



Dissenting Report

Mr Rowan Ramsey MP, Mrs Karen Andrews MP, Mr Alex Hawke MP, Mr Alan Tudge MP

Introduction

The Coalition Members are in broad support of the aspirational goals of the Australian Education Bill but are of the opinion it is not good process to recommend the House of Representatives pass a bill when the committee has not been able to ascertain what will be in the final bill and what implications it will have for education in Australia.

It was apparent throughout the inquiry that no-one had sufficient detail to understand what impacts the eventual legislation would have on their schools. Schools communities are being asked to take a huge leap of faith and simply trust the government, despite receiving no assurances that they would not be worse off in real terms.

Accordingly, Coalition Members cannot determine whether there is potential for schools and school systems to be damaged by the legislation which must be amended before it can be activated. We believe it is unsafe to recommend the bill be passed until sufficient details are provided to make an informed judgement.

Lack of Detail

While it was apparent that while there was broad support for the aspirations of the bill – quality education, better data, higher teaching quality and the promise of

more generous funding – there is an absence of detail and certainty surrounding how these reforms are to work.

Not one stakeholder was aware of the details of how the proposed new school funding model would work. This was not just the lack of detail around some very small matters, but was lack of detail around the fundamentals: the indexation rate for school funding, the transition time, the size of the loadings, particularly for students with disabilities.

During the inquiry, peak bodies were still assessing up to 30 different funding models. Even as this report is written (only four weeks before the School Agreements are to be made) there is still uncertainty about what the funding will look like.

Mr Elder, Commissioner, National Catholic Education Commission (Oral presentation, Feb 15th) stated:

“There are probably 16 scenarios that we are currently looking at in the negotiations and discussions with DEEWR. The reality is we go from scenarios that would be highly detrimental to Catholic education to scenarios that might be more alright”.

Mr Daniels OE, Independent Schools Council of Australia (Oral presentation Feb 19th) said:

“I did see the reference by the National Catholic Education Commission to 16 models. We have not been counting, but this process has been an iterative process that has been going on for 12 months. It could be 30, for all I know, and I do not see them as proposals; they are simply alternative settings that are put on the table and discussed. To this day, not a single setting has been agreed on for any of the loadings or any of the 'capacity to contribute' settings”.

This was further complicated by the highly problematical timeline which designates a 2013 commencement date for the new arrangements.

For instance the Christian Schools Australia (Submission Pg 5) said:

“The timetable to enact a new funding arrangement to commence on 1 January 2014 is, however, problematic. Non-government schools have not been provided with any details of proposed funding arrangements”.

Concern that schools will lose funding

Despite the assurances of the Prime Minister and the Education Minister that no school would lose a dollar of funding under the proposed model, the Coalition Members remain concerned that this will not be delivered.

Indeed, evidence was provided to the Committee that schools would lose money under some of the scenarios that they were modeling, based on government data. For example, Dr Newcombe, EO, Association of Independent Schools, NSW (Oral presentation Feb 19th) stated:

“There are around 440 independent schools in New South Wales, and so what we are saying is that 40 per cent of that number will be worse off. Some of those are large schools and they are not necessarily the high SES schools. Some of the large schools are in the south-west of Sydney and Western Sydney. If you look at enrolments as opposed to the number of schools, about 60 per cent of children in independent schools in New South Wales will lose funding under the current settings of the Gonski model”.

The Catholic Education Commission said that some scenarios that they were modeling would be “highly detrimental.”

The Department Officials who presented to the Committee were not able to give assurances that schools would not be worse off in real terms.

This kind of confusion and the lack of any guarantee in the legislation, has left the committee in the invidious position of having to pass judgment on the bill when it cannot provide advice to the Parliament as to whether the Prime Minister’s guarantee will be delivered.

The Coalition Members would not support a funding model that saw some schools worse off.

No Legal Standing

Clause 10 (**Act does not create legally enforceable obligations etc.**) in the bill has caused an amount of consternation for the Coalition Members of the committee.

Effectively, it can have no impact on government in its current form and it is clear the bill is incomplete and must be altered significantly before it can be activated.

The chief lawyer from the DEEWR (Mr George Kris from DEEWR (Fri 15 pg 13) told the committee that the reason for the clause was because it would be “legally problematical” without it.

“This bill, if it is passed as it is, (without clause 10), would be legally problematical in terms of protecting the Commonwealth”.

The Australian College of Educators asked the question:

*“**Legally enforceable?** ACE is concerned about Clause 10, which states that the Act does not create legally enforceable obligations. What is the point of an Act where there is no requirement for compliance? Clause 10*

appears to say that this Act is not meant to have any effect whatsoever in practice”.

Summary

The Coalition Members are concerned that the committee has been asked to advise the House as to whether to pass the bill when clearly it will need to be altered significantly before it is a usable piece of legislation.

The committee has no idea what the bill may look like at that time and does not know if it will be asked to examine the detail.

The following conversation with Mr Kriz (DEEWR Oral presentation 14th March Pg 10):

Mr Kriz: “As I understand it this bill will be amended before its final passage, to enshrine the funding mechanism in order for it to get that practical, operational overlay on top of the aspirational nature that is contained within it now.

Mr Ramsey: So you are saying this bill will be amended before we vote on it?

Mr Kriz: That is my understanding.

Mr RAMSEY: So after we have all made our speeches on it and our public positions, and then we will be voting on it after it is changed?

Mr Kriz: That is my understanding, but obviously I do not call the shots on it.

The Coalition Members make the point that should the heavily amended legislation be passed at some stage in the future and it be ‘problematical for the Commonwealth’ (Mr Kris), some may well ask why the Education and Employment Committee chose to recommend its passage when it did not understand what would be in the final bill.

Consequentially the Coalition Members are unable to support the majority of the committee’s recommendation that the bill be passed at this time.

Instead because the Coalition Members support the aspirational goals of the bill they recommend:

That the Australian Education Bill be returned to the House of Representatives to enable the government to move its enabling amendments and then it be returned to the Education and Employment Committee for further consideration.

Rowan Ramsey MP
Deputy Chair

Karen Andrews MP

Alex Hawke MP

Alan Tudge MP