALLARD:** In evidence earlier today and I am not sure if you were watching or are aware of the evidence given earlier today from Ms Gavel and Ms Tydd—the Privacy Commissioner and the Information Commissioner—they updated their submission to this inquiry essentially. Their written submission, which is on the web, was dated December. Your submission is dated late January. Their submission had expressed privacy issues, essentially, but their verbal evidence today said that generally speaking those issues had been addressed quite adequately in the Government's submission. Are you committed to ongoing engagement with those officers and do you want to comment on their updated submission from today?

**Mr WELLS:** In terms of consultation around the bill itself, again it really was about the mechanism of funding. There was heavy consultation with Treasury, for example, on how it worked. We have a very close working relationship with the Privacy Commissioner and the Information Commissioner but again it is quite specific to the programs that would be funded and from an overall perspective. Again—

**The Hon. SHAYNE MALLARD:** The projects within that fund?

**Mr WELLS:** Yes, absolutely. And that is again a part of the checklist we look at when a program comes to the process for funding: Is there personal information involved in this? Are we sharing information across agencies? What is the impact of that?

**The Hon. SHAYNE MALLARD:** That is not always the case; there will not always be involvement.

**Mr WELLS:** Not always the case. In that address validation case, that is a very simple case that would not apply to that. Hence it is not in the bill. But where there is sharing of personal information across agencies to do one of these projects, should we do a privacy impact assessment? Probably, right, and work out before we get too far into a process, again, what information, where is it stored, who is going to access it, how should it be shared, what controls are in place. That is what a privacy impact assessment does. That is normal practice for all sensitive projects in New South Wales.

**The Hon. SHAYNE MALLARD:** Thank you for that.

**The Hon. SAM FARRAWAY:** In your submission there is quite a lot of high-profile cases in the past, like the Queensland Health payroll system failure. I suppose with legacy systems that we would have in our State across government, whole-of-government, what are some of the learnings that were taken out of those high-profile cases and perhaps some of our own failures in some of the legacy systems in New South Wales?

**Mr WELLS:** Again it goes back to you really need to test and learn as you go rather than speculate or guess in a document when you have not had the chance to test properly with users. That is probably the biggest thing. What this advocates and what this supports is making sure you can properly discover with the users that are going to be part of your service exactly what their needs are, to be able to prototype real solutions and put them in the hands of someone—in that school enrolment example, sit down with parents and administrators and say, "Does this work? What would you change? How do we fix this?"

The old method in that example probably would have been sitting down, writing a big spreadsheet of "I think it should do these things", going and procuring a solution, spending 12 months to build it, then putting in front of a user and saying, "What do you think?" And surprise, surprise, when they say, "It's not quite going to work for me." That is not to say that you can always do things in such small chunks that that is always going to work but the core thing we are advocating and supporting in this is that you can break things down and really get a sense of what a user's needs are in the process. That would be the main thing.

**The Hon. SAM FARRAWAY:** I am interested in this part of it. I do not know if you have any more statistics but obviously part of the Digital Restart Fund [DRF], as your submission clearly says, is to reduce complexity. That will come in time. But is there any way that you have been able to measure across the whole of New South Wales government how much duplication there is and by a percentage or a benefit in removing that duplication as you move forward through this process?

**Mr WELLS:** It would be fair to say we do not have a lot of maturity yet around an exact key performance indicator [KPI] or number.

**The Hon. SAM FARRAWAY:** It would be a bit scary.

**Mr WELLS:** There is some duplication, particularly around common things. So another function that we have is an enterprise architecture function within this that looks across all agencies and tries to identify common applications or solutions. So over time, as we build out these solutions, we will be able to quantify that in a better way. But there are lots of examples. Even that address validation example, a really simple example that I talked about, we spent \$80,000 developing that once. We stopped spending, probably, by cluster, \$30,000, \$40,000 or \$50,000 each time doing the same thing. So they do turn into a very positive business case very quickly.

**The Hon. SAM FARRAWAY:** It may have been touched on earlier with a former witness today but are there any other States across our country that are anywhere near overhauling the system, essentially what we are doing in New South Wales? Does anyone come close? Are there any examples of where it has been—

**Mr WELLS:** Not that we are aware of. There are good things happening in lots of places. Across the country we try to pick up and share, as best we can, good examples of things. But in terms of this model, when we did that research 18 months ago that I talked about we saw a small example of it in Canada. But again it was not legislated. It was not formal. It was a small example of just one unit trying it out. So to our knowledge there is not something that is as formal as what we are trying to create here. To be honest we have had a lot of other jurisdictions coming to us asking us how it is working with the view to try to replicate something in other places.

**The Hon. SHAYNE MALLARD:** Does Parliament have access to the fund?

**Mr WELLS:** They would have to go through the process.

**The Hon. SHAYNE MALLARD:** We might do that.

**The Hon. DANIEL MOOKHEY:** I want to pick up on matters arising from discussion with the commissioners this morning and I suppose some context around that. We were obviously talking to the commissioner about privacy concerns and privacy considerations and the extent to which they are embedded in,

as well as the resilience of the system's response to privacy breaches. To start unpacking some of those issues, firstly, do we have the latest figures as to the number of data breaches that took place last year?

**Mr WELLS:** I would have to take that on notice. I am sorry, I do not have that.

**The Hon. DANIEL MOOKHEY:** Do you publish that?

**Mr WELLS:** Again I will have to take that on notice.

**The Hon. DANIEL MOOKHEY:** The Auditor-General provides some scrutiny in that respect. That process has concluded, is that correct?

**Mr WELLS:** In terms of cybersecurity?

**The Hon. DANIEL MOOKHEY:** Yes.

**Mr WELLS:** Yes, it has. Obviously there are ongoing Auditor-General processes around cybersecurity.

**The Hon. DANIEL MOOKHEY:** I think I read in a report they released at the end of last year we were talking circa 3,000 to 4,000 data breaches. Is that close?

**Mr WELLS:** Again I am sorry, I will have to check that. I did not come prepared to talk about data breaches today, so I can take that on notice for sure.

**The Hon. DANIEL MOOKHEY:** At what level—insofar as projects in this fund, what is the system to prevent them in a governance perspective, as well as a project approval perspective, as well as what type of privacy response is required to be put into the design process as the projects go through this fund? We heard from the commissioners that they all seem to have an impression that there was something. They were not necessarily able to articulate what that was.

**Mr WELLS:** The first thing to say is that there is nothing different about projects funded via this fund as any other projects.

**The Hon. DANIEL MOOKHEY:** True. But that might not be as reassuring as you think.

**Mr WELLS:** Which we could take up separately, I am sure. Controls in terms of again the Privacy Act, the Health Records and Information Privacy Act, cyber security by design, all of those components are things that are baked in and built at the start of the process. And they will be different again, depending on the sort of project that we are talking about. It is part of the checklist that a project goes in with and it is part of the design—again project by project—of how technically that works, from a process perspective how that works et cetera. Whether you need to do a Privacy Impact Assessment? All of those things are done at the start.

**The Hon. DANIEL MOOKHEY:** Are there standard policies or guidelines that have either been developed for this fund or are in the process of being developed for the fund which will address these things?

**Mr WELLS:** I think I am saying that they are not specific to this program. They are policies, regulations, standards, approaches that are common to all ICT and digital projects, not to ones that just happen in this fund. I do think that by doing projects in this way, you get a better chance to really assess those things.

**The Hon. DANIEL MOOKHEY:** So effectively the evidence that you are giving is that to the extent to which there are privacy protections that are available in the design process of projects that will be paid for by these funds, that is no different to whether or not the project is going through this fund or any other fund. That is correct?

**Mr WELLS:** That is right. They are standard things for all projects.

**The Hon. DANIEL MOOKHEY:** I agree with you that that is what the bill requires. The privacy commissioners and the Information Commissioner, in their submissions, advanced the proposition that there should be some safeguards put into this bill. Then they came today and said they had had some opportunity to have some dialogue with you and that therefore their concerns had been addressed.

**Mr WELLS:** I saw a bit of that. The point they were making again was that some of those projects do not need—it is different depending on the project.

**The Hon. DANIEL MOOKHEY:** They did say that but they did say that, for example, a public interest test should be applied and that should be written into the law for which they seemed this morning to say they had now spoken to the Government and we do not necessarily—

**Mr WELLS:** A public interest test is one mechanism that overall is a good—

**The Hon. DANIEL MOOKHEY:** Sure. I will just ask the question though.

**Mr WELLS:** I was trying to answer.

**The Hon. DANIEL MOOKHEY:** I accept that. They have said that they have therefore had the opportunity to have dialogue with the Government to address their concerns. Was that dialogue with you?

**Mr WELLS:** We have a very close working relationship with the privacy and information commissioners. I think what they said and what has happened is that they have had the chance to have a bit more of a look at our submission in terms of where that more appropriately sits.

**The Hon. DANIEL MOOKHEY:** They also did say that they had direct engagement though. So I am just trying to ask, was that with you?

**Mr WELLS:** Yes, I have talked to Ms Tydd regularly about this as well. Again, it is more about the policy dimension of how projects work and which projects apply to those frameworks that the information and privacy commissioners talked about, than it is about the mechanics of the money. I think what they talk about is extremely important, as is cyber, as is lots of things. We are making sure that—and it is already—part of that process.

**The Hon. DANIEL MOOKHEY:** Sure. But they also said then that they are effectively operating of an assumption that they are going to be engaged specifically in the consultation and design processes of the projects that will be coming from this fund. Is that a commitment that has been given to them?

**Mr WELLS:** That is a commitment that exists period. Any cluster that brings any ICT or digital project that has an implication for someone's information follows that process now, whether it is the old method, this method, anything. That happens now.

**The Hon. DANIEL MOOKHEY:** In your understanding of the source of that requirement, is it your understanding that is an administrative policy of the Government or is that a requirement under a law?

**Mr WELLS:** No. That is part of the standards, processes and policies we have in place for everything.

**The Hon. DANIEL MOOKHEY:** So what are the compelling reasons not therefore, if it is already happening and it is an administrative process, where is the harm of writing them into the law?

**Mr WELLS:** To me, this bill and this is about the mechanics of the money and not about the need for privacy about which there are many other controls, laws, acts and other things in place to deal with that.

**The Hon. DANIEL MOOKHEY:** Does the public have any opportunity to input in terms of privacy to the fund and the projects that projects that will be sponsored through the fund?

**Mr WELLS:** With every project, we test rigorously with users about how their information is going to be used, their experience with the solution where it is appropriate, so yes absolutely. That is one of the key differences in the way—

**The Hon. DANIEL MOOKHEY:** There is a difference between a user being able to do user experience testing and new works design and all those activities which I am sure you are embarking upon, as opposed to being able to see what the privacy policies are, what the requirements are, what their rights are, and what their rights are if there is a breach? Now I accept of course that the Government has policies on these and it has laws on these. What I am trying to understand is to what extent does that apply to these projects and is that being factored in? Is there a need for an additional legislative clause in the bill to upgrade those rights that citizens have? That is it. It is not occurring at the expense of your project. We are not expressing opposition to this design philosophy by any levels.

**The Hon. SHAYNE MALLARD:** You are supporting the bill?

**The Hon. DANIEL MOOKHEY:** We encourage the extent to which we use modern methods of design. But we are asking and we have got an additional thing because it is not a private company that is doing it, it is Government that is doing it. You have come to us and asked for a law so we are saying why should not the law have these additional privacy protections for citizens or these rights to be consulted?

**Mr WELLS:** Again, I feel that those things are in place and considered in the way we deal with projects. I think also there are many ways that we talk to the public about priorities and digital, whether it is through the new strategy we released last year. We did a lot of testing with businesses, with individuals, with government agencies on what they need in our new strategy and you can see that online. So there are lots of different mechanisms and ways to make sure that the public have input into what we want to do.

**The Hon. JOHN GRAHAM:** I might just turn back to the questions about the money. The Government submission says \$38.6 million of this \$100 million has been spent already. Is that figure up to date as of today?

Obviously that submission came in but it looked like there was at least one project that might have been announced since that.

**Mr WELLS:** So that is up to date. In terms of what has been approved up-to-date, that is up-to-date. Of course, we are working through the next set of approvals.

**The Hon. JOHN GRAHAM:** Sure. Understood. Just give us an idea of the total digital and ICT spending across all of the clusters across Government? How much is the \$100 compared to—

**Mr WELLS:** It is a small proportion. I do not have the exact figure and I can take it on notice so I can come back.

**The Hon. JOHN GRAHAM:** Can you give us a ballpark?

**Mr WELLS:** Sorry. I will take that on notice and come back to you just to make sure I have got the exact figure.

**The Hon. JOHN GRAHAM:** Understood. Returning to where this \$100 million came from, what you are saying is, look it has come across all the clusters so essentially—separate to any efficiency dividend—the model for this fund is each of the clusters has coughed up its proportion of the \$100 million, so maybe they have chipped in \$12 million each. It has probably come out of their ICT areas. But then the benefit to Government is that this central fund, with some experimentation, that is essentially what is going on here?

**Mr WELLS:** I would go further than experimentation. In terms of some things that have delivered value already, in months. I would say it is more than experimentation already. I think the model is proving itself. But your characterisation of where the money has come from, in terms of this bill, that is correct. It has been a contribution from all clusters to get it stood up.

**The Hon. JOHN GRAHAM:** So it is a centralisation, clip the ticket, centralise this \$100 million. I will turn briefly to just one follow-up on the matter my colleague was pursuing about the data breaches. My reading of the Auditor-General's information which we just received then was that to 31 March 2019, there had been 3,324 breaches. I will just put that on the record but feel free to give us any other information you think is relevant. Some 30 percent of agencies are not even measuring data breaches though. You must be concerned about that?

**Mr WELLS:** That was not a figure I was aware of but I will come back to you on that if that is okay?

**The Hon. JOHN GRAHAM:** That is also in the Auditor-General's work. That is pretty concerning when we are talking about these sorts of protections being in place.

**Mr WELLS:** I have to look at that in context and just check that, if that is okay? I do not want to give you a response that is wrong.

**The Hon. JOHN GRAHAM:** I accept that. Can I turn to just some of the specifics? I am interested now in the money that has gone out the door, what has it been spent on? Some of that is set out in the half yearly review, some of that information. One of those things, \$2.3 million on a public housing mobile phone app. When was that actually developed? Can you give us any detail about that?

**Mr WELLS:** To provide some context for that one, because that is another really important one, the experience of someone trying to get social housing at the moment—I am not going to get it completely right—is, first of all, a struggle to find out what is available.

**The Hon. JOHN GRAHAM:** In the interests of my colleagues' time, I do not want the context. I have looked at the app. I think it looks quite valuable. I am simply asking when it was developed.

**Mr WELLS:** There are some existing apps that are in place in the Department of Communities and Justice at the moment. This takes that further for a specific use case.

**The Hon. JOHN GRAHAM:** So this is not operational at the moment? This is different to what is there?

**Mr WELLS:** That is exactly right. This is a new initiative that would have been funded in August or September or a time frame last year and that will be in the process of being developed right now.

**The Hon. JOHN GRAHAM:** So it will be additional to what is there now.

**Mr WELLS:** That is correct.

**The Hon. JOHN GRAHAM:** When will it be available?

**Mr WELLS:** I am happy to provide details of that specific project's time frames, but that would be in development right now. I do not want to waste your time in terms of context but, again, that is really important for the people trying to go through that process. It is a horrible experience at the moment. This is going to make a big difference.

**The Hon. JOHN GRAHAM:** Following on from my other colleague's questions about the \$1.2 million to improve the tracking of firearms acquisition and disposal, there has been significant expenditure—I think \$6.3 million already—on the systems my colleague referred to. They have been heavily criticised by the Audit Office. Is this part of the \$6.3 million the Government has already spent, or is this additional on top of that?

**Mr WELLS:** No, this is additional on top of that. I am happy to, again, provide specific details of what this is working to. Again, at a high level it is around that dealer experience.

**The Hon. JOHN GRAHAM:** I do want to know more details about what this is doing. This has been heavily trafficked. This just has not worked as an IT area. What is this doing?

**Mr WELLS:** Yes. This will be a key one for us to track and come back and explain where it is up to in terms of delivering real value. Again, our hypothesis—and I think it will be proven in this case as well—is that this method, this time, will make a difference.

**The Hon. JOHN GRAHAM:** But what is it doing? How is it different to the two systems that are proposed to be in place at the moment, FLIMS and the Falcon?

**Mr WELLS:** My understanding is this is replacing some of those core legacy platforms in terms of the access databases and fax machines and spreadsheets and other things that exist. That is what we are working with police on. Rather than me give you the wrong answer, let me get the specific details of which component of the firearms licensing program this covers and how that fits with the rest of it.

**The Hon. JOHN GRAHAM:** But some component of that \$6.3 million really has failed altogether and this is the replacement program?

**Mr WELLS:** I can comment further on Restart NSW. That is a question that is probably better addressed to police in terms of the rest of that process, but I can come back to you on that component of Restart NSW.

**The Hon. JOHN GRAHAM:** I might ask about two other projects; there are a number here that look quite worthwhile. I wanted to know about improving customer experience across life events, including providing digital support to assist with the loss of a loved one. Has that program been initiated or yet to be initiated?

**Mr WELLS:** That is in the process of rolling out improvements as we speak. If you go to the Service NSW website, there is already a service there that, in a very difficult time, brings together information about really simple steps about what you need to do after a death or planning for a death or dealing with estate management, et cetera.

**The Hon. SHAYNE MALLARD:** It is a good service.

**Mr WELLS:** Again, that was an example of where there were probably 25 different websites that existed across government. We have worked across government with this fund to bring it together into one simple navigation service.

**The Hon. JOHN GRAHAM:** Do you see that as complete now, or still a lot more to go?

**Mr WELLS:** There is more to go with that. I think what we have done is almost built the overall navigator for someone to follow the process to access resources where that makes sense. One of the next things that is coming as part of that program of work is something called AusNotify that we are trialling. Part of that process, as you know, is trying to notify banks and telco providers that that has happened. Often that means producing a death certificate for each time. That is a nightmare. That takes a lot of hours and is very stressful.

**The Hon. JOHN GRAHAM:** I want to ask you about the customer experience of navigating having a baby. How does this work? What is government contributing to this process?

**Mr WELLS:** Again, what we have built there and contributed there is that overall navigation process: Where are all the resources across government—be that health, be that wherever across government—to make sure you, in one place, can try and understand where the information you need is.

**The Hon. JOHN GRAHAM:** When it comes to having a baby, who does the Government regard as the customer?

**Mr WELLS:** The parents, of course.

**The Hon. JOHN GRAHAM:** I am intrigued to hear that. I want to ask about one other project that is reported as being funded out of this fund, and that is the decision to cull 500 of the 750 websites. *The Australian* reported that initiative as being funded out of the Digital Restart Fund. Is that correct?

**Mr WELLS:** I think they got that not quite correct. I think a common content management service that supported that process would be an eligible program to bring to the Restart fund. That would make sense, rather than eight clusters having eight or more different content management systems. So I think it is a good candidate. I think what we said was that could support that process, but at this stage that has not been—

**The Hon. JOHN GRAHAM:** At this stage that is unfunded?

**Mr WELLS:** No, there is funding to do the first bit of work and to pilot that process that was reported in the paper this week, but it was not via the Restart fund at this point.

**The Hon. JOHN GRAHAM:** When will that process be finished?

**Mr WELLS:** I think, as the Minister talked about, that is a long process. It is not a quick process. I think that goes to the point of what I was talking about before—if we were to write a business case that said the point at which we are going to turn off every website or consolidate content years in advance of what it looks like, as opposed to getting value straightaway.

**The Hon. JOHN GRAHAM:** I accept that. Let me ask you though about one of the key principles here: Can you give us a guarantee that in culling two-thirds of the websites that are public facing at the moment, there will not be less information available—that this will not be a cover-up exercise where information is disappearing out of the public realm, as it routinely has with governments of all persuasions? This is one of the issues in navigating the digital age: Government information does often disappear off these websites.

**The Hon. SHAYNE MALLARD:** You can hide more in 700 websites than you can hide in 100.

**The Hon. JOHN GRAHAM:** At a principle level, can you give some guarantee that that will not happen?

**Mr WELLS:** The purpose of this initiative is to create a better experience and provide simpler, clearer information for customers. In terms of guarantees around what the program will do, I cannot comment on that.

**The Hon. JOHN GRAHAM:** That principle has not been articulated to date, to your knowledge.

**Mr WELLS:** No, I did not say that.

**The Hon. JOHN GRAHAM:** Has it been articulated to date?

**Mr WELLS:** I think what has been articulated is a desire to create a great customer experience for the citizens of New South Wales. One way to do that, in addition to a lot of things I have talked about, is streamlining the way we talk about and provide information on websites.

**The Hon. JOHN GRAHAM:** Just to be clear, I am not trying to trick you into saying something. I do not believe that at any point that principle has been articulated yet. I am happy to be corrected.

**Mr WELLS:** I think that is something for us to come back and clarify.

**The Hon. JOHN GRAHAM:** Yes, it may well be the subject of discussion down the track. But, to date, that principle is not at the forefront of this project. That is a fair observation.

**Mr WELLS:** Again, let us come back to that in March and we can talk about that in detail.

**The Hon. SHAYNE MALLARD:** Everything that is legally required to be publicly available will still be publicly available.

**Mr WELLS:** Yes, that is right.

**The Hon. JOHN GRAHAM:** Yes, which is a good point but a slightly separate point to the one I am making.

**The Hon. DANIEL MOOKHEY:** To follow up on that issue and clarify what you have said, the project of eliminating unnecessary websites is in a trial phase? Is that correct?

**Mr WELLS:** Again, I was not prepared to come and talk about that in detail today but my understanding of where that is up to is what we are going to be doing in the first month is piloting how that looks on .nsw.gov.au and some of the infrastructure that supports that.

**The Hon. DANIEL MOOKHEY:** When was that decision reached to do that?



**Mr WELLS:** I would have to take that on notice.

**The Hon. DANIEL MOOKHEY:** Did that go through all the governance requirements that you just listed at the ministerial level? Did it go through that committee? Did it go to the CIOs? Did they all have a look at it?

**Mr WELLS:** This was not a specific capital restart proposal, so the mechanics that I have talked about for Restart—it did not go through that because it was not that. But I am aware that that has been a strategy that has been discussed at the CIO council, which I talked about, at the Secretaries Board and at the Delivery and Performance Committee of Cabinet. So the rigour around the strategy of that decision, yes, has been in place.

**The Hon. DANIEL MOOKHEY:** But the Minister's office, or at least insofar as *The Australian* reported their comments, said that effectively the Minister said that it is coming from his fund.

**Mr WELLS:** I think that was not reported. Quite correctly, there was a bit of nuance around, "I think this is probably a candidate for" and "might be a good way to enable."

**The Hon. DANIEL MOOKHEY:** Basically, what you are saying is that the Minister has nominated this project as being a candidate but it has not yet gone through that level of scrutiny that you have just described. At the end of that process, the Minister will be the decision-maker to decide whether that project goes forward or not.

**Mr WELLS:** First of all, not necessarily our Minister because the Minister is determined after this, if this passes. Second of all, this is not the only channel—

**The Hon. DANIEL MOOKHEY:** Are you seriously suggesting to the Opposition that it will not be the Minister for Customer Service who is the decision-maker on this?

**Mr WELLS:** That is for the Premier to decide. I cannot comment on that. But the other thing is this is not the only source of funds for digital ICT projects.

**The Hon. DANIEL MOOKHEY:** Does that not then crystallise some of the concerns it may present if this is the only governance structure that is in place on this fund? Basically, a Minister can decide on their own that a project is worthy. They may or may not follow your processes, but it is up to them to decide entirely whether the project is worthy. They can drop it in a newspaper and effectively cause the public service to have to retrofit the business case to meet the Minister's demands. I am not suggesting that is what has happened here—

**Mr WELLS:** It really is not—

**The Hon. DANIEL MOOKHEY:** But there is a reasonable risk that that could happen here. What I am asking is, insofar as this bill has provisions to protect against that, can you nominate what provisions there are in this bill that will protect against that scenario?

**Mr WELLS:** I think I have outlined all the governance and mechanics around how that cannot happen and should not happen. For the specific example—

**The Hon. DANIEL MOOKHEY:** It seems like it has just happened.

**Mr WELLS:** No, no. As I just said, specifically on that initiative, I am aware of that strategy being set, consulted on and endorsed at—

**The Hon. DANIEL MOOKHEY:** But not from this fund.

**Mr WELLS:** Not from this fund. That is correct.

**The CHAIR:** That is the end of your part of that round of questioning. I understand that neither the crossbench nor the Government have any questions for that particular round, so we will go back to the Opposition for another 15 minutes.

**The Hon. SHAYNE MALLARD:** Madam Chair, we are not forfeiting our time to the Opposition. We are just dissolving it.

**The Hon. JOHN GRAHAM:** The discussion with the information and privacy commissioners today focused a lot on the safeguards that are present in general. We did not really have time to turn to this, but I was really interested in asking you about this more. Separate to the safeguards, this information is held by government. I have a right to access and see what information is held by government about me. To what extent are you driving the principle of the citizen actually owning their own data and having an ability to not only see what is there but also remove it in a way which makes it portable, which really enhances the ability of a citizen of New South Wales to strengthen their fundamental right to own their own data from their interactions with government in a way

which is useful to them and allows the private sector or government to then come to them and offer other alternative uses for that information?

**Mr WELLS:** To start with, a key philosophy or approach that we have is that when you are doing things digitally with us you opt in to do that. The Service NSW approach, which is predominantly the approach we are talking about here in terms of customer engagement and customer experience, is an opt-in approach. You choose to have a MyService account and to link up other accounts. You consent on a transaction-by-transaction basis to sharing that information and using your information. We take that extremely seriously. Then in terms of, as you have just said, a citizen's right to understand how government is using that information, there are processes and policies and legislation in place to make sure that happens. The Privacy Commissioner and the Information Commissioner are much better qualified than me to talk about how that mechanically works, but that is in place.

**The Hon. JOHN GRAHAM:** Yes, but you are tilting your answer towards the negative safeguards. I accept where you are heading on that. We have talked about that. I am asking about the positive right to own my own data and to ship it around. This is a well-developed discussion at a Federal level, where the Productivity Commission has talked about the economic gains to be made by strengthening the right of Australian citizens to have greater right over the information they provide to government or to private organisations, and to make sure it is held in a form and delivered to the customer in a form that they can then take elsewhere. To what extent is that principle informing the New South Wales Government approach?

**Mr WELLS:** Via the Australian Digital Council and many mechanisms, we work with the Commonwealth and other jurisdictions on how that works. If it is okay, I might come back to you with more specifics. I do not have a lot of specifics on the exact portability of information and some of the things you talked about. If it is okay, I might come back to you on that specific issue.

**The Hon. JOHN GRAHAM:** I would certainly be happy for you to do that. But, I mean, one of my questions is: Why is that principle not strengthened here? That is what the Productivity Commission is suggesting might be appropriate at a Federal level in a variety of ways. Where the Government here is putting a small but significant amount of money on the table, why not put that positive principle at the heart of this program?

**Mr WELLS:** Again, that might be one of the principles and criteria around the policy, the project, the specifics of what you want to do. I would see that as being more appropriate sitting there, as opposed to the bill about the fund, but it is a good point you make. I will come back to you. Thank you.

**The Hon. JOHN GRAHAM:** My second broad question about the approach of this money is the \$38.6 million that has been spent so far is very much on individual, government-funded projects. Government is doing this from stop to start, paying \$2.3 million for an app. Previously in New South Wales, I think, especially in the transport space, some of the best development has actually come from getting the information access right and then allowing some private-sector IT firms to use that and develop apps or develop ways for the public to access that. Why is that not coming through in this fund at the moment when we look at the projects that have been funded? Or is it part of your approach but we are just not seeing it in the information that is available?

**Mr WELLS:** It is 100 per cent part of the approach. In the example of school enrolment, we have built that ourselves. Education has taken a leadership role and Customer Service has assisted them. We have built that asset ourselves—

**The Hon. JOHN GRAHAM:** And sometimes that will be appropriate.

**Mr WELLS:** That is right. We built the teams to improve it because we want to do out-of-area enrolment and year 6 to 7 transition et cetera. In other cases, we are using third parties to assist us in developing solutions as well. Again, that is subject to the same procurement rules, the same privacy rules, and everything else that it would be if it had been through the normal budget process. In a number of the cases, we are using third parties to assist us with building things. As you say, sometimes that is literally about opening up application programming interfaces to data that we have and getting the best experience from either other jurisdictions or vendors to help us with that process.

**The Hon. JOHN GRAHAM:** Of the money that has been spent, in which of these areas is that approach likely to be driven in?

**Mr WELLS:** It really depends on the project. For example, one of the big legacy programs we are looking at that is part of this process is what is called the government licensing system. We have had a licensing system for government in place for about 20 years. It is one of those legacy systems we talked about before. It has done a great job and has been fit for purpose and has got a lot of licenses together—I think it is 140 different licenses—but it is time to modernise that. Again, a licensing system is not something government would want to

build. There are platforms and there are solutions out in the marketplace that probably suit those use cases better than we could build. It would not make sense to build something like that.

In this case, what Restart has provided is a market testing process and prototyping process with a number of vendors to work out who we think the right vendor or provider might be. It is another example of one that we would probably, once we have proven that, prototyped it, put it in the hands of users and made sure it can pay people commonly and work through service as a front door, et cetera—it would be taken back through the normal government budget process for a broader funding envelope. Because in reality that is quite a reasonably sized program. In that case, absolutely. We are looking at partners to help us. We do want to build up more capability in government to do this because more and more these are the sort of skills we need. But it is not to say by any stretch that we do not need help, because the best models are partnership models.

**The Hon. JOHN GRAHAM:** Thank you. I will finally ask about a privacy issue. I will invite you to disagree with this, although feel free not to respond at all. I do not think there is anything in this bill which would stop the data of hundreds of citizens being handed over to a journalist by a Minister's office. By way of privacy protections, there is nothing in this bill which will strengthen any of those privacy protections. Do you want to disagree with that?

**Mr WELLS:** I think this bill is about funding Restart proposals.

**The Hon. JOHN GRAHAM:** Understood. Thank you.

**The CHAIR:** Thank you very much for attending and answering those questions. In relation to the questions you have taken on notice, the answers will need to be returned within five days. The secretariat will be in touch to guide you on that. That ends our inquiry on this bill. I would like to thank Hansard and the Committee staff for their work on this inquiry. That concludes our proceedings.

**(The witness withdrew.)**

**The Committee adjourned at 12:51.**