

National School Resourcing Board
Review of needs-based funding requirements
Submission by
The Independent Schools Council of Australia (ISCA)

Summary

Unlike other school sectors, the majority of Independent schools are non-systemic. A small number of Independent schools are part of systems. Independent systems do undertake some minor redistribution of Australian Government funding across members schools. The Independent school systems appreciate this capacity for flexibility in funding arrangements.

Currently there is no guidance available for school systems to assist them in meeting their legislative obligations. The department needs to provide greater guidance regarding what constitutes a compliant needs-based funding arrangement which is publicly available and transparent.

Notwithstanding the role of the NSRB, the department also has a role in ensuring compliance and this role should be clarified and articulated.

In principle, the greater the level of flexibility sought for redistribution, the greater the need for transparency and accountability. ISCA considers that a greater level of transparency around the allocation of public funding by systems would greatly enhance the accountability of the use of public funds.

About ISCA

ISCA is the national peak body representing the Independent school sector. It comprises the eight state and territory Associations of Independent Schools (AISs). Through these Associations, ISCA represents a sector with 1,140 schools and over 617,000 students, accounting for approximately 16 per cent of Australian school enrolments. ISCA's major role is to bring the unique needs of Independent schools to the attention of the Australian Government and to represent the sector on national issues.

Independent schools are a diverse group of non-government schools serving a range of different communities. Many Independent schools provide a religious or values-based education. Others promote a particular educational philosophy or interpretation of mainstream education. Independent schools include:

- Schools affiliated with Christian denominations for example, Anglican, Catholic, Greek Orthodox, Lutheran, Uniting Church, Seventh Day Adventist and Presbyterian schools
- Non-denominational Christian schools
- Islamic schools
- Jewish schools
- Montessori schools
- Rudolf Steiner schools
- Schools constituted under specific Acts of Parliament, such as grammar schools in some states
- Community schools
- Indigenous community schools
- Schools that specialise in meeting the needs of students with disabilities
- Schools that cater for students at severe educational risk due to a range of social/emotional/behavioural and other risk factors.

Many Independent schools have been established by community groups seeking to meet particular needs. Examples include Independent community schools for Indigenous students in remote areas, special schools for students with disabilities and boarding schools to educate children from rural and remote areas. There are also schools that seek to reflect the religious values of a particular community or that seek to practise an internationally recognised educational philosophy such as Rudolf Steiner or Montessori schools. Independent Catholic schools are a significant part of the sector, accounting for eight per cent of the Independent sector's enrolments.

Most Independent schools are set up and governed independently on an individual school basis. However, some Independent schools with common aims and educational philosophies are governed and administered as systems, for example Lutheran systems. There are 18 school system authorities in the Independent sector. A list of Independent system authorities is at Appendix 1. Systemic schools account for 18 per cent of schools in the Independent sector. Four out of five schools in the sector are, however, autonomous non-systemic schools.

Introduction

The Preamble of the *Australian Education Act 2013* (the Act) includes the statement that Australian Government investment in schooling is “To help education authorities provide every child with a quality education, regardless of where they live and what school they attend, this investment will be fairly and transparently distributed and allocated according to need”.

The majority of schools in the Independent sector are stand-alone schools that receive their Australian Government funding directly from the government with no capacity for reallocation or redistribution across schools. These schools are therefore directly funded in accordance with the Australian Government's needs-based funding arrangements, thus meeting the Act's objectives of fairness, transparency and allocation according to need.

Since 2018 the Act defines an approved system authority, as an approved authority for more than one school which distributes Australian Government funding using a funding arrangement based on factors other than those utilised by the Australian Government to allocate funds. Thus,

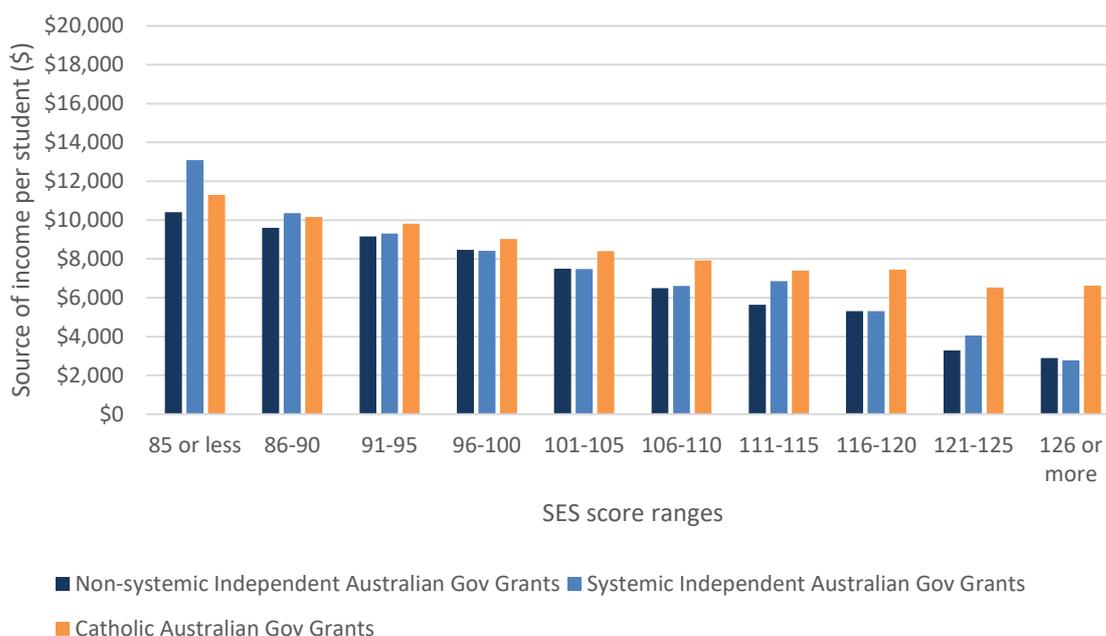
system authorities that don't redistribute Australian Government funding are no longer considered to be approved system authorities. Around 18 per cent of Independent schools are considered by the sector to be systemic. However, a number of these Independent systems have advised the Australian Government that they do not undertake any redistribution of Australian Government funding, passing on funding to their member schools directly in accordance with their Australian Government funding entitlement.

Therefore, the new definition of an approved system authority means that only around 11 of the original 18 systemic groups in the Independent sector are technically systems, by virtue of advising the department that they redistribute Australian Government funding.

For those Independent sector systems which do undertake some redistribution, ISCA understands that only limited redistribution occurs. This is supported by analysis of My School data (See Figure 1 below).

Figure 1

Systemic Catholic, systemic Independent and non-systemic Independent, Australian Government Recurrent funding by SES, 2017



Source: ACARA My School

It is important to note that the data on Australia Government recurrent funding on My School provides different information for systemic and non-systemic schools. For non-systemic Independent schools, My School shows the actual Australian Government funding entitlement provided directly to the school. For systemic government, Catholic and Independent schools, the data on My School shows the Australian Government funding allocated by the system authority utilising its own funding methodology. There is no publicly available source of information on the actual Australian Government entitlement of systemic non-government schools prior to system redistribution.

As Figure 1 focuses on the non-government sector and indicates, for stand-alone Independent schools, the level of Australian Government funding is highest for schools serving the most disadvantaged students, tapering to the lowest level of funding for the schools serving the least disadvantaged students. This is also true for systemic Independent schools, demonstrating that these schools distribute funding consistently with Australian Government entitlements, albeit with a slight skew towards additional funding to address disadvantage. Catholic systemic schools, while directing funding to disadvantage, also direct disproportionate additional funding to the least disadvantaged schools.

The low level of redistribution undertaken by Independent systems is also evidenced by the Australian National Audit Office (ANAO) in its Report No. 18 2017-18 *Monitoring the Impact of Australian Government School Funding*¹ which highlighted 37 Catholic systemic schools that received funding from their system authority with either an increase or decrease of 30 per cent or more from their Australian Government entitlement. This ANAO Report also highlighted five systemic Independent schools with significant variations. However, four of these five schools were included in error, as the data provided to the ANAO by the department was inaccurate and did not reflect the actual allocations received by the schools. A fifth Independent school did have a significant variation provided by its system authority which was due to an atypical situation whereby the system was providing additional support to the school to ensure its viability until its scheduled closure at the end of the school year.

The Review Issues Paper refers to the abovementioned ANAO Report and the Joint Committee of Public Accounts and Audit (JCPAA) 2019 Report 276: *Australian Government Funding*² and the Reports' findings that the Australian Government Department of Education and Training needs to strengthen its administration and assurance arrangements to appropriately monitor the distribution of government funding. This submission frequently refers to these Reports.

The Issues Paper notes stakeholder concern about the level of clarity regarding needs-based funding requirements under the Act and the possibility of differing interpretations. Figure 1 above indicates that there may be differing interpretations of need within the non-government sector.

This submission focuses on the non-government sector, however, ISCA's position regarding transparency, accountability and guidance could equally apply to the government sector.

What are desirable levels of flexibility for needs-based funding requirements – are there different levels of flexibility that could be applied to the per student amount and loadings?

ISCA recognises that flexibility in the use of public funding is an important policy appreciated by system authorities. However, it is critical that flexibility be balanced by transparency and

¹ The Auditor General, Australian National Audit Office Report No. 18 2017-18 Performance Audit: Monitoring the Impact of Australian Government School Funding

² Parliament of the Commonwealth of Australia Joint Committee of Public Accounts and Audit Report 476: Australia Government Funding Inquiry based on Auditor-General's reports 18 and 50 (2017-18) February 2019

accountability for system decision-making. In general, the greater the level of flexibility permitted, the stronger the required level of transparency and accountability.

The findings of the ANAO Report and the JCPAA Report indicate that the level of flexibility is not currently balanced by appropriate compliance monitoring, including through examination of transparency and accountability. The ANAO found that³:

- weakness in arrangements established by the department have reduced the level of assurance the department has that funding is allocated in accordance with the needs-based principles established under the legislative framework;
- there are significant variances between funding allocated and funding distributed;
- there is a lack of clarity around the alignment of additional loadings created by non-government system authorities and student needs; and
- significant variances in the amounts of funding retained by non-government system authorities for administrative costs and centralised expenditure.

In considering the level of flexibility with respect to base funding and loadings, it should be noted that a school's SRS entitlement is the total of its base funding and loadings. There is no requirement under the Act that the constituent elements of a school's SRS entitlement be considered separately. This is particularly relevant during the transition phase as the majority of schools and systems are not receiving their actual SRS entitlement. Therefore, their base and loadings do not represent their true entitlement. It is not the intention that a particular loading or portion of a loading be attached to a particular student. Changing this would present difficulties for schools in budgeting and monitoring expenditure and diminish scope for efficiencies and economies of scale.

This issue has arisen in the context of the findings of the ANAO Report which found examples of significant variances between funding allocated and funding distributed for specific loadings and in the alignment of additional loadings created by some non-government system authorities and student needs. The issue is whether this is consistent with a needs-based funding arrangement.

Stand-alone Independent schools and Independent approved authorities for more than one school in which schools receive their exact Australian Government entitlement, are funded directly according to the Australian Government's needs-based funding arrangement. It can be taken, therefore, that these schools are receiving funding consistent with a needs-based methodology.

For systems which undertake redistribution, consideration of their needs-based methodology should balance the importance of flexibility and the principle of subsidiarity with the objective of fair, transparent, needs-based funding.

Considerations include whether educationally disadvantaged students in systemic schools are funded appropriately to address their educational needs, particularly as these students have attracted additional funding to the system overall and the appropriate proportion of funding directed to support uses such as administration, central costs or fee minimisation.

³ ANAO 2017-18 op. cit. p 9

The Issues Paper makes the following statement “Approaches to distributing funding differ across approved system authorities as these arrangements often pre-date the needs-based funding requirements, and the introduction of the SRS. When the SRS was proposed by the 2011 Review of Funding for Schooling – Final Report, it was noted that the SRS was not intended to replace the local funding arrangements of approved system authorities”. It goes on to note that the variety of approaches used by systems reflect their evolution over decades in some cases.

While these arrangements developed over many years may indeed be effective approaches for allocating funding according to need, this should not preclude these methodologies from assessment of their compliance with current needs-based funding requirements. The Act does not reference historical arrangements but specifies that the priority should be that funding provided is needs-based and prioritised to improving educational outcomes for all students. Historical arrangements may meet these criteria, but merely being in place for many years does not necessarily indicate that it is a compliant needs-based funding arrangement.

For systems which are seeking flexibility in the allocation of funds, the justification should not be based on historical or previous practices but rather compliance with a needs-based funding arrangement.

The level of flexibility around the use of loadings should be closely linked to the level of transparency and accountability for systems undertaking redistribution. If stakeholders can clearly see how funding has been allocated to individual schools and the quantum of and justification for any redistribution is clearly articulated, then assessment of compliance with a needs-based funding arrangement is possible. The greater the level of transparency and accountability, the greater the scope for flexibility. This is necessary to ensure that the needs of educationally disadvantaged students are met and that the broader objective of improving educational outcomes for all students is achieved.

What level of prescription by the Australian Government regarding needs-based funding arrangements may reasonably be required and is possible?

What additional guidance may be necessary and what form should it take?

What is the right balance of prescription and flexibility for assessing compliance with needs-based funding requirements and why?

The Issues Paper states that some stakeholders were concerned about the level of clarity of the needs-based funding requirements under the Act and the possibility of differing interpretations.

The department’s view as expressed in its correspondence with the Chair of the JCPAA⁴ is: “The Act and the Regulation allow approved system authorities to determine the funding arrangements that best meet the needs of their schools in the delivery of education to their students, as long as they meet the requirements for needs-based funding arrangements as set out in section 78(5) of the Act. These arrangements are monitored through the Block Allocation Report that is submitted to the department by approved system authorities on behalf of their

⁴ Correspondence from Ms Alex Gordon Acting Deputy Secretary Department of Education and Training to Senator Dean Smith Chair Joint Committee of Public Accounts and Audit 3 September 2018

schools annually”. However, both the ANAO and the JCPAA were concerned that there was no monitoring of compliance with needs-based funding arrangements. “The Committee was concerned by evidence that Education had not undertaken a comprehensive review of needs-based funding arrangements to ensure compliance with the funding principles of the Act”.⁵

Current level of prescription

In terms of levels of prescription provided by the Australian Government, there is a dearth of supporting information provided by the department. In previous decades the department produced a range of user-friendly supporting documents to support schools and systems. For example, Administrative Guidelines, Funding Agreements and more recently the Guide to the Act provided additional information and clarity around legislative requirements. Currently, the only guidance provided is via the legislation itself through the Act and Regulation which can be difficult to interpret. There is a need for greater clarification, guidance and specificity.

Despite the absence of guidance to assist approved authorities, it is the department’s view that “Authorities are required to comply with the requirements of the Act, irrespective of any arrangement the department has in place.”⁶

Of further concern is the department’s view that while approved authorities have to comply with the legislation without any supporting guidance, there is apparently no legislative requirement for the department to actually monitor compliance. In response to concerns around lack of compliance monitoring raised by the JCPAA, the department stated “While the Act and Regulation set out the legislative requirements for organisations that receive funding, it does not impose express legislative requirements on the department with respect to checking, investigating, or assurance of compliance. Any suggestion that the department has been in breach of the Act or Regulations is therefore incorrect.”

Despite the department’s view that there is no obligation under the legislation for them to actually undertake any “checking, investigating or assurance of compliance”, there would be a reasonable expectation that legislative requirements are monitored for compliance and that role would fall to the department. The creation of the NSRB to conduct reviews of funding arrangements should not absolve or replace the department in their compliance, monitoring and assessment role.

This view is supported by the JCPAA with a recommendation that legislation be amended to provide a specific requirement that the Department of Education monitor compliance and provide assurance that Australian Government school funding is delivered in accordance with the Act.

Needs-based funding arrangements

The NSRB Issues Paper states that the needs-based funding requirements for approved system authorities are those specified in the Act:

⁵ JCPAA 2019 op. cit. p 8

⁶ Gordon - September 2018 op. cit.

- provides an amount per student that:
 - represents the recurrent resources required to support a student with minimal educational disadvantage to achieve expected educational outcomes
 - takes account of efficiencies that can be realised while improving educational outcomes
- provides loadings to students and schools with additional needs in order to support student achievement, including loadings for:
 - students with disability, Aboriginal and Torres Strait Islander students, students with socio-educational disadvantage, students who have low English proficiency
 - schools based on location and size
- is publicly available and transparent.

The JCPAA recommended that the department develop and implement a monitoring program of needs-based funding arrangements for Australian Government school funding to ensure compliance with the funding principles in the Act and report back to the Committee on progress. In light of the current lack of guidance for systems seeking to comply with the Act, ISCA supports this recommendation.

ISCA believes that there should be a clear role for the department in monitoring compliance with the Act and Guidelines and that the department needs to provide a greater level of guidance regarding what constitutes compliance, including through the preparation of a suite of supporting documents providing clear and unambiguous guidance, particularly with respect to the requirements of section 78 (5).

However, prior to providing a greater level of prescription and developing supporting guidance, an understanding of the attributes of a needs-based funding arrangement must be agreed and articulated. Specifically, systems need to understand what the attributes of a compliant needs-based funding arrangement are.

In order to answer this question a number of threshold issues need to be clarified:

- How closely aligned to a school's Australian Government funding entitlement does a system's needs-based funding arrangement need to be in order to be compliant?
- Given the overarching principle of capacity to contribute determining the level of funding for non-government schools, should this be an element of a needs-based funding arrangement? The ANAO7 addresses this issue stating "Under the regulation, government and non-government system authorities are able to redistribute the recurrent funding received from the Australian Government for individual schools on the basis that the system authorities' funding arrangements are based on student needs and comprise: a base amount, which for non-government schools should recognise the capacity of the school's community to contribute financially to the school; and loadings reflecting the six additional needs applied by the AG funding model."

⁷ ANAO 2017-18 op. cit. page 30

- Whether other system-specific allocation priorities such as a low fees policy, meet the definition of 'needs-based'?
- Whether the objectives of improving outcomes for educationally disadvantaged students can be achieved if significant levels of funding to address disadvantage in a particular school are redirected to other priorities?
- The NSRB's Issues Paper⁸ states "The approved system authority then uses its more detailed knowledge of local need to allocate that funding most effectively". It is not clear what "effectively" means in this context and how or who has assessed this effectiveness. Can this statement be made prior to a review of compliance? Is "effective" use of funding consistent with a needs-based model?
- What is the contribution of administrative and centralised costs to a needs-based funding arrangement? The ANAO Report showed these costs ranged from 0.1 per cent and 18.9 per cent of total recurrent funding or with a value between \$100,000 and \$30.7 million. For many years, the Australian Government set a 2 per cent limit on what approved authorities could spend on administrative expenses.

As noted earlier, the balance of prescription and flexibility around use of loadings should be closely linked to the level of transparency and accountability for systems undertaking redistribution. This is discussed further in the next section dealing with transparency.

What level of transparency is required to effectively enable accountability of approved system authorities?

This question draws on a number of the recommendations from both the ANAO and the JCPAA. The ANAO found that "The Department is yet to establish sufficiently robust arrangements to ensure that system authorities have in place and make publicly available, compliant needs-based funding arrangements" with its first recommendation that there should be an increase in the transparency surrounding the allocation and use of Australian Government school funding.

Greater transparency will not only improve understanding of how Australian Government funding is spent but enhance the accountability of system authorities not only to the government and taxpayers, but also to member schools, parents and their communities.

Approved school systems and other approved authorities that operate more than one school are required to submit a Block Allocation Report to the department. The Block Allocation Report outlines how funding was distributed to each member school and how much funding, if any, was retained for administration costs and/or centralised expenditure.

These Block Allocation Reports are not publicly available and recently an FOI request for access to some of these reports was refused. Transparency and accountability would be greatly enhanced by the following changes to accountability requirements:

⁸ National School Resourcing Board Review of needs-based funding requirements 2019 Issues paper p 8

- Systems' Block Allocation Reports should be publicly available. This would enable the government and other stakeholders to fully understand how public funding had been utilised;
- The department should publish the Australian Government funding entitlement for all Australian schools to ensure transparency and accountability. The information on Australian Government funding to individual schools on My School for systemic schools represents their funding *after* it has been redistributed by their system. There is no publicly available information on systemic non-government schools' actual Australian Government entitlement; and
- Systems' needs-based funding arrangements which are already required to be publicly available should be sufficiently detailed to enable systemic schools to understand any variation between their funding entitlement and actual funding allocation from the system authority.

In summary, all systemic schools should be aware of the level of funding their school is entitled to under the Act. If the system authority adjusts their funding entitlement either positively or negatively, the school should be able to clearly understand why this alteration has occurred and the justification according to needs-based principles. System authorities should have in place a strong-needs-based funding arrangement that can be justified according to clear and transparent principles understood by schools.

Transparency will also be enhanced by compliance with section 127 of the Act, which requires that the Minister report to Parliament annually on any financial assistance paid to an approved authority in the previous year.

The current *Australian Education Act 2013* requires the Minister to produce an annual report outlining the payments under each Act to be presented to the Parliament each year. Under previous school funding legislation this information was provided in a report known as "The Green Report". The Green Report provided a detailed breakdown of spending for a year from funds appropriated under the Act, as well as a brief description of how funding was allocated, in line with the agreed objectives and outcomes for schooling. The last Green Report was produced in 2013.

The ANAO Report notes the advice from the department regarding the reporting arrangements since 2013. These arrangements provide less information than previously provided and do not appear to be in compliance with section 127 of the Act which requires information be reported at the level of an approved authority.

What are acceptable approaches for approved system authorities to make their needs-based funding arrangements publicly available?

Recommendation 3 of the JCPAA Committee stated "The Committee regards public reporting of approved system authorities' funding models as critical to supporting transparency requirements under the Act. As such, the Committee was disappointed that Education had not

monitored whether approved system authorities' funding models were publicly available and sufficiently transparent".⁹

The methodology for systems to make their needs-based funding arrangements publicly available should be made more specific in legislation, should be easily accessible on systems' websites at a minimum and ideally should be published in a compilation format on the department's website to assist with transparency and accessibility. The public provision of these arrangements should be actively monitored and enforced by the department.

Conclusion

All government schools and Catholic systemic schools receive their Australian Government school funding through an approved system authority. Some Independent schools are also systemic, however, the majority of Independent schools receive their funding directly from the Australian Government. ISCA understands that approved system authorities in the Independent sector do not undertake significant redistribution of Australian Government funding, allowing for accountability and transparency to schools and key stakeholders.

Recent reports from both the ANAO and the JCPAA highlight the need for greater guidance and transparency regarding approved system authorities' compliance with needs-based funding arrangements. ISCA supports the recommendations of the ANAO and JCPAA with respect to the need for greater guidance, transparency and compliance monitoring.

The Act and Regulation currently places an obligation on approved systems authorities to have needs-based funding arrangements which comply with the Act and that these arrangements be publicly available and transparent. There are, therefore, already legislative obligations on approved system authorities for compliance and transparency. Whilst acknowledging the work of the NSRB, the department also has a compliance role, including supporting systems to effectively meet their legislative obligations.

Significant further work needs to be done by the department to clarify and articulate what constitutes a needs-based funding arrangement and what constitutes public availability and transparency to guide and support approved system authorities to be able to ensure compliance.

When examining the appropriate balance between prescription and flexibility, the Board should consider the level of transparency and accountability of systems. The greater the level of flexibility sought for redistribution, the greater the need for transparency and accountability.

ISCA considers that a greater level of transparency around the allocation of public funding by systems would greatly enhance the accountability of the use of public funds.

⁹ JCPAA 2019 op. cit. p 8

Independent School Systems in Australia (2019)¹⁰

State/Territory	System Name	Number of Schools
NSW	Greater Sydney Seventh Day Adventist System	5
	North New South Wales Seventh Day Adventist System	10
	South New South Wales Seventh Day Adventist System	3
	Sydney Anglican Schools System	17
Victoria	Seventh Day Adventist System Victoria	6
	Victorian Ecumenical Schools System	17
	Lutheran Education South Eastern Region	20
Queensland	Northern Australian Conference of the Seventh-day Adventist Church	3
	Queensland Lutheran System	26
	South Queensland Conference of the Seventh Day Adventist Church	7
	Anglican Schools Commission	11
Western Australia	Anglican System Western Australia	15
	Seventh Day Adventist System Western Australia	5
	Swan Christian Schools System Western Australia	7
South Australia	South Australian Anglican Schools System	5
	South Australian Lutheran System	34
	South Australian Seventh Day Adventist System	3
Tasmania	Seventh Day Adventist System Tasmania	2
Northern Territory	Northern Territory Christian Schools Association	7

¹⁰ From Department of Education & Training SES Scores table <https://docs.education.gov.au/documents/socio-economic-status-ses-scores>