



Schooling Federalism: Evaluating the Options for Reform

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1. Executive Summary

BACKGROUND

Australian federalism has evolved significantly since Federation in 1901. There is now extensive, contested concurrency in Commonwealth and State or Territory government roles and responsibilities, particularly in the schooling portfolio, where it has effectively moved from being a state responsibility to a shared responsibility. The degree of national government involvement in schooling is unprecedented and higher than that of any other federal government in the world. Uncoordinated decision-making, a mismatch in revenue versus responsibilities, and unhelpful overlap in some roles has contributed to the exacerbation of disadvantage and inequities, limiting the effectiveness of government funding and programs. This poses dire consequences for individual students and the nation.

This change was not by design. But its reform can be. The White Paper on the Reform of the Federation was established to investigate federalism reform in a range of portfolios characterised by complex, counterproductive and inconsistent government roles; propose and consult on a range of reform options; and set out a platform for improvement. It is led by a Taskforce located within the Prime Minister's department, overseen by an intergovernmental steering committee and expert advisory panel.

EVALUATING THE OPTIONS FOR REFORM

In June 2015, four options for reform to government roles and responsibilities in the schooling portfolio were leaked and later publicly released by the Taskforce. These options were the product of discussions with stakeholders, all the States and Territories, and the Prime Minister's Expert Advisory Panel.

1. States and Territories fully responsible for all schools
2. States and Territories responsible for funding public schools and the Commonwealth responsible for funding nongovernment schools. States remain responsible for delivery education in government schools and the regulatory framework for all schools.
3. Reduced Commonwealth involvement in school programs
4. The Commonwealth is the dominant funder of all students on an equal and consistent basis, but States and Territories maintain other current responsibilities, including regulatory framework and provision of public schools.

The reform plan put forward by the Taskforce in the final White Paper must be within the current constitutional framework (meaning constitutional change is not required).

PURPOSE OF THIS PAPER

This paper evaluates these four options against the criteria established by Australia's governments. It also considers the feasibility and desirability of each option. In doing so, it seeks to enhance understanding of federalism in schooling, and to contribute to public debate on the reform options under consideration by the leaders of Australia's governments.

FINDINGS

A summary of the evaluation of each of the four options proposed by the Taskforce against the Taskforce's six criteria is found below in Table 1. A ✓ indicates it would be an improvement against the criteria compared to current arrangements, ✓✓ indicates a major improvement. Conversely, ✗ indicates poor performance against criteria and worsening vis-à-vis current arrangements, ✗✗ doubly so. A full description of the criteria and of the reasoning for each evaluation, as well as their feasibility and desirability, are found later in this paper.

Option 1 is radical but highly desirable. It best meets the criteria established by the Taskforce and Australia's governments, but requires fiscal reform to be feasible.

Option 3 is the most politically achievable option proposed, and depending on the details it could result in significant improvement. It offers the same benefits as Option 1, although to a far lesser degree, and is likely to deteriorate over time. Either option needs to be done carefully and is contingent upon retention of national institutions such as ACARA and the Education Council and on those institutions becoming more truly intergovernmental and collegial, with the Commonwealth direction removed.

Options 2 and 4 will likely worsen all current problems in Australia's schooling system; rate very poorly against the established criteria; and ought to be avoided.

TABLE 1: SUMMARY ASSESSMENT OF THE FOUR REFORM OPTIONS AGAINST THE WHITE PAPER CRITERIA

	1: FULL DEVOLUTION	2. SPLIT FUNDING RESPONSIBILITIES	3. REDUCED COMMONWEALTH INVOLVEMENT IN SCHOOL PROGRAMS	4. COMMONWEALTH FUNDS ALL SCHOOLS, STATES RESPONSIBLE FOR EVERYTHING ELSE
Subsidiarity	✓✓	✗	✓	✗✗
Equity, efficiency, and effectiveness	✓✓	✗✗	✓	✗
National interest	✓	✗	✓	✗
Accountability	✓✓	✗	✓	✗✗
Durability	✓	✓	✓	✗
Fiscal sustainability	✗ unless fiscal reform	✗	✓	✓

2. The Intergovernmental Context of Schooling in Australia

Australia's school funding system is one of the most complex, inconsistent and opaque in the developed world.¹ Much of this incoherence is due to the dramatic evolution of policy roles and responsibilities in schooling, especially since the 1970s. Under the Constitution, section 51 gives the Commonwealth government certain powers and responsibilities; schooling is not among them. This means that schooling (including policy, funding and provision) is a responsibilities of State governments (and Territories).

This preserves the arrangement of responsibilities existing before Federation, where colonial governments provided public schools alongside a robust private education sector, comprised mostly of Catholic parish schools and a much smaller number of elite grammar schools. By the 1970s, this national policy settlement had come under pressure as a result of increased student numbers, increased reliance of the State governments on grants from the Commonwealth from its taxes (especially income tax, which the Commonwealth took over in World War II) and resource pressures on Catholic schools (largely due to dwindling numbers of religious orders). In 1974, on the advice of the Karmel Report, the Commonwealth government under Labor's Gough Whitlam began systematically providing general, recurrent "top up" funding for public schools (also known as state schools or government schools) and for nongovernment schools (also known as private schools), based on their relative need, complemented by additional grant programs to reduce inequality.

These payments were made under Section 96 of the Constitution, which enables the Commonwealth parliament to make payments to the States on such terms and conditions as it sees fit. Commonwealth involvement in schooling has increased in scope, depth and funding amount under every successive Commonwealth government – Labor and Coalition.

Notwithstanding this evolution, states remain constitutionally responsible for ensuring the delivery of schooling to all children of school age in their jurisdiction. The States each run their own public education systems, and maintain sophisticated regulatory and accountability frameworks for all public and nongovernment schools in their jurisdiction, including teacher and school registrations; determining curriculum and requirements of high school certificates; the structure of their school systems, and more. The States still provide 74 per cent of all government funding for schools in Australia, of which they direct 92 per cent to public schools. (Refer to Figure 1, below). Each state has its own formulas for allocating funding, although all take school size, location, student characteristics and relative need into account. The Commonwealth provides 26 per cent of government funding for Australian schools, of which they direct two thirds (64 per cent) to nongovernment schools.² As a result of the evolution of funding responsibilities over time, Commonwealth governments have come to see nongovernment schools as their special responsibility, with public schools perceived by the Commonwealth and states as primarily the states' responsibility.

Australia has nearly two and a half million school students, of which 65 per cent are enrolled in public schools.³ The nongovernment school sector includes Catholic schools (about two thirds of the total) and "independent" private schools.

¹ *Schooling Subgroup of the Productivity Agenda Working Group of COAG, 2008, Information Paper: The new Commonwealth-State Financial Framework and funding for non-government schools for 2009–2012, Canberra, COAG, August 2008. Available online at <http://www.decs.sa.gov.au/docs/documents/1/CommonwealthStateFinancia.pdf> p. 10 [Last accessed 20 May 2009]*

² *Productivity Commission, 2015, Report on Government Services (Chapter 4), Productivity Commission, Canberra.*

³ *Australian Bureau of Statistics, 2015, Schools Australia 2014.*

The enrolment share of nongovernment schools has gradually increased since the debut of recurrent Commonwealth funding in the 1970s, with growth concentrated in low-fee independent schools.

While all school sectors enrol students from a variety of backgrounds, students from disadvantaged backgrounds are heavily and increasingly concentrated in public schools, while those from the most advantaged backgrounds are increasingly concentrated in the wealthier private, independent schools. For example, 84 per cent of all Indigenous students are enrolled in public schools, as are 76 per cent of students with a disability, and most students from low socio-economic background and almost all rural and remote students (ABS, 2015). Official estimates of socio-educational advantage found that in 2010, 36 per cent of government school students were in the bottom quarter of the national distribution. Conversely, 47 per cent of students at Independent schools were in the top quarter, compared with only 22 per cent of public school students.⁴ Research from 2015 found that disadvantage has become more concentrated since then, especially within the public sector.⁵

Commonwealth funding, as mentioned above, is provided through tied grants with significant spending and reporting conditions to the states, who then pass the funding, as well as any funding of their own, to the relevant school system authority (such as Victorian Department of Education and Training, or Catholic Education Office) or to independent private schools, for them to distribute to their schools along with any additional revenue, according to their own formulas and policies.⁶ Nongovernment schools charge additional tuition fees, which range from almost nothing to tens of thousands of dollars each year. Public schools also charge “voluntary” fees and levies, and undertake extensive fundraising to supplement their revenue from governments.

In sum, both public schools and nongovernment schools collect public funding from the Commonwealth, the States, and private funding from their families and broader community. However, public schools are almost entirely funded by government and receive 76 per cent of all government funding. In contrast, nongovernment schools – as a sector – receive much less government funding, but this funding accounted for more than half their revenue (57 per cent), with the additional 43 per cent raised from fees and revenue (Productivity Commission 2015). Refer to Figure 1, below.

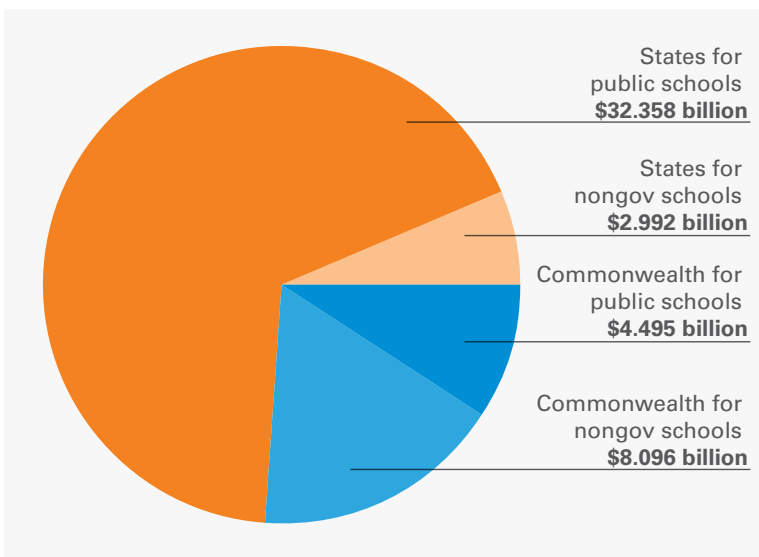


Figure 1. Recurrent general funding for schools, by level of government and school sector, 2013. Total \$47.9 billion.

Source: Data from Productivity Commission 2015 Report on Government Services, Table 4.1. Data is from 2012-2013. The PC advises that figures do not add due to rounding.

⁴ Lyndsay Connors and Jim McMorrow, ‘Imperatives in Schools Funding: Equity, sustainability and achievement’, *Australian Education Review*, No. 60

⁵ *Need to Succeed, 2015, Equity, Funding and the ‘Education State’*, Need to Succeed and the Education Foundation, Melbourne.

⁶ The Commonwealth sometimes bypasses the states to pursue its own school programs, which is of dubious constitutionality.

Funding for schools in Australia has increased dramatically in recent years, with a 40 per cent increase in real terms between 2002 and 2012/2013. Funding to nongovernment schools has grown at a much faster rate than that to public schools and is disproportionate to the marginal growth in enrolment share or the educational needs of their students.⁷

Commonwealth funding for schools is associated with the National Education Agreement under the Intergovernmental Agreement on Federal Financial Relations, which replaced 96 tied grants with only six (broader) tied grants. These agreements sought to “significantly [reduce] Commonwealth prescriptions on service delivery by the States and Territories (the States), in conjunction with outlining clearer roles and responsibilities and implementing outcomes-based public accountability” and “enable States to deploy Commonwealth Specific Purpose Payments (SPPs) [tied grants] more flexibly and reduce administration and compliance costs.”⁸ These are worthy objectives. Alas, the number of grants and conditions attached has rapidly proliferated since then.

Formal intergovernmental consultation and, to a lesser degree coordination, on schooling policy occurs through the Education Council, an intergovernmental council with all state, territory and Commonwealth ministers for education, existing in various forms since 1936. Since 2009, this council has been joined by the Australian Curriculum Assessment and Reporting Authority (ACARA), an independent agency funded by all governments, taking instructions from all governments, and reporting to them all through the Education Council.⁹

It is ACARA that develops, administers and analyses the national literacy and numeracy tests (NAPLAN), the national curriculum, and collects, analyses and publishes data from each school on the MySchool website, and additional data from state and nongovernment school systems to measure progress against the National Goals for Schooling and to facilitate interstate comparison and learning. While nominally intergovernmental institutions, the pre-eminent role of the Commonwealth in these institutions is universally acknowledged.

7 Lyndsay Connors and Jim McMorrow (2015) estimate that, in real terms, Commonwealth grants for public schools grew about 9-fold between 1973 and 2011, while Commonwealth grants for nongovernment schools increased almost 16-fold. p.ii. Between 2009 and 2013, government funding to nongovernment schools grew twice as fast as government funding for public schools (23 per cent versus 12.5 per cent). Data from ACARA.

8 Council of Australian Governments 2008, 'National Education Agreement Fact Sheet', Published online at http://www.coag.gov.au/coag_meeting_outcomes/2008-11-29/docs/20081129_national_education_agreement_factsheet.rtf

9 ACARA was established under the Commonwealth Authorities and Companies Act 1997 in 2008, and became operational in May 2009. ACARA 2009, Australian Curriculum, Assessment and Reporting Authority, Annual Report 2008 – 2009, ACARA, Canberra.

THE NEED FOR REFORM

Overall, Australia's school system performs well compared to other advanced democracies, but this performance has stagnated or declined on every indicator since 2000. There is a large and growing gap between Australia's highest performing and lowest performing schools and students, with performance strongly correlated to student background.¹⁰ Decades of reforms and significant increases in spending on schooling by state and Commonwealth governments have had minimal impact on these equity and excellence concerns. This poses severe social, health and economic consequences for Australia's young people, especially those from disadvantaged backgrounds, and for the nation. The structure of Australia's schooling system and the division of responsibilities among governments has played a large role in the limited effectiveness of these reforms and funding increases. There is a growing disconnect between governments' responsibilities in schooling, their reform capacity and their revenue capacity. As we have seen, disadvantage is heavily and increasingly concentrated in public schools, which receive 89 per cent of their funding from State and Territory governments which have limited revenue capacity and are reliant on Commonwealth government transfers to meet their constitutional responsibilities.

Policy levers are shared, often unnecessarily, but decisions are made separately. Intergovernmental institutions are not the roundtables they were envisaged to be and are not reaching their potential. This incoherent planning and decision-making has meant that increases in government spending in education have had minimal impact. Intergovernmental reform, in the form of realigning roles, responsibilities and revenue, and increasing strategic collaboration where it is required, is an essential foundation for improving excellence and equity in Australian schooling. The rewards of such realignment are high. The costs of inaction, for the nation and for our young people, are ever higher.

10 Susan Thomson et al., 2013, PISA 2012: How Australia Measures Up, Australian Council for Educational Research, December; Melbourne; Need to Succeed, 2015, Equity, Funding and the 'Education State'; Need to Succeed and the Education Foundation, Melbourne; David Gonski (chair) 2011, Final Report of the National Review of School Funding, Australian Government, Canberra; Lyndsay Connors and Jim McMorrow, 'Imperatives in Schools Funding: Equity, sustainability and achievement', Australian Education Review, No. 60.

3. The White Paper: Process and Assumptions

Federal systems hold many advantages over unitary systems of government. They are usually more effective (better service and policy outcomes, tailored to the needs and preferences of citizens), more efficient (cheaper), enhance accountability, expand democracy, and allow for greater policy innovation and improvement.¹¹ But Australia's federal system is not performing as well as it could.

The White Paper on Reform of the Federation process was established by the Prime Minister to examine inefficiencies in our federal system that have emerged since 1901 and "set out a clear, well-defined and timely policy platform" that maximises the benefits offered by our federal system, while minimising the weaknesses. A particular focus on this White Paper process is clarifying government roles and responsibilities and rationalising Commonwealth intervention "to ensure that, as far as possible, the States and Territories are sovereign in their own sphere." This has the intention of reducing or ending duplication, waste and second-guessing between different levels of government, making "interacting with government simpler" while also enhancing policy effectiveness, efficiency, flexibility, accountability, national productivity and economic growth and competitiveness.¹²

This White Paper is overseen by Steering Committee comprising the Secretaries and Chief Executives of the Commonwealth Department of Prime Minister and Cabinet, State/Territory First Ministers' departments, and the Australian Local Government Association (chaired by the Commonwealth). This steering committee developed the objectives and terms of reference of the process, which were also endorsed by the Council of Australian Governments (COAG), where the White Paper is a standing agenda item. In addition to this intergovernmental collaboration, the Taskforce will also undertake extensive consultation with affected other stakeholders, business, nongovernment experts and the community.

The process has an explicit focus on education, housing and homelessness, and health - areas in which significant overlap and discontent in intergovernmental relations and roles are present. Other policy areas and issues are also examined to a lesser degree. These include enhancing decision-making at the Council of Australian Governments; facilitating mutual recognition (as opposed to harmonisation) of State and Territory regulation; and how to improve reporting and transparency of performance data.

¹¹ See for example, Ronald Watts, 2008, *Comparing Federal Systems*, Institute of International Relations, Kingston, Canada; Anne Twomey and Glen Withers, 2007, *Australia's Federal Future: Delivering Growth and Prosperity*, Council for the Australian Federation, Melbourne.

¹² . Reform of the Federation Taskforce 'Terms of Reference', Department of Prime Minister and Cabinet, Canberra, published online 28 June at <http://federation.dpmc.gov.au/terms-reference> [accessed 12 July 2015]

CRITERIA FOR EVALUATION

Each reform option proposed for schooling (and for other portfolios) is to be considered against the six criteria developed intergovernmentally. These criteria are valuable considerations:

1. Subsidiarity, whereby responsibility lies with the lowest level of government possible, allowing flexible approaches to improving outcomes;
2. Equity, efficiency and effectiveness of service delivery, including a specific focus on service delivery in the regions;
3. 'National interest considerations', so that where it is appropriate, a national approach is adopted in preference to diversity across jurisdictions;
4. Accountability for performance in delivering outcomes, but without imposing unnecessary reporting burdens and overly prescriptive controls;
5. Durability (whether the allocation of roles and responsibilities should be appropriate for the long-term); and
6. Fiscal sustainability at both Commonwealth and State levels.

OVERLAP: DESIGN FLAW OR A DESIGN FEATURE?

The stated objectives of the White Paper process suggest that duplication or overlap between different levels of government is bad and results in waste, poorer outcomes, and reduced accountability. But research of Australian policies and service delivery indicates this is not necessarily the case.

Overlap and redundancy can offer a valuable "insurance" mechanism in the case of policy failure in complex domains such as the environment, providing recourse where the actions of one level of government were inappropriate or dangerous.¹³ They can also provide for more sophisticated and flexible policy development and service delivery in social policy areas¹⁴ and contribute economic benefits.¹⁵ My own research has found that overlapping roles in school funding provided a useful financial buffer against state budget cuts and consequently facilitated state policy reform without restricting autonomy. I also found the intergovernmental arrangements and institutional features facilitated the spread of policy ideas horizontally (between states) and vertically (from states to the Commonwealth).¹⁶

13 Robyn Hollander (2010) 'Rethinking Overlap and Duplication: Federalism and Environmental Assessment in Australia', *Publius: The Journal of Federalism*, vol. 40, issue 1, 136-170.

14 Dugold Monro, 2001, *The Results of Federalism: An Examination of Housing and Disability Services*, PhD Thesis, University of Sydney.

15 Cliff Walsh, 2008, 'Competitive Federalism: Wasteful or Welfare Enhancing?', in *Productive Reform in a Federal System*, Productivity Commission, Canberra; Jonathan Pincus, 2008, 'Productive Reform in a Federal System', in *Productive Reform in a Federal System*, Productivity Commission, Canberra.

16 Bronwyn Hinz, 2010, 'Australian federalism and school funding: Exploring the nexus in Victoria's devolution reforms', reread paper presented at the Australian Political Studies Association's annual conference, Melbourne, 27-29 September; Bronwyn Hinz, 2013, 'How federalism influences Commonwealth policymaking: The case of school funding reform under the Howard Government', Australian Political Studies Association Annual Conference, Perth, 30-September - 2 October.

National and international research supports these conclusions, finding that the problems and costs stemming from concurrency are regularly exaggerated and that the advantages are frequently misunderstood undervalued.¹⁷ As leading federalism scholar Martin Landau has argued, redundancy "serves many vital functions... it provides safety factors, permits flexible responses to anomalous situations, and provides a kind of creative potential."¹⁸

These checks and balances are of particular benefit in parliamentary systems dominated by two parties, such as the Australian system, and where ministers are allowed wide discretion.¹⁹ The increasing complexity of policy challenges and "wicked policy problems" further underscore the importance of these features. The Council of Australian Governments' interpretation of durability embraces the concept of flexibility, stating: "arrangements need to stand the test of time and be adaptable and flexible enough to accommodate changes required over time"²⁰ This is best achieved by retaining an element of, or capacity for, concurrent (shared) responsibilities.

Indeed, this likely formed part of the reasoning for the particular wording of Section 96 of the Australian Constitution, allowing the Commonwealth to grant financial assistance to any State on such terms and conditions as the Parliament sees fit. To paraphrase Professor Brian Galligan, overlap was a design feature, not a design flaw of Australia's federal system; and it remains a useful and necessary mechanism for sorting and responding to problems.²¹

Furthermore, a complete division of responsibilities where each level of government is entirely "sovereign in its own sphere" and gets on with the business of governance, policy, and service delivery without need for consultation or coordination with other governments is likely impossible.²² All federal systems are "marble cake" models, where roles and responsibilities are mixed, rather than "layer cakes" with each level of government operating separately to the others.²³ But while a complete and tidy separation of responsibilities is unfeasible, a clearer division of functions in Australia is preferable in most policy domains. This is particularly the case in schooling, where concurrency is rife and has been driven more by ad hoc opportunism than principle and systemic planning.²⁴

17 See for example, Brian Galligan, 2008, 'Processes for Reforming Australian Federalism', *UNSW Law Journal*, vol.31, issue 2, pp.617 - 642.

18 Martin Landau, 1969, 'Redundancy, rationality, and the problem of duplication and overlap', *Public Administration Review*, vol. 29, issue 4, pp. 346-358.

19 Daniel Kelemen, 2004, *The rules of federalism: Institutions and regulatory politics in the EU and beyond*, Harvard University Press, Cambridge; Gordon Brown, 1994, 'Canadian federal-provincial overlap and presumed government inefficiency', *Publius: Journal of Federalism*, vol. 24, issue 1, pp.21-37.

20 Council of Australian Governments, 2015, *COAG Communique*, 17 April, Canberra, published online at <https://www.coag.gov.au/sites/default/files/COAG%20Communique%2017%20April%202015.pdf> [Accessed 12 July 2015]

21 Brian Galligan, 2008, 'Processes for Reforming Australian Federalism', *UNSW Law Journal*, vol.31, issue 2, pp.617 - 642.

22 Russell Mathews, 1980, *Public Policies in Two Federal Countries: Canada and Australia*, Centre for Research on Federal Financial Relations, Australian National University, Canberra.

23 Morton Grodzin (1966), *The American System: A New View of Government in the United States*, Rand McNally and Company, Chicago.

24 Bronwyn Hinz, 2008, 'Missing the forest for the trees: How Australia's dynamic federal structures and processes affect school funding arrangements', *Refereed paper presented at the Australian Social Policy Conference*, Sydney, 9 July 2009; David Gonski (chair) 2011, *Final Report of the National Review of School Funding*, Australian Government, Canberra.

4. Evaluating the reform options

In June 2015, four options for reform to government roles and responsibilities in the schooling portfolio were leaked and later publicly released by the Taskforce. These options were the product of discussions with stakeholders, all the States and Territories and the Prime Minister's Expert Advisory Panel. They were not listed in order of preference or feasibility.

1. States and Territories fully responsible for all schools;
2. States and Territories responsible for funding public schools and the Commonwealth responsible for funding nongovernment schools. States remain responsible for education delivery in government schools and the regulatory framework for all schools;
3. Reduced Commonwealth involvement in school programs;
4. The Commonwealth is the dominant funder of all students on an equal and consistent basis, but States and Territories maintain other current responsibilities, including regulatory frameworks and the provision of public schools.

THE ROLE OF NATIONAL EDUCATION INSTITUTIONS

The four reform options above assume the retention of the national education institutions and functions established by the Rudd government, including:

- MySchool.
- the National Assessment Program
- the Australian Curriculum; and
- national principal and teaching standards.

Stakeholders such as school system authorities and principals' associations emphasised these new institutions and functions "worked well and ought to be retained".

However, this retention came with an important caveat:

The Commonwealth adjusting its role to be largely one of a facilitator or national coordinator, or have a 'seat at the table' rather than being the unilateral driver of reforms.

Interestingly, this caveat, which appeared on page 26 of the leaked Draft of the Green Paper, was absent from the publicly released discussion paper. Another notable absence from the public document was a line stating that these specific national institutions were "considered by stakeholders to be necessary to the school system". The documents were otherwise essentially identical.

The fate of ACARA, the intergovernmental institution that manages these national functions and related tasks is not discussed in either the draft Green Paper nor the public discussion paper. A clue to its potential fate can be found in the Commonwealth government's 2015-16 budget papers, which reduced funding by \$2.6 million over five years through "operation efficiencies", including a refocus on their core priorities. In a related move, the Commonwealth budget papers indicated it would achieve savings of \$21 million over five years by not proceeding with funding for the Better Schools - National Plan for School Improvement - Centre for Quality Teaching and Learning, an initiative of the Gillard government.²⁵

²⁵ Australian government, 2015, Budget Paper No. 2 - Budget Measures, Available online <http://www.budget.gov.au/2015-16/content/bp2/html/index.htm> [Last accessed 20 May 2015]

Another clue is present in the Taskforce's Issues Paper #4 'Roles and Responsibilities in Education' which was released late December 2014. This stated:

In considering the national education architecture (such as national curriculum and NAPLAN), now that the Commonwealth has played its catalytic role, it arguably could be the case that this work continues to be maintained by the States and Territories.

These institutions do play a valuable role, offering a venue for strategic and productive collaboration and facilitating information sharing and policy learning across jurisdictional boundaries. Clearly this is the emphatic view of the stakeholders consulted in the White Paper process. But this for role to be fully realised, it is important for the Commonwealth to step back in line with the preferences of stakeholders noted above, which could be consistent with the position suggested in the issue paper above.

Other revisions to the roles of national institutions are needed too. There are legitimate concerns about these authorities duplicating the work of the state and territory curriculum, assessment, teaching and reporting authorities. There are also legitimate concerns about inadequate consultation and collaboration between state and Commonwealth authorities, and of unhelpful competition, with ACARA communicating directly (and without meaningful intergovernmental consultation or coordination) with schools, or state and Commonwealth agencies rushing to be the first to announce policy initiatives or changes resulting in blurred accountability and responsibilities.²⁶ This is a symptom of the perverse politics involved, and the political capital (real or perceived) gained by the particular government announcing initiatives and new funding in the education sphere. A significant reduction in Commonwealth involvement in schooling (Options 1 and 3) accompanied by the Commonwealth relinquishing its 'Director's role' in these national authorities have the potential to clarify responsibilities and accountabilities. This could in turn reduce the incentive for governments to compete on "announceables", as these initiatives, and the authorities that develop and oversee them, would be more truly intergovernmental.

²⁶ Australian College of Educators, 2015, *Federalism in Education symposium*, University of Melbourne, 30 April, especially the unpublished presentations of Glenn Savage and Bronwyn Pike.

OPTION 1: FULL DEVOLUTION

Under Option 1, to quote the Taskforce:

The States and Territories would have full responsibility for all schools (policy, funding, and regulation of all schools and delivery of government schools) in their jurisdiction, including non-government schools. States and Territories would make decisions about all areas of schooling including the funding and policy framework for non-government schools, which could include funding guarantees being provided. The only Commonwealth involvement would be in the national functions set out in the introduction to the reform options.²⁷

These national functions are those discussed in the previous section – MySchool, the Australian Curriculum and, potentially, ACARA.

TABLE 2: ASSESSMENT OF OPTION 1 AGAINST THE WHITE PAPER CRITERIA	
CRITERIA	EVALUATION
Subsidiarity	Yes, much more than any other option
Equity, efficiency and effectiveness	Yes, if carefully done
National interest	Likely - through national (intergovernmental) institutions
Accountability for performance	Yes
Durability	Somewhat, less capacity for flexible responses to unforeseen future scenarios
Fiscal sustainability	Only with commensurate increase to state revenue approximately \$15bn/year

Potential for vast improvement

Option 1 is the option that best meets the six criteria put forth by the Taskforce. Returning full responsibility to states for all schools in their jurisdiction will greatly enhance subsidiarity and likely enhance accountability, efficiency, effectiveness and fairness.

Maintaining national authorities such as ACARA and the Education Council will facilitate cross-border policy-learning and performance reporting against agreed benchmarks and national goals using comparable data. Such arrangement allows the continuation and improvement of strategic coordination and to further the national interest. Of all options, Option 1 is the most consistent with the Australian constitutional settlement.

This makes it a highly desirable option, particularly with respect to the overarching reform goals of removing overlap and improving service delivery.²⁸ Disjointed decision-making on school funding, and competing state and Commonwealth policy objectives has exacerbated disadvantage in recent decades and is the primary reason that schooling outcomes (learning outcomes, Year 12 retention and post-school outcomes) have largely remained stagnant or fallen despite dramatic funding increases.

The alignment of responsibilities for system design, program development and implementation, regulatory and accountability frameworks, and funding for all schools in a state with the state governments would enhance these key functions.

²⁷ Reform of the Federation Taskforce, 2015, Discussion Paper, Department of Prime Minister and Cabinet, Canberra, p.60.

²⁸ Council of Australian Governments, 2015, COAG Communique, 17 April, Canberra, published online at <https://www.coag.gov.au/sites/default/files/COAG%20Communique%2017%20April%202015.pdf> [Accessed 12 July 2015]

Importantly, it would be a much easier exercise to allocate funding on a sector-blind, needs-basis to all schools – critical for a high-performing, high-equity school system. Furthermore the greater targeting, clarity and oversight that this would produce would make it easier to assess the degree to which programs have added value to student learning and school outcomes, and whether or how they could be modified for greater positive impact. More effective resource allocation could in turn reduce the reliance of public schools (and nongovernment schools) on parent fees. This practice is widespread and poorly regulated, with damaging effects.²⁹

Many of the Commonwealth's ad hoc programs in schooling have had the perverse effect of distracting schools and school systems from focusing on student learning and their own strategies and coherent plans for improvement.

It is unfair to apportion blame to these schools (or systems) for attempting to secure additional funding when their core grants and recurrent funding is inadequate to meet the learning needs of their students.

If states alone possessed responsibility for schooling, this would facilitate policy innovation and tailoring of programs to meet the particular needs of particular schooling communities. There would also be less regulation and administration for schools and school systems to navigate and respond to, freeing up more resources (both time and money) they can instead invest in other priorities more directly related to their students' needs. The absence of Commonwealth carrots and sticks in the form of tied grants, competing Commonwealth programs, and cessation of Commonwealth domination of intergovernmental institutions would further promote a culture of trust and information sharing towards continuous learning, adaption and improvement.

29 Victorian Auditor General's Office, 2015, *Additional School Costs for Families*, Victorian Auditor General's Office, Melbourne. Available online at http://www.audit.vic.gov.au/reports_and_publications/latest_reports/2014-15/20150211-school-costs.aspx [Last accessed 12 July 2015]

Durability is likely and flexibility is provided for through tied intergovernmental grants under section 96 of the Constitution, which one would hope would be used less frequently should this option be implemented.

This first option seems to be the preference of the authors of the Taskforce's issue paper on education, which makes a repeated and explicit case for complete or extensive Commonwealth retreat from schooling funding and policy. For instance, it says "States and territories [...] arguably ought to have primary carriage of schooling policy for all the schools in their jurisdiction". Pre-empting concerns about the national interest criterion, the Taskforce also argues that "in general, the national interest will be best served through subsidiarity" and that the presence of national interest "does not necessarily require policy uniformity or Commonwealth leadership."

Indeed, the most exhaustive study of Commonwealth interventions in schooling via tied grants over the last century concluded policy outcomes would have been superior if the Commonwealth had converted all their tied grants into untied grants for the states to spend without Commonwealth direction, however well-intentioned such direction was.³⁰ In other words, this study recommended a scenario that mirrors Option 1.

A radical but feasible reform

Jennifer Wallner, a Canadian federalism scholar specialising in schooling policy, attributes the similarity of the provinces' school systems and their excellent outcomes, in the absence of federal government directives or funding, to contextual features of Canadian federalism.³¹ Her research has demonstrated how fiscal federalism, societal pressures and the configuration of the policy sector combine to facilitate the flow of policy ideas and expectations across provincial borders, through formal and informal institutions.

30 Louise Watson, 1998, *Intentions, Opportunities and Outcomes: The Impact of Commonwealth Involvement in Australian Schooling*, PhD Thesis, Australian National University, Canberra.

31 Jennifer Wallner 2010, 'Beyond National Standards: Reconciling Tension between Federalism and the Welfare State', *Publius: The Journal of Federalism*, vol.40, issue 4, pp.646-671

This was aided by mobile policy actors (such as advisors and senior bureaucrats), national media, an intergovernmental council of education ministers, and stakeholders such as teachers and parents, who shared many policy preferences, innovations and knowledge, and formed associations which transcended provincial borders. These stakeholder groups employed this knowledge and connections to continuously pressure their own governments to maintain or improve their school systems relative to those in other provinces.

Large untied grants from the federal government (horizontal fiscal equalisation (HFE) payments) enabled different provinces to spend comparable amounts on their education systems, despite their differing capacities to raise revenue of their own.³² In contrast, the absence of untied horizontal fiscal equalisation payments in the United States has exacerbated school funding inequalities and outcomes, with rich states such as New Jersey spending up to three times more per student in their public schools each year than poorer states such as Louisiana and Missouri. This indicates that Vertical Fiscal Imbalance can be beneficial and work in the national interest if it is distributed in a way that increases state capacity to deliver services to their citizens.

My research on Australian school funding reform has similarly found these contextual features - comparable stakeholder groups, mobile policy actors, intergovernmental councils, national media, intergovernmental comparisons and information sharing - aided by HFE - contribute to policy innovation, transfer and adaptation at the state level, despite the presence of complex tied grants and directives from the Commonwealth government.³³ Indeed, all the major policies in the schooling portfolio proposed by Australia's Commonwealth governments and oppositions over the last decade originated as state policies.

³² These grants were addressing a moderate degree of vertical fiscal imbalance and were equalized horizontally.

³³ Bronwyn Hinz, 2010, 'Australian federalism and school funding: Exploring the nexus in Victoria's devolution reforms', refereed paper presented at the Australian Political Studies Association's annual conference, Melbourne, 27-29 September;

This includes the "core plus loadings" funding model for schools, the socio-economic status funding model for nongovernment schools, and policies increasing school autonomy and parental engagement.

Finally, the states have also indicated an enthusiasm for radical reform. South Australian Premier Jay Weatherill encouraged the prime minister to be "ambitious" in his proposals, particularly in education, where the states have "an appetite for reforms".

The Leaders' Retreats are a "once in a lifetime opportunity" to thrash out issues associated with major changes to government roles and responsibilities, and very different to COAG meetings, where "it's all stitched up beforehand".³⁴

Potential roadblocks to reform

FISCAL SUSTAINABILITY

Returning full responsibility for schooling funding, policy, regulation and administration to states is the option that best meets the White Paper criteria above and best meets the overriding objectives for reform - better service delivery, service outcomes and clarity for Australians. But its success is dependent upon increase in state revenue commensurate with the increase in their expenditure responsibilities - over \$15 billion in schools funding that the Commonwealth currently provides each year.³⁵ This could be through a larger untied grant from the Commonwealth, a guaranteed share of income tax revenue collected by the Commonwealth from their state (providing incentive for States to invest in schooling systems and human capital), or directly raising revenue themselves, which would likely involve other reforms to Australia's fiscal and financial arrangements. These and other options are being explored in the complementary White Paper on Tax Reform.

³⁴ Jay Weatherill, 2015, Interview with Patricia Karvelas, Radio National Drive, Radio National, Australian Broadcasting Corporation, 8 July.

³⁵ Reform of the Federation Taskforce, 2015, Green Paper (leaked, draft version for official purposes), June, p.26

COMMONWEALTH'S "SPECIAL RELATIONSHIP" WITH NONGOVERNMENT SCHOOLS AND PET PROGRAMS.

Option 1 is likely to encounter fierce resistance from nongovernment schools and their peak groups - the National Catholic Education Commission and the Independent Schools Council of Australia - who have benefited greatly from the current political settlement whereby the Commonwealth directs most of its recurrent funding to nongovernment schools (based on the argument that states and territories direct the overwhelming majority of their funding to public schools).³⁶ Refer to Figure 1. Over the past decades, the funding increases received by nongovernment schools, especially but not only from the Commonwealth, has exceeded their enrolment growth and need relative to other schools.

This generosity will not necessarily continue if the States and Territories were the only governments providing funding, as they possess greater knowledge than the Commonwealth of the relative needs of all schools in their jurisdiction and would likely make funding allocations accordingly. However, analysis of funding decisions by state governments and official data from ACARA demonstrates that nongovernment schools have enjoyed funding increases from state governments disproportionate to their relative need. Nationally, government funding for nongovernmental schools increased by 23 % between 2009 and 2013, driven largely by increased state government funding, while government funding to public schools increased by only 12.5 per cent, driven largely by Commonwealth increases.³⁷

Option 1 is also likely to encounter resistance from within the Commonwealth government, with both the federal education minister and prime minister frequently publicly espousing their desire to continue their direct

relationship with nongovernment schools, for whom they feel a special responsibility due to the political settlement above, and other factors such as the Liberal Party's philosophical beliefs regarding educational provision and choice as a policy means (market principles) and policy goal. The Commonwealth may also be unwilling to stop providing favoured programs, such as the National School Chaplaincy Program, which has benefitted from significant funding increases under Coalition and Labor governments, and was the target of rushed legislation (supported by Labor, the Coalition and the Greens) to protect it following the High Court verdicts ruling it unconstitutional.³⁸

Removing the insurance policy?

Commonwealth retreat from the schooling policy and funding as outlined in Option 1 could weaken the valuable "insurance mechanism" provided by concurrent or overlapping government roles. However, the capacity for the Commonwealth to make conditional payments to the states under Section 96 of the constitution (and legislation to support such grants) would remain. This should be done with caution and with the support of the States or Territories, for example to support national priorities that had been determined intergovernmentally, or to assist states with the provision of schooling infrastructure following natural disasters.

Summary

Despite the reduced "insurance mechanism" provision, Option 1 remains highly desirable because States and Territories are much better placed to develop, implement and evaluate reforms because of their direct connection to players (they pay teachers and maintain the regulatory system) and there are fewer veto points at state level than the Commonwealth level, making reform easier and enhancing the "policy laboratory" feature of federal systems.

³⁶ A secondary reason flows from historical decisions where the Commonwealth countered state-level discrimination against Catholics.

³⁷ See for example 2015, *Equity, Funding and the 'Education State', Need to Succeed and the Education Foundation, Melbourne*; Lyndsay Connors and Jim McMorrow, 'Imperatives in Schools Funding: Equity, sustainability and achievement', *Australian Education Review*, No. 60.

³⁸ Bronwyn Hinz and Brian Galligan, 2012, 'Schooling federalism, Gonski, Williams and reform prospects', *Refereed paper presented at Australian Political Studies Association Annual Conference, Hobart, 24-26 September, Hobart.*

OPTION 2: SPLIT FUNDING RESPONSIBILITIES

Under Option 2, to paraphrase the Taskforce, States and Territories alone would be responsible for funding public schools and the Commonwealth alone would be responsible for funding non-government schools (but would still rely on tied grants provide via the States to delivery this funding). The Commonwealth would cease funding public schools (approximately \$2 billion per annum), but would continue to be involved in national education architecture and associated functions. The States and Territories would retain responsibility for the education policies and regulatory frameworks for all schools - public and nongovernment in their jurisdiction.

TABLE 3: ASSESSING OPTION 2 AGAINST THE WHITE PAPER CRITERIA

CRITERIA	EVALUATION
Subsidiarity	Worse than now.
Equity, efficiency and effectiveness	No. Much worse than now.
National interest	No. Worse than now.
Accountability for performance	No. Worse than now.
Durability	Slight.
Fiscal sustainability	No. States would require at least \$2 billion/annum extra.

Feasible but undesirable

Option 2 rates poorly against the six criteria proposed by the Taskforce. Rather than providing clarity and enhancing accountability, it muddies responsibilities, as the states would still be responsible for the regulatory frameworks and other programs for all schools in their jurisdiction, which would include some programmatic funding, such as student welfare initiatives. It also is likely to exacerbate the inequities and inefficiencies (and worsening learning outcomes) created by the two levels of government making policy decisions and funding allocations independently of each other, and pursuing different, competing policy agendas.

This dilutes program effectiveness and efficiency, resulting in wasted resources (time, money and goodwill towards reform).

The growing gap in resources between school sectors impacts negatively on the overall performance of Australia's school system. Despite compelling data documented in the Gonski Review of School Funding on the extent of this problem and its consequences for individual students and the nation, the inequities between public and nongovernment schools have grown since the report's release in 2011.³⁹ It would be unwise and against the national interest to deliberately deepen this trench.

The split of funding responsibilities from policy and regulatory responsibilities under Option 2 creates additional problems, as noted by the Taskforce, who cautioned that Option 2 was likely to "introduce perverse incentives for governments to shift costs within the system" and could also "reduce State and Territory governments' ability to effectively regulate and assist the non-government sector improve its student performance, or ensure a baseline of consistency that allows easy movement for students between school sectors."⁴⁰

Further complications

Finally, the Commonwealth does not have constitutional authority to fund or regulate schools. It therefore cannot directly fund nongovernment schools (or any schools) and would still need to provide its funding to them via tied grants to the states under Section 96 of the Constitution. This would make the collection of any debts or payments by the Commonwealth from nongovernment schools much more complicated than if states were the sole funders.

³⁹ *Need to Succeed, 2015, Equity, Funding and the 'Education State', Need to Succeed and the Education Foundation, Melbourne.*

⁴⁰ *Reform of the Federation Taskforce, 2015, Discussion Paper, Department of Prime Minister and Cabinet, Canberra, p.62.*

A second issue related to the reliance on tied grants is the near certainty of the conditions attached to those grants for nongovernment schools duplicating or counter-acting the state government regulatory and reporting frameworks, or creating other administrative questions and burdens for nongovernment schools and their school systems. Meeting these additional reporting requirements takes time, money and energy away from schools' core business of educating students and preparing them for life beyond school. Thirdly, this division in funding relationships could undermine cooperation between school sectors, cooperation which has been demonstrated to significantly improve outcomes for students.⁴¹

Despite rating poorly against the criteria, especially on subsidiary, national interest, efficiency and equity components, Option 2 is likely to garner greater support in federal parliament than Option 1, and will certainly have greater support among the nongovernment school sector who have benefited from their "special relationship" with the Commonwealth.

41 Tom Bentley and Ciannon Cazaly 2015, *The Shared Work of Learning: Lifting Educational Achievement through Collaboration*, Mitchell Institute Research Report No. 03/2015, Mitchell Institute for Health and Education Policy and the Centre for Strategic Education, Melbourne. Available online at <http://www.mitchellinstitute.org.au/reports/the-shared-work-of-learning/> [Last accessed 10 June 2015]

OPTION 3: REDUCED COMMONWEALTH INVOLVEMENT IN SCHOOL PROGRAMS

This option, to quote the Taskforce,

would essentially retain the status quo, but reduce the Commonwealth's involvement. The Commonwealth would reduce its involvement in a large number of programs that are duplicative or could reasonably be done by the States and Territories. It would not substantially change relative funding levels between governments, but there could be a relatively minor decrease in Commonwealth expenditure as it phases out some of its programmes.

The Commonwealth would continue to reduce its involvement in overarching policy, and limit that to the national education functions set out in the introduction to the reform options. Commonwealth-funded programmes (i.e. those outside of ongoing, or what is known as 'recurrent', funding) would be limited to a small number of nationally-significant priorities.⁴²

TABLE 4: ASSESSING OPTION 3

CRITERIA	EVALUATION
Subsidiarity	Slightly improved but far from ideal.
Equity, efficiency and effectiveness	Slightly improved.
National interest	Slightly improved.
Accountability for performance	Slightly improved.
Durability	Only if the Commonwealth exercises perpetual restraint.
Fiscal sustainability	Likely.

Achievable and possessing potential

Option 3 is the most politically achievable option proposed, and depending on the details it could result in significant improvement. It offers the same benefits as Option 1, although to a far lesser degree.

For example, there would be greater subsidiarity and greater clarity on responsibilities if the Commonwealth largely withdraws from programmatic interventions, but not as much as if it retreated from recurrent school funding as well. Option 3 would likely result in better educational outcomes, especially if any Commonwealth "savings" from this space are returned to the states and territories for them to re-invest in education. It largely resolves the issues of Commonwealth overreach and somewhat address the issue inadequate collaboration between the levels of government which has driven inequities and contributed to stagnant or falling learning outcomes, despite increased spending. In the words of Richard Bolt, former Secretary of Victoria's Department of Education and Early Childhood Development:

Lack of incentives isn't the problem. Lack of coherence between State and Commonwealth programs is the problem. Coherence needs collaboration. Needs to be more strategic. Policy leadership needs to be a collective responsibility and needs to be driven by the second level of government.

This view was also emphatically made in the final report of the Gonski Review of School Funding, which repeatedly argued for a decrease in Commonwealth program involvement, smarter collaboration Commonwealth deferral to state government experience and expertise on schooling, particularly on funding issues, as a mechanism for enhancing allocation decisions, enhancing program development and implementation and consequently, enhancing excellence and equity through Australia's school systems. Of all four options proposed, Option 3 aligns most neatly with the recommendations of the Gonski Review, which recommended a "partnership approach" for governments in relation to school funding.⁴³

⁴² Reform of the Federation Taskforce, 2015, Discussion Paper, Department of Prime Minister and Cabinet, Canberra, p.62.

⁴³ David Gonski (chair) 2011, Final Report of the National Review of School Funding, Australian Government, Canberra, pp.93-195.

Retaining the presence of state and Commonwealth governments in the provision of recurrent funding to public and nongovernment schools maintains the “insurance” or “risk management” feature of current intergovernmental arrangements. For instance, should a state government experience financial collapse, severely cut funding or implement a disastrous policy, the Commonwealth could step in to shield schools against the full blow (or vice versa).

Finally, from a performance perspective, shared governance is sometimes more effective than a coordinate model (where government roles are fully separate) *if* the Commonwealth limits its role to small number of strategic, national policy objectives and allows the states and other stakeholders to drive policy-making and performance improvement, as was intended under the National Education Agreement.⁴⁴ This would extend to the development and reporting of national indicators, standards and outcomes. The Commonwealth funding for schools should be reliable, come with a minimum of restrictions, and should (as it is now) be distributed by the States and nongovernment system authorities as they have a superior knowledge of relative needs within their systems.

This should be made clear to the electorate, so they know who is responsible for final funding decisions.

Retaining a large degree of concurrency (Commonwealth presence) in school funding and policy offers another potential advantage. Given education’s centrality to workforce participation, national productivity, and higher education (primarily Commonwealth responsibilities), it could enhance the alignment of policies in these spheres in the national interest. But examining all these spheres is beyond the scope of this paper.

44 Vijaya Ramaamurthy, 2012, ‘Tied Grants and Policy reform in Public Hospitals and schools’, in Paul Kildea, Andrew Lynch and George Williams (eds) *Tomorrow’s Federation: Reforming Australian Government*, The Federation Press, Sydney; Dugold Monro, 2001, *The Results of Federalism: An Examination of Housing and Disability Services*, PhD Thesis, University of Sydney.

Politically palatable but unstable

While Option 3 is the most feasible proposal, and appears to accord with views of the Prime Minister,⁴⁵ it is also much more likely to deteriorate and requires perpetual Commonwealth restraint. Such restraint over the long-term is unlikely. Every Commonwealth since Menzies has found the schooling portfolio irresistible and intervened more than its predecessor. (This is due in part to the importance of quality education to the electorate, in part due to education’s centrality to national productivity, and in part the central place schooling occupies in the philosophical principles and objectives held by the major parties.)

Option 3 rests on the Commonwealth’s interpretation of what qualified as ‘nationally significant priorities’. Would the National School Chaplaincy Program (NSCP) be considered “nationally significant” by the Commonwealth? It is likely, given its favourable treatment in the Commonwealth budget – and extra \$245.3 million - ⁴⁶ and despite the states being better placed to develop and implement pastoral care programs in collaboration with schools, and using appropriately qualified professionals such as social workers, youth workers and psychologists.

Quality teaching is a top priority for all schools, and the nation: does this mean the Commonwealth will continue running (and funding) programs it considers best in this domain, for example, particular tests for teaching graduates, or particular teaching methods such as Direct Instruction, even if these are at odds with state programs and difficult or impossible for the Commonwealth to implement given the Constitution?

45 . “While the Commonwealth will continue to take a leadership role on issues of genuine national and strategic importance, but there should be less Commonwealth intervention in areas where States have primary responsibility.” Prime Minister, ‘Media Release: White Paper on Reform of the Federation, terms of reference’, 28 June 2014. <https://www.pm.gov.au/media/2014-06-28/white-paper-reform-federation> [Accessed 6 July 2015]

46 Australian government, 2015, Budget Paper No. 2 - Budget Measures, Available online <http://www.budget.gov.au/2015-16/content/bp2/html/index.htm> [Last accessed 20 May 2015]

Schools will always have need or use for additional funding, and will put out their hand for Commonwealth funding if offered, meaning that Option 3 could undermine school and system-level strategies for improvement. As Richard Bolt notes:

sustained impact is best achieved by schools strategically focussing on better learning and devoting their ongoing core funding to achieving their plans... unilateral federal grant projects seriously undermine such a model. They distract attention from schools' priorities to the short-term preoccupations of the Commonwealth, they divide accountability and they dilute focus [and] have had no tangible or measurable result.⁴⁷

Complex web remains

Under this arrangement, the complex funding and regulatory web of tied grants from Commonwealth to the states would remain in place. If the Commonwealth continued to provide recurrent funding to public and nongovernment schools, it would need to do so via tied grants to and through the states, and is likely to continue to attach extensive conditions. With these comes all the accountability problems stemming from tied grants, which national and international evidence have demonstrated are limited in their effectiveness, prone to unintended and perverse effects, and difficult or impossible for a federal government to monitor and assess.⁴⁸

This is partly due to agency problems, but also to asymmetries of information, with the knowledge of the states in relation to their school system and administrative procedures greatly exceeding that of the Commonwealth.

In her exhaustive study of the outcomes of Commonwealth schooling programs over the twentieth century (pursued necessarily through tied grants due to Constitutional provisions), Dr Louise Watson concludes the money would have been better spent, and would have been more likely to improve educational outcomes, if the funding from the tied grants had been rolled into a larger untied grant to the states.⁴⁹ The conditions attached to tied grants could restrict state government autonomy and flexibility to respond to local priorities and preferences, could compete with and undermine state programs, and thus run counter the objectives of the White Paper process, or could simply be ineffective and a waste of resources.

Another strong disadvantage of Option 3 is that the cross-over in government roles, in which both levels of government fund both public and nongovernment schools, would continue, and there is no promise the governments would harmonise their allocation decisions. Consequently, it is likely that Commonwealth and states will continue to make decisions independently, and pursue different policy objectives, a scenario that has driven incoherence and inequity in Australia's school system.

⁴⁷ Richard Bolt, 2014, *Speech and comments*, Melbourne Institute's Economic and Social Outlook conference, Melbourne.

⁴⁸ See, for instance, Bronwyn Hinz, 2010, 'Australian federalism and school funding: Exploring the nexus in Victoria's devolution reforms', refereed paper presented at the Australian Political Studies Association's annual conference, Melbourne, 27-29 September; R. Else-Mitchell, 'Unity or Uniformity?', in J. Aldred and J. Wilkes (eds) *A Fractured Federation? Australia in the 1980s*, Allen and Unwin, Sydney; Mun Tsang and Henry Levin, 1983, 'The Impact of Intergovernmental Grants on Educational Expenditure', *Review of Educational Research* vol. 53, issue 3, pp.329-67; Nora Gordon, 2007, 'Challenges in Redistributing Resources Across Local School Districts: Evidence from Title 1 and State School Finance Equalizations', in Carl F. Kaestle and Alyssa Lodewick (eds) *To Educate a Nation. Federal and National Strategies of School Reform*, University Press of Kansas, Lawrence, Ka, pp.95-116.

⁴⁹ Louise Watson, 1998, *Intentions, Opportunities and Outcomes: The Impact of Commonwealth Involvement in Australian Schooling*, PhD Thesis, Australian National University, Canberra.

OPTION 4: COMMONWEALTH PROVIDES ALL RECURRENT FUNDING AND STATES DO EVERYTHING ELSE

Under Option 4, to paraphrase the Taskforce:

The Commonwealth would be the dominant funder of all students on an equal and consistent basis, regardless of which State or Territory they live in, or which school they attend, public or nongovernment. Each student would receive a funding entitlement, based on their educational needs and their family's capacity to contribute, which would 'follow' them to whichever school they attended. The Commonwealth could do this by providing a funding contribution based on a national resourcing standard, using the existing tied grant mechanisms where payments to schools are made through the States and Territories. The standard could be similar to the existing Commonwealth School Resource Standard (aka "Gonski formula"), which calculates how much funding is required to successfully educate a student based on their educational need. If it were to do this, the Commonwealth would need to take on significant additional funding commensurate with the level of State and Territory schools funding. States and Territories would have the option to 'top up' funding to government schools, if they wished to do so, to ensure all public school students, regardless of the ability of families to make a contribution, were able to attend for free.

The States would retain responsibility for regulation (for example, school registration, teacher accreditation) and operational service delivery, particularly with respect to public schools.⁵⁰

Infeasible and undesirable

Option 4 is the worst and least feasible of the four options proposed in the Discussion Paper. As indicated in the table above, it thumbs its nose at the criteria developed by COAG, and fails to meet any of the key objectives of the White Paper process, including the ultimate goals of greater clarity and better services. Splitting funding responsibilities (to be held by the Commonwealth) from regulatory, system planning, other schooling programs and provision responsibilities that would be retained by the states would further muddy responsibilities and accountability while also diminishing the benefits offered by our federal system of government. The Constitution requires that this Commonwealth funding be delivered via tied grants to and through the states, and the Commonwealth will want to ensure that its money is spent appropriately and in line with its policy objectives. Consequently, every problem associated with tied grants as policy instruments (discussed in previous section on Option 3), and split responsibilities (under Option 2) would be exacerbated. This in turn would worsen schooling outcomes, reduce equity and reduce efficiency and effectiveness.

TABLE 5: ASSESSING OPTION 4 AGAINST THE WHITE PAPER CRITERIA

CRITERIA	EVALUATION
Subsidiarity	No. Much worse than now.
Equity, efficiency and effectiveness	No. Worse than now.
National interest	No. Worse than now.
Accountability for performance	No. Much worse than now.
Durability	Slight.
Fiscal sustainability	Likely.

⁵⁰ *Reform of the Federation Taskforce, 2015, Discussion Paper, Department of Prime Minister and Cabinet, Canberra, p.64.*

It is also doubtful that the Commonwealth would want to take on billions of extra dollars in funding to all schools currently provided by the states.

Option 4 runs counter to all research evidence in Australia, from other federations, and even counter to the Taskforce's own advice on the ideal division of government responsibilities for schooling. The most comprehensive review of school funding in the last forty years concluded that "the states are better placed than the Australian government to determine the most effective allocation of available resources in their particular circumstances"⁵¹ and that States and Territories require autonomy and flexibility to do so. Similarly, public policy analyst Catharine Althaus, in her examination of the Commonwealth's 'Building the Education Revolution' initiative, found that the Australian Public Service "lacks the street knowledge and know-how" possessed by state government problems.⁵² Dr Vijaya Ramanurthy, another public policy scholar and practitioner, likewise concluded that Commonwealth attempts to lead, reform or deliver policies in education and health via tied grants results in sub-optimal policy choices, excessive and counter-effective regulation, convoluting policy compromises and policy distortions.⁵³

To all this, we can add implementation problems and exacerbation of agency problems. With States holding superior administrative knowledge and capacity, and maintaining responsibility for service delivery, schooling policies would be heavily dependent on continuous and intensive intergovernmental negotiations, and continued good rapport with the states, who could at any time block or delay progress or implementation on Commonwealth initiative, which can provoke the Commonwealth to become more unilateral, prescriptive or punitive with its grants. This is not conducive to good policy. This has led Vijaya Ramamurthy, among others, to argue that:

if the tied grant is to become a more effective policy-making instrument... it is essential that the Commonwealth avert or restrain its propensity for top-down bargaining... Instead the Commonwealth would be better placed to build on, and take leverage from, policy developments already evolving at the state and service delivery level. As befits a federal system, this bottom up mode of policy-making and governance appears to have been responsible for some of the early gains made by the Rudd and Gillard governments in moving towards improved tied grant performance.⁵⁴

51 David Gonski (chair) 2011, *Final Report of the National Review of School Funding*, Australian Government, Canberra.

52 Catherine Althaus, 2011, 'Assessing the Capacity to Deliver: The BER Experience', *Australian Journal of Public Administration*, volume 70, issue 4, pp.421-436

53 Vijaya Ramamurthy, 2012, 'Tied Grants and Policy reform in Public Hospitals and schools', in Paul Kildea, Andrew Lynch and George Williams (eds) *Tomorrow's Federation: Reforming Australian Government*, The Federation Press, Sydney.

54 Vijaya Ramamurthy, 2012, 'Tied Grants and Policy reform in Public Hospitals and schools', in Paul Kildea, Andrew Lynch and George Williams (eds) *Tomorrow's Federation: Reforming Australian Government*, The Federation Press, Sydney.

The drawn-out and incomplete implementation of the Commonwealth's Socio-economic Status (SES) funding model for nongovernment schools is an example of a convoluted policy compromise and distortion. This model as it was designed was a much more accurate indicator of the relative educational and financial need of different nongovernment schools than the previous ERI (Educational Resource Index) model and consequently could have seen better allocation of funding. However, in an unprecedented decision that continues to cast a shadow over Commonwealth school funding policies, the Howard Cabinet decided in 1999 that no school would lose a dollar in real terms under this new allocation model, meaning that those schools that were over-funded under the new model would continue to receive their higher level of funding indefinitely. More than a decade later, the Commonwealth's SES model only ever applied to about half of Australia's nongovernment schools, with the others receiving more than their estimated, relative need under the model. The consequences of this political decision by the Commonwealth government continue to limit the impact of school funding reforms.⁵⁵

Caution must be applied when comparing Australia's school systems to the nationalised systems such as those in East Asian 'Tiger nations'. While they perform exceptionally well in international standardised tests such as PISA and TIMSS⁵⁶ this performance is not necessarily due to stronger national government presence, and more influenced by cultural factors and a broader education system which together place unparalleled importance on academic performance as measured by exams, which limits their comparability. Furthermore, recognising the damage to students' wellbeing and capacity to develop other skills and capacities, these East Asian nations are abandoning many of the distinctive elements of their systems such as centralism and test-focus and instead are focussing on building "twenty-first century skills" such as creativity, communication, collaboration, and placing a renewed emphasis on student wellbeing. Professor Yong Zhao advises that this shift is the real lesson Australia should be taking from the East Asian nations. He further recommends that Australia encourages bottom-up innovation and reduced top-down planning; pursues more holistic student outcomes, and grants meaningful autonomy to schools systems to "enable them to build on their strength[s] and respond to their unique contexts."⁵⁷ Option 4 does not achieve this, but Options 1 and 3 could.

55 Bronwyn Hinz, 2013, 'How federalism influences Commonwealth policymaking: The case of school funding reform under the Howard Government', Australian Political Studies Association Annual Conference, Perth, 30-September - 2 October; *Educational Transformations, A History of State Aid to Non-government Schools in Australia*, Australian Department of Education, Science and Training, Canberra, 2006

56 PISA = Programme for International Student Assessment, TIMSS = Trends in International Mathematics and Science Study.

57 Yong Zhao 2015, *Lessons that Matter: What should we learn from Asia's School Systems?* Mitchell Institute for Health and Education Policy, Melbourne. Available online at <http://www.mitchellinstitute.org.au/reports/lessons-that-matter-what-should-we-learn-from-asias-school-systems/> [Accessed 12 July 2015]

5. Conclusion

The most ambitious proposal - Option 1 - offers the greatest benefit to Australians in service quality, efficiency, equity, effectiveness, accountability and subsidiarity. Under this option, states and territories have responsibility for system design; program development, implementation and evaluation; regulation; and funding for all schools in their jurisdiction; plus delivery of public schools in their borders. This alignment of roles and responsibilities maximizes policy cohesion, the effective use of resources, strategic planning and ability for governments to strategically and flexibly respond to the needs of students and school communities. It also simplifies life for all schools and nongovernment school systems, which would need to only report to (and lobby) a single level of government. This allows them to focus their attention and resources on what matters, and facilitate the development and implementation of whole-school strategies to improve student learning, engagement, wellbeing, or other priorities identified by school communities.

The superior schooling policy outcomes that would flow from this strategic alignment meets the national interest test, with significant flow on benefits to the national economy through higher productivity and civic engagement; and lower-than-otherwise expenditure on health, welfare and criminal justice systems. The national interest is further advanced by Australia's national educational institutions for intergovernmental collaboration and reporting, particularly ACARA and the Education Council. These useful institutions are both a forum and vehicle for enhanced policy learning and adaption, policy coordination (where required) and performance accountability, consistent reporting, and the analysis and distribution of the resulting data.

Their operation will be improved if the Commonwealth takes a supporting role rather than directive role, and if the data collected and analysed by ACARA is made available to all in the education policy community in a timely and accessible way.

Option 3 provides the same potential benefits as Option 1, but to a lesser degree, and is susceptible to role slippage.

Options 2 and 4 ought to be avoided. They rate very poorly against established criteria and they will worsen existing problems in Australia's school system.

Implementing either Option 1 or 3 will require sustained commitment from all parties and all levels of government (especially the Commonwealth who has found intervening in schooling irresistible, and who may find it difficult to relinquish necessary revenue or fiscal capacities to the states). But it must be done.

The dramatic evolution of schooling federalism since Federation, and even over the last decade, demonstrate the dynamism of policy settlements, instruments and institutions. This evolution is not necessarily bad. It can reflect changed needs or preferences. This very flexibility is one of the benefits offered by federal systems. Attempts to cement particular institutional arrangements in place could unhelpfully restrict policy options to unforeseen challenges. Regular fine-tuning and regular systematic evaluation of governance arrangements is required. Such evaluation should not be limited to the distribution of roles and responsibilities among governments, but also within a single level government.

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