

## Review of needs-based funding requirements 2019–public submission

---

### Australian Government Department of Education

Stakeholder type: Government

Jurisdiction: National

## Submission

### Introduction

The Australian Government Department of Education (the department) welcomes the opportunity to make a submission to the Needs-Based Funding Requirements review conducted by the National School Resourcing Board (the Board).

In preparing this submission, the department has specifically considered the historical context of needs-based funding under the governing legislation of the Australian Education Act 2013 (the Act) and the Australian Education Regulation 2013 (the Regulation), and its predecessor legislation. It has also considered recent findings of the Australian National Audit Office (ANAO) in its December 2017 performance audit, *Monitoring the Impact of Australian Government School Funding*, and the February 2019 findings of the Australian Parliament's Joint Committee on Public Accounts and Audit (JCPAA) inquiry into school funding, as contained in Report 476: Australian Government Funding.

The department supports appropriate transparency and accountability for the record and growing levels of Australian Government funding in schools so that principals and teachers can focus on teaching, not paperwork, and deliver improved student outcomes.

### Background

#### *Legislative requirements for needs-based funding arrangements*

The Act and the Regulation provide the legislative authority for the department to provide Australian Government funding to school approved authorities, block grant authorities and non-government representative bodies.

Approved system authorities (systems) have historically had the flexibility to re-distribute Australian Government recurrent funding in recognition of their understanding of local schooling arrangements and student need. With the introduction of the new Act and the Regulation on 1 January 2014, systems were required to make their needs-based funding arrangements publicly available to provide transparency for school communities and promote informed school choice by parents and caregivers.

On 23 June 2017, the Act was amended to deliver a range of enhancements, including a new funding model that provided significant increases to funding and an expanded Section 78 covering requirements for needs-based funding arrangements. The amendments commenced on 1 January 2018.

Specifically, subsection 78(3) of the amended Act requires approved authorities for more than one school to allocate all recurrent funding received in accordance with an arrangement compliant with either:

- subsection 78(4) – all Australian Government recurrent funding is passed on to the schools under its authority as it is allocated by the Australian Government; or
- subsection 78(5) of the Act – all such funding is re-distributed to its schools in accordance with a publicly available arrangement compliant with this subsection's requirements.

Approved authorities are required to comply with the requirements of the Act, irrespective of any assurance policies the department has in place. While the Act and Regulation set out the legislative requirements for

organisations that receive funding, they do not impose express legislative requirements on the department to check, investigate or assure compliance with the Act.

### ***The Australian National Audit Office report***

In December 2017, the Australian National Audit Office (ANAO) delivered its Performance Audit report, *Monitoring the Impact of Australian Government School Funding*. In this report, the ANAO considered the administrative arrangements in place at the time of the audit and recommended the department strengthen its monitoring of approved authorities' arrangements.

Two recommendations from the report are relevant to the department's monitoring of arrangements:

- a. Recommendation 1: Establish a risk based approach to monitoring compliance with requirements established under the Australian Education Act 2013 and increase transparency surrounding the allocation and use of Australian Government funding.
- b. Recommendation 2: Strengthen analysis of school funding allocation data to gain assurance school funding is being distributed according to need.

It is important to note that the ANAO report focussed on reviewing arrangements as they existed in 2017. The scope of the report did not include consideration of decisions already taken by the Australian Government in relation to new funding arrangements and requirements in the amended Act and Regulation, which came into effect on 1 January 2018.

### ***The Joint Committee on Public Accounts and Audit***

The JCPAA held an inquiry into the ANAO Performance Audit in August and October 2018, and released its findings in Report 476: *Australian Government Funding* in February 2018. The JCPAA recommendations closely align with the ANAO report and, as such, the scope of the JCPAA report likewise did not include decisions taken by the Australian Government in relation to the amended Act and Regulation.

The first two recommendations of the JCPAA are relevant to the Board's consideration of needs based funding arrangements:

- a. Recommendation 1: The Australian Government amend the Australian Education Act 2013 and the accompanying Regulation to include a requirement for the Department of Education and Training to:
  - i. monitor compliance to assure that Australian Government school funding is delivered in accordance with the Act
  - ii. monitor the use of Australian Government school funding in achieving the objectives of the Act.
- b. Recommendation 2: The Department of Education and Training conducts a risk-based review of existing accountability arrangements of Australian Government school funding under the requirements of the Act.

The department is taking a considered approach to addressing the findings of both the ANAO and JCPAA reports. A number of the recommendations have already been addressed via changes to legislation, changes to administrative practices, development of a school funding assurance framework, and the establishment of the National School Resourcing Board (the Board).

When administering any Government program, including those based within a legislative framework, public officials have general duties under the *Public Governance, Performance and Accountability Act 2013*, and the broader framework of the APS Values and APS Code of Conduct as set out in the

*Public Service Act 1999*. It is within this general framework that there is an expectation that the department has in place a reasonable and proportionate approach to ensuring that requirements on funding provided under the Act and the Regulation are being met.

### ***The department's school funding assurance framework***

In response to the ANAO and JCPAA findings, the department commissioned an overarching assurance framework in early 2019. This framework outlines the principles, objectives and key activities undertaken under the Act and Regulation within a risk-based approach to assurance. The framework explains the connections between the department's various school funding assurance activities within a consistent narrative, reflective of the risk-profile that the department operates within under the Act and Regulations. The framework will include provisions to ensure appropriate assurance and compliance controls are in place in respect of needs-based funding. Outcomes of the Board's current review will inform those provisions.

Once complete, the department will undertake broad consultation on the assurance framework with the schooling sector through the auspices of the Education Council arrangements. As a phased response to the ANAO and JCPAA recommendations, the department will also be undertaking capacity building with the sector to enhance its capability to comply with legislative requirements whilst balancing the principles and objectives of appropriate transparency and accountability for the record and growing levels of Australian Government funding in schools.

### **The 2018 needs-based funding arrangement collection process**

#### ***Overview***

Following the commencement of the amended Act in January 2018 and the delivery of the ANAO report, the department wrote out to all approved authorities for more than one school in February 2018, requesting information on how their funding distribution arrangements meet the requirements in section 78 of the Act. Specifically, the department sought to establish the extent to which approved authorities' arrangements met legislative requirements.

Based on its assessment of the information provided during that collection, the department considers that subsection 78(5) of the Act does not, by itself, provide sufficient guidance to approved authorities on the requirements for a compliant needs-based funding arrangement. This is consistent with feedback from the Australian Education Senior Officials Committee in July 2018, which raised concerns about the clarity of the Act's requirements for arrangements and their differing interpretations across the sector.

As this collection was part of an information gathering exercise, and the first of its kind, the department did not take any compliance action based on its assessment of systems' 2018 arrangements. The department has made the material developed and findings from the 2018 process available to the Board to assist with their preparations for this review.

#### ***Areas in which systems have different legislative interpretations***

The following areas were identified by the department during the 2018 needs-based funding arrangement collection and assessment exercise as having varying interpretations of legislative requirements by systems:

- explaining arrangements based on staff allocation rather than funding allocation
- determining whether the requirements to provide funding for the six Australian Government loadings were satisfied by systemic programs instead of direct school funding
- explaining loadings and programs additional to those fulfilling the base and Australian Government loadings requirements
- explaining arrangements where an additional body under the system further re-distributes Australian Government funding among schools; for example, Catholic dioceses in some states
- determining the appropriate timing for an arrangement (i.e. when does an approved authority need to complete their arrangement, make it publicly available and notify the department if it wishes to commence re-distributing funding in a particular year).

Systems satisfied the public availability requirement through publication of the arrangement on the system/school website(s), in most cases also making physical copies of the arrangement available to school communities.

### **The department's needs-based funding policy and assurance objectives**

The department is awaiting the outcome of the Board's review, and the Australian Government's response to any ensuing recommendations, prior to further developing policy on needs-based funding arrangements.

The department has a responsibility to ensure positive schooling outcomes for all Australian students, including those in the non-government sectors. The department and the Australian Government therefore require an understanding of a systems' distribution of funding between schools, in order to meaningfully assess the impact Australian Government funding is having on schooling outcomes.

Recent JCPAA hearings and the debate on the amendments to the Act have highlighted the need for consideration of the distribution of funding to individual schools (particularly when part of a system), and how this compares to their allocations under the Act.

The department's objective in assuring arrangements is to use a risk-based approach to balance its assurance obligations under the Act with simplicity and clarity for systems. The department believes systems are in the best position to determine their own funding distribution mechanisms, and sees little value in intervening in these arrangements to impose any particular method of distributing Australian Government funding among schools.

In keeping with the principle of promoting school choice and the balance of administrative requirements with simplicity and clarity for systems, the department considers that a straightforward and comprehensible arrangement that the public is aware of and can easily access would fulfil this obligation.

As a system's arrangement is unlikely to change substantially from year to year, the department does not consider an annual compliance assessment necessary. An assessment of arrangements every three to four years, or wherever arrangements are changed, should provide ample assurance to the department, although checks will be necessary between assessments to ensure public availability is maintained.

The department would welcome the opportunity to discuss its submission with the Board, and looks forward to the outcomes of the review.