

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 delegate²
 - 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 EYQF⁴
 - 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 process⁶

- 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 EYQF⁷
- 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 implementation¹⁸ – 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 grants²³

- 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 place³²
- 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 Minister³⁴
- 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 criteria³⁶
- 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 reached³⁷
- 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 revisions³⁸
- Goodstart, which was on the Advisory Board, was the first large provider to lodge a completed application³⁹ 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.

commitment⁴⁰). There were between 27 and 37 completed applications by small providers lodged before Goodstart's application was received⁴¹

- 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'.
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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 area⁵¹ – 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.