The Parliament of the Commonwealth of Australia

Report 454
Early Years Quality Fund

Review of Auditor-General Report No. 23 (2014-15)

Joint Committee of Public Accounts and Audit

February 2016
Canberra

978-1-74366-434-6 Printed version

978-1-74366-435-3 HTML version

Contents

APPENDICES

Foreword

On 5 March 2015, the Joint Committee of Public Accounts and Audit (JCPAA) resolved to review Australian National Audit Office (ANAO) Report No. 23 (2014-15), *Administration of the Early Years Quality Fund*.

The Early Years Quality Fund (EYQF) was established in March 2013 to provide grants to long day care providers in order to supplement wage increases for child care workers for a period of two years. The grants were to be made available to providers on a first-in first-served basis, and an Advisory Board comprising employer and employee representatives was established to provide implementation advice. By close of business on 6 September 2013, the day before the Federal election, funding agreements had been sent to one large provider, Goodstart Early Learning, for $132 million, and 15 small providers, for a total of $5 million. Goodstart, which was on the Advisory Board, was the first large provider to lodge a completed application and received the largest allocation of EYQF funding ($132 million was 96% of the $137 million allocated to all providers). The program was initially implemented by the former Department of Education, Employment and Workplace Relations, with the Department of Education and Training later taking carriage of the program.

In its audit, the ANAO noted that the program's funding cap of $300 million, which was estimated to only cover around 30 per cent of all long day care workers, meant the program would most likely be oversubscribed—and it eventuated that this funding cap was reached less than 13 hours after the application process commenced. The ANAO found that the department did not provide frank, comprehensive and timely advice to its Minister on the program's implementation risks. However, it noted that this role was made more challenging because many of the key elements of the EYQF policy were developed by advisers in Ministers' offices and then settled through Ministerial correspondence rather than through more conventional Cabinet processes.

In addition, the ANAO found that key risks evident in the program's design—in particular, the first-in first-served approach—were compounded by inadequacies in the department's subsequent administration of the program. In short, the

department did not demonstrate a disciplined approach to implementation that satisfied the requirements of the then Commonwealth Grant Guidelines.

The Committee carefully examined all of these matters over a series of public hearings. At these public hearings, the Committee also raised a number of probity and transparency concerns regarding the EYQF.

We have made seven recommendations directed at these matters, to encourage better practice grants administration.

I thank Committee members for their deliberation on these matters.

Hon Ian Macfarlane MP
Chair

Membership of the Committee

Chair	Hon Ian Macfarlane MP (from 15 Oct 2015)	
	Dr Andrew Southcott MP (to 15 Oct 2015)	
Deputy Chair	Mr Pat Conroy MP	
Members	Hon Anthony Albanese MP	Senator Cory Bernardi
	Ms Gai Brodtmann MP	Senator Katy Gallagher (until 12 Nov 15)
	Mr Andrew Giles MP	Senator Chris Ketter
	Dr David Gillespie (from 19 Oct 2015)	Senator Jenny McAllister (from 12 Nov 15)
	Dr Peter Hendy MP (to 12 Oct 2015)	Senator Bridget McKenzie
	Mr Craig Laundy MP	Senator Dean Smith
	Mrs Jane Prentice MP	
	Mr Angus Taylor MP	
	Mr Ken Wyatt MP (to 12 Oct 2015)	

Committee Secretariat

Secretary	Mr David Brunoro (from 29/9/15) Ms Susan Cardell (to 29/9/15)
Inquiry Secretary	Dr Kate Sullivan
Administrative Officer	Ms Tamara Palmer

Terms of reference

On 5 March 2015, the JCPAA resolved to review the following audit report in detail:

- Audit Report No. 23 (2014-15) *Administration of the Early Years Quality Fund*[1]

1 The Committee tabled *JCPAA Report 449* on Audit Reports Nos 19 and 20 on 11 August 2015.

List of recommendations

Recommendation 1

The Committee recommends that:

- the Department of Finance amend references to demand-driven grant programs in the Commonwealth Grants Rules and Guidelines to explicitly refer to the implementation risks of a 'first-in first-served' approach, as outlined in ANAO Report No. 23 (2014-15) and the Committee's report
- the Australian National Audit Office also consider updating its guide on *Implementing Better Practice Grants Administration* to reflect this point

Recommendation 2

To encourage more effective departmental advice to ministers on program implementation risks, the Committee recommends the Department of Finance amend the Commonwealth Grants Rules and Guidelines to specify that, where a method other than a competitive merit-based selection process is planned to be used, officials also document, in the policy design phase:

- how the approach has been developed
- how implementation considerations have been taken into account in the policy design
- that a risk management plan has been completed for the proposed process, including on program implementation risks and opportunities to mitigate those risks where possible

The above matters should also be included in departmental ministerial advice.

Recommendation 3

The Committee recommends that the Australian National Audit Office consider including in its schedule of performance audits priority follow-up audits of the effectiveness of grants program administration by the Department of Education and Training.

Recommendation 4

The Committee recommends that the Department of Education and Training report to the Committee, no later than six months after the tabling of this report, on its progress towards implementing the Auditor-General's recommendation in ANAO Report No. 23 (2014-15), including details of staff training in this area and planning for grants program implementation risks.

Recommendation 5

The Committee recommends that the Department of Finance and the Australian National Audit Office (ANAO) work together to strengthen the Commonwealth Grants Rule and Guidelines (CGRGs) and update and expand the *Implementing Better Practice Grants Administration* guide to reflect the Committee's findings in this report, and also the ANAO findings in Report No. 23 (2014-15). In particular:

- the CGRGs should state that it is not advisable to include, as members on a grants program advisory board, prospective applicants for that grants program
- the *Implementing Better Practice Grants Administration* could:
  - ⇒ more clearly set out Commonwealth probity principles for grants administration, particularly in terms of advisory boards and departments ensuring transparent, equitable and well-documented processes
  - ⇒ contain a new section on 'Probity and transparency', which also includes best practice information relevant to advisory boards and proxy arrangements
  - ⇒ outline how the ANAO approaches probity and transparency in conducting audits and defining its audit scope and approach

Recommendation 6

The Committee recommends that, where probity concerns have been raised about a matter in the lead-up to an audit (such as in review reports and/or parliamentary reports), the Australian National Audit Office consider:

- providing a clear statement on probity matters, outlining any probity findings and the Auditor-General's powers in such matters, in the introductory section of its audit reports
- clarifying its audit scope and approach in relation to:
  - ⇒ stakeholders that have and have not been included in the 'Audit scope', such as advisory board members and program stakeholders, and how the Auditor-General's powers apply to these groups and individuals
  - ⇒ what has and has not been included in the 'Audit approach'

Recommendation 7

The Committee recommends that the Department of Prime Minister and Cabinet update its *Guidance on Caretaker Conventions* to clarify what constitutes 'appropriate consultation' with the Opposition on grants administration matters under the caretaker conventions, including with reference to means of correspondence (post, email, telephone), correspondence address (Parliament House offices and electorate offices over election periods) and specifying officials document any follow-up.

1

Introduction

Background to the review

1.1 The Joint Committee of Public Accounts and Audit (JCPAA) has a statutory duty to examine all reports of the Auditor-General presented to the Australian Parliament and report the results of its deliberations to both Houses of Parliament. In selecting audit reports for review, the Committee considers:

- the significance of the program or issues raised in audit reports
- the significance of audit findings
- the arguments advanced by the audited agencies
- the public interest arising from the report

1.2 On 5 March 2015, the Committee considered Australian National Audit Office (ANAO) performance reports Nos 1-23 of 2014-15. The Committee selected three reports for review and scrutiny at public hearings,[1] including Audit Report No. 23 (2014-15) *Administration of the Early Years Quality Fund*, Department of Education and Training, Department of Finance and Department of Prime Minister and Cabinet.

---

1 On 11 August 2015, the Committee tabled *JCPAA Report 449* on Audit Report No. 19 (2014-15) *Management of the Disposal of Specialist Military Equipment*, and Audit Report No. 20 (2014-15) *Administration of the Tariff Concession System*.

The Committee's report

1.3 This report of the Committee's review of Audit Report No. 23 (2014-15) draws attention to key issues raised in the report, as well as at public hearings and in agency submissions. The report is structured as follows:

- Chapter 1: Overview of ANAO report, including the audit conclusion, and audit recommendation and agency response
- Chapter 2: Committee review
- Chapter 3: Committee comment

1.4 The following appendices provide further information:

- Appendix A—List of submissions
- Appendix B—List of public hearings and witnesses

1.5 This report can usefully be read in conjunction with the ANAO report.

Audit report overview

1.6 In March 2013, $300 million was committed to establish the Early Years Quality Fund (EYQF) with the intended purpose of providing grants to long day care providers in order to supplement wage increases for child care workers for a period of two years.[2] The grants were to be made available to providers on a first-in first-served basis,[3] and an advisory board comprising employer and employee representatives was established to provide advice on the operation and implementation of the fund.[4] Small providers (1-15 services) were allocated a pool of $150 million and large providers (16+ services) were allocated the remaining $150 million.[5] The *Early Years Quality Fund Special Account Act 2013* came into effect on 1 July 2013.

1.7 The EYQF was developed within the context of the National Quality Framework requiring a significant increase in worker qualifications and reduction in child to staff ratios and the Productivity Commission's 2011

2 ANAO, Audit Report No. 23 (2014-15), *Administration of the Early Years Quality Fund*, p. 14. ('Long day care' is a child care service providing all day or part-time care at a child care centre for children aged 0 to 5 years, p. 10.)

3 The first-in first-served approach was a demand-driven approach to allocating EYQF grants under which applicants meeting the eligibility criteria would receive funding until all funding was allocated.

4 ANAO, Audit Report No. 23 (2014-15), p. 9.

5 ANAO, Audit Report No. 23 (2014-15), p. 17.

report into the Early Childhood Workforce.[6] The Commission found that 15,000 more workers would likely be required and that supply would respond slowly to the growing demand. The EYQF was also being developed in anticipation of an equal remuneration case before the Fair Work Commission.

1.8 Following the 2013 Federal election, the incoming Government reviewed EYQF and replaced it with a new professional development program for child care educators, using uncommitted funds from EYQF.[7] Following the release of the review, Mr Alex Hawke MP wrote in December 2013 to the Auditor-General requesting that an audit of EYQF be considered. The Auditor-General agreed that, in light of the matters that had been raised, a performance audit would be conducted, with the audit commencing in March 2014.[8]

1.9 EYQF was implemented by the then Department of Education, Employment and Workplace Relations (DEEWR),[9] with the then Department of Education—now the Department of Education and Training (Education and Training)—taking carriage of the program following the 2013 Federal election.[10] From 23 December 2014, early childhood programs, including the program area relating to the delivery of the former EYQF, were transferred to the Department of Social Services (DSS).[11] However, the ANAO directed its audit recommendation to Education and Training as the recommendation concerned improvements to that department's future administration of grants programs generally based on its past administration of EYQF. The Department of the Prime Minister and Cabinet and the Department of Finance were involved in the development of EYQF and also included in the audit.[12]

Audit conclusion

1.10 The ANAO's overall conclusion was as follows:

---

6 ANAO, Audit Report No. 23 (2014-15), pp. 33-34.

7 ANAO, Audit Report No. 23 (2014-15), p. 17. PricewaterhouseCoopers was commissioned by the then Department of Education to conduct a review of EYQF—see *Ministerial Review of the EYQF: Final Report*, 12 November 2013.

8 ANAO, Audit Report No. 23 (2014-15), p. 18.

9 The ANAO report refers to DEEWR, unless otherwise noted—see Audit Report No. 23 (2014-15), p. 18.

10 From 23 December 2014, the then Department of Education became the Department of Education and Training.

11 As EYQF ceased in 2013, 'DSS did not have any role in its implementation', ANAO, Audit Report No. 23 (2014-15), p. 18.

12 ANAO, Audit Report No. 23 (2014-15), p. 18.

> Successful implementation of policy initiatives requires early, informed and systematic consideration of implementation issues. The design of the EYQF policy contained inherent risks and it was foreseeable that these risks—particularly the funding constraints, the first-in first-served approach and the short timeframe—would affect access to the program and its ultimate success. While decisions on policy are a matter for government, departments are expected to provide frank, comprehensive and timely advice to Ministers on both policy design and implementation risks as part of the policy development process. This role was made somewhat more challenging for this program because many of the key elements of the EYQF policy were developed by advisers in the offices of the Prime Minister and Finance Minister in negotiation with the key stakeholder representing child care workers. The elements of the program were then settled through correspondence by key Ministers, rather than through the more conventional Cabinet processes. Advice was given to government at various stages in the design of the policy measure from several different departments. However, the development of the measure had some momentum and the advice provided by departments gained little traction. Nevertheless, there were gaps in departmental advice on a number of significant matters at different times. These included the inherent risk in the use of a demand-driven grants application process and, at later stages, the accuracy of the proposed wage schedule and the potential impact on smaller child care providers of several of the advisory board recommendations.[13]

1.11 The ANAO further found that:

> Overall, while the department set about to achieve the timeframes expected by the then government, it did not demonstrate a disciplined approach to implementation that satisfied the requirements of the program and the Commonwealth Grant Guidelines (CGGs). As a result, EYQF processes and procedures were not as well developed as they should have been and there were risks that could have been better managed in the registration, application and approval processes, in the development of funding agreements, and in the management of stakeholder expectations. Further, significant decisions—made during the grant assessment process—were not fully considered or

13 ANAO, Audit Report No. 23 (2014-15), p. 19.

> documented, which reduced transparency in relation to key assessment and funding decisions …
>
> Key lessons arising from the implementation of the EYQF program include the importance of providing: frank, comprehensive and timely advice to Ministers in relation to implementation risks and opportunities for mitigating these risks where possible; keeping stakeholders informed of developments, including when programs reach full capacity; and ensuring that in demand-driven grant programs, the program guidelines are followed to ensure, as far as possible, equity of access by applicants to available funds. A key step to achieving success in implementing policy on time, budget and to government's expectations is to give consideration to implementation as a fundamental part of all stages of policy development.[14]

Audit recommendation and agency response

1.12 Table 2.1 sets out the recommendation for ANAO Report No. 23 and Education and Training's response.[15]

Table 2.1 ANAO recommendation, Report No. 23 (2014-15)

1	To enhance the equity, transparency and accountability of future grant programs, the ANAO recommends that the Department of Education and Training: • reinforces the obligation to manage all aspects of the grant process in accordance with the approved program guidelines and the Commonwealth Grants Rules and Guidelines; • when conducting granting activities, adopts eligibility criteria which reflect the core objective of the granting activity and are capable of appropriate scrutiny and objective validation; • adheres to documented eligibility criteria in line with program guidelines and closely considers the impacts of any proposed changes; any changes adopted should be documented and approved in a manner consistent with the Commonwealth Grants Rules and Guidelines and revisions communicated to applicants and potential applicants; and • maintains clear and complete records of all decisions and assessments relating to applications, including revisions to criteria. **Department of Education and Training response:** *Agreed.*

14 ANAO, Audit Report No. 23 (2014-15), pp. 21-22.

15 For details of Education and Training's response to the ANAO recommendation, see ANAO, Audit Report No. 23 (2014-15), p. 28. PM&C also provided a response to the report, see p. 28.

2

Committee review

2.1 Representatives from the Australian National Audit Office (ANAO), the Department of Education and Training (Education and Training), the Department of Social Services (DSS),[1] the Department of Finance (Finance) and the Department of Prime Minister and Cabinet (PM&C) gave evidence at the Joint Committee of Public Accounts and Audit (JCPAA) public hearing on 28 May 2015. United Voice, the union representing some elements of the childcare workforce, and Goodstart Early Learning (Goodstart), the largest provider of long day care, gave evidence at a public hearing on 15 October 2015. ANAO representatives gave further evidence at a public hearing on 12 November 2015.[2] (See details of public hearings and submissions at Appendixes A and B).

2.2 As discussed below, the Committee focused on six matters regarding the ANAO Report No. 23 (2014-15), *Administration of the Early Years Quality Fund* (EYQF), and evidence provided at the public hearings:

- First-in first-served approach to allocating EYQF grants
- Establishment of EYQF and departmental ministerial advice
- Departmental grants administration: Department of Education, Employment and Workplace Relations (DEEWR)/Education and Training

---

1 As EYQF ceased in December 2013, 'DSS did not have any role in its implementation', ANAO, *Administration of the Early Years Quality Fund*, Audit Report No. 23 (2014-15), p. 18. However, at the public hearings, two officers from DSS provided information about EYQF as they had previously worked in this area in DEEWR/Education and Training: Ms Jackie Wilson, Deputy Secretary, Early Childhood and Childcare, DSS, and Mr David De Silva, Group Manager, Early Childhood Strategy, DSS.

2 The new Auditor-General, Mr Grant Hehir, commenced on 11 June 2015. The previous Auditor-General was Mr Ian McPhee. As both Auditors-General provided evidence to this inquiry, they are identified by name in references.

- Probity and other audit matters: EYQF Advisory Board, DEEWR and EYQF stakeholders
- Probity matters and Auditor-General's powers
- Caretaker period and finalisation of EYQF

First-in first-served approach to allocating EYQF grants

2.3 'First-in first-served' was a demand-driven approach to allocating EYQF grants. Under the approach, eligible applications were to be processed in the order received and accepted for funding until the funding cap of $300 million was reached. As the Auditor-General observed, this level of funding was estimated to only cover around 30 per cent of all long day care workers, leading to 'significant competition' for available grants and the program most likely being 'oversubscribed'—and, in the event, the $300 million funding cap was reached 'less than 13 hours after the application process commenced'.[3]

2.4 The Committee was interested in the first-in first-served approach from a number of perspectives:

- how the first-in first-served approach complied with the requirements for awarding grants under the Commonwealth Grants Guidelines (CGGs)[4]
- where the first-in first-served policy originated
- Commonwealth officials' previous experience with a first-in first-served approach
- DEEWR's ministerial advice on the first-in first-served approach
- DEEWR's administration of the first-in first-served approach

2.5 On the first matter, it was confirmed at the public hearings and in the ANAO report that a first-in first-served process was essentially a demand-driven granting activity and that the CGGs allowed for a number of different approaches to awarding grants, 'including through demand-

3 Mr Ian McPhee, Auditor-General, ANAO, 'Opening statement', *Submission 2*, p. 1.

4 References to the 'Commonwealth Grants Guidelines' are to the grants framework in place at the time the EYQF was implemented (including the *Financial Management and Accountability Act 1997*). Similar arrangements exist under the new Commonwealth grants framework, with the *Public Governance, Performance and Accountability Act 2013* and the Commonwealth Grants Rules and Guidelines (CGRGs) taking effect from 1 July 2014. The Commonwealth grants framework requires decision makers to make grant decisions in a manner that is consistent with the relevant guidelines.

driven processes under which applications that satisfy stated eligibility criteria receive funding, up to the limit of available appropriations'.[5]

2.6 The CGGs also state that 'competitive, merit-based selection processes should be used to allocate grants, unless specifically agreed otherwise by a Minister, chief executive or delegate' and that, where a method, other than a competitive merit based selection process is planned to be used, 'agency staff should document why this approach will be used'.[6] On this point, the ANAO report noted that the 'determination of the first-in first-served grant selection process was not well documented in the development of EYQF'.[7]

2.7 The CGGs further state that, in determining the most appropriate grant selection process (such as a demand-driven process), 'agency staff should consider and document a range of issues associated with the available options, such as … maximising access to grants and policy outcome concerns against the advantages and disadvantages [and] risk analysis … of the proposed process'.[8] However, the ANAO report noted that, although DEEWR 'held concerns around some aspects of the proposal at this time, including around the meaning of the first-in first-served approach to grants, the department elected not to provide the Minister with any accompanying advice on the EYQF proposal':[9]

> the potential for oversubscription of the EYQF was very high. Accordingly, an assessment of its implications for the eligibility criteria and how the program would be managed when the available funds were exhausted was desirably required in the policy design phase of the program. Such an assessment could have been used to appropriately inform the government on matters such as whether or not a demand-driven program was the most appropriate or a maximum grant limit should be applied.[10]

2.8 There was interest at the public hearings in exploring where the first-in first-served policy had originated. Ms Jackie Wilson, Deputy Secretary, DSS, stated: 'I am not specifically aware of where it originated'.[11]

---

5 ANAO, Audit Report No. 23 (2014-15), p. 16—see also Ms Jackie Wilson, Deputy Secretary, Early Childhood and Childcare, DSS, *Committee Hansard*, Canberra, 28 May 2015, p. 7.

6 CGGs, Department of Finance and Deregulation, June 2013, p. 13.

7 ANAO, Audit Report No. 23 (2014-15), p. 49. The PricewaterhouseCoopers (PwC) report stated that 'no record was found in the documents reviewed to explain why a competitive merit-based process was not used', *Ministerial Review of the EYQF: Final Report*, November 2013, p. v.

8 CGGs, Department of Finance and Deregulation, June 2013, pp. 30-31.

9 ANAO, Audit Report No. 23 (2014-15), p. 51.

10 ANAO, Audit Report No. 23 (2014-15), p. 50.

11 Ms Wilson, DSS, *Committee Hansard*, Canberra, 28 May 2015, p. 4.

Mr David De Silva, Group Manager, DSS, observed that it was 'not put forward in advice that we gave … In advice that we gave to the minister, the decision about first in, first served had already been made by the government'.[12] On this point, the ANAO report noted that the Child Care Workforce Strategy was significant in that it 'identified the key policy parameters for the EYQF including the provision of grants on a "first-in first-served" basis until the available funding was committed':

> Through the early stages of January 2013, DEEWR prepared advice for an anticipated announcement of the Child Care Next Steps strategy. However, later in January 2013, the development of the strategy was overtaken by negotiations between United Voice and Ministers' advisers. While this development was driven by advisers, staff in each of the Ministers' offices were in contact with officials in the relevant departments to seek advice or information as required.
>
> The key aspects of the design of the EYQF were provided in a series of internal papers arising from the negotiations (in February 2013). These papers represented a hybrid approach of options previously considered in the Ministers' offices to address the United Voice child care campaign and comprised a proposal for a Child Care Workforce Strategy.[13]

2.9 Asked whether EYQF was a temporary measure, starting with 30 per cent coverage of the sector pending a national wage case decision to reflect increased industry qualifications under the National Quality Framework, Mr De Silva responded: 'I cannot really comment on whether that was a stepping stone. But, in terms of a policy decision by the government, it was that they wanted to put an investment into wages for long-day care, and that was the policy decision that they made at that point in time'.[14] During the public hearings PM&C confirmed that the EYQF was an early intervention to lift wages in the sector in advance of the Fair Work Australia equal remuneration case.[15]

2.10 As to the reasoning behind the development of the first-in first-served approach, Ms Wilson, DSS, responded: 'I think there was a short time frame to get grants out. The government had committed to getting them out by 1 July when they announced it … on 19 March, and there was

12 Mr David De Silva, Group Manager, Early Childhood Strategy, DSS, *Committee Hansard*, Canberra, 28 May 2015, p. 4.

13 ANAO, Audit Report No. 23 (2014-15), p. 45.

14 Mr De Silva, DSS, *Committee Hansard*, Canberra, 28 May 2015, p. 8.

15 Mr Troy Sloan, First Assistant Secretary A/g, Social Policy Division, PM&C, *Committee Hansard*, Canberra, 28 May 2015, p. 8.

probably some thinking that first in, first served would drive the speed of the application process'.[16] Ms Wilson further noted that they understood 'there were risks in doing a first in, first served and not giving sufficient notice to the sector. This sort of example brings those sorts of high-risk conditions together and I guess has resulted in the audit findings'.[17]

2.11 In terms of why EYQF had been designed to fund only an estimated 30 per cent of all long day care workers, Mr De Silva, DSS, observed: 'all I can say is that was a decision of government … I think from a public interest point of view, I guess what you could say is that it was designed to assist a portion'.[18] As to whether stakeholders and service providers from the sector had raised any concerns with DEEWR about this matter and, if so, what the then Minister's response had been, Mr De Silva commented that there had been 'feedback from a number of key stakeholders', reflecting concern that the program 'would not cover the entire sector both the long day care sector and the broader childcare sector … The minister's response was that it was noted and a policy had been agreed to … There were no changes to the policy based on that feedback'.[19] It was also noted that EYQF had been designed to ensure that 50 per cent of the funding would go to large providers and 50 per cent to small providers such that one large provider could not absorb most of the funding—'it ensured that at least 50 per cent of funding was available to small providers'.[20]

2.12 When asked whether they had previously been involved in a first-in first-served grants program, departmental representatives responded as follows:

> I do not think I have been involved in any.[21]
>
> This is the only one.[22]
>
> No. This is my first experience.[23]

2.13 Asked whether he was aware of any other first-in first-served grants programs, the Auditor-General responded:

> I am struggling to recall others. There are certainly quite a few grant programs where the applications remain open on a continuous basis, but the interesting issue here was absolutely the

16 Ms Wilson, DSS, *Committee Hansard*, Canberra, 28 May 2015, p. 3.

17 Ms Wilson, DSS, *Committee Hansard*, Canberra, 28 May 2015, p. 4.

18 Mr De Silva, DSS, *Committee Hansard*, Canberra, 28 May 2015, pp. 4-5.

19 Mr De Silva, DSS, *Committee Hansard*, Canberra, 28 May 2015, p. 14.

20 Mr De Silva, DSS, *Committee Hansard*, Canberra, 28 May 2015, p. 5.

21 Ms Wilson, DSS, *Committee Hansard*, Canberra, 28 May 2015, p. 4.

22 Mr De Silva, DSS, *Committee Hansard*, Canberra, 28 May 2015, p. 4.

23 Mrs Leonie Navara, Chief Internal Auditor, Education and Training, *Committee Hansard*, Canberra, 28 May 2015, p. 10.

> money. It was very obvious that the money was going to run out quickly, and it did, and it was on a first come, first served basis. I do not recall any other example like this. I think it is quite an unusual set of circumstances here.[24]

2.14 While noting that policy decisions are a matter for Government, the ANAO report emphasised the importance of robust departmental ministerial advice on program implementation risks—particularly for demand-driven, first-in first-served programs such as EYQF. However, as the Auditor-General observed, DEEWR's approach to the provision of ministerial advice in this area was 'variable'—there were 'gaps in the department's advice on a number of significant matters at different times. These include the inherent risks in the use of a demand-driven grants application process'.[25] This matter is further discussed below in the section on 'Establishment of EYQF and departmental ministerial advice'—noting that the Auditor-General acknowledged that the 'government did decide "first come, first served", so on that point the department has implemented the government's approach'.[26]

2.15 The ANAO report also concluded that 'key risks' evident in the design of the first-in first-served policy were 'compounded by inadequacies in the department's subsequent administration of the EYQF'—'DEEWR's approach to accepting and assessing applications for the EYQF was inadequate and did not ensure fair treatment of applications during the application process … a number of applications were not processed on a first-in, first-served basis'.[27] This matter is further discussed below in the section on 'Departmental grants administration'.

Establishment of EYQF and departmental ministerial advice

2.16 This section discusses:

- the roles of DEEWR, PM&C and Finance in providing ministerial advice on EYQF
- the significance of Cabinet processes in program implementation
- the role of Commonwealth departments in providing frank, comprehensive and timely advice to Ministers on program implementation risks and opportunities to mitigate those risks where possible

24 Mr McPhee, ANAO, *Committee Hansard*, Canberra, 28 May 2015, p. 6.

25 Mr McPhee, ANAO, 'Opening statement', *Submission 2*, p. 2.

26 Mr McPhee, ANAO, *Committee Hansard*, Canberra, 28 May 2015, p. 6.

27 ANAO, Audit Report No. 23 (2014-15), p. 20, pp. 86-87.

Roles of DEEWR, PM&C and Finance

2.17 The ANAO report described the ministerial advice on EYQF provided by PM&C and Finance, and concluded that, overall, the 'advice provided by departments gained little traction':

> Advice on the policy under negotiation was sought from central agencies (the Departments of the Prime Minister and Cabinet, Treasury and Finance) as it developed. Early in the policy development stage, central agencies provided joint advice on the policy to their respective Ministers highlighting key issues—including cost, scope, eligibility and timing—for consideration prior to any decisions being taken … Although the briefing did not include any advice or caution in relation to the use of a first-in first-served approach, the briefing commented on the implications of restricting the EYQF to a small number of providers …
>
> many of the key elements of the EYQF policy were developed by advisers in the offices of the Prime Minister and Finance Minister in negotiation with the key stakeholder representing child care workers … Advice was given to government at various stages in the design of the policy measure from several different departments. However, the development of the measure had some momentum and the advice provided by departments gained little traction.[28]

2.18 PM&C were asked if, in advice to their ministers, central agencies had noted the risks of a demand-driven grants process. Mr Troy Sloan, First Assistant Secretary, PM&C, responded: 'not to my knowledge'.[29] While the ANAO report did not specifically further focus on the ministerial advice of Finance and PM&C, it did note that its broad finding on the importance of robust ministerial advice on implementation risks was 'relevant to other Commonwealth entities' (this point is further discussed below).[30]

2.19 However, the ANAO report did specifically focus on a number of aspects of DEEWR's ministerial advice. In particular, the Auditor-General noted that DEEWR's approach to the provision of ministerial advice was 'variable':

> As the department that would have responsibility for implementation of the EYQF, the Department of Education, Employment and Workplace Relations' approach to the provision

28 ANAO, Audit Report No. 23 (2014-15), pp. 19-23.

29 Mr Sloan, PM&C, *Committee Hansard*, Canberra, 28 May 2015, p. 7.

30 ANAO, Audit Report No. 23 (2014-15), p. 29.

> of advice was variable. There were gaps in the department's advice on a number of significant matters at different times. These include the inherent risks in the use of a demand-driven grants application process and, at later stages, the accuracy of the proposed wage schedule, and the potential impact on smaller child care providers of several of the advisory board recommendations.[31]

2.20 The Auditor-General further observed that it was 'very obvious—it would have been obvious to the department; it was obvious to the audit team very early on, and I think there were some inquiries before this—that this program was going to run into challenges when the money ran out very quickly'.[32]

2.21 The ANAO report noted that DEEWR had two opportunities, in early 2013 and March 2013, to provide advice to their Minister, to influence the development of EYQF policy prior to its agreement:

- firstly, input into advice provided by the central agencies in relation to the proposal—however, DEEWR 'did not and was not requested, to provide advice':
  - Advice on the policy under negotiation was sought from central agencies (the Departments of the Prime Minister and Cabinet, Treasury and Finance) as it developed ... as the agency that would be responsible for implementation, the department did not and was not requested, to provide advice in relation to the demand-driven nature of the grant activity in briefings prepared by central agencies.[33]
- secondly, in preparing correspondence for their Minister to the Prime Minister, seeking authority to establish EYQF—however, DEEWR 'elected not to provide the Minister with any accompanying advice':
  - There was a further opportunity for DEEWR to address implementation matters, when developing correspondence for the Minister on the EYQF proposal which would form the policy proposal that received authority from the Prime Minister in March 2013 … Once the agreement had been reached between Ministers around the policy parameters, DEEWR was requested by the Prime Minister's Office to prepare correspondence for the Minister for School Education, Early Childhood and Youth, seeking policy authority from the Prime Minister for the EYQF. In addition to preparing the draft

31 Mr McPhee, ANAO, 'Opening statement', *Submission 2*, pp. 1-2. (DEEWR's ministerial advice on the EYQF Advisory Board recommendations is discussed below, in the section on 'Probity matters concerning EYQF Advisory Board'.)

32 Mr McPhee, ANAO, *Committee Hansard*, Canberra, 28 May 2015, p. 6.

33 Audit Report No. 23 (2014-15), pp. 23, 50.

> correspondence, a department would generally be expected to advise its Minister, including in respect of any significant risks to the policy design or implementation, and opportunities to mitigate those risks in the event the government determined to proceed with the proposal. Although the department held concerns around some aspects of the proposal at this time, including around the meaning of the first-in first-served approach to grants, the department elected not to provide the Minister with any accompanying advice on the EYQF proposal.[34]

2.22 As the ANAO report concluded, the 'department elected not to provide any implementation advice at either point' and, consequently, there was 'little consideration during the early stages of EYQF establishment of how the program would be implemented'.[35] It was noted that DEEWR had provided ministerial advice on two later occasions, in April[36] and July 2013.[37] However, the ANAO report observed that the department's advice was 'too late in the piece to result in any change':

> Subsequent to the decision, the department did provide advice on implementation, but in essence this was too late in the piece to result in any change to the government's approach …
>
> While DEEWR raised with the Minister (and later with the Minister's advisers) that a merit-based process could be more appropriate (than first-in first-served), this advice was provided too late to effect a change in the policy design, as the policy decision had already been taken by government.[38]

2.23 As the ANAO further noted at the public hearings, DEEWR's advice was given 'after the decision had been made'.[39] In testimony to the Committee the ANAO stated that, despite the opportunity 'prior to the decision being made and the correspondence being prepared to go to the Prime Minister

---

34 Audit Report No. 23 (2014-15), pp. 50-51.

35 Audit Report No. 23 (2014-15), p. 52.

36 'DEEWR regarded the first-in first-served process … as problematic … The department provided a brief to the Minister … in early April 2013 setting out alternative options for implementation … In comments provided to the department in response to the April 2013 briefing … advisers in the Prime Minister's Office did not accept the alternative options outlined above. The response from the advisers indicated that with respect to prioritising applications on the basis of quality, the department was "over thinking" the process', Audit Report No. 23 (2014-15), pp. 51-52.

37 'In July 2013 … the department again suggested informally via email to the Minister's advisers that … conducting a comparative merit-based assessment process would produce a better policy outcome and would be considered by the sector as being more equitable and transparent than a first-in first-served process', Audit Report No. 23 (2014-15), p. 52.

38 Audit Report No. 23 (2014-15), p. 50, p. 53.

39 Ms Edel Kairouz, Executive Director, ANAO, *Committee Hansard*, Canberra, 28 May 2015, p. 7.

from the minister, there was no accompanying advice'.[40] On this point, Mr De Silva, Group Manager, DSS, commented: 'I guess what I can say is that I was presented with a document, which was, "This is the decision that has been taken; please implement," and one of the things would be to write to seek formal policy approval from the minister to the PM'.[41] When asked if they had provided advice about the risks associated with EYQF when they were tasked to generate the correspondence for their Minister to write to the Prime Minister seeking this policy approval, Mr De Silva acknowledged that: 'no, we did not include a formal brief that was attached to the letter at that time'.[42] As to whether DEEWR had had 'a window' to provide such advice at that point, Mr De Silva confirmed: 'yes'.[43]

2.24 The ANAO noted that the department had therefore had opportunity to provide such advice: 'we say there were two opportunities: once, a little bit earlier, when there was advice given by central agencies in relation to the proposal—the department did provide some advice in relation to workplace relations matters, but they did not provide any advice with respect to implementation—and then, at that second point, when they prepared the correspondence for the minister'.[44] In terms of whether DEEWR accepted that their ministerial advice on these matters could have been more robust, Ms Wilson, Deputy Secretary, DSS, stated: 'we accept that there were probably more opportunities to highlight the risks in different steps of the process'.[45]

2.25 A further matter raised was DEEWR's advice to their Minister concerning the accuracy of the proposed EYQF wage schedule.[46] The ANAO report noted that the 'wage schedule was not developed by DEEWR but was instead provided by United Voice to the Prime Minister's Office (PMO)' and, on the day the EYQF policy was announced (19 March 2013), 'an adviser in the PMO forwarded the wage schedule to the department and sought … advice as to whether the United Voice calculations were

40 Ms Kairouz, ANAO, *Committee Hansard*, Canberra, 28 May 2015, p. 7.

41 Mr De Silva, DSS, *Committee Hansard*, Canberra, 28 May 2015, p. 7.

42 Mr De Silva, DSS, *Committee Hansard*, Canberra, 28 May 2015, p. 7.

43 Mr De Silva, DSS, *Committee Hansard*, Canberra, 28 May 2015, p. 7.

44 Ms Kairouz, ANAO, *Committee Hansard*, Canberra, 28 May 2015, p. 7.

45 Ms Wilson, DSS, *Committee Hansard*, Canberra, 28 May 2015, p. 6.

46 Applications for EYQF funding were subject to a number of conditions, including 'approval of an enterprise agreement containing the approved EYQF wage schedule', ANAO Report No. 23 (2014-15), p. 61. The schedule set out the 'hourly wage increase corresponding to each (employment) classification and was included in the program guidelines, and converted into an Employee Hours and Grants Calculator tool used by applicants to determine grant funding', p. 61.

considered correct by the department'.[47] However, while the department raised concerns internally about the schedule, it 'did not check the wages schedule for errors and did not provide advice back to the PMO':

> In the event, the wage schedule, issued with the program guidelines when applications opened, contained a number of errors including missing classifications. These errors flowed through to the grants calculator affecting grant funding amounts and were brought to the department's attention by United Voice on 19 July 2013, the day the guidelines were published. The department took no action at this time (the impact of the error was not estimated), and did not issue any amendments to the grant guidelines … Consequently, the department could not confirm the accuracy of the requested, and subsequently approved, funding amounts.[48]

2.26 DEEWR 'subsequently advised the Minister of the errors in late July and at this time recommended that an addendum to the program guidelines be issued'.[49] Overall, the ANAO report concluded that the department's advice to their Minister was 'not timely' and 'did not provide a clear view of the number of applicants that were affected … Earlier attention to the identified errors would have allowed the department to provide the Minister with a more accurate assessment, prior to the dispatch of the conditional letters of offer'.[50]

2.27 There was interest at the public hearings in further exploring DEEWR's advice to their Minister on the wage schedule. Mr De Silva, DSS, explained that the schedule was 'provided to the department. We were asked if we could check it. It was given to the workplace relations area, who examined it, and we were advised that it seemed consistent with the modern award'.[51] As to why DEEWR did not provide advice back to the PMO, Ms Wilson, DSS, responded that: 'we do not provide advice to the PMO; we provide advice to our office. That is the normal process. We do not deal directly with other offices … We would have told them that our employment and workplace relations area had checked the schedule—to our office'.[52] When asked if they had found 'any evidence of that

47 ANAO Report No. 23 (2014-15), p. 61. As Mr De Silva, DSS, noted, the original schedule was 'provided to the department by the minister's office. Our understanding is it was made by United Voice and given either to the office or to the PMO', *Committee Hansard*, Canberra, 28 May 2015, p. 14.

48 ANAO Report No. 23 (2014-15), pp. 61-62.

49 ANAO Report No. 23 (2014-15), p. 62.

50 ANAO Report No. 23 (2014-15), p. 62.

51 Mr De Silva, DSS, *Committee Hansard*, Canberra, 28 May 2015, p. 14.

52 Ms Wilson, DSS, *Committee Hansard*, Canberra, 28 May 2015, p. 13.

communication with the Minister's office', the ANAO responded: 'we did not. We did find later that there was a briefing in July—it was an undated briefing in late July—which we reflect in the report … At that point the minister was advised that there were errors and that they had been identified during negotiations'.[53] Ms Wilson again emphasised that the schedule was 'checked by our workplace relations area'—'we went back to our office. While there is no documentary evidence in writing that we did that; there were lots of discussions happening between them and the office on a regular basis. We were unable to show the ANAO that we had put it in writing, but that does not mean that that did not happen'.[54]

2.28 Regarding exactly what point it became clear the wage schedule had errors in it, Mr De Silva responded that it was 'after the schedule had been published in the program guidelines'—'the schedule itself had been considered by the advisory board, which had reps from both employer and employee bodies on it. During the application process it was raised that there were grandfathered and traditional classifications that had not been included'.[55]

2.29 In concluding the discussion on DEEWR's ministerial advice, the Auditor-General observed:

> We have been a little critical of the department not providing a bit more advice, but the report makes it clear that the design was done in ministers' offices; ministers exchanged correspondence; there was not a cabinet process; and the department was left with the implementation. We still say to the departments, 'You should still point out the risks, even if government is about to make decisions on this, to highlight the risks.' That is all departments can do. Ministers, at the end of the day, will make their own decision …
>
> the departments and everyone accept that the government is entitled to make the decisions they make. But we would say, in seeing these circumstances, that it is very important for departments to be very candid with ministers about the inevitable risks and how best they might be managed in that circumstance.[56]

2.30 (This matter is further discussed below in the section on 'Ministerial advice on program implementation risks'.)

---

53 Ms Kairouz, ANAO, *Committee Hansard*, Canberra, 28 May 2015, p. 14.

54 Ms Wilson, DSS, *Committee Hansard*, Canberra, 28 May 2015, p. 14.

55 Mr De Silva, DSS, *Committee Hansard*, Canberra, 28 May 2015, p. 14.

56 Mr McPhee, ANAO, *Committee Hansard*, Canberra, 28 May 2015, p. 6.

Cabinet processes

2.31 The ANAO report noted that aspects of EYQF were 'settled through correspondence by key Ministers, rather than through the more conventional Cabinet processes'.[57] The ANAO pointed to the 'advantage of a Cabinet submission' in program implementation in that it can 'provide for structured consideration of risks, timelines and resourcing from a range of perspectives, namely those of Cabinet Ministers and their departments'.[58] On this point, the Auditor-General highlighted a PM&C comment concerning Cabinet processes:

> I think that the PM&C comment that came in on the report was quite interesting ...
>
> - PM&C notes the audit report's conclusions and agrees that while decisions on policy are a matter for government … departments should provide frank, comprehensive and timely advice to Ministers.
>
> Interestingly, PM&C go on to say:
>
> - Further, good Cabinet processes are essential to ensure strategic and coordinated policy solutions to Australia's national challenges, and to support the implementation of the Government's priorities.[59]

Ministerial advice on program implementation risks

2.32 While noting that decisions on policy are a matter for Government, the ANAO report concluded that a 'key lesson' arising from implementing EYQF, relevant to other Commonwealth entities, is the 'importance of departments providing frank, comprehensive and timely advice to Ministers in relation to implementation risks and opportunities to mitigate these risks where possible'.[60] As the Auditor-General emphasised at the public hearing:

> The report draws attention to the importance of government departments giving consideration to implementation as a fundamental part of all stages of policy development. Departments have an important role in clearly drawing the attention of Ministers to implementation risks so as to reduce the

57 ANAO, Audit Report No. 23 (2014-15), p. 19.

58 ANAO, Audit Report No. 23 (2014-15), p. 53.

59 Mr McPhee, ANAO, *Committee Hansard*, Canberra, 28 May 2015, p. 6—quoting ANAO Report No. 23 (2014-15), p. 28.

60 ANAO, Audit Report No. 23 (2014-15), p. 29.

> likelihood of downstream problems affecting service delivery or equity of access to programs.[61]

2.33 The Auditor-General noted that the Better Practice Guide on *Successful Implementation of Policy Initiatives*, jointly published by the ANAO and PM&C, makes the important point that 'implementation considerations need to be taken into account in the design of the policy so we understand what the risks are and how best to manage those'.[62] The guide states that:

> A policy initiative is more likely to achieve its intended outcomes when the question of how the policy is to be implemented has been an integral part of policy design.
>
> It is essential to inform the Government of any significant risks to implementation and proposed responses; particularly when rapid policy development and implementation is required.
>
> Providing well-founded policy advice to the Government is a core function of the Australian Public Service.[63]

Departmental grants administration: DEEWR/Education and Training

2.34 EYQF was implemented by the then DEEWR, with the then Department of Education—now Education and Training—taking carriage of the program following the 2013 Federal election. From 23 December 2014, early childhood programs, including the program area relating to the delivery of the former EYQF, were transferred to DSS.[64] However, the ANAO directed its audit recommendation to Education and Training as the recommendation concerned improvements to that department's future administration of grants programs generally based on its past administration of EYQF.

2.35 The ANAO report concluded that, while to 'some extent the development of key policy elements prior to any significant involvement of [DEEWR] presented challenges to successful implementation', key risks evident in the design of the policy were 'compounded by inadequacies in the department's subsequent administration of the EYQF'.[65] The ANAO pointed to a number of issues concerning the department's implementation of EYQF:

---

61 Mr McPhee, ANAO, 'Opening statement', *Submission* 2, p. 1.

62 Mr McPhee, ANAO, *Committee Hansard*, Canberra, 28 May 2015, p. 6.

63 ANAO and PM&C, *Successful Implementation of Policy Initiatives*, Better Practice Guide, October 2014, p. 13.

64 As EYQF ceased in December 2013, 'DSS did not have any role in its implementation', ANAO, Audit Report No. 23 (2014-15), p. 18.

65 ANAO, Audit Report No. 23 (2014-15), p. 20.

- **the department's communication process was 'not conducive' to a first-in first-served approach**
    - ⇒ The Auditor-General noted that 'accessibility to EYQF grants was affected by limited consultation and public information about the grant process'—the communication approach was 'not conducive to a first-in first-served environment, where applicants needed to be poised to make business decisions and act quickly when applications opened'.[66]
- **the email system adopted by the department was 'not fit for purpose' and did not ensure equitable access to the program**
    - ⇒ The department's system for processing applications needed particular attention to preserve equity of access in the management of the first-in, first-served process—however, as the Auditor-General noted, 'the email based system adopted by the department … was not fit for purpose and did not fully maintain the first-in order of applications'.[67]
- **there was 'complexity and inconsistency' within the department's program guidelines**
    - ⇒ As the Auditor-General noted, 'complexity and inconsistency within the program guidelines also presented difficulties; applicants did not always follow the instructions and did not always submit complete applications'.[68]
- **the department 'varied' the assessment process at several points**
    - ⇒ As the Auditor-General noted, after identifying problems with applications, the department 'varied the assessment process at several points while it was underway and also repeated a large number of assessments'.[69]
    - ⇒ As the ANAO report further noted, 'by choosing to accept applications it considered substantially complete rather than completed according to the guidelines, the selection process was no longer equitable, favouring applicants that submitted incomplete and inaccurate applications ahead of applicants that submitted applications which fulfilled all the original criteria'.[70]

66 Mr McPhee, ANAO, 'Opening statement', *Submission 2*, p. 2.
67 Mr McPhee, ANAO, 'Opening statement', *Submission 2*, p. 2.
68 Mr McPhee, ANAO, 'Opening statement', *Submission 2*, p. 2.
69 Mr McPhee, ANAO, 'Opening statement', *Submission 2*, pp. 2-3.
70 ANAO, Audit Report No. 23 (2014-15), p. 87.

- **the department 'did not demonstrate a disciplined approach' consistent with the Commonwealth Grant Guidelines**
    - ⇒ As the Auditor-General noted, the department 'did not demonstrate a disciplined approach that satisfied requirements of the program guidelines and the then Commonwealth Grant Guidelines. As a result, EYQF processes and procedures were not as well developed as they should have been and risks could have been better managed'.[71]
    - ⇒ As the ANAO report further noted, the 'initial assessment criteria were included in the guidelines to fulfil the requirement to meet eligibility criteria set out within the approved EYQF policy. However, these criteria … were not used by the department in the assessment process … greater emphasis should have been placed on adhering to the documented criteria. Further, upon making such a decision, the changed criteria should be fully documented, potential applicants advised, and processes updated to reflect the changes'.[72]
- **'significant decisions' made during the grant assessment process were 'not fully considered or documented'**

    As the Auditor-General noted, 'significant decisions—made during the grant assessment process—were not fully considered or documented, which reduced transparency in relation to key assessment and funding decisions'.[73]
- **a number of assessment records were 'not kept' and other records were 'inaccurate, inconsistent and overwritten'**
    - ⇒ As the ANAO report noted, assessment records for 'more than half of the services assessed within the EYQF's $300 million funding cap were not kept. Other assessment records were inaccurate, inconsistent and overwritten to the extent that no record of the initial assessment in its entirety has been maintained by the department'.[74]
- **the department's 'financial controls were not sufficient to support accurate financial approvals and grant offers'**

---

71 Mr McPhee, ANAO, 'Opening statement', *Submission 2*, p. 3.

72 ANAO, Audit Report No. 23 (2014-15), p. 87.

73 Mr McPhee, ANAO, 'Opening statement', *Submission 2*, p. 3.

74 ANAO, Audit Report No. 23 (2014-15), p. 26.

> ⇒ As the ANAO report noted, under the Commonwealth's financial framework, 'promoting the proper use and management of public resources is a fundamental duty of accountable authorities … The department's financial controls were not sufficient to support accurate financial approvals and grant offers … had all the offers for EYQF funding been taken up at the time they were made …the total value of the offers would have exceeded the funds available in the EYQF Special Account'.[75]

2.36 Based on these findings, the ANAO recommendation called for Education and Training to improve the equity, transparency and accountability of future grants program administration (see full recommendation at Table 2.1 above). Education and Training agreed to the recommendation.

2.37 Education and Training assured the Committee that it was 'taking the recommendations as provided by the Auditor-General on board' and 'considering the outcomes of this report with the importance it deserves':

> Several actions have already taken place within the department in order to communicate the audit's findings from a 'lessons learned' perspective, which include … formal communication to the department's executive and group managers outlining the key findings of this report and the inclusion of the recommendation to the department's audit recommendation system for consideration at senior governance committees, including our risk committee and audit committee. A schedule of presentations to business areas within the department is currently underway … which includes the requirements of the Commonwealth grant rules and guidelines, as well as better practice examples from lessons learned from this and other ANAO reports.[76]

Probity, transparency and other audit matters

2.38 This section discusses references to probity in the CGRGs and the ANAO report, and the following issues raised at the public hearings:

- probity matters concerning the EYQF Advisory Board, with reference to DEEWR and EYQF stakeholders
- other probity and risk management matters, with reference to DEEWR and EYQF stakeholders

---

75 ANAO, Audit Report No. 23 (2014-15), pp. 85-86, p. 88.

76 Mrs Leonie Navara, Chief Internal Auditor, Department of Education and Training, *Committee Hansard*, Canberra, 28 May 2015, p. 1. Ms Wilson explained how DSS was also being informed by the audit findings, *Committee Hansard*, Canberra, 28 May 2015, p. 15—noting that early childhood programs, including the program area relating to the delivery of the former EYQF, were transferred from Education and Training to DSS from 23 December 2014.

- other audit matters, with reference to EYQF stakeholders

2.39 The CGRGs set out seven key principles for grants administration, including 'probity and transparency'. Section 13 of the CGRGs, entitled 'Probity and transparency', sets out the requirements in this area—including managing conflicts of interest with members of advisory committees (see Figure 2.1). The ANAO guide on *Implementing Better Practice Grants Administration* discusses probity and conflicts of interest primarily in a section on 'Advisory panels'.[77]

2.40 The ANAO report noted that DEEWR 'considered probity at various stages during the course of implementing the EYQF and it was emphasised in the management of the advisory board'; probity arrangements were 'put in place for DEEWR staff involved in the assessment process, including conflict of interest declarations. Conflict of interest declarations were also required from providers applying for EYQF grants'.[78] Table 2.2 sets out key stages in the EYQF timeline, with reference to the following key points:

- membership of the Advisory Board included the National President of United Voice, the union representing some elements of the childcare workforce, and the Chief Executive Officer of Goodstart, the largest provider of long day care
- access to EYQF was through an email application process using forms provided on DEEWR's website—sample application forms were available to potential applicants from 11.00am AEST on Friday 19 July 2013, two business days prior to applications opening
- applications opened at 11.00am AEST on Tuesday 23 July 2013, with the $300 million EYQF funding cap being reached less than 13 hours after the application process commenced—the large provider funding pool cap was reached by 1.30pm AEST on 23 July and the small provider funding pool cap was reached by 12 midnight AEST on 23 July
- only 16 funding agreements were finalised before EYQF was terminated—the department 'did not formally record the reasons for the selection of the 16 applicants, over others which also [met] the conditions of funding at the time'[79]
- funding agreements were sent to the largest provider of long day care, Goodstart, for $132 million, and 15 small providers for $5 million, with these agreements being finalised on 6 September 2013, one day before the Federal election—

77 ANAO, *Implementing Better Practice Grants Administration*, Better Practice Guide, December 2013, p. 22.

78 ANAO, Audit Report No. 23 (2014-15), p. 82.

79 ANAO, Audit Report No. 23 (2014-15), pp. 93-94.

Goodstart was the first large provider to lodge a completed application[80] and received the largest allocation of funding

- 'a number of applications were not processed on a first-in, first-served basis' and for the 'six largest multi-service applications, there was no record kept on the assessment of their services connected to their grant applications. This included the two largest providers'[81]

Table 2.2 EYQF timeline: key stages

Event	*Date*
EYQF Advisory Board appointed	24 May 2013
1st Advisory Board meeting	6 June 2013
2nd Advisory Board meeting	14 June 2013
3rd Advisory Board meeting	19 June 2013
4th Advisory Board meeting	27-28 June 2013
Sample application forms available for potential applicants to download and view on department's website	From 11.00am AEST Friday 19 July 2013, two business days prior to applications opening
Application process opened, at which time final version of application forms could be downloaded and completed	11.00am AEST on Tuesday 23 July 2013
$300 million funding cap reached Large provider funding pool cap reached 1.30pm AEST Small provider funding pool cap reached 12 midnight AEST	Less than 13 hours after the application process commenced
1,173 submissions registered—619 received before funding cap reached and 554 registered after funding cap reached	Between 11.00am on 23 July and 25 September 2013, when last recorded email received
Assessment process—490 applications assessed from 3 large providers and 487 small providers	23 July-2 August 2013
Approval process . 453 applications approved (contained within approx 580 submissions, covering approximately 1,309 child care services and almost 24,000 employees) . approximately 590 submissions not approved for funding	26 July-2 August 2013
Letters sent to applicants Conditional offers of funding made for 453 successful applications—from 3 large providers and 450 small providers	27 July-2 August 2013
44 providers met conditions of offer	Late August 2013
Funding agreements executed—funding agreements sent to one large provider (Goodstart Early Learning) for $132 million and 15 small providers for $5 million	By close of business 6 September 2013
Federal election	7 September 2013
Conditional funding offers for remaining applications (made August 2013) revoked	11 October 2013
PricewaterhouseCoopers Australia review of EYQF released	10 December 2013
Funding agreements renegotiated for 16 providers, with $62.5 million paid	As at 30 June 2014

Source ANAO, Audit Report No. 23 (2014-15), pp. 17-18, 21, 39, 66-67, 73, 93

80 Mr De Silva, DSS, *Committee Hansard*, Canberra, 28 May 2015, p. 2.

81 ANAO, Audit Report No. 23 (2014-15), p. 25, p. 80.

Figure 2.1 Section 13, 'Probity and transparency', CGRGs

Probity relates to ethical behaviour. Establishing and maintaining probity involves applying and complying with public sector values and duties such as honesty, integrity, impartiality and accountability.

Transparency refers to the preparedness of those involved in grants administration, including officials and grant recipients, to being open and prepared to be subject to scrutiny about grant processes and granting activities (including grant programmes). This involves providing reasons for decisions and the provision of two-way information to government, the Parliament, grants recipients, beneficiaries and the community. Transparency provides assurance that grants administration is appropriate and that legislative obligations and policy commitments are being met.

Probity and transparency in grants administration is achieved by ensuring: that decisions relating to granting activity are impartial; appropriately documented and reported; publicly defensible; and lawful …

Actual or perceived conflicts of interest can be damaging to government, the grant applicant, the grant recipient, the entity and its staff. A conflict of interest arises where a person makes a decision or exercises a power in a way that may be, or may be perceived to be, influenced by either material personal interests (financial or non-financial) or material personal associations. A conflict of interest may arise:

. where decision makers or officials involved in grants administration have a direct or indirect interest, which may influence the selection of a particular project or activity;

. where members of expert or advisory panels or committees have a direct or indirect interest in informing a decision about expenditure or providing advice on grants; and

. where a grant recipient has a direct or indirect interest, which may influence the selection of their particular project or activity during the application process …

Officials should establish transparent processes which help manage misconceptions and the potential for personal or related party gain. Accountable authorities should ensure that entity policy and management processes for conflict of interest are published to support probity and transparency. Accountable authorities should put in place appropriate mechanisms for identifying and managing potential conflicts of interest for granting activities …

Officials should conduct granting activities in a manner that minimises concerns about equitable treatment … Officials should ensure that decisions in relation to the approval of applications for grants are transparent, well documented and consistent with the legislative and policy requirements … Officials should put in place a transparent and systematic application and selection process. Such processes assist in informing decisions and enhancing confidence in the granting activity outcomes and grants administration processes, for both stakeholders and the public.[82]

82 CGRGs, 'Probity and transparency', pp. 34-35.

Probity matters concerning EYQF Advisory Board: DEEWR and EYQF stakeholders

2.41 The EYQF Advisory Board was established to 'provide advice on the operation and implementation of the EYQF'[83] and comprised:

- Rachel Hunter, Chair, Australian Children's Education and Care Quality Authority
- Samantha Page, CEO, Early Childhood Australia
- Michael Crosby, National President, United Voice
- Julia Davison, CEO, Goodstart Early Learning
- Tom Hardwick, CEO, Guardian Childcare
- Prue Warrilow, National Convenor, Australian Community Children's Services
- Jennifer Taylor, Department of Education Employment and Workplace Relations[84]

2.42 Although Advisory Board membership was not listed in the ANAO report, the report did discuss probity arrangements established for the board, including appointment of a probity advisor and the board's impact. Key points included that:

- The announcement of the membership of the advisory board and its terms of reference … met with a mixed reaction from the peak bodies and other stakeholders …
- Initially, the advisory board's role—advising on the content and operation of the EYQF program guidelines—was intended to provide members with an opportunity to directly influence the program settings. At its first meeting … the board considered its role … and resolved to amend its charter to make clear the advisory and expert nature of the board (rather than as a representational board), and to further clarify the policy and process elements of the fund that were outside the responsibility of the board …
- While there are obvious advantages in appointing qualified or highly experienced members, their expertise can also present conflicts of interest risks for an entity. The department recommended to the Minister that, with one exception, early childhood employer and employee organisations should not be invited to join the board to avoid perceived or real conflicts of interest. However, in seeking the Prime Minister's agreement to the advisory board appointments, the Minister advised (on recommendation from the department) that some board

83 ANAO, Audit Report No. 23 (2014-15), p. 9.

84 PwC, *Ministerial Review of the EYQF*, November 2013, p. 14. See also Mr De Silva, Group Manager, DSS: 'I was actually on the board in an ex-officio sort of capacity because we were bringing the various papers to the board to consider a range of program issues', *Committee Hansard*, Canberra, 28 May 2015, p. 13.

members, which included employer and employee organisations, would be required to remove themselves from discussions on the development of funding agreements, or negotiating enterprise agreements in their own organisations.

- The department decided that it would seek probity advice on an as required basis, and a probity adviser was retained initially to prepare and deliver a probity briefing at an advisory board meeting, and reviewing board documents.
- The scope of the initial probity engagement would prove to be insufficient for the department's needs, and at the request of the advisory board chair, it was agreed that the probity adviser should attend all of the board meetings due to actual and perceived conflicts of interest associated with the board membership.[85]

2.43 As to which aspects of EYQF were or were not within the influence of the Advisory Board, the ANAO report noted the board made 'a number of recommendations to the department on how the grants would be accessed by a range of providers'[86] that were subsequently accepted and implemented, as follows:

- service by service vs provider grant applications: the board recommended that applications should be on a provider basis—'following a recommendation from the EYQF advisory board, the Minister decided that applications should be on a provider basis and that each service included in an application would be assessed individually'[87]
- on-costs: the board recommended an increase in the level of support for on-costs—'the Minister sought approval from the Prime Minister to increase the percentage of on-costs payable to 20 per cent'[88]
- competition between small and large providers: the board recommended splitting the available funding into small and large provider pools—'funding was also influenced by provider size, with small providers … allocated a pool of $150 million and large providers … allocated the remaining $150 million, also following advice from the advisory board'[89]

2.44 The PricewaterhouseCoopers (PwC) report noted EYQF areas where the Advisory Board did not have an impact:

85 ANAO, Audit Report No. 23 (2014-15), pp. 56-57.
86 ANAO, Audit Report No. 23 (2014-15), p. 58.
87 ANAO, Audit Report No. 23 (2014-15), p. 16.
88 ANAO, Audit Report No. 23 (2014-15), p. 59.
89 ANAO, Audit Report No. 23 (2014-15), p. 17.

a number of the policy parameters relating to the EYQF had already been finalised and so were not subject to the Advisory Board's input. These included:

- ⇒ the EYQF being limited to long day care providers;
- ⇒ applications being assessed on a 'first in first served' basis;
- ⇒ the requirement that wage increases be incorporated into an Enterprise Agreement or similar instrument; and
- ⇒ the requirement that wage increases be applied across all employee classification rather than being targeted.[90]

2.45 In terms of its overall impact, the ANAO report noted that the Advisory Board 'had an important role in the program's implementation, through the provision of advice to the department on how grants would be accessed by a range of providers and direction in the development of the program guidelines'.[91]

2.46 On probity matters concerning the Advisory Board, the ANAO report stated that the 'probity adviser signed off on the process, indicating that the board meetings had been conducted in accordance with the advisory board charter and the policies of the Commonwealth'.[92] The PWC report noted that 'no evidence has been presented in this review that indicates the two large providers on the Board benefited in any additional way from having representation on the Board, and no adverse finding is made in this report'.[93]

2.47 In terms of DEEWR's administration of the Advisory Board and treatment of key implementation risks from the board's recommendations, the ANAO report pointed to two issues: the department's records on members or proxies withdrawing from meetings where potential conflicts of interest arose for those members who were potential recipients of funding under EYQF, and the department's ministerial advice concerning the board's recommendation on splitting EYQF funding into small and large provider pools.

2.48 On the first matter, the ANAO report concluded that, notwithstanding the 'high degree of awareness around the integrity of the process', there is 'no departmental record of any members or their proxy withdrawing themselves from meetings during the discussions of subjects which might conflict with their position, such as details and requirements in the

90 PwC, *Ministerial Review of the EYQF*, November 2013, p. 14.

91 ANAO, Audit Report No. 23 (2014-15), p. 54.

92 ANAO, Audit Report No. 23 (2014-15), p. 57.

93 PwC, *Ministerial Review of the EYQF*, November 2013, p. vii.

development of application forms and processes'.[94] Instead, it was 'held in good faith' that members would 'act in the best interests of all providers and educators and not share information or knowledge from the meetings with their organisations, particularly those organisations that were applying for funding or represented the union'.[95]

2.49 On the department's ministerial advice concerning the Advisory Board's recommendation on small and large provider funding pools, the ANAO report concluded that 'DEEWR was aware of stakeholder concerns with respect to program access for smaller providers reported during the Parliamentary inquiries, and should have drawn more attention to the disparity created by the board's recommendation (concerning the 50:50 split of funding) in the advice and correspondence provided to its Minister':[96]

> In briefing the Minister on the recommendation the department did not draw adequate attention to the potential impact of the change on small providers and the disproportionate distribution that would result …
>
> The department merely reflected the boards advice in an attachment to the brief noting that:
>
> … equitable access to the fund would be promoted by making large providers compete against large providers and small providers compete against small providers, but noted it would not ensure equal distribution and a disproportionate portion of funds was still going to larger providers' …
>
> it did not explain the impact of the 50:50 funding split (which if applied based on the proportion of large to small providers, reduced the funding available to small providers by $93 million). In addition, it did not draw on or consider the issues within the context of the sensitivities around access for smaller child care providers reported by stakeholders to the Parliamentary inquiries …
>
> Further, correspondence prepared by the department for the Minister's signature, to seek authority for the change from the Prime Minister, was ambiguous and described the funding split as promoting equitable access to the fund. The correspondence did

94 ANAO, Audit Report No. 23 (2014-15), p. 57. The PwC report noted that 'six out of seven members were represented by proxies at least once', *Ministerial Review of the EYQF*, November 2013, p. 14.

95 ANAO, Audit Report No. 23 (2014-15), p. 57.

96 ANAO, Audit Report No. 23 (2014-15), p. 65.

> not alert the Minister to the likely effect of the change on small providers.[97]

2.50 As the ANAO noted, data showed that large providers represented 'only around 20 per cent of child care places and services, however the board determined that the fund should be split 50:50 amongst large … and small providers'—in effect, this decision meant that the 'smaller providers, which represented 81 per cent of services and 77 per cent of child care places, would have access to only 50 per cent of the funding', and reduced available funding to smaller providers by $93 million.[98]

2.51 The Advisory Board's recommendation was based on concerns that the administrative complexity of the application process would disadvantage small providers. The recommendation sought to address the disadvantage small providers have in completing applications, particularly ones that require an Enterprise Agreement to be in place.[99]

2.52 At the public hearings, there was interest in further exploring these probity matters concerning the Advisory Board, and related matters concerning the timing and funding of EYQF applications, with Goodstart, and relevant departmental officers from the former DEEWR. (These issues with also discussed with the ANAO—see section below on 'Probity matters and the Auditor-General's powers'.)

2.53 Goodstart, the largest provider of long day care, was the first large provider to lodge a completed application[100] and received the largest allocation of EYQF funding— Ms Julia Davison, Chief Executive Officer, Goodstart, was also a member of the Advisory Board. In terms of her membership of the Advisory Board, Ms Davison confirmed:

> I personally was on the advisory panel and I am very happy to talk about that … I attended one meeting of the advisory panel—and the advisory panel was very much advisory in its role and in its function. The advisory panel provided advice to government. For the record of the committee, it is important that people know that before I agreed to sit on the advisory panel—I was invited by the deputy secretary of the department to sit on it—I raised concerns about any potential for a perceived conflict of interest … There were very strict protocols put in place around

97 ANAO, Audit Report No. 23 (2014-15), pp. 60-61.

98 ANAO, Audit Report No. 23 (2014-15), p. 24, pp. 60-61.

99 Ms Kairouz, ANAO, *Committee Hansard*, Canberra, 12 November 2015, p. 3, and ANAO, Audit Report No. 23 (2014-15), pp. 60-61.

100 Mr De Silva, DSS, *Committee Hansard*, Canberra, 28 May 2015, p. 2.

confidentiality and what could or could not be passed on from individuals on the advisory board.[101]

2.54 Ms Davison further noted: 'I signed a confidentiality agreement which precluded me from sharing any matters discussed by the Panel with my organisation, and complied with the requirements of this agreement in all of my dealings with the Panel and with Goodstart'.[102]

2.55 As to what share of the childcare sector Goodstart had in 2013, Ms Davison explained that it depends on 'what measure you use: number of children, number of centres or number of staff. But let's say it was between 10 and 15 per cent, depending on which measure we use', as a share of the overall sector.[103] In terms of Goodstart's response to being allocated $132 million under EYQF (which was: 96% of the $137 million allocated to all providers as at close of business 6 Sept 2013; 88% of the original $150 million large provider commitment; and 44% of the original $300 million total program commitment[104]), given that its share of the market was 'between 10 and 15 per cent',[105] Ms Davison responded that 'we always knew … that the fund was not sufficient to cover the whole sector and that it was a fund of $300 million, and we knew from our own calculations … that, should we be successful with our application, we would absorb a very large proportion of the fund'.[106] As to why Goodstart had received this level of funding, Ms Davison explained that the 'way the fund worked' was that there was a calculation based on the number of staff and a fixed increase in wages—'roughly a $3 increase per hour for workers'—and because Goodstart 'employ so many workers, if you do the maths and multiply our number of staff by the amount that was there to be allocated, if successful we would always have got the amount that the numbers came to'.[107] Regarding Goodstart's view on whether this funding commitment seemed fair as regards smaller providers, Ms Davison stated:

101 Ms Julia Davison, Chief Executive Officer, Goodstart Early Learning, *Committee Hansard*, Canberra, 15 October 2015, p. 17.

102 Goodstart, *Submission 6*, p. 2.

103 Ms Davison, Goodstart, *Committee Hansard*, Canberra, 15 October 2015, p. 15.

104 In March 2013, $300 million was committed to establish EYQF, Audit Report No. 23 (2014-15), p. 14. Large and small providers were each allocated a pool of $150 million, p. 17. By close of business on 6 September 2013, funding agreements had been sent to 1 large provider, Goodstart (for $132 million), and 15 small providers (for a total of $5 million), p. 21. (When EYQF was finalised, these agreements were renegotiated and the 16 providers received a total of $62.5 million, p. 17.)

105 Ms Davison, Goodstart, *Committee Hansard*, Canberra, 15 October 2015, p. 15.

106 Ms Davison, Goodstart, *Committee Hansard*, Canberra, 15 October 2015, p. 15.

107 Ms Davison, Goodstart, *Committee Hansard*, Canberra, 15 October 2015, p. 16.

> I do not think the scheme as a whole was a bad scheme, and I have said that previously on the public record. We had a big debate internally, within GoodStart, as to whether we should or should not apply for the grant but came to the conclusion, after having weighed up the pros and cons, that there was a sum of money on the table here to supplement wages of extremely poorly paid workers. Our workers were very keen to access that fund and had just as much right as anyone else in the sector to access it, so we put our application forward.[108]

2.56 On the division of EYQF funding into two pools, Ms Davison further noted: 'my understanding is that it was done that way to try and protect the small providers so that the small providers, who perhaps did not have 200 or 300 people in their head office, had a chunk of the fund protected to allow them to have more time to apply'.[109]

2.57 Goodstart were also asked how they were able to submit an application within 2½ hours of the application process opening, when the EYQF guidelines had only been recently received.[110] Ms Davison replied:

> The guidelines were actually received before the weekend so it was more than two days—it was a whole weekend. I would have been very disappointed if we had not been able to submit an application at Goodstart. The whole sector knew several months beforehand that the approach that was being taken by government, albeit an unusual approach, was a first-past-the-post approach. We received the guidelines—I think it was on the Friday, I will have to check the date—but we had a whole weekend. We have the benefit of having a head office staff of over 300 people, so we were able to put a tender together.[111]

2.58 As to Goodstart's view on whether the short application timeframe disadvantaged smaller providers, Ms Davison stated:

> I think we just had an advantage in that we had large numbers of people who could put an application together. We also had a very

108 Ms Davison, Goodstart, *Committee Hansard*, Canberra, 15 October 2015, p. 15.

109 Ms Davison, Goodstart, *Committee Hansard*, Canberra, 15 October 2015, p. 17.

110 On Friday 19 July 2013, EYQF program guidelines were issued on the DEEWR website and advice distributed to long day care service providers, and the application process for EYQF opened on Tuesday 23 July 2013, with the large provider funding pool cap reached by 1.30pm and the small provider funding pool cap reached by 12 midnight, ANAO, Audit Report No. 23 (2014-15), p. 39.

111 Ms Davison, Goodstart, *Committee Hansard*, Canberra, 15 October 2015, p. 16. Goodstart's submission noted that the 'project team of around 20 staff worked around the clock and through the weekend to complete all of the documentation required to lodge the application four days later', *Submission 6*, p. 3.

> big challenge, because we had to put together 650 individual applications and provide overarching data in addition to the 650 applications. My recollection from having read the PWC report is that a very large number of small providers were able to put in applications very quickly.
>
> I think it is also important to remind the committee that there were some broad expectations published at the very beginning of this process back in, I think, March, when the government first announced the fund. At the time when the fund was announced, it was very clear that applicants would need to demonstrate their commitment to the National Quality Standards and the National Quality Framework, and it was also very clear that they would have to provide information regarding their compliance with the MyChild website obligation.[112]

2.59 Goodstart was then asked about the process for signing the funding agreement on the Friday prior to the 2013 Federal election. Ms Davison responded: 'I think all I can tell you is that we received the funding agreement and we signed it straightaway and sent it back, as I think anyone who had been made an offer of a significant of money to support their workforce would do … We received it on the 5th and we delivered it on the 6th'.[113]

2.60 These matters were also explored with relevant departmental officers from the previous DEEWR. Mr De Silva, Group Manager, DSS, confirmed that the large provider funding cap was 'reached probably about 2 pm' and further explained the funding allocation across large and small providers:

> It was $150 million, and, of that, $132 million would have gone to Goodstart, with the remaining going to two other large providers … there was $150 million for large providers. For Goodstart, in terms of their total grant, it was about $132 million, and then there was $18 million which was divided up between the second and third large providers that got in before the cap was reached. And then the other $150 million was shared between 450-odd small providers out of that pool.[114]

2.61 Mr De Silva also confirmed that Goodstart was the first large provider to lodge a completed application: 'they were the first large provider to have a completed application. I do not think they were the first provider to get an application in, but they were the first large provider to have a completed

112 Ms Davison, Goodstart, *Committee Hansard*, Canberra, 15 October 2015, p. 16.

113 Ms Davison, Goodstart, *Committee Hansard*, Canberra, 15 October 2015, p. 17.

114 Mr De Silva, DSS, *Committee Hansard*, Canberra, 28 May 2015, p. 5, p. 6.

application in'.[115] In terms of the timing of announcements concerning the commencement of the EYQF application process and when Goodstart applied, Mr De Silva noted that the 'program guidelines were issued on the website … It would have been done on [Friday] 19 July … The application process opened on Tuesday, 23 July … It opened at 11 am on that date. I would have to double-check the actual timing of when Goodstart got its application in, but it would have been in the afternoon'.[116] Mr De Silva further explained that a 'sample application' was made available on the website on 19 July and the 'program guidelines were made available on the 19th. It was said that the applications would open on Tuesday at 11 am'.[117] In terms of whether any applicants would have 'known ahead of time when applications were going to open up', Mr De Silva confirmed that 'none of the applicants would have known the date'.[118] Mr De Silva noted that the 'application form was probably about four pages, but there were various attachments that had to be included'.[119] As to whether providers were notified that the program was open, Mr De Silva observed that the department had a database with 'all the email addresses for all the providers so my understanding is that an email was sent to all of them'.[120]

2.62 Regarding whether the Advisory Board had provided advice on EYQF program criteria, Mr De Silva responded that the board 'gave advice across the entire program in terms of what could be criteria, what could be a process, but in the end it was a decision of the government in terms of what criteria it would have and what advice it would take from the advisory board'.[121] As to arrangements for the Advisory Board concerning potential conflicts of interest, Mr De Silva confirmed that the department had 'appointed a probity advisor at the start of the advisory board, initially to give advice to the board on issues of conflict of interest and then to sign a deed of confidentiality':

> We then kept the probity advisor on and they were present for each of the board meetings … So there was ongoing advice in terms of ensuring that those involved on the advisory board would keep any information that was provided to them during

115 Mr De Silva, DSS, *Committee Hansard*, Canberra, 28 May 2015, p. 2.
116 Mr De Silva, DSS, *Committee Hansard*, Canberra, 28 May 2015, p. 3.
117 Mr De Silva, DSS, *Committee Hansard*, Canberra, 28 May 2015, p. 3.
118 Mr De Silva, DSS, *Committee Hansard*, Canberra, 28 May 2015, p. 3.
119 Mr De Silva, DSS, *Committee Hansard*, Canberra, 28 May 2015, p. 3.
120 Mr De Silva, DSS, *Committee Hansard*, Canberra, 28 May 2015, p. 3.
121 Mr De Silva, DSS, *Committee Hansard*, Canberra, 28 May 2015, p. 12.

> those advisory board meetings to themselves. That is what the probity advisor said …
>
> There was very clear advice and we made it very clear to the board members what they could and could not do.[122]

Other probity and risk management matters: DEEWR and EYQF stakeholders

2.63 The public hearings explored other probity and risk management matters with reference to DEEWR and EYQF stakeholders,[123] including:

- the department's communication with the childcare sector in response to information being provided by United Voice, and the nature of that information
- development and distribution of the EYQF wage schedule
- the department's assessment of applications

Sector communication, union membership and enterprise agreements: DEEWR and United Voice

2.64 United Voice, the union representing some elements of the childcare workforce, had a role in the development of EYQF[124] and provided stakeholders with information on EYQF.[125] The National President of United Voice was also a member of the EYQF Advisory Board.

2.65 On DEEWR's communication with the childcare sector on EYQF, the ANAO report concluded that, 'where the department was aware of information being provided to stakeholders by United Voice, the department's response did not extend to providing more detailed information about arrangements or taking a more active approach to its communications':

> In the weeks following the announcement of the EYQF, the Minister and the department received correspondence in relation to information being provided by United Voice. The department responded to individual enquiries on the Minister's behalf and wrote to United Voice requesting that its representatives note the updated FAQs on the EYQF website so that consistent information could be provided on the program …

---

122 Mr De Silva, DSS, *Committee Hansard*, Canberra, 28 May 2015, pp. 12-13.

123 Electoral donations to the Australian Labor Party and the Liberal Party of Australia in terms of the childcare sector and development of early childhood programs were also discussed—see response, Ms Jo-anne Schofield, National Secretary, United Voice, *Committee Hansard*, Canberra, 15 October 2015, pp. 5-9.

124 ANAO, Audit Report No. 23 (2014-15), p. 45.

125 ANAO, Audit Report No. 23 (2014-15), p. 58.

> The advice provided to the sector by the department was limited and where inconsistent information was provided to the sector by third parties, the department's response was low key and did not extend to the provision of more comprehensive information for the sector.[126]

2.66 The PwC report provided further detail on the nature of some of the information being provided to stakeholders by United Voice: 'in response to queries from the sector, the Department post[ed] additional FAQs and also [wrote] to United Voice and to all LDC services to clarify that there was no requirement of union membership for the EYQF'.[127] (While applications for EYQF funding were subject to a number of conditions, including approval of an enterprise agreement, development and registration of an enterprise agreement does not require union participation.) The ANAO report further noted that:

> United Voice was … active in promoting the program and engaged in a grass roots campaign to recruit educators into the union and offered child care providers with assistance to develop enterprise agreements in preparation for EYQF grants. A significant number of providers took up the union's offer for assistance and started negotiations for entering into enterprise agreements with their workers, in anticipation of the EYQF grants process commencing.[128]

2.67 The public hearings further explored the EYQF information provided by United Voice, and its 'grass roots campaign to recruit educators into the union'.[129] In commenting on this statement in the ANAO report, Ms Jo-anne Schofield, National Secretary, United Voice, observed that 'a range of negotiations … were conducted around that time; that is correct. There was evidence presented by the former president of the union, Michael Crosby, to a previous inquiry that specifically went to those details'.[130]

---

126 ANAO, Audit Report No. 23 (2014-15), p. 58, p. 65.

127 PwC, *Ministerial Review of the EYQF*, November 2013, p. 5. Some of these matters were also explored in the House of Representatives Standing Committee on Education and Employment report, *Early Years Quality Fund Special Account Bill 2013*, June 2013; and Senate Education, Employment, and Workplace Relations Legislation Committee report, *Early Years Quality Fund Special Account Bill 2013 [Provisions]*, June 2013.

128 ANAO, Audit Report No. 23 (2014-15), pp. 55-56.

129 ANAO, Audit Report No. 23 (2014-15), pp. 55-56.

130 Ms Schofield, National Secretary, United Voice, *Committee Hansard*, Canberra, 15 October 2015, p. 2. See evidence of Mr Michael Crosby, former National President, United Voice, to the Senate Education, Employment, and Workplace Relations Legislation Committee inquiry into the *Early Years Quality Fund Special Account Bill 2013 [Provisions]*, *Committee Hansard*, 14 June 2013.

2.68 Another matter raised here was the reference in the PwC report to a claim by a provider of childcare services that United Voice officials had advised that: '60% of the staff of our centre needed to be members of United Voice for our Centre to qualify for funding'.[131] When asked as to whether United Voice was aware of union officials making claims to providers, Ms Schofield noted:

> I am aware of the transcript of the proceedings before the Senate Education, Employment and Workplace Relations Legislation Committee on 14 June where that matter was canvassed with the union's representative at that time, Michael Crosby. That was answered by Michael Crosby in the transcript of that matter … I was not an officer of the union at the time. The person with responsibility who was an officer of the union at the time has answered that claim, and that answer stands …
>
> I am aware of that [PwC] report and I have looked at it in the past. I did not refamiliarise myself with it for today's proceedings because I understood that we were dealing with matters in the ANAO report.[132] I would say, having just heard the question, that there is no reference in the report or basis upon which that statement was made ...
>
> I think, on the face of it, the authors of that report have accepted uncritically a statement from a provider in the sector …
>
> at the time we were never provided—to my knowledge—with the criticisms raised in that report or with an opportunity to respond, and we are not aware of the evidence upon which that assertion is based. Before we are able to categorically respond to that, we would need to see the evidence upon which the PwC report made that assertion.[133]

2.69 There was also interest in United Voice's response to a statement Mr Crosby, former National President, United Voice, made to the Senate inquiry into the Early Years Quality Fund Special Account Bill 2013 that: 'any enterprise agreement helps unions to sign up members, there is just no doubt about that … I saw it in *The Australian* yesterday, that we are using this to sign up workers. Of course we are. We have signed up

131 PwC, *Ministerial Review of the EYQF: Final Report*, November 2013, p. 21.

132 As noted in the ANAO report, following the 2013 Federal election the incoming Government reviewed the EYQF, and PwC was commissioned by the then Department of Education to conduct the review, Audit Report No. 23 (2014-15), p. 17. The ANAO report referenced the PwC report at p. 17 and p. 37, and also noted that the 'government's review [PwC] raised a number of concerns about the manner in which the EYQF had been implemented', p. 18.

133 Ms Schofield, United Voice, *Committee Hansard*, Canberra, 15 October 2015, p. 3, pp. 4-5.

workers all the way through the Big Steps campaign'.[134] Ms Schofield responded:

> I would also like to refer to Mr Crosby's comments in the transcript where he said that some of our members were very overenthusiastic about saying if you want the money, you need to join. As soon as the union became aware of that we took immediate corrective action in communicating to our members and to our organisers that that was not the case … You referred to a piece of the transcript. That is also contained in that transcript, so I believe that that issue was dealt with at the time …
>
> I read his comments on EBAs to be of a general nature. When we go out to represent workers in negotiations with employers, yes, we do seek for them to become members of the union. Why wouldn't we?[135]

2.70 As to whether Goodstart, as a large provider of long day care, was aware if its employees were being approached about union membership as a prerequisite for EYQF funding, Ms Davison, Chief Executive Officer, Goodstart, responded:

> Our understanding was that that was not the United Voice's national position. However, at one point we did have an issue in our organisation with hearsay and anecdotal comments where organisers in some areas were suggesting to our employees that in order to receive the funding they needed to be members of the union. We put some communications out to clarify that that was not the case, and we also took the matter up with United Voice.[136]

2.71 In terms of whether there had been a significant increase in union membership of United Voice at that time, Ms Schofield responded that the 'union launched a campaign in 2008. Our recruitment in the sector commenced at the launch of that campaign and continued on a trajectory over many years, probably including that period'.[137] Ms Schofield confirmed that it was a 'steady rate of increase',[138] and also estimated that United Voice's union membership in early education and care 'would be in the order of, I think, around 14,000 to 17,000 members … It is the

---

134 See Mr Crosby, United Voice, Senate Education, Employment, and Workplace Relations Legislation Committee inquiry into the *Early Years Quality Fund Special Account Bill 2013 [Provisions]*, *Committee Hansard*, 14 June 2013, p. 2.

135 Ms Schofield, United Voice, *Committee Hansard*, Canberra, 15 October 2015, p. 9.

136 Ms Davison, Goodstart, *Committee Hansard*, Canberra, 15 October 2015, p. 16.

137 Ms Schofield, United Voice, *Committee Hansard*, Canberra, 15 October 2015, p. 2.

138 Ms Schofield, United Voice, *Committee Hansard*, Canberra, 15 October 2015, p. 2.

biggest membership group of our union. Our union's total membership is around 120,000 members'.[139]

Development and distribution of EQYF wage schedule: DEEWR and United Voice

2.72 There was interest in further exploring the role of United Voice in the development of the EYQF wage schedule.[140] The ANAO report noted that the 'wage schedule was not developed by DEEWR but was instead provided by United Voice to the Prime Minister's Office'. [141] As to whether it was standard practice for United Voice to draft wage schedules for government programs, Ms Schofield responded: 'if we were asked to provide a wages schedule by the current minister to support a program, we would cooperate and provide that information … The wage schedule was provided. I was not an officer of the union at the time. I assume there were some discussions and material was provided'.[142]

2.73 On DEEWR's distribution of the wage schedule, the ANAO report noted that, while the department was aware that some applicants had accessed the wage schedule prior to the release of the guidelines, 'it did not consider that these providers could be advantaged through their early access. The department did not put in place any remedy to the situation and did not raise the issue with the Minister'.[143] The ANAO concluded that 'the department should have considered the risk presented by some providers having early access to the schedule':

> the wage schedule was approved and publicly released as part of the program guidelines on 19 July 2013. However, information contained in the wage schedule was available and circulated to some providers from March 2013, when it was posted on the United Voice Big Steps Facebook Page. Of the 453 applications that were approved by DEEWR, there were 57 applicants to the EYQF that had enterprise agreements approved on or before the day the program guidelines were released, using wage schedule data that was not officially available at the time. Nine of these included the

139 Ms Schofield, United Voice, *Committee Hansard*, Canberra, 15 October 2015, pp. 1-2.

140 Applications for EYQF funding were subject to a number of conditions, including 'approval of an enterprise agreement containing the approved EYQF wage schedule', ANAO Report No. 23 (2014-15), p. 61. The schedule set out the 'hourly wage increase corresponding to each (employment) classification and was included in the program guidelines, and converted into an Employee Hours and Grants Calculator tool used by applicants to determine grant funding', p. 61.

141 ANAO Report No. 23 (2014-15), p. 61.

142 Ms Schofield, United Voice, *Committee Hansard*, Canberra, 15 October 2015, p. 9.

143 ANAO Report No. 23 (2014-15), p. 63.

> employee classifications that had been omitted from the official version of the wage schedule.[144]

DEEWR's assessment of applications

2.74 The ANAO report noted that DEEWR 'considered probity at various stages during the course of implementing EYQF … Probity arrangements were put in place for DEEWR staff involved in the assessment process, including conflict of interest declarations. Conflict of interest declarations were also required from providers applying for EYQF grants'.[145] However, the ANAO found that, while the department 'promptly put in place the necessary arrangements for the assessments to be conducted', the approach taken was 'not underpinned by a probity plan'.[146] The probity arrangements for individuals included 'existing departmental procedures and specific procedures in relation to EYQF'—however, these were 'not fully consistent with each other which increased the risk of inconsistent decision making'.[147] As the ANAO report further noted, the 'approach taken posed a risk and the department could have taken more care in the nature of arrangements put in place':

> The EYQF guidelines indicate in one place that individuals with a potential conflict cannot access information and assess applications where the conflict of interest exists. In one case, a conflict of interest did arise and conflicts of interest were declared by the provider and the staff member concerned. The department advised the ANAO that having considered the declarations and the first-in first-served nature of the program, it was sufficient to exclude the staff member from involvement with the specific application. However, the guidelines also included stronger conflict of interest management processes which indicated that whether the conflict can be avoided or not, the staff member would be excluded from any duty that could be seen to give rise to a conflict of interest. While the guidelines provided two possible management options, applicants could have reasonably expected that their information would not be made available to assessors who had an interest in a competing application.[148]

2.75 In terms of DEEWR's assessment of EYQF applications from the largest providers, the ANAO report noted that, for the 'six largest multi-service

144 ANAO Report No. 23 (2014-15), p. 63, p. 65.
145 ANAO Report No. 23 (2014-15), p. 82.
146 ANAO Report No. 23 (2014-15), p. 81.
147 ANAO Report No. 23 (2014-15), p. 82.
148 ANAO Report No. 23 (2014-15), p. 82.

applications, there was no record kept on the assessment of their services connected to their grant applications. This included the two largest providers; the applications for which were made up of 642 and 42 services, with a total funding commitment of $144.2 million'.[149] The ANAO report further described the assessment process for these applications, noting that, because of the 'risks associated with these two providers which both had representatives on the EYQF advisory board, the applications were assessed by senior assessors':

> In approving this first batch of applications (on 26 July 2013), the delegate was advised that the application with the highest funding value had been assessed electronically due to its size (totalling over 5000 pages). The department confirmed that the assessment included a review of all 642 services on a computer screen. However, other than a minute to the delegate, there is no record of a comprehensive service level assessment for this application. The department advised the ANAO that service level assessment sheets were completed for the other five large multi-service provider applications, but copies of these have not been retained in the department's records. Creating and maintaining appropriate records of assessments is important for reasons of accountability and transparency.[150]

2.76 In terms of DEEWR's records management, the ANAO report observed that:

> the department maintained a central record of the number of applications received (the main record), which included all of the department's completed funding assessment records and was intended to provide a comprehensive record of the assessment process and the final assessment outcome … However, there were inconsistencies between the information recorded in the main record, the individual assessments, and the information provided to the delegate as part of the recommendation for funding. In some instances no record of an assessment could be identified … The department made changes to the main record and as a result, no comprehensive record of the original assessment process under the EYQF has been maintained. Consequently, the department is unable to demonstrate that the assessment approach used for EYQF grants satisfied the requirements of the program guidelines and the CGGs.[151]

149 ANAO Report No. 23 (2014-15), p. 80.

150 ANAO Report No. 23 (2014-15), p. 80.

151 ANAO Report No. 23 (2014-15), pp. 80-81.

2.77 Figure 2.2 sets out key risk management issues with DEEWR's assessment of applications, as identified in the ANAO report.

Figure 2.2 Key risk management issues: DEEWR's assessment of applications

11 resubmitted applications were approved even though they were submitted after other applications had been excluded due to the funding cap being reached … The department's approach to assessing grants was not uniformly followed or documented. The CGGs in place at the time required that entity staff apply sound processes and conduct granting activities in a manner that provides for the equitable treatment of all applicants. In the course of undertaking the assessments, DEEWR waived elements of the eligibility criteria. Not all of these amendments to the grant criteria were documented and applicants were not advised of the changes. Additionally, assessors did not consistently apply the revised criteria ...[152]

The compliance criteria established in the guidelines included a requirement to provide a complete and accurate application form and provide all mandatory attachments, with only fully completed applications being assessed. The guidelines stated that a service which sought to alter or change its application at any time would need to withdraw the initial application and resubmit a new application. Applicants were further advised that no additional information would be sought or follow up undertaken with applicants to clarify information provided in applications … The department formally revised and relaxed some of the compliance requirements. These revisions extended to the department accepting applications that had incomplete application forms or which used the incorrect form and applications where the attachments did not meet the stated requirements … Five sets of revisions in the assessment process were agreed by the program delegate between 23 and 31 July 2013. Applicants were not advised of the revisions …[153]

DEEWR's approach to accepting and assessing applications for the EYQF was inadequate and did not ensure fair treatment of applications during the application process … While there are many benefits to adopting an electronic system, there is also a requirement to adequately manage that system ensuring that it is reliable and provides a robust, accountable and auditable trail of decisions and transactions … while the department identified some risks associated with the electronic submission process the department did not adequately address subsequent issues that emerged. As a consequence, this affected the delivery of EYQF in accordance with the guidelines to the extent that a number of applications were not processed on a first-in, first-served basis … by choosing to accept applications it considered substantially complete rather than completed according to the guidelines, the selection process was no longer equitable, favouring applicants that submitted incomplete and inaccurate applications ahead of applicants that submitted applications which fulfilled all the original criteria.[154]

152 ANAO Report No. 23 (2014-15), p. 25.

153 ANAO Report No. 23 (2014-15), p. 78.

154 ANAO Report No. 23 (2014-15), pp. 86-87.

Other audit matters: EYQF stakeholders

2.78 There was interest in United Voice's response to the ANAO report findings and their view on the first-in first-served approach under EYQF. As noted in the ANAO report, extracts of the audit report were provided to United Voice.[155] Ms Schofield, National Secretary, confirmed that United Voice was provided with an opportunity to review extracts of that report and 'liaised constructively with the Auditor-General's office in reviewing that material. We did not record any formal comment on the report, recognising that the primary point of focus was on the role of the department and the minister's offices in the design and implementation of that policy'.[156] Ms Schofield noted that 'United Voice does not have anything further to add to our previous evidence nor to the findings of the ANAO report'.[157] Ms Schofield further commented that the audit recommendation concerned 'matters of design, management and implementation of government programs' but 'none of these matters substantially impact on United Voice':

> Matters regarding United Voice's involvement in the fund have been comprehensively covered in the Auditor-General's report and by previous parliamentary processes ... Those are matters on the public record, and I have little to add other than of a general nature, particularly as I had no carriage of any responsibilities during the period that the fund was conceived and implemented, as I was not then an officer of the union.[158]

2.79 On whether the ANAO report contained any criticisms of United Voice and, if so, how United Voice had responded, Ms Schofield replied: 'we were invited to make a formal response or record any comment. We did not believe that there were any criticisms or adverse findings in this report against United Voice. That is the reason why we did not record, when the report was tabled, any formal response to the findings'.[159]

---

155 ANAO Report No. 23 (2014-15), p. 27.

156 Ms Schofield, United Voice, *Committee Hansard*, Canberra, 15 October 2015, p. 1.

157 Ms Schofield, United Voice, *Committee Hansard*, Canberra, 15 October 2015, p. 1. Ms Schofield advised that United Voice had provided 'both written and oral evidence' to previous inquiries into EYQF—that is, the Senate Education, Employment and Workplace Relations Legislation Committee inquiry into the Early Years Quality Fund Special Account Bill 2013 and the House of Representatives Standing Committee on Education and Employment inquiry into the Early Years Quality Fund Special Account Bill 2013, p. 1.

158 Ms Schofield, United Voice, *Committee Hansard*, Canberra, 15 October 2015, p. 1. Ms Schofield advised that she was formally elected to position of National Secretary of United Voice on 29 August 2015 and, prior to that, was National President of United Voice, having been elected to that role in September 2014, p. 1.

159 Ms Schofield, United Voice, *Committee Hansard*, Canberra, 15 October 2015, p. 11.

2.80 As to United Voice's view on how the limited EYQF funding—on a first-in first-served basis and estimated to only cover around 30 per cent of all long day care workers—would affect the working conditions and wages of those workers in the sector who did not receive funding, Ms Schofield responded:

> My understanding—and, again, I was not an officer of the union at the time the policy was designed and implemented—was that the union was extremely disappointed that there was not full funding for the Early Years Quality Fund across the sector and that only, I think, $300 million was allocated to the fund. It was then up to the department, and others within government, to design how those funds would be distributed.[160]

2.81 There was also interest in the statement in the ANAO report that the department's role in providing robust advice to Ministers on implementation risks for EYQF was 'made somewhat more challenging … because many of the key elements of the EYQF policy were developed by advisers in the offices of the Prime Minister and Finance Minister in negotiation with the key stakeholder [United Voice[161]] representing child care workers'.[162] As to whether this was a usual occurrence, Ms Schofield responded:

> It is in our members' interests for us to be advocating for good public policy irrespective of which party is in power. I make no apology for that. And I do not think we would be the only union or the only stakeholder group in Australian society—or the only business, for that matter—that takes that course of action. You just have to walk around the corridors of this building and see that there are community organisations, business representatives—this is what we do.[163]

Probity matters and Auditor-General's powers

2.82 Given the issues raised above concerning probity and a number of other audit matters with reference to the EYQF Advisory Board, DEEWR and EYQF stakeholders, there was interest in further exploring these issues with the ANAO—in particular:

160 Ms Schofield, United Voice, *Committee Hansard*, Canberra, 15 October 2015, p. 8.

161 The ANAO confirmed that this 'key stakeholder' was United Voice, Ms Kairouz, ANAO, *Committee Hansard*, Canberra, 28 May 2015, p. 10.

162 ANAO, Audit Report No. 23 (2014-15), p. 19.

163 Ms Schofield, United Voice, *Committee Hansard*, Canberra, 15 October 2015, p. 11.

- to what extent the ANAO had pursued probity investigations concerning DEEWR, the Advisory Board and the then Minister's office
- to what extent the ANAO had investigated communications between DEEWR, Advisory Board members and the then Minister's office, and what powers the ANAO has to investigate such communications
- the scope of the Auditor-General's powers and ANAO performance audits

2.83 As to whether, as part of its audit, the ANAO had investigated communications—emails, telephone calls and face-to-face conversations (through analysing meeting/phone diaries and conducting interviews with staff)—between DEEWR, Advisory Board members and the then Minister's office to further pursue any probity concerns, the Auditor-General responded:

> I will start by making the observation that this was prepared during the time of my predecessor so … I am relying on the documentation advice I have from that period. There is no doubt that the report identifies serious failures within the running of this program and how it operated. The report documents the outcomes. In creating the evidence through the report, there was an investigation of email correspondence between the department and the minister's office, and we did document engagement with stakeholders. The issue that you raise is, I think, on a reading of the report and the outcome, a reasonable question to ask. Looking at the evidence and discussing it with the staff involved leads me to the view that the judgements that they made around evidence that was provided by the players—and the probity framework that was put in place—led to a view that the outcome was achieved without the type of probity concerns that you have identified.[164]

2.84 The ANAO further commented that 'we did not look at phone calls. We did, though, do a search of all emails between the department and the advisory board'.[165] In conducting this search, the ANAO confirmed that they did not investigate email correspondence between Advisory Board members and the then Minister's office outside the department's email systems:

> we did not see any email communication between advisory board members and ministers' offices where a department officer had been involved in that communication. We did not look at emails

164 Mr Grant Hehir, Auditor-General, ANAO, *Committee Hansard*, Canberra, 12 November 2015, p. 1.

165 Ms Kairouz, ANAO, *Committee Hansard*, Canberra, 12 November 2015, p. 1.

> that would have gone directly from the advisory board members to a minister's office …
>
> We did the search through the department's email systems …
>
> So if there had been an email that had gone from an adviser to an advisory board member on a departmental system, it would have come up through our email searching …
>
> We did not go outside. We did not search more broadly outside the department's systems …
>
> So, where there were emails from the department to the advisory board members or if they had come from their minister's office in using departmental systems, they would have been picked up.[166]

2.85 However, it was noted that emails do not always go through departmental systems—as the ANAO acknowledged: 'they may have gone outside the channels that we looked at'.[167] As to whether the ANAO had asked any of the people involved if they had used their private email addresses and, if so, sought access to those records, the Auditor-General further clarified:

> The reason we did not seek that type of information was that we did not follow that line of investigation. If we were following that line of investigation we would have sought that information …
>
> I will allow myself to be corrected on that, but my assumption would be that the scope of the evidence that we were looking at related to the questions that we were following, so we did not actually come to a view. We asked for the email trail between the department, the advisory board—I mean the minister's office—around the questions that we were following, and that was the sensible path to follow.[168]

2.86 The Auditor-General was asked for further clarification as to why that line of investigation was not explored more fully—in particular, whether it was because the ANAO 'saw no evidence that there was an outcome or process that justified such a line of inquiry'. The Auditor-General responded:

> I do not think I quite said that, because I cannot stand in the position of my predecessor with respect to the decisions that were made to follow. What I said was that there was an evidence base around how the system was structured, and that is the probity arrangements and the evidence that we had, including from

166 Ms Kairouz, ANAO, *Committee Hansard*, Canberra, 12 November 2015, pp. 1-2.

167 Ms Kairouz, ANAO, *Committee Hansard*, Canberra, 12 November 2015, p. 2.

168 Mr Hehir, ANAO, *Committee Hansard*, Canberra, 12 November 2015, p. 2.

> Goodstart and the probity adviser, which I would interpret had led to a view that the organisation would not go down that path.[169]

2.87 The ANAO further clarified, 'we knew clearly where Goodstart and the other advisory board members had access to the program guidelines … We saw the difference in the guidelines between when the advisory board saw them, when they were about 45 pages in length, and the final guidelines, which were over 54 pages in length. We saw that the advisory board never saw any application forms'.[170] The ANAO confirmed that members of the Advisory Board therefore saw the draft EYQF guidelines, which subsequently changed, but did not see the final guidelines or the application form until they were released on 19 July at 11 am: 'where they would have been familiar with the general parameters they would not have been familiar with the final guidelines … They did not see the final guidelines … and they saw the application form on that date'.[171]

2.88 As discussed earlier, the Advisory Board made three recommendations to DEEWR on EYQF, which were subsequently accepted and implemented: on provider grant applications, on-costs and splitting the available funding into small and large provider pools.[172] As to how the ANAO viewed the Advisory Board's recommendations and whether any of these recommendations had responded to concerns of particular parts of the sector, the ANAO responded:

> The third [recommendation] was in relation to the 50-50 provider split. Initially there was no limit on the funding—it was one large pool. The advisory board had recommended that they split that into two pools for large and small providers. Their considerations around that were concern that large providers may in fact absorb all the funding before any small providers had an opportunity, so they had recommended it be split into two halves—$150 million each. We did provide comment in the report in relation to the disparity that essentially the large providers were not 50 per cent of the sector … They were a smaller portion, around 20 per cent.[173]

2.89 The ANAO confirmed that the Goodstart application was not the first received—it was 'somewhere between 50 and 60'.[174] There was also interest in Goodstart's evidence that, given there were effectively four days between the sample application forms being available on the

169 Mr Hehir, ANAO, *Committee Hansard*, Canberra, 12 November 2015, p. 3.
170 Ms Kairouz, ANAO, *Committee Hansard*, Canberra, 12 November 2015, p. 3.
171 Ms Kairouz, ANAO, *Committee Hansard*, Canberra, 12 November 2015, p. 3.
172 ANAO, Audit Report No. 23 (2014-15), pp. 16-17, p. 59.
173 Ms Kairouz, ANAO, *Committee Hansard*, Canberra, 12 November 2015, p. 3.
174 Ms Kairouz, ANAO, *Committee Hansard*, Canberra, 12 November 2015, p. 3.

department's website (Friday 19 July, 11am) and the application process opening (Tuesday 23 July, 11am),[175] Goodstart had the 'benefit of having a head office staff of over 300 people, so we were able to put a tender together', working over the weekend.[176] As to whether the ANAO considered this a 'reasonable explanation' for why Goodstart was able to submit a complex application in the time frame, the Auditor-General responded: 'it is the evidence that they have provided. I do not know whether we can make a statement about the accuracy of that. That said, you would expect the more resources you can throw at something the faster you can do it'.[177]

2.90 The ANAO were also asked whether it would have led to further lines of inquiry if the ANAO had regarded it as 'unrealistic' for a provider (whose CEO was also represented on the Advisory Board) to have submitted an application in a particular timeframe. Ms Kairouz, Executive Director, ANAO, responded:

> When we interviewed Goodstart they advised us that they had pooled their resources. They had systems that they could draw on in relation to their payroll, which meant that they could collate the information and get prepared for getting the application in, as soon as they could, when applications opened. I want to note, too, that there was another provider on the board—that was Guardian as well.[178]

2.91 In terms of the probity arrangements for the Advisory Board, the ANAO confirmed that a probity adviser was present at Advisory Board meetings.[179] The ANAO also highlighted that 'in correspondence from the probity adviser to the department, the probity adviser notes that, "In our view, to the extent we have been involved or consulted, the advisory board meetings have been conducted in accordance with the advisory board governance charter and have complied with applicable Commonwealth policies and probity principles"'.[180]

---

175 ANAO, Audit Report No. 23 (2014-15), pp. 66-67.

176 Ms Davison, Goodstart, *Committee Hansard*, Canberra, 15 October 2015, p. 16.

177 Mr Hehir, ANAO, *Committee Hansard*, Canberra, 12 November 2015, p. 4.

178 Ms Kairouz, ANAO, *Committee Hansard*, Canberra, 12 November 2015, p. 4. Ms Kairouz confirmed that Guardian had also made an application for EYQF funding: 'they were provided with a conditional letter of offer on 1 August … It was for funding of $12 million. They did not get a final funding agreement. Their enterprise agreement was not ready in time', p. 4.

179 Ms Kairouz, ANAO, *Committee Hansard*, Canberra, 12 November 2015, p. 4.

180 Ms Kairouz, ANAO, *Committee Hansard*, Canberra, 12 November 2015, p. 4.

2.92 Asked if he was able to make 'generic observational comments' concerning anyone having 'inside running' regarding EYQF, the Auditor-General responded:

> I think we can make generic comments, as we do in the report, about whether the communications strategy is appropriate for this type of program. But for the question that you are asking, it would be very difficult for us to make that comment and not to have investigated it. If we thought that someone had an inside running due to a lack of probity, the Audit Office would have to chase that rabbit down the burrow. That is what we do. So it would be very unlikely that we would make that sort of comment because, to make it, we would have to investigate it. To think about making it would force us to investigate it.[181]

2.93 A further matter raised was whether the delayed advice to some EYQF applicants that the funding cap had been reached, and the advice to other applicants that they reapply for funding even though the funding cap had been reached,[182] could be construed as 'deceptive behaviour' by DEEWR; the ANAO responded that it 'certainly was not best practice'.[183] As the Auditor-General further noted: 'I think our report makes very clear all of those issues and we make them clear in the context that that is not how a program should be implemented'.[184]

2.94 In terms of the scope of the Auditor-General's powers, s8(4) of the *Auditor-General Act 1997* states that the 'Auditor-General has complete discretion in the performance or exercise of his or her functions or powers. In particular, the Auditor-General is not subject to direction from anyone in relation to … (b) the way in which a particular audit is to be conducted; or (c) the priority to be given to any particular matter'. Section 17(1) states that the 'Auditor-General may at any time conduct a performance audit of: (a) a Commonwealth entity; or (b) a Commonwealth company; or (c) a subsidiary of a corporate Commonwealth entity or a Commonwealth company'. Section 17(6)(a) states that 'a Commonwealth entity is taken not to include any persons who are … employed or engaged under the *Members of Parliament (Staff) Act 1984*'.

---

181 Mr Hehir, ANAO, *Committee Hansard*, Canberra, 12 November 2015, p. 4.

182 As ANAO report noted, 'there were 554 additional submissions registered … after the funding cap was reached' and advice to applicants that the funding cap had been reached was 'unreasonably delayed'—some unsuccessful applicants received 'letters of advice suggesting they reapply for funding when the department knew there was no funding available', with re-submitted applications being received from 15 applicants who acted on this advice, ANAO, Audit Report No. 23 (2014-15), p. 92, p. 100.

183 Ms Kairouz, ANAO, *Committee Hansard*, Canberra, 12 November 2015, p. 5.

184 Mr Hehir, ANAO, *Committee Hansard*, Canberra, 12 November 2015, p. 4.

2.95 One issue of interest here was understanding the Auditor-General's specific powers and responsibilities, and limits to those powers and responsibilities, if the ANAO identifies misconduct, fraud and/or corruption in a performance audit. The Auditor-General provided a response to a question on notice on this matter, as follows:

> The *Auditor-General Act 1997* does not contain specific provisions relating to misconduct, fraud or corruption, however, section 36(2) of the Act provides authority for information obtained during the course of an audit or other function of the Auditor-General to be referred to the Commissioner of the Australian Federal Police if the Auditor-General considers it in the public interest to do so. Further, section 36(2A) of the Act provides for the disclosure of information to another person, under section 23A when such disclosure will assist in the conduct of an audit.[185]

2.96 The ANAO also provided information on the Auditor-General's audit powers to investigate telephone calls, confirming that the Auditor-General would be able to 'obtain phone records (e.g. telephone numbers of parties to a call and the time and duration of calls) where appropriate in the performance of relevant functions'.[186]

2.97 In terms of the scope of ANAO performance audits, the ANAO confirmed that its audits extend beyond whether something is best practice and include investigating probity issues.[187] ANAO reports typically set out the audit objective, scope, criteria and approach. The Auditor-General confirmed that in the EYQF audit, 'like all others the audit scope was carefully defined and the audit object was directed at the department. The approach applied to the audit methodology was directed towards meeting the audit objective'.[188]

2.98 A final matter raised at the public hearing was whether there might be a need for the ANAO to review its audit investigation process based on the EYQF audit—whether, with the benefit of hindsight, there might be other avenues the ANAO might pursue in future that it did not pursue in this case.[189]

185 ANAO, *Submission 2.2*, p. 1.

186 ANAO, *Submission 2.3*, p. 1.

187 Mr Hehir, ANAO, *Committee Hansard*, Canberra, 12 November 2015, p. 4.

188 Mr Hehir, 'Opening statement', *Submission 2.1*, p. 1.

189 Hon Ian Macfarlane MP, Chair, JCPAA, *Committee Hansard*, Canberra, 12 November 2015, p. 5.

Caretaker period and EYQF finalisation

2.99 Over the caretaker period,[190] the ordinary business of government is expected to continue—the caretaker conventions are 'flexible rules' that have evolved in response to circumstance; 'they are generally agreed by all, but may not be codified in precise terms'.[191] The conventions that apply during an election include that a 'government avoids entering major contracts or undertakings unless necessary, in which event the Minister would usually be expected to consult the opposition beforehand'.[192] PM&C has the role of providing information and advice to agencies about the caretaker conventions, but 'responsibility for observing the conventions ultimately rests with entity heads or Ministers'.[193]

2.100 As previously discussed, 16 funding agreements were finalised before EYQF was terminated, with this occurring 'one day before the 2013 Federal election during the caretaker period'.[194] The then Minister, 'consistent with the caretaker conventions, corresponded with the relevant Opposition spokesperson, prior to the agreements being finalised. No response was received and the caretaker Minister directed the department to proceed with issuing the funding agreements'.[195] Figure 2.3 sets out the sequence of events concerning EYQF over the caretaker period.

2.101 There was interest at the public hearings in further exploring the arrangements for EYQF over the caretaker period. Ms Wilson, Deputy Secretary, DSS confirmed that no response was received from the shadow minister to the then Minister's correspondence of 30 August 2013 consulting on the EYQF funding agreements over the caretaker period and that this was taken as consent, with funding agreements then being entered into.[196]

190 During the period preceding an election the government assumes a caretaker role, which begins at the time the House of Representatives is dissolved and continues until the new government is appointed, ANAO, Audit Report No. 23 (2014-15), p. 94. See also PM&C, *Guidance on Caretaker Conventions*, 2013.

191 ANAO, Audit Report No. 23 (2014-15), p. 94.

192 ANAO, Audit Report No. 23 (2014-15), p. 94.

193 ANAO, Audit Report No. 23 (2014-15), p. 94.

194 ANAO, Audit Report No. 23 (2014-15), p. 100.

195 ANAO, Audit Report No. 23 (2014-15), p. 27.

196 Ms Wilson, DSS, *Committee Hansard*, Canberra, 28 May 2015, p. 8.

Figure 2.3 EYQF sequence of events over the caretaker period

The caretaker period for the 2013 Federal election began on 5 August 2013, and ended with the swearing-in of the new government on 18 September 2013 … The department approached PM&C for advice on executing all 453 funding agreements early in the caretaker period. PM&C's advice noted that the allocations to the three large service providers were major commitments and that while the payments to small providers may not have constituted major commitments they may have the effect of entrenching the program. If the department was required to proceed during the caretaker period, PM&C noted it would be advisable for the Minister to consult with the opposition prior to finalising any grant payments.

The Minister agreed to consult with the opposition in relation to the agreements … The Minister's correspondence to the opposition spokesperson on 30 August 2013 indicated the government's intention to execute the funding agreement for Goodstart Early Learning … The opposition spokesperson was asked to respond to the request by 4 September 2013.

The Minister wrote to the Secretary of DEEWR on 4 September to ask her 'to ensure the expeditious processing of agreements' … After receiving advice from PM&C, the department decided to action this letter as if it were a direction. PM&C also advised the department that if the opposition spokesperson failed to respond to the Minister's letter, it could be taken to mean the opposition had no objection, and a decision to continue to send out and process returned agreements in the remaining caretaker period would be defensible, however, advising recipients to expedite their responses would not be considered appropriate.

After the opposition spokesperson did not respond to the Minister's letter in the time provided, the Minister's office formally instructed the department to execute the funding agreement for Goodstart Early Learning. The Minister's office also requested the department provide funding agreements to the other 15 providers.

On 6 September 2013, the then Opposition released its policy for *Better Child Care and Early Learning*; announced the Ministerial review of the EYQF; and stated it would honour the payment of funds already contracted at the time of the election. The department, in consultation with PM&C, affirmed that it would continue to process contracts in the normal course of business, but in the event of a change in government, would not enter into any new contracts. Twelve funding agreements were finalised on 6 September 2013, signed by both the Commonwealth and the respective providers; the remaining four agreements were not signed by both parties prior to the election, but were considered to have the same legal status as those that had been formally executed ... the government subsequently made a commitment to honour the funding agreements for these 16 providers (for the first year of funding 2013-14), but that no further expenditure would be approved.[197]

197 ANAO, Audit Report No. 23 (2014-15), pp. 94-98.

2.102 Discussion ensued as to what might constitute appropriate consultation with the Opposition over the caretaker period. It was confirmed that the correspondence from the Minister to the shadow minister was addressed to Parliament House.[198] This in turn led to interest in whether sending such correspondence to a Parliament House address—when as a 'general rule, no MP attends Parliament House or has staff in Parliament House during an election campaign'—would be fulfilling the requirement of consulting a shadow minister. Further, noting that 30 August 2013 was a Friday and that the request was for a response was by 4 September 2013, PM&C were also asked whether sending correspondence to a Parliament House office in this timeframe was an 'adequate attempt' to consult with the Opposition during an election campaign given that no response was to be taken as consent. PM&C responded that 'PM&C's advice simply went to the best practice under the caretaker conventions to consult the opposition in these circumstances. It is a matter for the caretaker minister how to conduct that consultation':

> The advice that PM&C provided to the department at the time was initially that in the circumstances consultation with the opposition should be contemplated. After the then minister consulted the opposition by correspondence we were consulted again by the department about the treatment of the program. The advice we provided at that stage was that the correspondence and the lack of response to that correspondence was sufficient consultation under the caretaker conventions.[199]

2.103 The public hearings further explored whether it constituted best practice, in terms of a 'genuine attempt' to consult the Opposition, to write a letter to a Parliament House office and not use telephone or email. Mr Rush, PM&C, responded: 'I would agree that the conventions would suggest a genuine attempt at consultation should be made'.[200] The ANAO confirmed that they had not discussed this matter with the then Minister and their office and so were not aware whether a scanned copy of the correspondence had in fact been emailed to the shadow minister or there had been an attempt to make a telephone call.[201] Mr Peter Rush, Assistant Secretary, Parliamentary and Government Branch, PM&C, also observed:

198 Mr Kairouz, ANAO, *Committee Hansard*, Canberra, 28 May 2015, p. 10.

199 Mr Peter Rush, Assistant Secretary, Parliamentary and Government Branch, Government Division, PM&C, *Committee Hansard*, Canberra, 28 May 2015, p. 11.

200 Mr Rush, PM&C, *Committee Hansard*, Canberra, 28 May 2015, p. 11.

201 Ms Kairouz, ANAO, *Committee Hansard*, Canberra, 28 May 2015, p. 12.

'I am not aware whether the minister or the minister's office at the time followed up on that correspondence with the opposition spokesperson'.[202]

2.104 The ANAO report noted that PM&C had 'advised the department that if the opposition spokesperson failed to respond to the Minister's letter, it could be taken to mean the opposition had no objection, and a decision to continue to send out and process returned agreements in the remaining caretaker period would be defensible'.[203] PM&C were asked if they considered such a practice as representing 'sufficient consultation' under the caretaker conventions. PM&C confirmed that the department was 'aware that the correspondence had been actioned between the caretaker minister and the opposition spokesperson and there was a deadline provided in that correspondence. After that deadline we considered that it was reasonable to consider that the consultation had been made'.[204] PM&C acknowledged that, 'if there had been more time and other actions were taken on the consultation, that may have made it a more complete consultation process, but there was not. There clearly was not very much time between the date of that consultation correspondence and the wishes of the caretaker minister at the time to proceed with the program'.[205]

2.105 PM&C confirmed that the 'senior officer at PM&C at the time made a decision to provide advice which included that that consultation was sufficient for the department to continue with the normal day-to-day business of the program'.[206] PM&C also confirmed that no further investigation on this matter at the time by PM&C had occurred.[207] PM&C further clarified that it is 'not PM&C's role to make decisions in these things. We simply try to provide advice to interpret the caretaker conventions'.[208]

2.106 As to whether PM&C had any guidelines in terms of what would constitute a 'genuine attempt' to consult with the Opposition during the caretaker period, PM&C confirmed: 'we do not have specific guidelines of that kind'.[209]

---

202 Mr Rush, PM&C, *Committee Hansard*, Canberra, 28 May 2015, p. 11.

203 ANAO, Audit Report No. 23 (2014-15), p. 96.

204 Mr Rush, PM&C, *Committee Hansard*, Canberra, 28 May 2015, p. 11.

205 Mr Rush, PM&C, *Committee Hansard*, Canberra, 28 May 2015, p. 11-12.

206 Mr Rush, PM&C, *Committee Hansard*, Canberra, 28 May 2015, p. 12. PM&C clarified that this decision was made by a 'former Assistant Secretary of the Department then engaged on a short term contract during the 2013 caretaker period as a Special Adviser', PM&C, *Submission 2*, p. 1.

207 Mr Rush, PM&C, *Committee Hansard*, Canberra, 28 May 2015, p. 12.

208 Mr Rush, PM&C, *Committee Hansard*, Canberra, 28 May 2015, p. 12.

209 Mr Rush, PM&C, *Committee Hansard*, Canberra, 28 May 2015, p. 11.

2.107 In terms of the finalisation of EYQF, 12 funding agreements were finalised on 6 September 2013, signed by both the Commonwealth and the respective providers; the remaining four agreements were not signed by both parties prior to the election, but were considered to have the same legal status as those that had been formally executed.[210] On announcing the decision to terminate the EYQF on 10 December 2013, following the election of the new Government, the Assistant Minister invited these 16 providers to 'waive their entitlements under the funding agreement, so the entire $300 million would be available for the new program':

> This advice was then overtaken when the government subsequently made a commitment to honour the funding agreements for these 16 providers (for the first year of funding 2013-14), but that no further expenditure would be approved. This meant that the department would only pay the first instalment under each provider's funding agreement. The providers were also asked to vary their funding agreements to be used for professional development rather than wages.
>
> Of the 16 providers that had received EYQF funding agreements 11 elected not to vary their original funding agreements. Three other providers agreed to use funding for professional development and wages, and the remaining two agreed to use funding solely for professional development. Deeds of variation were prepared for all 16 providers reflecting the variations to the total funding, and for five providers, the amended purposes for which the funding was to be used.[211]

2.108 Table 2.3 sets out the finalisation timeframe for EYQF.

Table 2.3 EYQF finalisation timeframe

Event	*Date*
Conditional offers of funding for 453 successful applications	Early August 2013
44 providers met conditions of offer	Late August 2013
Funding agreements sent to one large provider (Goodstart Early Learning) for $132 million and 15 small providers for $5 million	By close of business 6 September 2013
Federal election	7 September 2013
Conditional funding offers for remaining applications (made August 2013) revoked	11 October 2013
PricewaterhouseCoopers Australia review of EYQF released	10 December 2013
Funding agreements renegotiated for 16 providers, with $62.5 million paid	As at 30 June 2014

Source *ANAO, Audit Report No. 23 (2014-15), pp. 17-18, 21, 39*

210 ANAO, Audit Report No. 23 (2014-15), p. 97.

211 ANAO, Audit Report No. 23 (2014-15), p. 98.

2.109 On 6 September 2013 the then Opposition 'released its policy for *Better Child Care and Early Learning*; announced the Ministerial review of the EYQF; and stated it would honour the payment of funds already contracted at the time of the election'.[212] There was interest in understanding how these payments had been 'honoured'. Ms Wilson, Deputy Secretary, DSS, responded:

> in caretaker, pre-election mode, this government had said that it wanted a review and it wanted more equitable distribution, and what it did after the review, not before the review, highlighted to those providers the dissatisfaction of others in the long day care sector about the outcomes and asked for them to work with government to find a better way to distribute this money more equitably …
>
> those 16 have agreed with the change in approach. Our view would be that that was honouring. We made the first payments on the first instalments, and that was our legal advice at the time.[213]

2.110 Ms Wilson confirmed that the funding agreements had contained provisions for additional payments beyond the first round, but that 'Minister Ley also made the statement that she did not think that was the best use of the resources available to the sector and that it was a significant amount of money':

> There was correspondence to those 16 providers which basically said she would like to make the payments broadly available to all services in the long day care sector … highlighting the fact that the basis of the signing of those agreements meant that the first instalment was due but questioned the ongoing instalments.[214]

2.111 These matters were further discussed with Ms Davison, Chief Executive Officer, Goodstart. As to whether the then Opposition's statement about honouring contracts gave them 'some confidence' that it would receive the allocated funds, Ms Davison responded: 'yes, it did'.[215] As to the impact on the organisation of the Government's subsequent commitment to 'only pay the first instalment under each provider's funding agreement',[216] Ms Davison responded:

> We had a challenging few months in our organisation with the union and our staff being very concerned about whether they were

212 ANAO, Audit Report No. 23 (2014-15), p. 97.

213 Ms Wilson, DSS, *Committee Hansard*, Canberra, 28 May 2015, pp. 9-10.

214 Ms Wilson, DSS, *Committee Hansard*, Canberra, 28 May 2015, p. 9.

215 Ms Davison, Goodstart, *Committee Hansard*, Canberra, 15 October 2015, p. 13.

216 ANAO, Audit Report No. 23 (2014-15), p. 98.

going to receive the payment that they were expecting. I had numerous emails from staff members asking me when they were going to get the money. At one point, the union heard that they thought we were going to 'give the money back to government' and they actually lodged a grievance around that. At the same time, we had other people in the sector expressing their views as to whether it was fair that Goodstart staff received a payment when other staff did not. We obviously had a lot of internal conversations around that. At the end of the day, Goodstart board and executives felt very strongly that we had a workforce who were very lowly paid, and we had a contract with the government and the money that we were entitled to receive we should receive and pass it on …

On the organisation, it was nothing because the organisation itself did not benefit from the payment. But for individual workers, at the end of the day, they received half of what they would have received had the government paid us the full $132 million.[217]

217 Ms Davison, Goodstart, *Committee Hansard*, Canberra, 15 October 2015, p. 13. See also on this matter, Goodstart, *Submission 6*, pp. 3-4.

3

Committee comment

First-in first-served approach to allocating EYQF grants

3.1 'First-in first-served' was a demand-driven approach to allocating Early Years Quality Fund (EYQF) grants. This is an allowed approach under the Commonwealth Grants Rules and Guidelines (CGRGs).[1] However, the Joint Committee of Public Accounts and Audit (JCPAA) points to a number of concerns with the first-in first served approach under EYQF:

- firstly, the CGRGs emphasise that 'competitive, merit-based selection processes can achieve better outcomes' and that these processes 'should' be used to allocate grants, unless specifically agreed otherwise by a Minister, accountable authority or delegate[2]
- secondly, the CGRGs state that, where a method other than a competitive merit-based selection process is planned to be used, 'officials should document why this approach will be used'[3]—the Australian National Audit Office (ANAO) report concluded that the determination of the first-in first-served grant selection process was 'not well documented' in the development of EYQF[4]
- thirdly, the CGRGs also state that, in determining the most appropriate grant selection process, 'officials should consider and document a range of issues associated with the available options, such as … policy

1 Commonwealth Grants Rules and Guidelines (CGRGs), Department of Finance (Finance), July 2014, p. 36. (Similar arrangements existed under the former Commonwealth Grants Guidelines (CGGs), which also allowed for a demand-driven process—see ANAO, *Administration of the Early Years Quality Fund*, Audit Report No. 23 (2014-15), p. 36. This report makes a number of references to relevant sections of the CGRGs for comparison purposes but notes that departments were audited against the CGGs.)

2 CGRGs, Finance, July 2014, p. 30.

3 CGRGs, Finance, July 2014, p. 30.

4 ANAO, Audit Report No. 23 (2014-15), p. 49.

outcome concerns against the advantages and disadvantages [and] risk analysis of the proposed process'[5]—the Auditor-General noted that there were gaps in advice from the Department of Education, Employment and Workplace Relations (DEEWR) on a number of significant matters at different times, including the inherent risks in the use of a demand-driven grants application process[6]

- fourthly, the ANAO report concluded that 'key risks' evident in the design of the first-in first-served policy were compounded by 'inadequacies' in the department's subsequent administration of EYQF[7]
- finally, when asked about the first-in first-served approach, the Auditor-General observed: 'I do not recall any other example like this. I think it is quite an unusual set of circumstances here'[8]

3.2 The Committee believes that references in the CGRGs to demand-driven grants programs need to be amended to explicitly refer to the risks of a first-in first-served approach.

Recommendation 1

3.3 **The Committee recommends that:**

- **the Department of Finance amend references to demand-driven grant programs in the Commonwealth Grants Rules and Guidelines to explicitly refer to the implementation risks of a 'first-in first-served' approach, as outlined in ANAO Report No. 23 (2014-15) and the Committee's report**
- **the Australian National Audit Office also consider updating its guide on *Implementing Better Practice Grants Administration* to reflect this point**

Establishment of EYQF and departmental ministerial advice

3.4 As discussed above, the Auditor-General made specific findings about DEEWR's 'variable' advice to its then Minister concerning EYQF, emphasising that it was 'foreseeable' the inherent risks in the program—particularly the funding constraints, the first-in first-served approach and the short timeframe—would affect access to the program and its ultimate

5 CGRGs, Finance, July 2014, p. 36.

6 Mr Ian McPhee, Auditor-General, ANAO, 'Opening statement', *Submission 2*, p. 2. The new Auditor-General, Mr Grant Hehir, commenced on 11 June 2015. As both Auditors-General provided evidence to this inquiry, they are identified by name in references.

7 ANAO, Audit Report No. 23 (2014-15), p. 20.

8 Mr McPhee, ANAO, *Committee Hansard*, Canberra, 28 May 2015, p. 6.

success.[9] The Committee notes the statement of a previous DEEWR senior official that 'we accept that there were probably more opportunities to highlight the risks in different steps of the process'.[10]

3.5 However, it is also noted that the Auditor-General acknowledged the challenges DEEWR faced in this respect: 'the report makes it clear that the design was done in ministers' offices; ministers exchanged correspondence; there was not a cabinet process; and the department was left with the implementation'.[11]

3.6 Nevertheless, the Auditor-General highlighted the important point that, 'while at the end of the day, the departments and everyone accept that the government is entitled to make the decisions they make', the ANAO would say, in seeing these circumstances, that it is very important for departments to be 'very candid' with ministers about the inevitable risks and how best they might be managed in that circumstance.[12]

3.7 The ANAO emphasised that a key lesson arising from implementation of EYQF applicable to all Commonwealth entities is the importance of departments providing frank, comprehensive and timely advice to Ministers in relation to implementation risks and opportunities to mitigate these risks where possible.[13]

3.8 Providing well-founded policy advice to the Government is a core function of the Australian Public Service (APS)—the APS Code of Conduct values include 'responsiveness through providing frank, honest, comprehensive, accurate and timely advice to the government and in implementing the government's policies and programs'.[14] The Committee is of the view that better practice in this area could be encouraged by reinforcing, improving consistency and updating the linkages between relevant sections of: the APS 'Code of conduct'; the PM&C 'Toolkit on implementation';[15] the *Commonwealth Risk Management Policy*; and the joint PM&C/ANAO Better Practice Guide on *Successful Implementation of Policy Initiatives*.

3.9 The CGRGs also refer to the need to effectively advise ministers on program implementation risks. As the *Successful Implementation of Policy Initiatives* guide states, a policy initiative is more likely to achieve its

9 Mr Grant Hehir, Auditor-General, ANAO, 'Opening statement', *Submission 2.1*, p. 1.

10 Ms Jackie Wilson, Deputy Secretary, DSS, *Committee Hansard*, Canberra, 28 May 2015, p. 6.

11 Mr McPhee, ANAO, *Committee Hansard*, Canberra, 28 May 2015, p. 6.

12 Mr McPhee, ANAO, *Committee Hansard*, Canberra, 28 May 2015, p. 6.

13 ANAO, Audit Report No. 23 (2014-15), p. 29.

14 ANAO, Audit Report No. 23 (2014-15), p. 43.

15 See PM&C website, http://www.dpmc.gov.au/pmc/implementation/principles-implementation.

intended outcomes when the question of 'how the policy is to be implemented has been an integral part of policy design'.[16] The Committee believes the requirement in the CGRGs—that, where a method other than a competitive merit-based selection process is planned to be used, officials document why such an approach will be used—should therefore be expanded to specify that officials also document how the approach has been developed, how implementation considerations have been taken into account in the policy design and that a risk management plan has been completed. The ANAO Better Practice Guide on *Implementing Better Practice Grants Administration* (December 2013) could also be usefully updated on this point.

3.10 The Committee further points to the importance of Cabinet processes in grants policy implementation, and suggests that references to these processes could be usefully reinforced in relevant guidance.

Recommendation 2

3.11 **To encourage more effective departmental advice to ministers on program implementation risks, the Committee recommends the Department of Finance amend the Commonwealth Grants Rules and Guidelines to specify that, where a method other than a competitive merit-based selection process is planned to be used, officials also document, in the policy design phase:**

- **how the approach has been developed**
- **how implementation considerations have been taken into account in the policy design**
- **that a risk management plan has been completed for the proposed process, including on program implementation risks and opportunities to mitigate those risks where possible**

The above matters should also be included in departmental ministerial advice.

Departmental grants administration: DEEWR/Education and Training

3.12 The Committee is concerned by the significant deficiencies in the administration of EYQF, noting that a key conclusion of the ANAO audit was that DEEWR did not demonstrate a disciplined approach to the

16 ANAO and PM&C, *Successful Implementation of Policy Initiatives*, Better Practice Guide, October 2014, p. 13.

administration of EYQF that satisfied requirements of the program guidelines and the then Commonwealth Grant Guidelines (CGGs).[17]

3.13 While the Committee recognises the particular issues that arose with EYQF—that to some extent the development of key policy elements prior to any significant involvement of DEEWR presented challenges to successful implementation'[18]—the department fell short of grant administration basics across a wide range of areas. The ANAO report described the department's approach to accepting and assessing applications for EYQF as 'inadequate' and as failing to ensure fair treatment of applications during the application process.[19] There were also issues with the department not documenting significant decisions made during the grants assessment process or keeping clear and complete records.

3.14 Based on these findings, the ANAO directed a recommendation towards Education and Training,[20] focused on improving the equity, transparency and accountability of the department's future grants program administration. The Committee reinforces the obligation for Education and Training to manage all aspects of the grant process in accordance with approved program guidelines and the CGRGs.

3.15 The Committee notes that Education and Training agreed to the ANAO recommendation. At the public hearings, the department provided a brief update on its progress in implementing the recommendation but did not provide a detailed implementation plan, outlining key dates and milestones. Given the seriousness of the ANAO's findings, the Committee believes there would be merit in the ANAO conducting follow-up audits of the effectiveness of Education and Training's grants administration. In the interim, Education and Training should update the Committee on its progress in this area, after six months. The Committee also believes there would be merit in the ANAO updating its Better Practice Guide, *Implementing Better Practice Grants Administration*, as required, to reflect the findings of the EYQF audit in this area.

17 Mr McPhee, ANAO, 'Opening statement', *Submission 2*, p. 3.

18 ANAO, Audit Report No. 23 (2014-15), p. 20.

19 ANAO, Audit Report No. 23 (2014-15), p. 86.

20 While DEEWR implemented EYQF, Education and Training took carriage of the program following the 2013 Federal election.

Recommendation 3

3.16 **The Committee recommends that the Australian National Audit Office consider including in its schedule of performance audits priority follow-up audits of the effectiveness of grants program administration by the Department of Education and Training.**

Recommendation 4

3.17 **The Committee recommends that the Department of Education and Training report to the Committee, no later than six months after the tabling of this report, on its progress towards implementing the Auditor-General's recommendation in ANAO Report No. 23 (2014-15), including details of staff training in this area and planning for grants program implementation risks.**

Probity, transparency and other audit matters

3.18 'Probity and transparency' is one of the seven key principles for grants administration in the CGRGs, with section 13 of the CGRGs, on 'Probity and transparency', setting out the requirements in this area.

3.19 On probity matters concerning the EYQF Advisory Board, the ANAO report stated that the 'probity adviser signed off on the process, indicating that the board meetings had been conducted in accordance with the advisory board charter and the policies of the Commonwealth'.[21] The PWC report stated that 'no evidence has been presented in this review that indicates the two large providers on the Board benefited in any additional way from having representation on the Board, and no adverse finding is made in this report'.[22]

3.20 On probity matters concerning DEEWR and EYQF stakeholders, the ANAO report also highlighted that:

- DEEWR considered probity at various stages during the course of implementing the EYQF and it was emphasised in the management of the advisory board. Probity arrangements were put in place for DEEWR staff involved in the assessment process, including conflict of interest declarations. Conflict of

21 ANAO, Audit Report No. 23 (2014-15), p. 57.

22 PwC, *Ministerial Review of the EYQF*, November 2013, p. vii.

interest declarations were also required from providers applying for EYQF grants[23]

3.21 The Committee further notes the Auditor-General's overall conclusion that, while the audit report on the administration of EYQF identified 'serious failures' with the operation of the program and documented that outcome, the judgements the ANAO made around evidence and the probity framework put in place led to a view that that outcome was achieved 'without the type of probity concerns' identified.[24] As the Auditor-General also observed: 'if we thought that someone had an inside running due to a lack of probity, the Audit Office would have to chase that rabbit down the burrow. That is what we do'.[25]

3.22 At the public hearings, the Committee explored a number of potential probity and transparency concerns regarding EYQF. The Committee notes that, as set out in the CGRGs, probity and transparency in grants administration is 'achieved by ensuring: that decisions relating to granting activity are impartial; appropriately documented and reported; publicly defensible; and lawful'. A conflict of interest arises where a person makes a 'decision or exercises a power in a way that may be, or may be perceived to be, influenced by either material personal interests (financial or non-financial) or material personal associations'. Further, 'officials should establish transparent processes which help manage misconceptions and the potential for personal or related party gain' and 'should ensure that decisions in relation to the approval of applications for grants are transparent, well documented and consistent with the legislative and policy requirements'.[26]

3.23 The Committee maintains that its concerns about the EYQF Advisory Board were compounded by inadequacies in DEEWR's subsequent administration of EYQF. Because of the litany of concerns here, the Committee provides a detailed list below:

- the Advisory Board had an 'important role' in the program's implementation, through the 'provision of advice to the department on how grants would be accessed by a range of providers and direction in the development of the program guidelines'[27]
- DEEWR 'recommended to the Minister that, with one exception, early childhood employer and employee organisations should not be invited to join the board to avoid perceived or real conflicts of interest' —

23 ANAO, Audit Report No. 23 (2014-15), p. 82.

24 Mr Hehir, ANAO, *Committee Hansard*, Canberra, 12 November 2015, p. 1.

25 Mr Hehir, ANAO, *Committee Hansard*, Canberra, 12 November 2015, p. 4.

26 CGRGs, Finance, July 2014, pp. 34-35.

27 ANAO, Audit Report No. 23 (2014-15), p. 54.

however, such organisations were appointed and some board members 'would be required to remove themselves from discussions on the development of funding agreements'[28]

- membership of the Advisory Board included the Chief Executive Officer of Goodstart, the largest provider of long day care
- announcement of the membership of the Advisory Board and its terms of reference 'met with a mixed reaction from the peak bodies and other stakeholders'—accordingly, a probity adviser attended 'all of the board meetings due to actual and perceived conflicts of interest associated with the board membership'[29]
- there was 'no departmental record of any members or their proxy withdrawing themselves from meetings during the discussions of subjects which might conflict with their position, such as details and requirements in the development of application forms and processes'[30]
- the Advisory Board, which had members from two large providers of long day care (Goodstart and Guardian), recommended splitting EYQF funding, 50:50, into small and large provider pools—however, this created a 'disparity', in that large providers were not 50 per cent of the sector but around 20 per cent, thereby reducing the available funding to smaller providers by $93 million.[31] The board's recommendation was based on concerns that the administrative complexity of the application process would disadvantage small providers. The recommendation sought to address the disadvantage small providers have in completing applications, particularly ones that require an Enterprise Agreement to be in place[32]
- in briefing their Minister on the above Advisory Board recommendation, DEEWR did not draw 'adequate attention' to the potential impact of the change on small providers and the disproportionate distribution that would result, and correspondence prepared by the department for the Minister's signature, to seek authority for the change from the Prime Minister, was 'ambiguous and described the funding split as promoting equitable access to the fund'[33]

28 ANAO, Audit Report No. 23 (2014-15), p. 56.

29 ANAO, Audit Report No. 23 (2014-15), pp. 56-57.

30 ANAO, Audit Report No. 23 (2014-15), p. 57.

31 ANAO, Audit Report No. 23 (2014-15), p. 24, p. 60, p. 65.

32 Ms Edel Kairouz, Executive Director, ANAO, *Committee Hansard*, Canberra, 12 November 2015, p. 3, and ANAO, Audit Report No. 23 (2014-15), pp. 60-61.

33 ANAO, Audit Report No. 23 (2014-15), pp. 60-61.

- DEEWR did not consider the risk presented by some providers having early access to the EYQF wage schedule, prior to the release of the guidelines—it 'did not consider that these providers could be advantaged through their early access', put in place any remedy to the situation or raise the issue with the then Minister[34]
- DEEWR was 'unable to demonstrate that the assessment approach used for EYQF grants satisfied the requirements of the program guidelines and the CGGs'[35]
- by choosing to accept applications DEEWR considered substantially complete rather than completed according to the guidelines, the selection process was 'no longer equitable', favouring applicants submitting incomplete and inaccurate applications ahead of applicants submitting applications that fulfilled all the original criteria[36]
- DEEWR's approach to accepting and assessing applications for EYQF was 'inadequate' and 'did not ensure fair treatment of applications during the application process', such that a 'number of applications were not processed on a first-in, first-served basis'—11 resubmitted applications were approved even though they were submitted after other applications had been excluded due to the funding cap being reached[37]
- DEEWR's approach to assessing grants was not uniformly followed or documented. In the course of undertaking the assessments, DEEWR waived elements of the eligibility criteria. Not all of these amendments to the grant criteria were documented and applicants were not advised of the changes; additionally, assessors did not consistently apply the revised criteria—five sets of revisions in the assessment process were agreed by the program delegate between 23 and 31 July 2013; applicants were not advised of the revisions[38]
- Goodstart, which was on the Advisory Board, was the first large provider to lodge a completed application[39] and received the largest allocation of EYQF funding ($132 million, which was: 96% of the $137 million allocated to all providers as at close of business 6 September 2013; 88% of the original $150 million large provider commitment; and 44% of the original $300 million total program

34 ANAO Report No. 23 (2014-15), p. 63.
35 ANAO, Audit Report No. 23 (2014-15), p. 81.
36 ANAO Report No. 23 (2014-15), p. 87.
37 ANAO Report No. 23 (2014-15), p. 25, pp. 87-88.
38 ANAO Report No. 23 (2014-15), p. 25, p. 78.
39 Mr David De Silva, Group Manager, DSS, *Committee Hansard*, Canberra, 28 May 2015, p. 2.

commitment[40]). There were between 27 and 37 completed applications by small providers lodged before Goodstart's application was received[41]

- for the six largest multi-service applications, there was 'no record kept on the assessment of their services connected to their grant applications. This included the two largest providers'[42]
- only 16 funding agreements were finalised before EYQF was terminated—DEEWR 'did not formally record the reasons for the selection of the 16 applicants, over others which also [met] the conditions of funding at the time'[43]
- DEEWR made changes to its main record (which was intended to provide a comprehensive record of the assessment process and the final assessment outcome) and, as a result, 'no comprehensive record of the original assessment process under the EYQF has been maintained'[44]

3.24 The ANAO also made findings concerning DEEWR's communication with the childcare sector on EYQF and the role of United Voice. The ANAO concluded that, where DEEWR was aware of information being provided to stakeholders by United Voice, advice provided to the sector by the department was 'limited', and where inconsistent information was provided to the sector by third parties, the department's response was 'low key' and did not extend to the provision of more comprehensive information for the sector.[45]

3.25 The Committee is of the view that Finance and the ANAO should work together to strengthen the CGRGs and update and expand the guide on *Implementing Better Practice Grants Administration* to reflect the audit findings in Report No. 23 (2014-15) and the Committee's findings in this report. In particular:

- the CGRGs should state that it is not advisable to include, as members on a grants program advisory board, prospective applicants for that grants program

40 In March 2013, $300 million was committed to establish EYQF, Audit Report No. 23 (2014-15), p. 14. Large and small providers were each allocated a pool of $150 million, p. 17. By close of business on 6 September 2013, funding agreements had been sent to 1 large provider, Goodstart (for $132 million), and 15 small providers (for a total of $5 million), p. 21. (When EYQF was finalised, these agreements were renegotiated and the 16 providers received a total of $62.5 million, p. 17.)

41 Based on Committee calculations from ANAO, *Submission 2.4*, p. 1, and Ms Kairouz, ANAO, *Committee Hansard*, Canberra, 12 November 2015, p. 3.

42 ANAO Report No. 23 (2014-15), p. 80.

43 ANAO, Audit Report No. 23 (2014-15), pp. 93-94.

44 ANAO Report No. 23 (2014-15), pp. 80-81.

45 ANAO, Audit Report No. 23 (2014-15), p. 65.

- the *Implementing Better Practice Grants Administration* could:
  - ⇒ more clearly set out Commonwealth probity principles for grants administration, particularly in terms of advisory boards and departments ensuring transparent, equitable and well-documented processes
  - ⇒ contain a new section on 'Probity and transparency', which also includes best practice information relevant to advisory boards and proxy arrangements. Currently, conflicts of interest are discussed in a section on 'Advisory panels', and probity is not discussed in detail. This would bring together guidance on this matter generally, as well as in relation to advisory boards
  - ⇒ outline how the ANAO approaches probity and transparency in conducting audits and defining its audit scope and approach

3.26 The Committee commends the ANAO on the development of its Better Practice Guides—they are important documents in bringing together collective experience on a range of matters.

Recommendation 5

3.27 **The Committee recommends that the Department of Finance and the Australian National Audit Office (ANAO) work together to strengthen the Commonwealth Grants Rule and Guidelines (CGRGs) and update and expand the *Implementing Better Practice Grants Administration* guide to reflect the Committee's findings in this report, and also the ANAO findings in Report No. 23 (2014-15). In particular:**

- **the CGRGs should state that it is not advisable to include, as members on a grants program advisory board, prospective applicants for that grants program**
- **the *Implementing Better Practice Grants Administration* could:**
  - ⇒ **more clearly set out Commonwealth probity principles for grants administration, particularly in terms of advisory boards and departments ensuring transparent, equitable and well-documented processes**
  - ⇒ **contain a new section on 'Probity and transparency', which also includes best practice information relevant to advisory boards and proxy arrangements**
  - ⇒ **outline how the ANAO approaches probity and transparency in conducting audits and defining its audit scope and approach**

Auditor-General's powers

3.28 The Committee notes that section 36(2) of the *Auditor-General Act 1997* provides authority for information obtained during the course of an audit or other function of the Auditor-General to be referred to the Commissioner of the Australian Federal Police if the Auditor-General considers it in the public interest to do so.[46]

3.29 The ANAO confirmed that the EYQF audit investigated emails within the department's systems but did not investigate emails that may have occurred between Advisory Board members and the Minister's office outside of the department's email systems.[47] The ANAO acknowledged that emails may have gone outside the channels they looked at.[48] The ANAO also provided information on the Auditor-General's audit powers to investigate telephone calls, including confirmation that the Auditor-General would be able to 'obtain phone records (e.g. telephone numbers of parties to a call and the time and duration of calls) where appropriate in the performance of relevant functions'.[49]

3.30 The Committee believes there would be value in the ANAO giving consideration to reviewing its audit investigation process in light of the seriousness of the findings of the EYQF audit and the probity and transparency concerns raised by the Committee at the public hearings—in particular, to identify if there are other avenues the ANAO might pursue in future that it did not pursue in this case and whether it might further broaden its audit scope and approach.

3.31 The Committee is also of the view that, where probity concerns have been raised about a matter in the lead-up to an audit (such as in review reports and/or parliamentary inquiries), the ANAO might consider providing a clear statement, in the introductory section of its audit reports, on probity matters and the Auditor-General's powers, including any findings on such matters. Further, the ANAO might also consider clarifying which stakeholders have and have not been included in its 'Audit scope' (Audit Report No. 23 stated that the main focus of the audit was DEEWR, with PM&C and Finance also being included in the audit scope,[50] but it made no mention of Advisory Board members or EYQF stakeholders, or how the Auditor-General's powers might apply to these groups and individuals), and what has and has not been included in the 'Audit approach'.

46 ANAO, *Submission 2.2*, p. 1.

47 Ms Kairouz, ANAO, *Committee Hansard*, Canberra, 12 November 2015, p. 2.

48 Ms Kairouz, *Committee Hansard*, Canberra, 12 November 2015, p. 2.

49 ANAO, *Submission 2.3*, p. 1.

50 ANAO, Audit Report No. 23 (2014-15), p. 40.

Recommendation 6

3.32 **The Committee recommends that, where probity concerns have been raised about a matter in the lead-up to an audit (such as in review reports and/or parliamentary reports), the Australian National Audit Office consider:**

- **providing a clear statement on probity matters, outlining any probity findings and the Auditor-General's powers in such matters, in the introductory section of its audit reports**
- **clarifying its audit scope and approach in relation to:**
  - ⇒ **stakeholders that have and have not been included in the 'Audit scope', such as advisory board members and program stakeholders, and how the Auditor-General's powers apply to these groups and individuals**
  - ⇒ **what has and has not been included in the 'Audit approach'**

Caretaker period and EYQF finalisation

3.33 PM&C has the role of providing information and advice to agencies about caretaker conventions, and publishes guidance on this area[51]—however, 'responsibility for observing the conventions ultimately rests with entity heads or Ministers'.[52]

3.34 The conventions refer to consultation with the Opposition. However, a range of uncertainties emerged at the public hearings concerning whether ministerial correspondence consulting with the Opposition on EYQF funding had been sent to the most effective address to be actioned by the shadow minister; whether sufficient time had been allowed for response; whether anyone had followed up on the correspondence; whether a scanned copy of the correspondence had also been emailed to the then shadow minister and/or other contacts in their Parliament House office and/or electorate office; and whether there had also been an attempt to make telephone contact.

3.35 The Committee accepts that consultation with the Opposition during the caretaker period was considered sufficient consultation by PM&C to be consistent with caretaker conventions to sign off on the funding

51 PM&C, *Guidance on Caretaker Conventions*, 2013.

52 ANAO, Audit Report No. 23 (2014-15), p. 94.

agreements.[53] Nevertheless, the Committee considers that consultation attempts should have been more extensive and that they were not appropriately documented. The Committee therefore believes that PM&C should update its *Guidance on Caretaker Conventions* to clarify what constitutes 'appropriate consultation' with the Opposition on grants administration matters under the caretaker conventions—beyond just sending correspondence and providing a deadline for response.

Recommendation 7

3.36 **The Committee recommends that the Department of Prime Minister and Cabinet update its *Guidance on Caretaker Conventions* to clarify what constitutes 'appropriate consultation' with the Opposition on grants administration matters under the caretaker conventions, including with reference to means of correspondence (post, email, telephone), correspondence address (Parliament House offices and electorate offices over election periods) and specifying officials document any follow-up.**

Hon Ian Macfarlane MP
Chair
Date: 11 February 2016

53 Mr Peter Rush, Assistant Secretary, Parliamentary and Government Branch, PM&C, in response to a question from Mr Pat Conroy MP, Committee Member, JCPAA, *Committee Hansard*, Canberra, 28 May 2015, p. 11.

A

Appendix A – Submissions[1]

1 Department of Defence

1.1 Department of Defence

2 Australian National Audit Office*

2.1 Australian National Audit Office*

2.2 Australian National Audit Office*

2.3 Australian National Audit Office*

3 Australian Customs and Border Protection Services

4 Department of the Prime Minister and Cabinet*

5 Early Childhood Australia*

6 Goodstart Early Learning*

1 Submissions marked with an asterisk relate to the Committee's review of Audit Report No. 23 (2014-15). On 5 March 2015, the Committee considered ANAO performance reports Nos 1-23 of 2014-15. The Committee selected three reports for review: Reports Nos 19, 20 and 23. On 11 August 2015, the Committee tabled *JCPAA Report 449* on Audit Report No. 19 (2014-15) *Management of the Disposal of Specialist Military Equipment*, and Audit Report No. 20 (2014-15) *Administration of the Tariff Concession System*.

B

Appendix B – Public Hearings

Thursday 28 May 2015

Australian National Audit Office

Mr Ian McPhee, Auditor-General

Dr Andrew Pope, Group Executive Director

Ms Edel Kairouz, Executive Director

Mr Gregory Watson, Audit Manager

Department of Education and Training

Mr Danny Jones, Deputy Chief Executive Officer

Mrs Leonie Navara, Chief Internal Auditor

Department of Finance

Mr Nathan Smyth, First Assistant Secretary

Mr Martin Graham, Assistant Secretary

Ms Kerry Markoulli, Assistant Secretary

Department of the Prime Minister and Cabinet

Mr Troy Sloan, Acting First Assistant Secretary

Mr Peter Rush, Assistant Secretary

Department of Social Services

Ms Jackie Wilson, Deputy Secretary

Mr David De Silva, Group Manager

Thursday 15 October 2015

Ms Julia Davison, Chief Executive Officer, Goodstart Early Learning

Ms Jo-anne Schofield, National Secretary, United Voice

Thursday 12 November 2015

Australian National Audit Office

Mr Grant Hehir, Auditor-General

Ms Rona Mellor, Deputy Auditor-General

Mr Andrew Pope, Group Executive Director

Ms Edel Kairouz, Executive Director