

# **Governance Through Community Partnerships:**

## **A Model for Public Funding of Private Schools in Australia**

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### **Introduction**

The provision of funds to non-government or private schools in Australia involves substantial sums of public monies, AUD\$5,137m in 2001 (AEU 2002) from both state and federal governments. It has been, and still is, a public policy issue that generates considerable discussion and passion among the Australian community.

This paper does not engage the 'state aid' debate, rather, it examines several different models of governance involved in the providing public funding for private schools. These models can be described in a variety of ways such as grants, subsidies, sponsorships, donations, joint investments, partnerships and contractual arrangements. The paper examines three of the more commonly considered models, grants, privatisation and community partnership, and explores how governance arrangements for each are typically treated in terms of relationships between partners, regulation and accountability.

The term, 'private' is used to describe for-profit, not-for-profit, voluntary and other forms of service provision independent of the public sector. While this paper focuses on private provision of education services, it recognises that there are likely to be implications for public provision of these services in an environment where there is a limited total education budget.

### **Origins of Public Funding of Private Schools in Australia**

By the 1860s Australian 'state' governments were involved in the provision of schooling, but largely in a residual capacity. Schooling was typically in the hands of the various religious denominations, though subsidised by the state and supplemented by some state-run schools. However, most liberals regarded this as unsatisfactory, since the education system encompassed schools with varying standards, as well as leaving many children without any education at all, given that attendance was not compulsory (Birrell 2001:59).

While there were many who preferred that education be provided through self-help or voluntary associations, the manifest failure of that approach had drawn state intervention. The residual funding approach was rejected as it was feared that it would lead to a two-tier system with public education as a second-class system, dividing citizens according to their wealth and religious affiliation (Birrell 2001:60-61).

Following a Royal Commission into public education in Victoria, that state introduced a new system of state-run education in 1872 based on the principles that education would be 'free, compulsory and secular', subsequently the model for public school systems in all other states. State aid was cut off from those schools that elected not to participate in the state system of education (Birrell 2001:62) and for the next 80 years or so, almost all public funds for education were distributed to state-run schools.

Despite the growth of funding for public education, by the end of the 1950s schools, both public and private, were facing a crisis of funding (ABC 1997). This was due to an exponential growth in demand, generated by Australia's post second world war population growth and the specific demands of increasing funding for science and mathematics education. By the 1960s many Catholic schools had reached such a crisis that the church, parents and supporters were applying relentless political pressure on federal governments for state aid (Potts 2002; ABC 1997).

Public funding of private schools was canvassed in the 1963 election after which funds were allocated by the federal government to build science laboratories in both public and private schools. From 1972, the incoming Labor government provided funding for all schools, public and private, on a needs basis (Potts 2002). Since then, state aid has become a non-partisan political issue with differentiation between the policies of the major parties largely centred on the *extent* of public funding of private schools. In 1978, an unsuccessful High Court action aiming to end public assistance to private schools signalled that public funding of private schools had been both legally and politically regularised.

Federal and state governments in Australia provide public funds to private schools for establishment costs, operating expenses (including salaries of teachers), capital projects, literacy and language programs and programs for students with special needs. Funding is calculated on a formula based on a socio-economic index of the school population. The total amount of public funds averages about 60% of per pupil costs in private schools but in practice varies significantly between poorer and wealthier schools (CEP 1999:appendix p.2).

### **Grants, Privatisation and Public-Private Partnerships**

'Governance' describes the management of a network of public and private providers of public services. It involves practices adopted to ensure that program outputs and outcomes match the objectives set, that roles and relationships facilitate these outcomes, and that workable systems of regulation and accountability protect the important public interests involved. The concept of governance has arisen as a 'new discourse about the desirability of moving to a style ... which unites the state, the market and civil society in the service of the nation' (Wettenhall & Thynne 2000:4). One consequence of this discourse is that the traditional distinction between the public and the private sectors has become blurred as governance has emerged as a way of thinking about developing synergy between the multiple sector contributors, providers and partners engaged in public service delivery. Below, three different models of the public-private mix are discussed and the governance arrangements typical of each mix is considered.

#### ***Subsidies and Grants***

The concepts of 'subsidy' or 'grant' described circumstances in the mid-twentieth century when public funds were first provided to private schools in Australia. At that stage, private sources of funding dominated the overall funding of many private schools with governments adopting the role of providing supplements to 'aid' private schools – hence the language of the public debate focused around the notion of 'state aid' (ABC 1997).

Such funding arrangements were typical of this period, with governments more concerned with issues of distributional equity, than to issues of control and accountability. However, there have been incremental, but significant, changes made to the original program of public funding of

private schools in Australia with a much higher proportion of funds expended by private schools sourced from the public sector. In many cases these funds provide core, ongoing resources for private schools, as well as funding major capital and equipment items.

Contemporary governments now deal differently with grants programs, giving more emphasis to issues of control and accountability than they did forty years ago when state aid was introduced. Subsidies to private organisations typically involve clear articulation by governments of the purposes for which funds can be used (often excluding capital and equipment purchases) and involve detailed regulation, including the need for a 'funding agreement'. Grants have been defined by the Victorian Auditor General in the following way:

Payments to non-government organizations to support activities outside the public sector, which are directed at achieving goals and objectives consistent with government policy. The payments are normally conditional upon receipt organisations using these monies for specific purposes set out in funding agreements and are not required to be returned or reciprocated (Auditor General Victoria 2000:15).

In such arrangements, relationships between the government as funder and recipient organisations are characteristically vertical involving the implementation of government policy with few opportunities for mutual adjustment (Sproule-Jones 2000:96-98). These relationships are usually temporary or short-term, applying only for the duration of the project or program. This is elaborated in Figure 1, which provides a summary of the roles, relationships and accountability provisions associated with different public-private mixes.

Given the significance of public funds in private schools, the relative permanence of these funding arrangements, the acceptance of the collective benefits which arise from that funding, and the relationships between funder and recipients involved in contemporary arrangements for government grants and subsidies, it would seem that terms, 'grants' and 'subsidies' have become inadequate descriptions of current arrangements for public funding of private schools. It would be more appropriate to adopt governance processes that are more pluralist and adjustable, and which recognise the longer term relationships involved between government and private providers of education.

### ***Market Models***

It is technically feasible to conceive of education as a private good where individuals are free to purchase that quantity and quality for which they are willing and able to pay. However, most governments are unwilling to allow education to be treated this way, usually providing education funds from taxation revenues. Education can then be classified as a 'merit' good because governments accept the collective advantages, or 'public interest', involved in its provision.

While merit goods and services are provided free of charge, or below market prices, in order to elevate the standard of living of the community, it is never clear whether government's role should be to provide these goods directly or whether they should provide income supplements to individuals leaving them free to purchase from the market. Australia has adopted the former approach, based on the arguments that individuals are unlikely to choose the most appropriate amount of education and that governments generally prefer to have some direct control over the quality and price of education because it is so important to general welfare.

However, from the 1990s there has been pressure for greater privatisation and market-orientation of education, coinciding with similar pressures on other public services. It has manifested in two broad groups of arrangements, vouchers and the contracting out of schools to private or public providers.

Where there are vouchers and tax credits, the educational funding stream flows directly from the government to private individuals without the mediation of the public system. Thus education is considered less of a collective public undertaking and becomes instead more a private relationship between each family and its preferred school. This reflects a view that individuals' access to and use of education is for private, individual benefit *more than* for any broader public interest benefits that flow into the wider society.

Vouchers do not appear to have satisfied the arguments on which they have been premised, such as freedom of choice for parents and greater efficiency, equity and social cohesion. Nor have they redressed the concerns that school systems are dominated by professionals at the expense of parents (Ascher et al 1996:41).

Those who believe that the issue of vouchers will be resolved by a spirited search for empirical evidence on some of these dimensions [freedom to choose, efficiency, equity, social cohesion] may be severely disappointed. Much of the support for or opposition to educational vouchers is premised on ideology and values rather than evidence (Levin 1999:135-136).

Contracts can be 'let' to private or public contractors to deliver education services, as in the case of the 'Woodhead' schools and grant-maintained schools in the UK or the charter schools in the US. As with other forms of contracting out, the funds to sustain them are public in origin and the schools remain accountable to public authority for the deployment of those funds.

As with vouchers, contracting of education services has yet to demonstrate that it can deliver superior performance. There is little evidence that private schools are less costly than public schools for similar students and services and, in some cases, improved efficiency may well be at the cost of setting aside gains in other areas, such as accountability, quality, equity and democracy (Levin 1998). The academic record of charter schools has also been questioned (Hill & Lake 2002).

The adoption of contracting arrangements, such as purchaser-provider separation, has suffered from problems generally attributed to contracting of other public services, especially human services, where competition can lead to unproductive relationships between public and private agencies (Aulich 2002). There is little scope for processes of mutual learning and adjustment once the contract is signed, as contracts between purchaser and provider are primarily legal with an emphasis on penalties being applied for underperformance. Such arrangements generally eschew practices of consensus building, consultation and dialogue as inefficient and are often concerned with fragmenting and splitting up systems instead of promoting collaboration (Grimshaw et al 2001).

Concerns have been raised that where privatisation of education has occurred it has not led to improvement in equity between students and may well maintain the funding inequalities that protect privileged communities and restrict poor students to an inferior education (Ascher et al

1996). This mirrors broader comments that markets are not always the best ways to deliver public services because ‘they can go against the public interest, reinforce inequalities, and entrench privilege’ (Bevir & Rhodes 2001:19).

**Figure 1: Public-Private Mixes in Funding of Public Services**

	SPONSORSHIP, GRANTS AND SUBSIDY	PARTNERSHIP	CONTRACT	PUBLIC FUNDING OF MAINLY PRIVATE PROVISION
ROLES [Government/ Private Provider]	Donor or sponsor/ Recipient.	Partner/ Partner.	Purchaser/ Provider.	Funder or Regulator/ Provider.
VALUES	Support and assistance to private ventures having public interest.	Collaboration.	Competition.	Control of private providers to ensure public interest outcomes.
RELATIONSHIP Between government and private provider	Project or activity focused. Low concern for ongoing relationship.	Horizontal or non-hierarchical. Higher trust. Higher risk. Decisions about trust and risk often mutually adjusted and made at management level.		Vertical. Relationship concerned with regulation, monitoring and compliance.
PUBLIC FUNDING	Marginal, ‘top-up’. Typically short term and/or renegotiable. May exclude funding of major capital expenditure.	Determined in the partnership agreement.	Based on costs of service provision. Contract length short to medium term and renegotiable.	Typically ongoing.
ACCOUNTABILITY	Compliance orientation: accounting for funds expended in terms of the purposes for which they have been provided.	Generally specified in advance or mutually adjusted during the partnership. Some dilution of overall accountability.	Compliance with contract provisions. Some dilution of overall accountability.	Highly regulated regime with strong accountability requirements, including performance outputs.
EXAMPLES	Funding of: agricultural production, performing arts, community and sporting groups, municipal bodies.	Infrastructure projects, public-private hospitals.	Blood transfusion service, refuse collection, employment services.	Health care.

### ***Community Partnerships***

The term ‘public-private partnership’ (PPP) was initially used to describe entrepreneurial activities that engaged both public and private sectors typically to fund the redevelopment of public infrastructure, for example, the public financing initiatives. However, the term is now

used to embrace those many examples of partnerships between governments at all levels, and the private sector, to operate social welfare functions such as pensions, education, transportation, criminal justice and environmental protection (Rom 1999:155). This shift represents an extension of the partnership concept from state-market models to include state-community arrangements.

The essence of these 'community partnerships' is the recognition that the features and merits of both public and private sectors are to be appreciated and unified, rather than polarised and colonised. These PPPs aim to engage the strengths of both sectors, private (more competitive and, in some instances, more efficient) and public (responsibility and accountability). PPPs are based on cooperation, not competition, to spread risks rather than reduce input costs through the competition mechanism. Rather than cede public activity to private organisations, these PPPs work to blur boundaries between state, markets and community (Hodge 2002).

Community partnerships involve joint decision-making rather than principal-agent relationships. Parties involved are engaged early in developing joint outputs and arrangements rather than government alone defining both problem and solution, then choosing the most cost effective private company for production or service delivery. It further differs from traditional contracting arrangement with longer-term time frames, potential for mutual adjustment, bigger financial flows and greater capacity for risks to be shifted to either side of the partnership (Hodge 2002:4; Langford 2002:69) (see also Figure 1).

Importantly, the partnership between the funder and all providers in areas such as education enable sharing expertise across the public-private divide in both policy development and execution. Boase (2000) argues that such relationships are in the interests of community development through working together to achieve compatible (mutual) goals and with joint decision making and sharing of risk and goals. These community partnerships are congruent with the notion of education as a merit good with the 'public interest' defined through the partnership arrangement.

Although public-private partnerships have so far been rare in education, it seems that community partnerships might provide a useful framework within which education can be provided by capturing the public and private interests involved in education – on the one hand the right of societies to use the education system to reproduce its essential political, economic and social institutions through a common schooling experience, and on the other, the rights of parents to choose the experiences and values to which they expose their children (Levin 1999:125).

There are numerous 'recipes' for establishing and maintaining PPPs – all would make reference to collaboration or similar terms. This implies sharing of 'vision, authority, information, planning, decision making, financial risk, responsibility and accountability' (Langford 2002:69). However, for any PPP to work effectively, a number of governance issues need to be resolved at the outset. If governments are indifferent about selecting public or private providers to deliver the collective benefits of education, it follows that systems of participation in policy development, goals setting, regulation, control and accountability should broadly be congruent between the different providers. What is clear from an examination of public funding of private schools in Australia, is that systems of regulation, control and accountability do not treat alternative providers with such consistency.

## Regulation, Control and Accountability

### **Regulation and Control**

Regulation aims, *inter alia*, to ensure that outcomes of public funding are consistent with the objectives of the funding (control) and to exact accountability for the expenditure of public tax dollars. Areas of regulation can include the following: registration of schools which mostly binds them to a common core curriculum and exit testing, student admissions and discipline, teacher registration and certification, tuition fees and finances, inclusion of particular values, standards and timetables, representation on boards and councils, record keeping; and inspection (CEP 1999). By and large, all of these regulatory requirements apply to public providers in Australia.

While regulatory regimes vary between countries, there appears to be some congruence between the level of public funding for private schools and the degree of regulation. In several jurisdictions (France, Spain, British Columbia) private schools are able to choose from various levels of government assistance each attracting different levels of regulation related to the level of financial subsidy, while in others, the most heavily subsidised must follow virtually the same regulations as public schools. In others (Netherlands, Sweden) qualitative standards for both public and private schools are set by legislation (Eurydice n.d.). By contrast, in Australia where there is significant public funding provided to private schools, the degree of regulation is rated as 'low to moderate' (CEP 1999:8).

The regulatory requirements for private schools in Australian states centre on the registration and renewal processes, which by international standards is comparatively undemanding. To qualify for public funding, a private school must be incorporated and non-profit and must register with the state or territory. Typically, these registration processes require that private schools must meet basic standards for minimum enrolments, qualifications of staff and facilities and follow broad state curriculum guidelines especially at exit level but make few demands on private schools other than to provide 'adequate' facilities and 'satisfactory' instruction (ACT Education Act 1937 s.23).

This mismatch between the levels of funding and regulation has, according to some researchers, generated negative impacts on the public education system in Australia. The relatively low level of government regulation of private schools in Australia has given them a competitive edge over public schools, thereby diminishing the equality of educational opportunity (Boyd 1989; Hirsch 1997) and encouraging large numbers of middle and upper class families to abandon public schools in favour of private schools (Cookson 1994).

It seems clear that the regulatory regime applied to public funding of private schools in Australia is not congruent with those that apply both internationally and locally, with respect to public providers. As regulatory regimes for public providers of education tighten along with those concerning public services more generally, it can be argued that regimes for private providers should move in the same direction. As education funds are increasingly sourced from the public, any suspicion that public and private providers operate under markedly different regulatory regimes will inevitably lead to tension and friction between stakeholders.



### ***Accountability***

Accountability is not the same as regulation or control, which are primarily forward-looking mechanisms of influencing behaviour. Accountability is essentially retrospective, inquiring into actions that have already taken place. Systems of control and regulation often include accountability mechanisms (Mulgan 2002:4) such as audit or reporting requirements.

While some aspects of performance are relevant in the process of registration of private schools in Australian states and territories, these do not match the accountability requirements placed on public schools with respect to performance. Public providers face regular performance audits, enrolment census and reviews of programs, management and school leadership. Private schools are not required to report or be subject to performance audits, there are no comprehensive means of auditing the student census or making publicly available financial records of public funds expended. In relation to expenditure on capital equipment, assets purchased with public funds remain the property of private schools to be used or disposed of according to school needs. In short, on purchase or construction, these assets are 'gifted' to private schools requiring no further accounting from recipients.

This mismatch in accountability between public and private providers has been noted by the Auditor-General of New South Wales, who reported in 1999 on school accountability and improvement models and concluded that,

the intention to achieve greater accountability for, and transparency in, public school performance is highly commendable. To date, these provisions have not been imposed by the Government on private schools even when public funds are provided to such schools (Audit Office of NSW 1999:3).

The shift towards exacting greater accountability for the use of public funds was underlined by the Victorian Auditor-General in commenting that

the current [accountability] guidelines were developed at a time when the volume of funds distributed were smaller and accountability regimes less tight than is expected today. Greater emphasis is [now] placed on funding agreed program outputs, regardless whether the programs are delivered within or outside the public sector (Auditor General Victoria 2000:4).

At a time when all agencies responsible for delivering public services, whether public or private, have become more accountable for performance, it seems anomalous that Australia's private schools remain so lightly regulated in comparison both with arrangements in other countries and in comparison with the accountability regimes under which public providers of education in this country must now operate.

In reconstructing new accountability regimes for public funding of private education, it should be noted that accountability regimes between public and private providers are unlikely to be identical. With respect to public providers, departments and officials are potentially accountable to the public for all aspects of their performance, including both outputs and processes involved in achieving those outputs. The chain of accountability is strong and complex and supported by a range of legal and quasi-legal mechanisms (Mulgan 2002).

However, accountability is different in circumstances where the provision of public services involves a separation between the functions of planning and funding, on the one hand, and provision of services, on the other. It is inevitable that, in these circumstances, there will be some attenuation of accountability. Even if contractors and partners are contracted to act *as if they were* public officials, Ministers lack the capacity to be involved in operational matters and cannot be held accountable for such matters, whether they are being managed by public or private providers (Mulgan 1997).

At the same time the use of PPPs, should not necessarily dilute accountability. Ministers and their officials remain accountable for certain matters while contractors or partners who take over the role of service providers also become accountable (Mulgan 2002:13). In theory, there is no limit to the number of accountability channels that a contract or agreement might stipulate – they could be identical to those mechanisms under which public providers might operate, involving appearances before parliamentary committees, openness to scrutiny from Auditor-General and Ombudsmen’s offices or be subject to freedom of information legislation. It can be difficult to separate accountability between partners and it becomes ‘impossible in such cases to attribute accountability wholly to only one partner’ (Mulgan 2002:17). However, partners should be separately accountable when performance conditions are laid down in contracts.

## **Conclusions**

This paper has focused on two issues: first, arguing that the level and type of funding has outgrown the initial aims of providing public subsidies or grants to private schools and, suggesting that forms of public-private partnerships might provide more appropriate governance arrangements for the provision of education in Australia. Second, the paper has examined the regulatory and accountability regimes associated with public funding and concludes that there are major discrepancies in relation to present accountability regimes for public funding of private schools in comparison with provisions in overseas countries and in comparison with the demands for accountability placed on public providers, generally.

If the Australian and state and territory governments continue to consider education as a merit good, provided by both public and private schools, then they need to outline more clearly what the merit or collective purposes of education are, and how schools, both public and private, might best assist in achieving those purposes. The engagement of providers (both public and private) with government to establish these collective purposes or goals can be captured within a community partnership form of governance. An important by-product is the potential for this process to inject welcomed diversity into the task of elaborating the collective purposes of education and to the development of a regulatory regime to ensure that these purposes are implemented and are being met.

There is a pressing task to reconstruct regulatory and accountability regimes to make them more consistent with contemporary public sector management, and to enable greater congruence between alternative public and private providers. Failure to seek congruence in regulation and accountability between public and private providers will undoubtedly add fuel to the tension felt by supporters of public education that the current government’s policies distinctly favour one set of providers over another. This imbalance between public and private providers has been noted in some overseas research:

In Australia, for example, which has high subsidies but rather low regulation, private school policies continue to attract controversy, with critics asserting that the provision of aid to private schools, including affluent independent schools, has had a detrimental effect on government school systems, and that the playing field is skewed in favor of the private sector (CEP 1999:16)

Of course, the closer linkage between funding and regulation may not suit some private providers – it then becomes their right to make choices that their private purposes outweigh the collective benefits (and regulation) involved. This mirrors the circumstances in Victoria following the establishment of the public education system in the 1870s, where private schools not wishing to be regulated under the state were free to become independent of the state (Birrell 2000:61-62). If private schools in Australia were offered this freedom of choice, it would sharpen the distinction between classes of private providers, either as private schools or as independent schools, while blurring distinctions between private and public providers of public education. This would be a meaningful conceptual distinction from the interchangeable terms, ‘private’, ‘non-government’ and ‘independent’ currently used to describe Australian schools that do not operate in the public sector.

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