

## Senate Standing Committee on Economics

### ANSWERS TO QUESTIONS ON NOTICE

#### Treasury Portfolio

#### Finance for the not-for-profit sector

26 September 2011

**Topic:** Scoping Study for a National Not-for-profit Regulator

**Hansard Page:** 34

#### Senator Stephens asked:

**Senator STEPHENS:** I have one more question that goes to the scoping paper for the not-for-profit regulator. Were you involved in working up that scoping paper?

**Mr Ronalds:** The office certainly was involved.

**Senator STEPHENS:** Recommendation 37 states, 'Government contracts should no longer mandate organisational governance requirements for not-for-profits.' Do you have any insights into that recommendation, how that came about and whether it is a recognition of hybrid systems like the GoodStart arrangement or whether it is for profit business with social purpose?

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

### QUESTION TAKEN ON NOTICE BY PM&C WAS TRANSFERRED TO TREASURY FOR A RESPONSE

#### Answer:

Recommendation 37 of the *Final Report: Scoping Study for a National not-for-profit Regulator* (Treasury, April 2011) states that "[g]overnment contracts should no longer mandate organisational governance requirements."

The recommendation addresses concerns about regulatory duplication and the imposition of unnecessary and burdensome compliance costs on not-for-profit (NFP) entities.

The scoping study found that many government grant and service contracts (at both the Commonwealth and state level) often included a number of governance obligations as conditions for eligibility. The scoping study found that the governance obligations were frequently included in contracts as a way to manage the risk of possible mismanagement and reflected a view that the existing regulatory systems that apply to NFPs could not be relied upon to manage those risks. This often resulted in duplicated requirements and a high compliance burden on NFPs.

The scoping study found that there was a need for improved organisational governance of NFPs. However, the scoping study recommended that any governance rules should be proportional to the size of entities, take account of risk factors and whether the entity is in receipt of public and government assistance. Further, where the national regulator is responsible for regulating the governance of NFPs, the scoping study found that it would not be appropriate to also apply additional governance obligations through government contracts.

In the 2011-12 Budget, the Government announced that it would establish the Australian Charities and Not-for-profits Commission (ACNC) and announced that Treasury would undertake a review into the governance obligations appropriate for registered NFPs (regardless of entity type) taking account of the findings of the scoping study.

The ACNC will administer a national regulatory system, which will remove or reduce the need for such governance requirements to be imposed by government contracts, as risks associated with poor governance will be managed at an organisational level by the national regulator.