

Review of needs-based funding requirements 2019–public submission

The Independent Schools Council of Australia

Stakeholder type: Peak body

Jurisdiction: National

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.

Submission

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 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 that¹

- 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.

¹ ANAO 2017-18 op. cit. p 9

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.

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 JCPAA² 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 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".³

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."⁴

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.

² 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

³ JCPAA 2019 op. cit. p 8

⁴ Gordon - September 2018 op. cit.

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:

- 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 ANAO⁵ 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."
- Whether other system-specific allocation priorities such as a low fees policy, meet the definition of 'needs-based'?

⁵ ANAO 2017-18 op. cit. page 30

- 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 Paper⁶ 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.

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".

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.

⁶ National School Resourcing Board Review of needs-based funding requirements 2019 Issues paper p 8

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.